

BY THE STATE AFFAIRS COMMITTEE BY REQUEST

1 IN THE SENATE

2

SENATE BILL NO. 509

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act establishing the Alaska State Trust Company;  
7 and providing for an effective date."

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

9 \* Section 1. LEGISLATIVE FINDINGS AND POLICY. (a) The legislature  
10 finds that

11 (1) among the major financial responsibilities of the state is  
12 the management of investments for the trust funds of the public employees'  
13 retirement system, the teachers' retirement system, the judicial retirement  
14 system, and the Alaska National Guard and Alaska Naval Militia retirement  
15 system, and for the University of Alaska trust fund, the public school  
16 trust fund, and the children's trust fund;

17 (2) to ensure the state's prudent and faithful discharge of its  
18 investment responsibilities as the fiduciary of various trust funds, there  
19 is a need for impartial oversight by persons with professional expertise in  
20 investment management;

21 (3) the fiduciary responsibilities for management of trust fund  
22 investments differ from other state responsibilities in that they are

23 (A) narrow in scope; they consist of meeting certain finan-  
24 cial goals for investments as opposed to achievement of broad social  
25 purposes or administering multi-faceted programs;

26 (B) clearly defined by state statute, federal law, and  
27 common law; who is responsible, to whom are they responsible, what the  
28 responsibility is, and what the standard of performance is, are all  
29 defined in law;

1 (C) measurable in performance; and  
2 (D) an income-generating as opposed to an income-collection  
3 or program expenditure activity;

4 (4) the establishment of a corporate body for carrying out the  
5 state's fiduciary responsibilities would facilitate the prudent maximiza-  
6 tion of trust fund earnings by providing broader and more flexible manage-  
7 ment powers; this is appropriate for an activity that strives to generate  
8 income;

9 (5) the Federal Reserve System's board of governors allows  
10 Federal Reserve Banks to make certain services available to trust companies  
11 owned by states; direct access to these services by the state, rather than  
12 through a commercial bank, could increase returns and reduce costs in the  
13 management of investments.

14 (b) It is the policy of the state to foster and promote by increased  
15 accountability, public disclosure, and all reasonable means

16 (1) the best observance of its fiduciary responsibilities in  
17 managing the investment of trusteed assets;

18 (2) economy, efficiency, and flexibility in managing the invest-  
19 ment of all trusteed assets; and

20 (3) the ability to effectively compete in the world's capital  
21 markets on behalf of all trusteed assets.

22 (c) The exercise of the powers of the legislature is required to  
23 implement the policies declared in (a) of this section by

24 (1) authorizing the creation of a state trust company as a body  
25 corporate whose purpose is to serve as the fiduciary for trust funds of the  
26 state, to manage under written agreements the investment of funds of the  
27 state, its municipalities, or their agencies, and to use the Federal  
28 Reserve System services on behalf of these funds; and

29 (2) granting the trust company the necessary authority to carry

1 out the declared policies.

2 \* Sec. 2. AS 37 is amended by adding a new chapter to read:

3 CHAPTER 36. ALASKA STATE TRUST COMPANY.

4 Sec. 37.36.010. ALASKA STATE TRUST COMPANY. There is created  
5 the Alaska State Trust Company. The trust company is a public corpo-  
6 ration of the state. The trust company is an instrumentality of the  
7 state within the Department of Revenue but has a legal existence  
8 independent of and separate from the state and has continuing succes-  
9 sion until its existence is terminated by law. The exercise by the  
10 trust company of the powers conferred by this chapter is an essential  
11 governmental function of the state.

12 Sec. 37.36.020. BOARD OF DIRECTORS. (a) The board of directors  
13 of the Alaska State Trust Company consists of

14 (1) the commissioner of revenue or the commissioner's  
15 designee, who shall serve as the chair of the board and whose term on  
16 the board shall coincide with that person's term as commissioner or,  
17 if a designee, the term of the commissioner by whom the designee was  
18 appointed;

19 (2) a member of the Public Employees' Retirement Board  
20 elected by that board and serving for the length of the member's term  
21 on that board;

22 (3) a member of the Alaska Teachers' Retirement Board  
23 elected by that board and serving for the length of the member's term  
24 on that board; and

25 (4) four unaffiliated directors elected by the board from  
26 among a list of three candidates for each directorship submitted by  
27 the personnel committee of the board.

28 (b) Two of the unaffiliated directors, at the time of their  
29 election to the board, must be primarily employed as executive trust

1 officers of trust companies or of trust departments or trust subsid-  
2 iaries of banks, or as chief executive officers in charge of invest-  
3 ment management firms, or public or private pension, foundation, or  
4 endowment funds. They must be responsible in their primary employment  
5 for all of the operations of their organizations, including  
6 accounting, custody of assets if those services are provided,  
7 processing, staffing, legal compliance, securities, and contracting.  
8 The remaining two unaffiliated directors must be professionally  
9 accredited securities analysts. At the time of their appointment,  
10 they must be primarily employed as chief investment officers of trust  
11 companies, trust departments or trust subsidiaries of banks,  
12 investment management firms, or public or private pension, foundation,  
13 or endowment funds. The primary employer of each unaffiliated member  
14 may not be or have been affiliated with, or under contract to, the  
15 state, a municipality, or a state or municipal agency during, or  
16 within one year before, the member's term of office begins. Each  
17 unaffiliated director must be responsible in the director's private  
18 employment for at least as many dollars of managed assets as dollars  
19 of assets managed by the Alaska State Trust Company. Two unaffiliated  
20 directors may not be employed by the same entity, or by affiliated  
21 entities.

