

**SENATE BILL NO. 323**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

Introduced: 4/11/96

Referred: L&C, FIN

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to investments by fiduciaries; and providing for an effective  
2 date."

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

4 \* **Section 1.** AS 06.05.180(10) is amended to read:

5 (10) whenever the instrument or power governing the fiduciary  
6 relationship directs, requires, authorizes, or permits investment in obligations of the  
7 United States government, or its agencies or instrumentalities, invest in those  
8 obligations either directly or [, FOR SHORT-TERM CASH MANAGEMENT  
9 PURPOSES,] in the form of securities of, or other interests in, [A MONEY MARKET  
10 MUTUAL FUND OPERATING AS] an open-end or closed-end management type  
11 investment company or investment trust registered under 15 U.S.C. 80a-1 - 80a-64  
12 (Investment Company Act of 1940) [,] if

13 (A) the portfolio of the investment company or investment trust  
14 is limited to

1 (i) obligations of the United States government, or its  
2 agencies or instrumentalities;

3 (ii) [AND] repurchase agreements fully collateralized by  
4 the obligations identified in (i) of this subparagraph; and

5 (iii) securities of, or other interests in, other open-end  
6 or closed-end management type investment companies or  
7 investment trusts registered under 15 U.S.C. 80a-1 - 80a-64 whose  
8 portfolios are limited to the obligations and repurchase agreements  
9 identified in (i) and (ii) of this subparagraph; and

10 (B) the investment company or investment trust takes delivery  
11 of the collateral for any repurchase agreement directly or through an  
12 authorized custodian.

13 \* **Sec. 2.** AS 13.90.010, as added by sec. 4, ch. 10, SLA 1996, is amended to read:

14 Sec. 13.90.010. INVESTMENTS BY FIDUCIARIES. (a) Notwithstanding  
15 other provisions of law, except for AS 13.36.300 and the standards of judgment and  
16 care established by law, and subject to any express provision or limitation contained  
17 in a particular instrument creating the fiduciary relationship, fiduciaries are authorized  
18 to acquire and hold securities of an [OPEN-END OR CLOSED-END MANAGEMENT  
19 TYPE] investment company [OR INVESTMENT TRUST IF THE COMPANY OR  
20 TRUST IS REGISTERED UNDER 15 U.S.C. 80a-1 - 80a-64 (INVESTMENT  
21 COMPANY ACT OF 1940), AS THAT ACT EXISTS NOW OR IS AMENDED IN  
22 THE FUTURE].

23 (b) **Whenever** [UNDER (a) OF THIS SECTION, WHENEVER] an instrument  
24 or power governing [CREATING] a fiduciary relationship directs, requires,  
25 authorizes, or permits investment in obligations of the United States government, or  
26 its agencies or instrumentalities, the fiduciary may invest in those [AND HOLD  
27 THE] obligations either directly or in the form of securities of, or other interests [AS  
28 ANOTHER INTEREST] in, an investment company if

29 (1) the portfolio of the company is limited to

30 (A) obligations of the United States government, or its agencies  
31 or instrumentalities;

1                    **(B) [AND TO] repurchase agreements fully collateralized by the**  
2 obligations **identified in (A) of this paragraph;** [,] and

3                    **(C) securities of, or other interests in, other investment**  
4 **companies whose portfolios are limited to the obligations and repurchase**  
5 **agreements identified in (A) and (B) of this paragraph; and**

6                    **(2) [ , IF A REPURCHASE AGREEMENT IS INVOLVED,]** the  
7 investment company takes delivery of the collateral **for any repurchase agreement**  
8 either directly or through an authorized custodian.

9                    (c) Under (a) **and (b)** of this section, if a bank or trust company is the  
10 fiduciary, the bank or trust company may invest or reinvest in the securities of an  
11 investment company even if the fiduciary or an affiliated bank or trust company  
12 provides services to the investment company and the fiduciary or affiliate receives  
13 reasonable compensation for the services. Upon request of the person, the fiduciary  
14 shall furnish a copy of the prospectus relating to the securities acquired under this  
15 subsection to a person to whom a regular periodic accounting is ordinarily rendered  
16 under an instrument creating a fiduciary relationship.

17                    (d) In this section,

18                    (1) "affiliated" means two or more banks or trust companies in which

19                    (A) 25 percent or more of the voting shares, excluding shares  
20 owned by the United States or by a corporation or another entity wholly owned  
21 by the United States, is directly or indirectly owned or controlled by a holding  
22 company; or

23                    (B) the election of a majority of the directors is controlled in  
24 any manner by a holding company;

25                    (2) "bank" means an organization that is authorized by the United  
26 States Comptroller of the Currency, or by the director of banking or the equivalent  
27 position in the state of its organization, to accept deposits and to make commercial  
28 loans, and whose deposits are insured by the Federal Deposit Insurance Corporation;

29                    (3) "fiduciary" includes guardians and conservators under AS 13.26,  
30 persons performing the trustee activities described under AS 06.05.180 whether or not  
31 the persons are covered by AS 06.05.180, and other persons acting in a fiduciary

1 capacity;

2 (4) "investment company" means an open-end or closed-end  
3 management type investment company or investment trust registered under 15 U.S.C.  
4 80a-1 - 80a-64 (Investment Company Act of 1940), as that act exists now or as  
5 amended in the future;

6 (5) "services" includes acting as an investment advisor, custodian,  
7 transfer agent, registrar, sponsor, distributor, [OR] manager, **and services related to**  
8 **acting as an investment advisor, custodian, transfer agent, registrar, sponsor,**  
9 **distributor, or manager;**

10 (6) "trust company" means a financial institution, corporation, or other  
11 legal entity, authorized to exercise general trust powers, but does not include a natural  
12 person.

13 \* **Sec. 3.** If sec. 2 of this Act is enacted after July 4, 1996, sec. 2 of this Act is retroactive  
14 to July 4, 1996.

15 \* **Sec. 4.** Section 2 of this Act takes effect July 4, 1996.