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IN THE HOUSE

BY MR. FISHER

HOUSE BILL NO. 413

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIRST LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the establishing and concerning a State Investment Council and a Division of Investment within the Department of Revenue; the centralization of the investment function; and prescribing the classes of securities and other assets in which state funds may be invested."

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

Section 1. ESTABLISHMENT. There is hereby established in the Department of Revenue a state investment council.

Sec. 2. MEMBERSHIP. The state investment council shall consist of three voting members: two public members appointed by the governor, the one representative of a state fund which owns the largest total investment assets, and the state treasurer who shall, however, vote only in case of a tie. The state investment officer shall be a non-voting member of the council. Actions shall be by majority.

Sec. 3. TERM OF APPOINTMENTS. Each of the public members of the council shall be appointed by the governor for a term of four years; except that for the first appointments the terms shall be for two and three years respectively. The governor shall also appoint the state fund representative for a term of four years.

All members shall serve until their respective successors are appointed and have qualified.

1 Sec. 4. QUALIFICATIONS. The public members of the council
2 shall be qualified by training and experience in the field of
3 investment or finance. During his tenure, a member of the council
4 or his firm shall not be engaged in the sale of securities to the
5 state or to any fund thereof; nor shall any such member benefit
6 directly or indirectly from any transaction made by the state
7 investment officer; nor shall he hold any office, position, or
8 employment in any political party.

9 Sec. 5. VACANCY. Any vacancy in the membership of the
10 council occurring other than by expiration of term shall be filled
11 in the same manner as the original appointment, but for the
12 unexpired term only.

13 Sec. 6. CHAIRMAN. The chairman and presiding officer of the
14 council shall be the state treasurer.

15 Sec. 7. NECESSARY EXPENSES. The members of the council
16 shall serve without compensation but shall be reimbursed for
17 necessary expenses incurred in the performance of their duties as
18 provided for members of comparable boards or commissions.

19 Sec. 8. ESTABLISHMENT OF DIVISION OF INVESTMENT. There is
20 hereby established in the Department of Revenue a division of
21 investment, which shall be under the immediate supervision and
22 direction of a person who shall be designated the "state investment
23 officer."

24 Sec. 9. STATE INVESTMENT OFFICER. The state investment
25 officer shall devote his entire time and attention to the duties
26 of his office, shall not be engaged in any other occupation or
27 profession, nor shall he hold any other public office, appointive
28 or elective. He shall be a person qualified, by training and
29 investment experience, to direct the work of such division. He

1 shall receive a salary of not less than thousand dollars
2 (\$) annually.

3 Sec. 10. APPOINTMENT. The state investment officer shall be
4 appointed by the Commissioner of Revenue with the approval of the
5 governor. Recommendations as to appointments shall be made to the
6 Commissioner of Revenue and to the governor by the investment
7 council together with the detailed qualifications of each person
8 recommended. If within sixty (60) days after the effective date
9 of this Act, or after any vacancy, an appointment has not been
10 made, the power of appointment shall vest in the council.

11 Sec. 11. TERM; REMOVAL FROM OFFICE. The investment officer
12 so appointed shall serve without term but may be removed from
13 office for cause, upon notice and opportunity to be heard at a
14 public hearing: (a) by the Commissioner of Revenue; or (b) by the
15 governor, if a majority of the investment council recommends his
16 removal.

17 Sec. 12. BONDING FOR PROTECTION TO STATE. Before the state
18 investment officer, or other responsible employee of the division
19 of investment shall enter upon his duties, the Commissioner of
20 Revenue shall require an individual bond, or shall include him
21 under a blanket bond, for such an amount and for such coverage as
22 deemed best to protect the state's interest. The premium thereon
23 shall not be chargeable to such officer or employee.

24 Sec. 13. STAFF AND BUDGET. The state investment officer
25 shall annually prepare a budget which shall be reviewed by the
26 council; and, subject to civil service regulations of the state,
27 shall appoint all employees of the division.