22 (c) Upon the election to the board of each of the unaffiliated  
23 directors, the chair shall execute a letter of agreement on behalf of  
24 the trust company with each of the unaffiliated directors. The agree-  
25 ment serves to appoint each to a four-year term of office. The terms  
26 of one unaffiliated director who is an executive trust officer or  
27 chief executive officer and of one unaffiliated director who is a  
28 chief investment officer expire on January 1 of the second calendar  
29 year following a gubernatorial election, and the terms of the other

1 two unaffiliated directors expire on January 1 of the third calendar  
2 year following a gubernatorial election.

3 (d) Directors whose terms have expired may be reelected or  
4 reappointed to the board.

5 (e) A vacancy on the board shall be promptly filled by a succes-  
6 sor who is elected or appointed to the board in the same manner as the  
7 director creating the vacancy. A director elected or appointed to  
8 fill a vacancy holds office for the balance of the term of the direc-  
9 tor's predecessor.

10 (f) A vacancy on the board does not impair the authority of the  
11 board to exercise all of the powers and perform all of the duties of  
12 the board if the requirements for board actions set out in AS 37.36.-  
13 040 are met.

14 (g) The board may remove a director of the board from office. A  
15 removal by the board must be in writing and must state the specific  
16 reasons for the removal. A director who is removed by the board may  
17 not participate in board business after the director receives written  
18 notice of removal from the board.

19 Sec. 37.36.030. DUTIES OF THE BOARD. (a) The board of direc-  
20 tors has a general and continuing duty to ensure that the trust com-  
21 pany is faithfully and effectively discharging its responsibilities to  
22 manage and service trusteed assets at the highest professional stan-  
23 dard of trusteeship. The board shall keep beneficiaries of trusteed  
24 assets, trustors, and the public adequately informed of the financial  
25 condition and performance of trusteed assets.

26 (b) The board shall

27 (1) approve the selection of the president, the chief  
28 investment officer, and the auditor, and approve the contracts  
29 covering their services;

1           (2) review and approve the allocations of budgeted expense  
2 recovery charges among trustee assets and the state, municipalities,  
3 and their agencies;

4           (3) review and approve on an annual basis the general  
5 investment policy for trustee assets;

6           (4) review the adequacy of the trust company's custodial  
7 arrangements, investment performance, and insurance coverage, and the  
8 trust company's compliance with relevant laws, regulations and trust  
9 agreements;

10          (5) receive and review all financial reports provided by  
11 the trust company to trustors or beneficiaries of trustee assets;

12          (6) receive and review all reports of audit by the trust  
13 company's internal and external auditors and all reports of examina-  
14 tion by regulatory authorities; and

15          (7) approve the execution of contracts, fiduciary instru-  
16 ments, or other agreements that confer responsibility on the trust  
17 company to manage trustee assets or to provide other services to the  
18 state, municipalities, or their agencies.

19          Sec. 37.36.040. MEETINGS AND ACTIONS OF THE BOARD.     (a)     The  
20 chair of the board shall call meetings of the board at least once in  
21 every calendar quarter and may call additional meetings if necessary.

22          (b)     The chair of the board shall call meetings of the board on  
23 the written request of three or more directors other than the chair.

24          (c)     Directors shall be furnished written notice at least seven  
25 days before meetings of the board, except for emergency meetings. The  
26 board shall provide by rule for a method of providing reasonable  
27 notice to the public of its meetings and to its directors for emergen-  
28 cy meetings.

29          (d)     The meetings of the board and its committees are subject to

1 AS 44.62.310, except that

2 (1) meetings of the investment committee are closed to the  
3 public, unless the committee members unanimously vote to open a meet-  
4 ing to the public; and

5 (2) meetings of the board and its committees may be closed  
6 to the public if the meeting concerns

7 (A) matters relating to procedures used to provide  
8 security for custody of trust company or trusteed assets or to  
9 prevent the exercise of investment powers by unauthorized per-  
10 sons; and

11 (B) matters that the Federal Reserve System may re-  
12 quire to be kept confidential as a condition of providing ser-  
13 vices to the trust company.

14 (e) The board and its committees shall record and keep minutes  
15 of each public meeting and of each meeting of the investment commit-  
16 tee. The minutes must include supporting reports and documents, and  
17 the votes cast by each board member.

18 (f) Board actions require

19 (1) the affirmative vote of four or more directors, at  
20 least two of whom are unaffiliated directors; and

21 (2) for approval of budgeted expense recovery charges under  
22 AS 37.36.120, the affirmative vote of at least one director who is a  
23 member of a retirement system board.

24 (g) The board shall provide by rule for the manner of voting,  
25 but may not provide for voting by proxy. The rules adopted by the  
26 board may provide for voting and conferring by teleconference.

27 Sec. 37.36.050. COMMITTEES OF THE BOARD. (a) The board shall  
28 form an audit committee, a budget committee, a personnel committee,  
29 and an investment committee. Each committee, except for the

1 investment committee, consists of three directors, two of whom must be  
2 unaffiliated directors, and is chaired by the affiliated director.  
3 The investment committee consists of the commissioner or the commis-  
4 sioner's designee and the two unaffiliated directors who are primarily  
5 employed as chief investment officers. Except for the investment  
6 committee, a director may not chair more than one committee or serve  
7 on more than two committees.

