

**HOUSE CS FOR CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 18 (FINANCE)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**SEVENTEENTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered: 5/2/91**

**Referred: Rules**

**Sponsor(s): SENATORS POURCHOT, Sturgulewski, Duncan, Collins**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act establishing the Alaska State Pension Corporation; relating to management and  
2 investment of state pension funds and other state funds; and providing for an effective  
3 date."

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

5 \* Section 1. AS 37.10 is amended by adding new sections to read:

6 **ARTICLE 5. ALASKA STATE PENSION CORPORATION.**

7 **Sec. 37.10.210. ALASKA STATE PENSION CORPORATION.** (a) There is established  
8 the Alaska State Pension Corporation. The corporation is a public corporation in the Department  
9 of Revenue managed by a board of trustees. The purpose of the corporation is to provide  
10 professional management and investment of state pension funds and of other state funds upon  
11 agreement with the managers of those funds.

12 (b) The board consists of nine trustees. Four of the trustees shall be elected by the  
13 members of the retirement systems. Nominations may be made by the teachers' retirement board,  
14 the public employees' retirement board, or by petition signed by at least 10 persons eligible to

1 vote in the election. One of the elected trustees must be an active member of the public  
2 employees' retirement system who is participating in the supplemental benefits program under  
3 AS 39.30.150 - 39.30.180, one must be receiving a benefit from the public employees' retirement  
4 system, one must be an active member of the teachers' retirement system, and one must be  
5 receiving a benefit from a retirement system other than the public employees' retirement system.  
6 The governor shall appoint two trustees from a list of nominees submitted by employers in the  
7 retirement systems. The governor shall appoint one additional trustee from among the members  
8 of the investment advisory council established under AS 37.10.270. The commissioner of  
9 revenue and the commissioner of administration serve as trustees.

10 (c) The appointed and elected trustees shall serve for staggered terms of four years and  
11 may be reappointed or reelected to the board.

12 (d) The governor may, by written notice to the trustee, remove an elected or appointed  
13 trustee who cannot perform the normal duties associated with the trustee position due to mental  
14 or physical incapacitation, who is convicted of a felony, who commits an act that under state law  
15 constitutes a felony or a misdemeanor that is incompatible with service on the board, or who fails  
16 to comply with AS 37.10.230. After a trustee receives written notice of removal from the  
17 governor, the trustee may not participate in board business and may not be counted for purposes  
18 of establishing a quorum.

19 (e) A vacancy on the board of trustees shall be promptly filled in the same manner as  
20 the seat was originally filled. A person filling a vacancy holds office for the balance of the  
21 unexpired term of the person's predecessor. A vacancy on the board does not impair the  
22 authority of a quorum of the board to exercise all the powers and perform all the duties of the  
23 board.

24 (f) The board of trustees shall annually elect a chair from among its members.

25 (g) Five trustees constitute a quorum for the transaction of business and the exercise of  
26 the powers and duties of the board.

27 (h) A trustee may not designate another person to serve on the board in the absence of  
28 the trustee.

29 (i) Trustees shall participate in financial education training.

30 Sec. 37.10.220. **POWERS AND DUTIES OF THE BOARD.** (a) The board shall

31 (1) hold regular and special meetings at the call of the chair or of at least four

1 members;

2 (2) establish investment policies for the funds for which it is responsible after  
3 reviewing recommendations from the investment advisory council;

4 (3) submit long-range and quarterly investment reports to the Legislative Budget  
5 and Audit Committee;

6 (4) report to the governor, the legislature, and employers participating in the  
7 retirement systems by the first day of each regular legislative session concerning the investment  
8 of funds for which the corporation is responsible including financial and investment policies  
9 established by the board and enclose a summary of the most recent performance evaluations of  
10 the funds managed by the corporation;

11 (5) contract with external performance evaluators to review the performance of  
12 each fund for which the corporation is responsible and report each year on the fund's condition  
13 to the board of trustees and to the other appropriate boards;

14 (6) engage independent certified public accountants to prepare an annual audit of  
15 each of the funds for which the corporation is responsible and to report to the board with the  
16 results of the audit;

17 (7) advise the commissioner of administration concerning the investment of funds  
18 held under the state deferred compensation program.