28 Sec. 14. TRANSFER OF INVESTMENT POWERS, FUNCTIONS AND DUTIES.
29 The functions, powers, and duties vested by law in the following

1 enumerated agencies:

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5 relating to investment or reinvestment of moneys and purchase,
6 sale, or exchange of any investments or securities of or for any
7 funds or accounts under the control and management of such agencies,
8 are hereby transferred to and shall be exercised and performed
9 for such agencies by the state investment officer under the super-
10 vision of the Commissioner of Revenue as herein provided.

11 Sec. 15. EX-OFFICIO MEMBERSHIPS. From and after the effec-
12 tive date of this Act, any provision of existing law requiring or
13 designating the Commissioner of Revenue or the state treasurer to
14 serve, by virtue of his state office, as a member of any of the
15 respective agencies enumerated in Section 14 of this Act shall be
16 and become inoperative, and the ex-officio membership in such
17 agencies shall thereupon terminate.

18 Sec. 16. BOARDS, COMMISSIONS AND FUND TRUSTEES TO CONTINUE.
19 Except as otherwise provided in this Act:

20 (1) Each of the respective agencies enumerated in Sec-
21 tion 14 of this Act shall continue to have all of the powers and
22 shall exercise all the functions and duties vested in, or imposed
23 upon, it by law;

24 (2) This Act shall not affect the terms of office of
25 the present members of such agencies;

26 (3) Such agencies shall continue to be constituted as
27 provided by existing law; and

28 (4) This Act shall not operate to limit or restrict the
29 members of any such agency, remaining after application of the

1 provisions of Section 15 of this Act, from exercising or performing
2 the functions, powers and duties of such agency.

3 Sec. 17. POWERS AND DUTIES OF INVESTMENT OFFICER. Subject
4 to any limitations, conditions, and restrictions contained in
5 policy-making resolutions or regulations approved by the Commis-
6 sioner of Revenue, the state investment officer shall have the
7 power to make purchases, sales, exchanges, investments, and re-
8 investments, for or on behalf of any of the funds or accounts
9 referred to herein; and it shall be his duty to see that moneys
10 invested under the provisions of this Act are at all times handled
11 to the best interests of the state.

12 Sec. 18. SALES OR EXCHANGES OF INVESTMENTS. Securities or
13 investments purchased or held under the provisions of this Act
14 may be sold or exchanged for other securities or investments;
15 provided, however, that no sale or exchange shall be at a price
16 less than the market price of the securities or investments to be
17 sold or exchanged.

18 Sec. 19. LEGAL OPINIONS. In the purchase of bonds with which
19 approving legal opinions ordinarily are furnished, the state invest-
20 ment officer may require an original or certified copy of the
21 written opinion of a reputable bond attorney or attorneys, or the
22 written opinion of the attorney-general, certifying to the legality
23 of such bonds.

24 Sec. 20. POWERS AND DUTIES OF INVESTMENT COUNCIL. The state
25 investment council shall formulate and recommend to the Commis-
26 sioner of Revenue for his approval any investment policy regulations
27 or resolutions pertaining to the kind or nature of investment of
28 any of the moneys, and any limitations, conditions, or restrictions
29 upon the methods, practices, or procedures for investment,

1 reinvestment, purchase, sale, or exchange transactions which, in
2 the majority opinion of the council, should govern the state invest-
3 ment officer.

4 Sec. 21. SAME; CONSULTATION AND POST REVIEW. The council
5 shall meet at least once quarterly to consult with the state
6 investment officer with respect to the work of the division, and,
7 when required, with the Commissioner of Revenue. It shall have
8 access to all files and records of the division and may require
9 any officer or employee therein to provide such information as it
10 may deem necessary in the performance of its functions. The
11 council shall inspect and review the respective accounts and funds
12 administered through the division.

