



# State of Tennessee

## PUBLIC CHAPTER NO. 285

HOUSE BILL NO. 64

By Representative Harry Brooks

Substituted for: Senate Bill No. 587

By Senator Gresham

AN ACT to amend Tennessee Code Annotated, Title 49, relative to higher education.

WHEREAS, the state university and community college system and the University of Tennessee system maintain investment programs, comprised of private, endowed, and quasi-endowed gifts, in order to generate financial support beyond state funding and tuition; and

WHEREAS, the programs are governed by policies and procedures ensuring these assets are invested with care, skill, and diligence; and

WHEREAS, fundamental to the investment program is the exercise of fiduciary duty by university officials and third parties, including, but not limited to, investment managers and consultants with which the college and university systems may interact, and the expectation of confidentiality, where necessary, to exercise that fiduciary duty and manage the program; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 7, Part 1, is amended by adding the following as a new section:

(a) The general assembly finds a public necessity in protecting specified records relating to the investment program of the state university and community college system and the University of Tennessee system.

(b)

(1) Records of the state university and community college system and the University of Tennessee system relating to the name of an alternative investment, the name of an alternative investment manager, the amount invested in the alternative investment, or the most recent fiscal year-end value of an alternative investment shall be open to public inspection pursuant to title 10, chapter 7, part 5.

(2) Notwithstanding subdivision (b)(1), records relating to the University of Tennessee's or the state university and community college system's review or analysis of any alternative investment or any investment therein shall not be open to public inspection pursuant to title 10, chapter 7, part 5, if:

(A) The records contain confidential information or information that could be commercially reasonably expected to be kept confidential when provided to or by the public institution of higher education, or any analysis or evaluation of an alternative investment by the public institution of higher education; or

(B) Disclosure of the records reasonably could have an adverse effect on the public institution of higher education's investment program, the value of an alternative investment, or the person or entity that provided the information for or to the public institution of higher education.

(3) Subdivision (b)(2) shall be repealed on July 1, 2021.

(c) For purposes of this section:

(1) "Alternative investment" includes, but is not limited to:

(A) Any investment requiring an investor indicate if the investor qualifies as an accredited investor under Regulation D of the Securities Act of 1933, 17 CFR §§ 230.500, et. seq.;

(B) Unregistered securities or funds offered under exemptions provided by 17 CFR 230.144(A), 15 U.S.C. § 80a-3(c)(1), or 15 U.S.C. § 80a-3(c)(7); or

(C) A qualified purchaser under 15 U.S.C. § 80a-2(a)(51); and

(2) "Public institution of higher education" means the University of Tennessee or the state university and community college systems.

(d) Nothing in this section shall limit access to records by law enforcement agencies, courts, or other governmental agencies performing official functions.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

HOUSE BILL NO. 64

PASSED: April 24, 2017

  
\_\_\_\_\_  
BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

  
\_\_\_\_\_  
RANDY MCNALLY  
SPEAKER OF THE SENATE

APPROVED this 4<sup>th</sup> day of May 2017

  
\_\_\_\_\_  
BILL HASLAM, GOVERNOR