8 (b) The audit committee of the board shall review, investigate,  
9 and evaluate audit reports from the trust company's auditor and the  
10 external firm of certified public accountants, reports of examination  
11 by regulatory authorities, and all matters referred to the board  
12 concerning safe custody of assets, accuracy in accounting reports, and  
13 unethical practices by the trust company's personnel. The committee  
14 may solicit reports, receive testimony, initiate inquiries, and meet  
15 or confer in deliberating on reports and matters with which the com-  
16 mittee is concerned. If the committee decides that some action should  
17 be taken, it shall report the results of its review and its recommen-  
18 dations to the chair of the board, who shall present them to the  
19 entire board for consideration and action.

20 (c) The budget committee of the board shall review the trust  
21 company's proposed annual budget, evaluate the allocation of expense  
22 recovery charges levied against trusteed assets and the state, munic-  
23 ipalities, and their agencies, and recommend action by the board in  
24 approving the allocation of expense recovery charges. The committee  
25 may require reports or testimony from the management of the trust  
26 company, and may meet or confer in deliberating on the allocation of  
27 charges.

28 (d) The personnel committee of the board is responsible for  
29 submitting to the board the lists of candidates for the unaffiliated

1       directorships and for the president and auditor of the trust company.  
2       The personnel committee shall evaluate and interview the candidates  
3       for unaffiliated directorships, the president, the chief investment  
4       officer, and the auditor of the trust company. The committee may  
5       initiate inquiries, solicit reports, receive testimony, and meet or  
6       confer while investigating and evaluating the candidates.

7               (e) The investment committee shall review the investment poli-  
8       cies for trustee assets and recommend general investment policy to  
9       the board for its approval on an annual basis.

10              (f) The board may form other committees to consider certain  
11       matters, but a committee may not consist of more than three directors.

12              (g) A director may appear before a committee of the board, at  
13       the committee's request, to testify or report on matters being con-  
14       sidered by the committee. However, the presence of a majority of the  
15       directors at the committee hearing does not constitute a meeting of  
16       the board of directors for purposes of AS 37.36.040.

17              Sec. 37.36.060. COMPENSATION OF DIRECTORS. An unaffiliated  
18       director shall receive an annual fee comparable to that paid to other  
19       unaffiliated corporate directors of private corporations as determined  
20       by an independent national survey. Affiliated directors who are not  
21       public officers or employees are entitled to travel and per diem  
22       expenses authorized for boards and commissions under AS 39.20.180.

23              Sec. 37.36.070. TRUST COMPANY MANAGEMENT. (a) Executive au-  
24       thority and responsibility for the management and operation of the  
25       trust company are vested in the president. The board shall appoint  
26       the president from a list of three candidates submitted by the person-  
27       nel committee.

28              (b) Authority and responsibility for the trust company's invest-  
29       ment activities, decisions, and performance, subject to the general

1 investment policies established by the board under AS 37.36.030(b),  
2 are vested in the chief investment officer. The chief investment  
3 officer shall be appointed by the president, subject to approval of  
4 the board.

5 (c) Authority and responsibility for continuously auditing the  
6 custody of trust company and trustee assets, financial statements of  
7 assets and investment activities, the trust company's expenses, reve-  
8 nue and operational procedures and controls, and compliance with trust  
9 agreements, regulations and laws, and for reporting the results of  
10 those audits to the president and the audit committee of the board,  
11 are vested in the auditor. The board shall appoint the auditor from a  
12 list of three candidates submitted by the personnel committee. The  
13 auditor shall report to, and have direct and continuing access to, the  
14 chair of the audit committee of the board.

15 (d) The officers appointed under this section serve under con-  
16 tracts approved by the board and executed by the chair. The president  
17 and the chief investment officer shall serve under five-year fixed-  
18 term contracts, staggered so that the terms expire at least two years  
19 apart.

20 (e) The trust company may employ other personnel that the presi-  
21 dent determines to be necessary for carrying out the functions of the  
22 trust company.

23 (f) The president shall determine fair and competitive compen-  
24 sation for the trust company's employees who are not under contract,  
25 and shall establish benefits considered necessary or desirable.

26 (g) The president shall organize and operate the trust company  
27 to achieve the purposes of this chapter by exercising the powers given  
28 by law and by agreements with trustors and regulatory authorities.  
29 The president shall report to the board of directors on those matters

1 that are duties of the board under this chapter.

2 Sec. 37.36.080. RESPONSIBILITIES OF MANAGEMENT. (a) The offi-  
3 cers of the trust company have a general and continuing responsibility  
4 to serve the purposes of this chapter and other relevant state laws by  
5 organizing and operating the trust company and utilizing the granted  
6 powers to effectively and efficiently provide public fund trust ser-  
7 vices at the highest professional standard of trusteeship.

8 (b) The powers granted to the trust company under AS 37.36.090  
9 or under other laws, agreements, and trusts are vested in the officers  
10 of the trust company, except where this chapter specifically assigns  
11 those powers to the board of directors, and the exercise of those  
12 powers is a management responsibility.