13 Sec. 22. DEFAULTS; POWER TO COMPROMISE. In the event of
14 default in the payment of principal of, or interest on, any invest-
15 ments made, the state treasurer is authorized to institute the
16 proper proceedings to collect such matured principal or interest,
17 and may, with the approval of the Commissioner of Revenue, after
18 consultation with the investment council, accept for exchange
19 purposes refunding bonds or other evidences of indebtedness at
20 interest rates to be agreed upon with the obligor.

21 The state treasurer, with the approval of the Commissioner of
22 Revenue, after consultation with the investment council, is further
23 authorized to make such compromises, adjustments, or disposition
24 of the past-due interest or principal as are in default, or to
25 make such compromises or adjustments as to future payments of
26 interest or principal as deemed advisable for the purpose of pro-
27 tecting the funds invested; and such adjustments or compromises
28 made and approved are hereby ratified and confirmed.

29 Sec. 23. CLASSES OF SECURITIES AND INVESTMENTS. Moneys made

1 available for investment for a period in excess of one year may be
2 invested in the following classes of securities and investments,
3 and not otherwise:

4 (1) Bonds, notes, or other obligations of the United
5 States, or those guaranteed by, or for which the credit of the
6 United States is pledged for the payment of the principal and
7 interest or dividends thereof;

8 (2) Bonds or other evidences of indebtedness of this
9 state; and full faith and credit obligations of, or obligations
10 unconditionally guaranteed as to principal and interest by any
11 other state of the United States and the Commonwealth of Puerto
12 Rico;

13 (3) Bonds, debentures, notes, or other full faith and
14 credit obligations issued, guaranteed, or assumed as to both prin-
15 cipal and interest by the government of the Dominion of Canada, or
16 by any province of Canada; provided that the principal and interest
17 thereof shall be payable in United States funds, either uncondi-
18 tionally or at the option of the holder;

19 (4) Bonds, notes, or obligations of any municipal or
20 political subdivision of this state, issued pursuant to a law of
21 this state; provided that the issuer has not, within ten years
22 prior to the making of the investment, been in default for more
23 than three months in the payment of any part of the principal or
24 interest on any debt evidenced by its bonds, notes, or obligations;
25 and provided further, if the bonds are city or county utility, or
26 utility-district revenue bonds, the revenues of such utility, other
27 than for payment of operation and maintenance expenses, are pledged
28 wholly to the payment of the interest on and principal of such
29 indebtedness, and the utility project has been completely self-

1 supporting for a period of five years next preceding the date of
2 investment;

3 (5) Bonds, notes, or other obligations issued, guaran-
4 teed, or assumed by any municipal or political subdivision of any
5 other state of the United States; provided, (a) that any such
6 municipal or political subdivision, or the total of its component
7 parts, shall have a population as shown by the last preceding
8 federal census of not less than 10,000; and (b) the issuer,
9 guarantor, or assumer of such bonds, notes, or other obligations:
10 (i) shall have pledged its faith and credit for the payment of the
11 principal and interest of such bonds, notes, or other obligations;
12 (ii) shall have the power to levy taxes on the taxable real property
13 therein for the payment of both principal and interest of such
14 bonds, notes, or other obligations without limitation of rate or
15 amount; (iii) shall not within ten years prior to the making of
16 the investment have defaulted in payment of principal or interest
17 of any debt evidenced by its bonds, notes or other obligations for
18 more than 90 days;

19 (6) Bonds, debentures, notes, or other obligations
20 issued, guaranteed, or assumed as to both principal and interest
21 by any city of Canada which has a population of not less than
22 100,000 inhabitants; provided that the principal and interest
23 thereof shall be payable in United States funds, either uncondi-
24 tionally or at the option of the holder; and provided further that
25 all the conditions as prescribed in subsection (5b) of this section
26 have likewise been met;

27 (7) Bonds, notes, or other obligations issued, assumed,
28 or unconditionally guaranteed by the International Bank for
29 Reconstruction and Development;

1 (8) Bonds, debentures, or other obligations issued by
2 a federal land bank, or by a federal intermediate credit bank,
3 under the Act of Congress of July 17, 1916, known as the "Federal
4 Farm Loan Act," as amended or supplemented from time to time;