19 (b) The board may

20 (1) employ outside investment advisors to review investment policies and make  
21 recommendations to the board;

22 (2) employ legal counsel;

23 (3) enter into an agreement with the manager of another state fund to assume  
24 fiduciary, administrative, or management responsibilities for investing the other state fund;

25 (4) do all acts necessary, convenient, or desirable to carry out the powers  
26 expressly granted or necessarily implied in this chapter.

27 Sec. 37.10.230. CONFLICTS OF INTEREST. (a) Trustees, the executive director,  
28 investment officers, and other fiduciaries who are employees of the corporation are subject to the  
29 provisions of AS 39.50. The board may designate other employees who are also subject to the  
30 provisions of AS 39.50.

31 (b) If a trustee, officer, or employee of the corporation acquires, owns, or controls an

1 interest, direct or indirect, in an entity or project in which assets under the control of the  
2 corporation are invested, the trustee, officer, or employee shall immediately disclose the interest  
3 to the board. The disclosure is a matter of public record and shall be included in the minutes  
4 of the board meeting next following the disclosure. The board shall adopt regulations to restrict  
5 trustees, officers, and employees from having a substantial interest in an entity or project in  
6 which assets under the control of the corporation are invested.

7 (c) Failure to comply with the requirements of this section or regulations enacted under  
8 it is grounds for termination of employment.

9 Sec. 37.10.240. REGULATIONS. The board may adopt regulations under the  
10 Administrative Procedure Act (AS 44.62) to implement AS 37.10.210 - 37.10.390. The board  
11 shall adopt regulations required by AS 36.30.015(f) relating to procurement.

12 Sec. 37.10.250. COMPENSATION OF TRUSTEES. Trustees, other than trustees who  
13 are employees of the state or a political subdivision of the state, receive an honorarium of \$150  
14 for each day spent at a meeting of the board or at a meeting of a subcommittee of the board or  
15 at a public meeting as a representative of the board. Trustees who are state employees are  
16 entitled to administrative leave for service as a trustee. Trustees who are employees of a political  
17 subdivision of the state are entitled to leave benefits provided by their employers comparable to  
18 those provided to state employees for service as a trustee. Trustees are entitled to per diem and  
19 travel expenses authorized for boards and commissions under AS 39.20.180.

20 Sec. 37.10.260. STAFF. (a) The board shall employ an executive director. The  
21 executive director must be qualified by training and experience to manage, administer, and direct  
22 the investment of funds. The board shall fix the compensation of the executive director and other  
23 employees. The executive, administrative, and investment functions of the board are vested in  
24 the executive director who serves under the supervision of the board. With approval of the  
25 board, the executive director may appoint employees of the corporation as necessary.

26 (b) The board shall adopt regulations that restrict the executive director, investment  
27 directors, other officers, and employees from having financial interest, directly or indirectly, in  
28 firms or corporations that provide services to the corporation. Officers and employees of the  
29 corporation are subject to AS 39.52.

30 (c) The executive director and each investment director shall file a bond for the faithful  
31 performance of duties in the amount and with the sureties as required by the board.

1 (d) Officers and employees of the corporation are members of the exempt service under  
2 AS 39.25.110.

3 (e) A deed, contract, or other document that must be executed by or on behalf of the  
4 corporation shall be signed by the executive director.

5 Sec. 37.10.270. INVESTMENT ADVISORY COUNCIL. (a) The board shall appoint  
6 an investment advisory council composed of at least three and not more than five members.  
7 Members of the council shall possess experience and expertise in financial investments and  
8 management of investment portfolios for public, corporate, or union pension benefit funds,  
9 foundations, or endowments.

10 (b) Members of the council serve at the pleasure of the board for staggered terms of three  
11 years.