13 (c) When taking an action on behalf of, or in connection with,  
14 the trust company, the officers shall give the highest priority to  
15 serving the best financial interests of the beneficiaries of the  
16 trusteed assets.

17 (d) In discharging their responsibilities, the officers shall

18 (1) establish asset control and security procedures to  
19 ensure the safe custody of trust company and trusteed assets under  
20 management;

21 (2) maintain accurate accounting records of trusteed as-  
22 sets;

23 (3) prepare and distribute trust fund activity and status  
24 reports to beneficiaries, trustors, the board of directors and, as  
25 required, to regulatory authorities;

26 (4) manage trusteed assets to achieve a satisfactory level  
27 of investment performance over an appropriate period of time and to  
28 fulfill the investment objectives of the trust funds;

29 (5) use its investment staff for investment decisions and

1 services, or select and use external investment management firms or  
2 service providers under contract to the trust company;

3 (6) employ personnel who are qualified to perform the  
4 necessary duties;

5 (7) provide suitable working facilities and equipment;

6 (8) retain legal counsel and other advisors or consultants,  
7 it considers necessary;

8 (9) acquire sufficient insurance coverage to reasonably  
9 protect the trust and trust company assets, and the employees,  
10 officers, and directors;

11 (10) publish and distribute an annual statement of the trust  
12 company's financial condition and of its performance as a trustee; and

13 (11) perform other activities necessary to fulfill its  
14 responsibilities.

15 Sec. 37.36.090. POWERS. The trust company may

16 (1) sue and be sued;

17 (2) adopt and alter an official seal;

18 (3) make and enforce bylaws and rules of the conduct of its  
19 business and for the use of its services and facilities;

20 (4) maintain one or more offices inside or outside the  
21 state;

22 (5) acquire, hold, use, and dispose of income, revenue,  
23 funds, and money;

24 (6) acquire, rent, lease, hold, use, and dispose of other  
25 personal or real property for its purposes;

26 (7) fix, charge, and collect fees and charges for the use  
27 of its services or facilities;

28 (8) exercise its powers authorized by statute through its  
29 officers, agents, or employees or by contracts with a person;

1           (9) enter into and enforce all contracts, fiduciary instru-  
2           ments, and other agreements necessary, convenient, or desirable to  
3           carry out the purposes of the trust company or the performance of its  
4           duties and execution of its powers under this chapter;

5           (10) receive, transfer, and disburse money and securities  
6           belonging to trust funds, the state, municipalities, or their agen-  
7           cies;

8           (11) provide services that the Federal Reserve System may  
9           make available to the trust company, including

10           (A) safekeeping book-entry United States Treasury and  
11           agency securities owned by trust funds, the state, its municipal-  
12           ities, or their agencies;

13           (B) using the Federal Reserve wire transfer system to  
14           transfer money and book-entry securities and to settle securities  
15           transactions involving book-entry United States Treasury and  
16           agency securities owned by trust funds, the state, its municipal-  
17           ities, or their agencies;

18           (C) receiving payments and making payments by the  
19           Federal Reserve wire transfer system on behalf of trust funds,  
20           the state, its municipalities, or their agencies;

21           (D) paying warrants drawn on the state treasury and  
22           presented through the Federal Reserve System for payment;

23           (E) safekeeping collateral pledged to secure deposits  
24           of public funds;

25           (F) collecting, through the Federal Reserve System,  
26           checks deposited with the state treasury; and

27           (G) originating automated clearinghouse transactions  
28           or other electronic transfers to make payments on behalf of trust  
29           funds, the state, its municipalities, and their agencies,

1 collecting revenue due trust funds, the state, its municipali-  
2 ties, and their agencies, and transferring money between state  
3 depositories;

4 (12) manage and invest money and other property on behalf of  
5 trust funds, the state, its municipalities, and their agencies under  
6 law, contract, fiduciary instrument, or other written agreement; and

7 (13) do all acts and things necessary, convenient, or desir-  
8 able to carry out the powers expressly granted or necessarily implied  
9 in this chapter.

10 Sec. 37.36.100. LIMITATIONS. The trust company may not engage  
11 in commercial banking activity or private trust activity. The trust  
12 company may not act as a depository or trustee for, or as a lender to,  
13 a private person, association, or corporation. This limitation does  
14 not prevent the trust company from lending to, borrowing from, or  
15 holding collateral of private persons, associations, or corporations,  
16 when this activity is incidental to investment of the trust assets.

17 Sec. 37.36.110. NET INCOME. Net income of the trust company  
18 shall be paid first to the general operating account of the trust  
19 company if the account balance is less than one-tenth of one percent  
20 of the trust assets; and second, to trust funds, the state, its  
21 municipalities, and their agencies in proportion to the amount of  
22 charges by the trust company for each fund, instrumentality, and  
23 agency.

24 Sec. 37.36.120. BUDGET AND CHARGES FOR SERVICES. The trust  
25 company's officers shall determine its budget annually. The trust  
26 company's expenses shall be financed by charging the investment income  
27 of trust assets in the proportion of those assets to all trust assets  
28 held by the trust company and by charging other public funds,  
29 instrumentalities, or agencies for services provided. The total

1 annual charges to a managed trust fund of the state may not exceed  
2 4/10ths of one percent of the fund's average market value during the  
3 fiscal year. The charges to other public funds for services provided  
4 shall be reasonably competitive. The budgeted expense recovery  
5 charges are subject to annual review and approval by the board of  
6 directors.