5 (9) Bonds, debentures, or other obligations issued by
6 any national mortgage association under the Act of Congress of
7 June 27, 1934, known as the "National Housing Act," as amended or
8 supplemented from time to time;

9 (10) Bonds, notes, or other obligations issued, amended,
10 or unconditionally guaranteed by The Port of New York Authority;

11 (11) Obligations of any public housing authority or
12 urban redevelopment authority issued pursuant to the laws of this
13 state relating to the creation or operation of a public housing
14 or urban redevelopment authority;

15 (12) Obligations of any state or municipal authority
16 issued pursuant to the laws of this state; provided that for each
17 of the five years next preceding the date of investment the income
18 of such authority available for fixed charges shall have been not
19 less than one and one-fifth times its average annual fixed charges
20 requirements over the life of such obligations;

21 (13) First mortgages on unencumbered real property
22 when such mortgages are guaranteed or insured in the amount of
23 fifty (50) per cent or more of the loan made, in the event of
24 default, by the United States or any agency of the United States
25 government;

26 (14) Bonds, notes, debentures, car-trust certificates,
27 preferred stock, or common stock of any corporation organized and
28 operating within the United States; provided that it shall have
29 minimum assets of ten million dollars (\$10 million) and securities

1' listed on one or more national stock exchanges; provided further
2 that the combined funds of the state shall not at any one time own
3 more than ten (10) per cent of the voting stock of any such company;
4 and provided further that in the investment of the moneys of any
5 one state fund or account, not more than twenty-five (25) per cent
6 of the total of such fund or account shall at any time be invested
7 in the securities of this class (subsection);

8 (15) Other investments hereafter from time to time
9 authorized by law as legal for investment by insurance companies
10 of this state.

11 Sec. 24. INVESTMENT FOR SHORT-TERM PERIODS. All surplus
12 cash certified by the state treasurer for short-term investment
13 (one year or less), or other moneys the principal of which shall
14 be required within a twelve-month period, may be invested in the
15 following classes of securities, and not otherwise:

16 (1) Certificates or other obligations of the United
17 States, or for which the full faith and credit of the United States
18 is pledged, which mature on such dates as will make available such
19 amount of cash as required;

20 (2) Any certificates or other evidences of indebtedness
21 in which savings banks may legally invest; provided that such
22 obligations mature on such dates as will make available without
23 discount such amounts of cash as required;

24 (3) Obligations of the United States which are redeem-
25 able by the United States Treasury at the owner's option at fixed
26 redemption values within one year from the date of such investment;

27 (4) Evidences of indebtedness issued by any corporation
28 which meet the requirements of Section 23 (14) of this Act; pro-
29 vided that such obligations are not in default as to either

1 principal or interest when acquired, and have a maturity of not
2 more than twelve months from the date of purchase.

3 Sec. 25. GENERAL PROVISIO. Be it further provided, however,
4 that any investments under Sections 23 and 24 of this Act shall be
5 made with the exercise of that degree of judgment and care, under
6 circumstances then prevailing, which men of prudence, discretion,
7 and intelligence exercise in the management of their own affairs,
8 not for speculation but for investment, considering the probable
9 safety of their capital as well as the probable income to be
10 derived.

11 Sec. 26. FUNDS FOR INVESTMENT. It shall be the duty of each
12 board, commission, department, official, or agency charged with the
13 custody or administration of any state fund to make moneys avail-
14 able for investment as fully as is consistent with the cash require-
15 ments of said fund. Monthly, and more often as circumstances
16 require, such official or agency shall notify the state investment
17 officer of the amount available for investment, and the investment
18 shall be made and paid for by warrant drawn by said officer against
19 such fund. Such notification shall include the name and number
20 of the fund for which the investments are to be made, and of the
21 life of the investment if the principal sum is subsequently to be
22 required for meeting obligations.