12 (c) The board shall establish the compensation of members of the council. Members of  
13 the council are entitled to per diem and travel expenses authorized for boards and commissions  
14 under AS 39.20.180.

15 (d) The council shall

16 (1) recommend to the governor a member of the council for appointment to the  
17 board of trustees;

18 (2) review the investments made by the board;

19 (3) make recommendations to the board concerning the board's investment  
20 policies, investment strategy, and investment procedures;

21 (4) advise the board on selection of performance consultants, auditors, and on the  
22 form and content of annual reports;

23 (5) provide other advice as requested by the board.

24 (e) With approval of the board, the council may contract with other state agencies to  
25 provide investment advice.

26 Sec. 37.10.280. INSURANCE. The corporation shall protect trusteed assets and its own  
27 assets, services, and employees by purchasing insurance or providing for self-insurance retention  
28 in amounts recommended by the executive director and approved by the board to cover the acts,  
29 including fiduciary acts, errors, and omissions of its board members, officers, employees, and  
30 agents. Insurance must protect the corporation and the state from liability to others and from loss  
31 of trusteed assets and assets of the corporation.

1           Sec. 37.10.290. **EXEMPTION FROM TAXATION.** Except as provided in  
2 AS 29.45.030(a) for property acquired through foreclosure or deed in lieu of foreclosure, the  
3 corporation and all properties at any time owned by it, managed by it, or held by it in trust, and  
4 the income from those activities, are exempt from all taxes and assessments in the state. All  
5 security instruments issued by the corporation and income from them are exempt from all taxes  
6 and assessments in the state, including transfer taxes.

7           Sec. 37.10.300. **SURETY FOR DEPOSITS WITH BANKS.** Banks, trust companies,  
8 savings banks, other persons carrying on a banking business, and other financial institutions, are  
9 authorized to give sureties to the corporation. The sureties shall be approved by the corporation  
10 to the effect that the banks or financial institutions shall faithfully keep and pay over to the order  
11 of or upon the warrant of the corporation or its authorized agent all money deposited with them  
12 by the corporation and agreed interest, at the times or upon the demands agreed on with the  
13 banks or financial institutions. In lieu of these sureties, a depository bank or other financial  
14 institution shall deposit with the corporation or its authorized agent or a trustee as collateral,  
15 securities approved by the corporation. The deposits of the corporation may be evidenced by  
16 agreements in the form and upon the terms and conditions that are agreed upon by the  
17 corporation and the depository banks or financial institutions.

18           Sec. 37.10.310. **LIMITATIONS.** The corporation may not engage in commercial banking  
19 activity or private trust activity. The corporation may not act as a depository or trustee for a  
20 private person, association, or corporation. The corporation may not act as a lender to a private  
21 person, association, or corporation of money from any source except state funds under  
22 management by the corporation.

23           Sec. 37.10.320. **LIABILITY.** A liability incurred by the corporation shall be satisfied  
24 exclusively from the assets or revenue of the corporation and a creditor or other person may not  
25 have a right of action against the state because of a debt, obligation, or liability of the  
26 corporation. A liability of the corporation may not be satisfied from trust assets unless expressly  
27 authorized by law.

28           Sec. 37.10.390. **DEFINITIONS.** In AS 37.10.210 - 37.10.390, unless the context  
29 otherwise requires,

- 30                   (1) "board" means the board of trustees of the corporation;  
31                   (2) "corporation" means the Alaska State Pension Corporation;

1 (3) "retirement systems" means the teachers' retirement system, the judicial  
2 retirement system, the Alaska National Guard and Alaska Naval Militia retirement system, and  
3 the public employees' retirement system.

4 \* **Sec. 2.** AS 06.05.025 is amended by adding a new subsection to read:

5 (d) At the request of the board of trustees of the Alaska State Pension Corporation or of  
6 the legislative auditor, the department shall make an examination of the corporation under this  
7 section.