7 Sec. 37.36.130. LIABILITY. (a) Except with respect to a writ-  
8 ten agreement authorized under (b) of this section, a liability in-  
9 curred by the trust company shall be satisfied exclusively from the  
10 assets or revenue of the trust company and a creditor or other person  
11 shall not have a right of action against the state because of a debt,  
12 obligation, or liability of the trust company. A liability of the  
13 trust company may not be satisfied from trusteed assets unless ex-  
14 pressly authorized by law.

15 (b) The commissioner may enter into a written agreement with a  
16 Federal Reserve Bank or the board of governors of the Federal Reserve  
17 System providing that, notwithstanding another statute to the con-  
18 trary, to the extent permitted by the contracts, trust agreements, or  
19 other fiduciary instruments between the trust company and the Federal  
20 Reserve System, the trust company's obligations shall be guaranteed by  
21 the state, and the state expressly waives all defenses of governmental  
22 immunity by and on behalf of the trust company, the commissioner, and  
23 the state and expressly consents to sue and be sued in federal court  
24 or in any court of competent jurisdiction. However, this provision  
25 does not alter or affect the immunity accorded to state officials and  
26 employees under state law.

27 (c) The trust company may defend and indemnify a current or  
28 former member of the board, employee, or agent of the trust company  
29 against all costs, expenses, judgments, and liabilities, including

1 reasonable attorney fees, incurred by or imposed upon that person in  
2 connection with a civil or criminal action in which the person is  
3 involved by affiliation with the trust company. However, the indem-  
4 nity provided under this subsection does not apply if the person  
5 committed an intentional tort, acted in bad faith, acted outside the  
6 scope of official duties or powers, or, in the case of fiduciary acts,  
7 acted in an imprudent manner under the applicable standard of pru-  
8 dence.

9 Sec. 37.36.140. INSURANCE. The trust company shall protect  
10 trustee assets and its own assets, services, and employees by pur-  
11 chasing insurance or providing for self-insurance retentions in  
12 amounts recommended by the president and approved by the board of  
13 directors to cover the acts, including fiduciary acts, errors, and  
14 omissions of its board members, officers, employees, and agents.  
15 Insurance shall protect the trust company from liability to others and  
16 from loss of trustee assets and assets of the company.

17 Sec. 37.36.150. EXEMPTION FROM TAXATION. The trust company and  
18 all properties at any time owned by it, managed by it, or held by it  
19 in trust, and the income from those activities, are exempt from all  
20 taxes and assessments in the state. All security instruments issued  
21 by the trust company and income from them are exempt from all taxes  
22 and assessments in the state, including transfer taxes.

23 Sec. 37.36.160. SURETY FOR DEPOSITS WITH BANKS. Banks, trust  
24 companies, savings banks, and other persons carrying on a banking  
25 business are authorized to give to the trust company sureties. The  
26 sureties shall be approved by the trust company to the effect that the  
27 banks or banking institutions shall faithfully keep and pay over to  
28 the order of or upon the warrant of the trust company or its authori-  
29 zed agent all money deposited with them by the trust company and

1 agreed interest, at the times or upon the demands agreed on with the  
2 banks or banking institutions. In lieu of these sureties, a deposi-  
3 tory bank or other banking institution shall deposit with the trust  
4 company or its authorized agent or a trustee as collateral, securities  
5 approved by the trust company. The deposits of the trust company may  
6 be evidenced by agreements in the form and upon the terms and condi-  
7 tions that are agreed upon by the trust company and the depository  
8 banks or banking institutions.

9 Sec. 37.36.170. ANNUAL REPORT AND AUDIT. The trust company  
10 shall publish an annual report for distribution to the board, trus-  
11 tors, beneficiaries, and the public. The report must include finan-  
12 cial statements audited by an independent firm of certified public  
13 accountants experienced in accounting for institutional investors.

14 Sec. 37.36.180. POLITICAL ACTIVITIES AND OUTSIDE INFLUENCE. The  
15 resources of the trust company may not be used to directly or indi-  
16 rectly finance or influence political activities. Attempts by persons  
17 outside the trust company to unlawfully influence the operations or  
18 investment activities of the trust company through threats, coercion,  
19 intimidation, or criminal acts shall be reported to the attorney  
20 general for investigation.

21 Sec. 37.36.190. PUBLIC ACCESS TO INFORMATION. (a) Records in  
22 the possession of the trust company are public records subject to  
23 AS 09.25.110 - 09.25.125. However, records are not subject to public  
24 inspection and copying if they

25 (1) fall within one of the exceptions of AS 09.25.120;

26 (2) contain testimony, minutes, communications, or reports  
27 presented to the board or its committees in executive session;

28 (3) are personnel records;

29 (4) contain communications with or constitute the work

1 product of legal counsel;

2 (5) are records relating to procedures used to provide  
3 security for custody of trust company or trustee assets and to pre-  
4 vent the exercise of investment powers by unauthorized persons;

5 (6) are minutes of investment committee meetings that have  
6 occurred less than one year before a request for inspection;

7 (7) are records that the Federal Reserve System requires to  
8 be kept confidential as a condition of providing services to the trust  
9 company; or

10 (8) are records that disclose the particulars of the busi-  
11 ness or affairs of a private enterprise or investor.