23 Sec. 27. SURPLUS CASH IN THE TREASURY. The state treasurer
24 shall likewise declare as funds available for investment any money
25 in the general fund or special funds of the treasury deemed un-
26 necessary for operating purposes during the next succeeding three
27 or more months.

28 Sec. 28. CUSTODY OF SECURITIES. All securities purchased or
29 held shall be in the physical custody of the state treasurer who

1 may, with the approval of the Commissioner of Revenue, deposit
2 with a fiscal agent in any of the financial centers, or with a
3 local bank or trust company, such of said securities as he shall
4 consider advisable to be held in safekeeping by said agent or bank
5 for collection of principal and interest, or of the proceeds of
6 sale thereof.

7 Sec. 29. COLLECTION OF INCOME AND PRINCIPAL. It shall be the
8 duty of the state treasurer to collect the interest, or other
9 income on, and the principal of such securities in his custody as
10 the said sums become due and payable, and to pay the same, when so
11 collected, into the fund to which the investments belong.

12 Sec. 30. AVAILABILITY OF INCOME FOR INVESTMENT. Interest or
13 other income received from the investment of surplus cash in the
14 treasury shall be transferred for credit to the general fund, or
15 the appropriate special fund. All other interest, premium, and
16 income in any form derived from investments, shall be retained by
17 the state treasurer and currently reinvested by the state invest-
18 ment officer on behalf of the fund holding said investments, unless
19 and until the appropriate fund administrative board or head shall
20 issue instructions to the state treasurer as to the transfer or
21 other disposition of such income receipts. Whenever a given
22 investment is owned by two or more funds, the income received shall
23 be prorated in accordance with the ownership of the respective
24 funds.

25 Sec. 31. RECORDS OF INVESTMENTS. The division of investments
26 shall keep, for each fund for which investments are made, a sepa-
27 rate account, to be designated by name and number, which shall
28 record the individual amounts and the totals of all investments
29 belonging to such fund. Every receipt and collection or disburse-

1 ment when received or made shall be immediately notified to the
2 division for recording to the particular fund to which it belongs.

3 Sec. 32. NOTIFICATION OF INVESTMENTS MADE. The division of
4 investments shall report monthly to each and every interested
5 state official or agency the changes in investments made during
6 the preceding month for their respective fund or funds, and, in
7 addition, shall furnish the details on the investment transactions
8 of any fund as requested by the administrative body or head thereof.

9 Sec. 33. MONTHLY REPORTS. Not later than fifteen (15) days
10 after the close of each month, the state investment officer shall
11 submit to the Commissioner of Revenue and the state investment
12 council a report of the operations of the division of investments
13 during said month. Each report shall include a detailed summary
14 of investment, reinvestment, purchase, sale, and exchange trans-
15 actions, setting forth, among other things, the investments bought,
16 sold, and exchanged, the dates thereof, the prices paid and
17 obtained, the names of the dealers involved, and a statement of
18 the funds or accounts referred to herein. Such reports shall also
19 be circulated to a mailing list of investment bankers and brokers
20 recommended by the council, and shall, in addition, be open for
21 inspection to the public and the press in the office of the state
22 investment officer.

23 Sec. 34. POST-AUDIT. The legislative auditor shall be
24 responsible for conducting a continuous post-audit of the invest-
25 ment transactions of the state, and shall submit annually a special
26 report on his findings to the investment council, the governor, and
27 to the appropriate legislative committee.

28 Sec. 35. ANNUAL REPORT. On or before January first of each
29 year, and at such other times as it may deem in the public interest

1 the investment council shall report to the governor and to the
2 legislature with respect to its review of the work of the division
3 of investment.

4 Sec. 36. ACT CONTROLLING. To the extent that the provisions
5 of this Act are inconsistent with the provisions of any other law,
6 the provisions of this Act shall be controlling.

7 Sec. 37. SHORT TITLE. This Act may be cited as the "Invest-
8 ment of State Funds Law."

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