12 (b) A record not subject to public inspection under (a) of this  
13 section may be disclosed only for the purposes of an official law  
14 enforcement investigation or when its production is ordered by a judge  
15 of a court of competent jurisdiction. These restrictions do not pro-  
16 hibit the publication of statistics presented in a manner that pre-  
17 vents the identification of particular reports, items, persons, or  
18 enterprises.

19 Sec. 37.36.200. APPLICATION OF EXISTING LAW. Unless specifi-  
20 cally provided otherwise in this chapter, the following laws do not  
21 apply to the operations of the trust company:

- 22 (1) AS 06;  
23 (2) AS 36.30;  
24 (3) AS 37.05;  
25 (4) AS 37.07;  
26 (5) AS 37.10.010 - 37.10.060;  
27 (6) AS 37.10.085;  
28 (7) AS 37.25;  
29 (8) AS 39;

1 (9) AS 44.62.040 - 44.62.300;

2 (10) AS 44.77;

3 (11) AS 44.80.010.

4 Sec. 37.36.210. CONFLICTING LAWS INAPPLICABLE. If provisions of  
5 this chapter conflict with the provisions of other state law, the  
6 provisions of this chapter prevail.

7 Sec. 37.36.900. DEFINITIONS. In this chapter,

8 (1) "affiliated director" means the commissioner of revenue  
9 or the commissioner's designee, the director from the Public Employ-  
10 ees' Retirement Board, or the director from the Alaska Teachers'  
11 Retirement Board;

12 (2) "board" means the board of directors of the Alaska  
13 State Trust Company, unless the context otherwise requires;

14 (3) "book-entry securities" means securities issued by the  
15 Treasury of the United States of America and federal agencies of the  
16 United States of America that are maintained in the book-entry system  
17 as provided in Subpart O of Treasury Circular No. 300, 31 CFR 306,  
18 Subpart B of 31 CFR Part 350, and the book-entry regulations of feder-  
19 al agencies substantially in the form of Subpart O;

20 (4) "commissioner" means the commissioner of revenue;

21 (5) "president" means the president of the trust company;

22 (6) "trust company" means the Alaska State Trust Company;

23 (7) "trusteed assets" means assets of trust or other types  
24 of money of the state, municipalities, and their agencies managed by  
25 the trust company under law, contract, fiduciary instrument, or other  
26 agreements;

27 (8) "unaffiliated director" means a director other than an  
28 affiliated director.

29 \* Sec. 3. AS 14.25.035(d) is amended to read:

1 (d) The commissioner of administration shall report to the board  
2 concerning the condition and administration of the system. The re-  
3 ports shall be distributed to the members of the system. The Alaska  
4 State Trust Company [COMMISSIONER OF REVENUE] shall provide reports to  
5 the board on the condition and investment performance of the teachers'  
6 retirement trust fund.

7 \* Sec. 4. AS 14.25.180 is amended to read:

8 Sec. 14.25.180. MANAGEMENT AND INVESTMENT OF FUND. (a) The  
9 Alaska State Trust Company [COMMISSIONER OF REVENUE] is the treasurer  
10 of the system and the fiduciary of the fund. In managing the fund,  
11 the Alaska State Trust Company [COMMISSIONER OF REVENUE] shall

12 (1) consider the status of the fund's investments and the  
13 system's liabilities on both a current and a probable future basis;

14 (2) determine the appropriate investment objectives for the  
15 fund;

16 (3) establish investment policies aimed at achieving the  
17 objectives; and

18 (4) act only in regard to the best financial interests of  
19 the system's beneficiaries.

20 (b) The Alaska State Trust Company [COMMISSIONER OF REVENUE] may  
21 invest the fund on the basis of probable total rate of return without  
22 regard to the distinction between principal and income or to the  
23 generation of income.

24 (c) In carrying out investment duties under this chapter, the  
25 Alaska State Trust Company [COMMISSIONER OF REVENUE] has the same  
26 powers and duties in regard to the teacher's retirement trust fund as  
27 are provided in AS 37.10.071, except that the standard of prudence  
28 that the Alaska State Trust Company [COMMISSIONER] must obey under  
29 AS 37.10.071(c) shall be in regard to the management of large trust

1 investments rather than large investments.

2 \* Sec. 5. AS 14.40.400(b) is amended to read:

3 (b) The Alaska State Trust Company [COMMISSIONER OF REVENUE] is  
4 the fiduciary of the trust fund and shall account for and invest the  
5 fund as set out in AS 37.14.110(c), 37.14.160, and 37.14.170, except  
6 that the Alaska State Trust Company [COMMISSIONER] shall report the  
7 condition and investment performance of the fund to the Board of  
8 Regents.

9 \* Sec. 6. AS 22.25.048(c) is amended to read:

10 (c) The Alaska State Trust Company [COMMISSIONER OF REVENUE] is  
11 the treasurer of the system and the fiduciary of the fund and has the  
12 same powers and duties under this section in regard to the judicial  
13 retirement trust fund as are provided in AS 14.25.180.

14 \* Sec. 7. AS 26.05.228(c) is amended to read:

15 (c) The Alaska State Trust Company [COMMISSIONER OF REVENUE] is  
16 the treasurer of the system and the fiduciary of the fund and has the  
17 same powers and duties under this section in regard to the fund as are  
18 provided under AS 14.25.180.

19 \* Sec. 8. AS 36.30.850(b)(15) is amended to read:

20 (15) a contract that is an exercise [A DELEGATION], in whole  
21 or in part, of investment powers and duties held by the commissioner  
22 of revenue under [AS 14.25.180, AS 14.40.400,] AS 14.42.200, 14.42.-  
23 210, AS 18.56.095, [AS 22.25.048, AS 26.05.228,] AS 37.10.070 or [,]  
24 37.10.071 [, AS 37.14, OR AS 39.35.080];

25 \* Sec. 9. AS 37.10.071(f) is amended to read:

26 (f) In this section, "commissioner of revenue" or "commissioner"  
27 means

28 (1) the commissioner of revenue for investments under  
29 [AS 14.25.180 OR] AS 37.10.070 or AS 39.30.095(d); or

1           (2) the person or body provided by law to manage the in-  
2 vestments, for investments not covered by (1) of this subsection  
3 [SUBJECT TO AS 14.25.180 OR AS 37.10.070].

4 \* Sec. 10. AS 37.14.110(c) is amended to read:

5           (c) The Alaska State Trust Company [COMMISSIONER OF REVENUE]  
6 shall determine the net income of the fund in accordance with invest-  
7 ment accounting principles and in a manner that preserves the dis-  
8 tinction between principal and income and that excludes capital gains  
9 or losses realized on principal. The principal of the fund and the  
10 capital gains or losses realized on principal shall be perpetually  
11 retained in the fund for investment purposes.

12 \* Sec. 11. AS 37.14.120(a) is amended to read:

13           (a) There is created in the Department of Revenue the Public  
14 School Fund Advisory Board composed of the commissioner of education,  
15 three members elected by the Board of Education from among its member-  
16 ship, and the president of the Alaska State Trust Company [COMMI-  
17 SIONER OF REVENUE].

18 \* Sec. 12. AS 37.14.140 is amended to read:

19           Sec. 37.14.140. UTILIZATION OF INCOME. The net income of the  
20 fund may not be appropriated for a purpose other than the support of  
21 the state public school program. The Alaska State Trust Company  
22 [COMMISSIONER OF REVENUE] shall invest realized net income that has  
23 not been appropriated or that has been appropriated but not expended  
24 until the income is appropriated and expended.

25 \* Sec. 13. AS 37.14.160 is amended to read:

26           Sec. 37.14.160. DUTIES OF THE ALASKA STATE TRUST COMPANY [COM-  
27 MISSIONER OF REVENUE]. The Alaska State Trust Company [COMMISSIONER  
28 OF REVENUE] is the treasurer of the trust fund created in AS 37.14.110  
29 and shall

1 (1) exercise the powers and duties established in AS 14.-  
2 25.180(c);

3 (2) deposit the principal and income from investments in  
4 separate principal and income accounts for the fund;

5 (3) invest and maintain accounting records that distinguish  
6 between the principal and income of the fund;

7 (4) provide reports to the board established under AS 37.-  
8 14.120 on the condition and investment performance of the fund.

9 \* Sec. 14. AS 37.14.170 is amended to read:

10 Sec. 37.14.170. INVESTMENTS. The Alaska State Trust Company  
11 [COMMISSIONER OF REVENUE] is the fiduciary of the trust fund and shall  
12 invest the fund to provide increasing net income over long-term peri-  
13 ods to the fund's income beneficiaries. The Alaska State Trust Com-  
14 pany [COMMISSIONER] may invest the money in the fund on the basis of  
15 probable total rate of return to promote the long-term generation of  
16 income. In managing the trust fund, the Alaska State Trust Company  
17 [COMMISSIONER] shall

18 (1) consider the status of the fund's capital and the  
19 income generated on both a current and a probable future basis;

20 (2) determine the appropriate investment objectives;

21 (3) establish investment policies to achieve the objec-  
22 tives; and

23 (4) act only in regard to the best financial interests of  
24 the fund's beneficiaries.

25 \* Sec. 15. AS 37.14.200(c) is amended to read:

26 (c) The net income of the fund shall be determined by the Alaska  
27 State Trust Company [COMMISSIONER OF REVENUE] in accordance with  
28 investment accounting principles and in a manner that preserves the  
29 distinction between principal and income.

1 \* Sec. 16. AS 37.14.210 is amended to read:

2       Sec. 37.14.210. POWERS AND DUTIES OF THE ALASKA STATE TRUST  
3 COMPANY [COMMISSIONER OF REVENUE]. The Alaska State Trust Company  
4 [COMMISSIONER OF REVENUE] is the treasurer of the fund and has the  
5 power and duty to:

6               (1) act as official custodian of the cash and investments  
7 belonging to the fund by securing adequate and safe custodial facili-  
8 ties;

9               (2) receive all items of cash and investments belonging to  
10 the fund;

11              (3) collect the principal and income from investments owned  
12 or acquired by the fund and deposit the amounts in separate principal  
13 and income accounts for the fund;

14              (4) invest and reinvest the assets of the fund as provided  
15 in this section and as provided for the investment of funds under  
16 AS 14.25.180(c) and AS 37.14.170;

17              (5) exercise the powers of an owner with respect to the  
18 assets of the fund;

19              (6) maintain accounting records of the fund in accordance  
20 with investment accounting principles and with distinction between the  
21 principal and income accounts of the fund;

22              (7) engage an independent firm of certified public accoun-  
23 tants to annually audit the financial condition of the fund's invest-  
24 ments and investment transactions;

25              (8) enter into and enforce contracts or agreements con-  
26 sidered necessary for the investment purposes of the fund;

27              (9) report to the board the condition and investment per-  
28 formance of the fund;

29              (10) do all acts, whether or not expressly authorized, that

1 the Alaska State Trust Company [COMMISSIONER OF REVENUE] considers  
2 necessary or proper in administering the assets of the fund.

3 \* Sec. 17. AS 37.14.240(b) is amended to read:

4 (b) The net income of the fund may be appropriated only for the  
5 following purposes:

6 (1) the awarding of grants;

7 (2) obtaining private and federal grants for the fund;

8 (3) soliciting contributions, gifts, and bequests for the  
9 fund; and

10 (4) reimbursement to the Alaska State Trust Company [DE-  
11 PARTMENT OF REVENUE] for the costs of establishing the fund.

12 \* Sec. 18. AS 39.35.020 is amended to read:

13 Sec. 39.35.020. ADMINISTRATION. The commissioner of adminis-  
14 tration is responsible for the administration of the system and for  
15 carrying out this chapter. In addition the commissioner shall

16 (1) maintain the participant accounts of the system;

17 (2) make payments for the various purposes specified;

18 (3) submit periodic reports or statements of account that  
19 are needed;

20 (4) issue a statement of account to an employee requesting  
21 it showing the amount of the employee's contributions to the system;

22 (5) as soon as possible after the close of each fiscal  
23 year, and not later than six months after the close of each fiscal  
24 year, send to the governor, the legislature, and the board an annual  
25 statement on the operations of the system containing

26 (A) a balance sheet;

27 (B) a statement of income and expenditures for the  
28 year;

29 (C) a report on an actuarial valuation of its assets

1 and liabilities;

2 (D) a summary of assets held in the pension fund  
3 listed by the categories of investment, as provided by the Alaska  
4 State Trust Company [COMMISSIONER OF REVENUE];

5 (E) other statistical financial data that are neces-  
6 sary for a proper understanding of the financial condition of the  
7 system and the result of its operations;

8 (6) establish a public employees retirement trust fund in  
9 which the assets of the system shall be deposited and held;

10 (7) engage an independent certified public accountant to  
11 conduct an annual audit of the system's accounts and the annual report  
12 of the system's financial condition and activity;

13 (8) report to the board concerning the condition and admin-  
14 istration of the system and distribute the report to the members of  
15 the system.

16 \* Sec. 19. AS 39.35.080 is amended to read:

17 Sec. 39.35.080. DUTIES OF THE ALASKA STATE TRUST COMPANY [COM-  
18 MISSIONER OF REVENUE]. The Alaska State Trust Company [COMMISSIONER  
19 OF REVENUE] is the treasurer of the system and the fiduciary of the  
20 fund. The Alaska State Trust Company [COMMISSIONER] has the same  
21 powers and duties established under this chapter in regard to the fund  
22 as are provided in AS 14.25.035(d) and 14.25.180.

23 \* Sec. 20. TRANSITIONAL PROVISIONS. (a) The first four unaffiliated  
24 directors provided for by AS 37.36.020(a)(4), as enacted by sec. 2 of this  
25 Act, shall be elected by the affiliated directors from among a list of  
26 three candidates for each directorship submitted by the chair of the board.  
27 The election of the first four unaffiliated directors is not subject to  
28 AS 37.36.040(f) as enacted by sec. 2 of this Act. Notwithstanding AS 37.-  
29 36.020(c) and 37.36.070(d), as enacted by sec. 2 of this Act, the terms of

1 the first four unaffiliated directors may be less than four years, and the  
2 term of the first chief investment officer may be less than five years, in  
3 order to provide for proper staggering of terms.

4 (b) Litigation, hearings, investigations and other proceedings pend-  
5 ing under a law amended or repealed by this Act, or in connection with  
6 functions transferred by this Act, continue in effect and may be continued  
7 and completed notwithstanding a transfer or amendment or repeal provided  
8 for in this Act. Certificates, orders, and regulations issued or adopted  
9 under authority of a law amended or repealed by this Act remain in effect  
10 for the term issued, or until revoked, vacated, or otherwise modified under  
11 the provisions of this Act. Contracts, rights, liabilities, and obliga-  
12 tions created by or under a law amended or repealed by this Act, and in  
13 effect on the effective date of this Act, remain in effect notwithstanding  
14 this Act's taking effect. Records, equipment, appropriations, and other  
15 property of agencies of the state whose funds are transferred under this  
16 Act shall be transferred to implement the provisions of this Act.

17 \* Sec. 21. Sections 1, 2, and 20 of this Act take effect July 1, 1990.

18 \* Sec. 22. Sections 3 - 19 of this Act take effect on the earlier of  
19 July 1, 1991, or the date of execution of a trust agreement between the  
20 commissioner of revenue and the trust company containing the same pro-  
21 visions as secs. 3 - 19 of this Act relating to the transfer of fiduciary  
22 responsibilities. The commissioner of revenue shall notify the lieutenant  
23 governor and the revisor of statutes when the trust agreement is executed,  
24 if it is executed before July 1, 1991.