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

9 (d) The commissioner of administration shall report to the board concerning the condition  
10 and administration of the system. The reports shall be distributed to the members of the system.  
11 The Alaska State Pension Corporation [COMMISSIONER OF REVENUE] shall provide  
12 reports to the board on the condition and investment performance of the teachers' retirement trust  
13 fund including a summary of an annual external performance review.

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

15 Sec. 14.25.180. MANAGEMENT AND INVESTMENT OF FUND. (a) The Alaska  
16 State Pension Corporation [COMMISSIONER OF REVENUE] is the [TREASURER OF THE  
17 SYSTEM AND THE] fiduciary of the fund. In managing the fund, the Alaska State Pension  
18 Corporation [COMMISSIONER OF REVENUE] shall

- 19 (1) consider the status of the fund's investments and the system's liabilities on  
20 both a current and a probable future basis;  
21 (2) determine the appropriate investment objectives for the fund;  
22 (3) establish investment policies aimed at achieving the objectives; and  
23 (4) act only in regard to the best financial interests of the system's beneficiaries.

24 (b) The Alaska State Pension Corporation [COMMISSIONER OF REVENUE] may  
25 invest the fund on the basis of probable total rate of return without regard to the distinction  
26 between principal and income or to the generation of income.

27 (c) In carrying out investment duties under this chapter, the Alaska State Pension  
28 Corporation [COMMISSIONER OF REVENUE] has the same powers and duties in regard to  
29 the teacher's retirement trust fund as are provided in AS 37.10.071, except that the standard of  
30 prudence that the corporation [COMMISSIONER] must obey under AS 37.10.071(c) shall be  
31 in regard to the management of large trust investments rather than large investments.

1 \* **Sec. 5.** AS 14.25.200(a) is amended to read:

2 (a) Except as provided in AS 29.45.030(a)(1), member [MEMBER] contributions and  
3 other amounts held in the system on behalf of a member or other person who is or may become  
4 eligible for benefits under the system are exempt from Alaska state and municipal taxes and are  
5 not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge  
6 of any kind, either voluntary or involuntary, before they are received by the person entitled to  
7 the amount under the terms of the system, and any attempt to anticipate, alienate, sell, transfer,  
8 assign, pledge, encumber, charge, or otherwise dispose of any right to amounts accrued in the  
9 system is void. However, a member's right to receive benefits may be assigned under a qualified  
10 domestic relations order.

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

12 (c) The Alaska State Pension Corporation [COMMISSIONER OF REVENUE] is the  
13 [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund and has the same powers  
14 and duties under this section in regard to the judicial retirement trust fund as are provided in  
15 AS 14.25.180.

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

17 (c) The Alaska State Pension Corporation [COMMISSIONER OF REVENUE] is the  
18 [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund and has the same powers  
19 and duties under this section in regard to the fund as are provided under AS 14.25.180.

20 \* **Sec. 8.** AS 29.45.030(a) is amended to read:

21 (a) The following property is exempt from general taxation:

22 (1) municipal, state, or federally owned property, except that

23 (A) a private leasehold, contract, or other interest in the property is taxable  
24 to the extent of the interest;

25 (B) property acquired by the Alaska State Pension Corporation  
26 through foreclosure or deed in lieu of foreclosure and retained as an investment of  
27 the corporation is taxable;

28 (2) household furniture and personal effects of members of a household;

29 (3) property used exclusively for nonprofit religious, charitable, cemetery,  
30 hospital, or educational purposes;

31 (4) property of a nonbusiness organization composed entirely of persons with 90

1 days or more of active service in the armed forces of the United States whose conditions of  
2 service and separation were other than dishonorable, or the property of an auxiliary of that  
3 organization;

4 (5) money on deposit;

5 (6) the real property of certain residents of the state to the extent and subject to  
6 the conditions provided in (e) of this section;

7 (7) real property or an interest in real property that is exempt from taxation under  
8 43 U.S.C. 1620(d), as amended.

9 \* **Sec. 9.** AS 29.45 is amended by adding a new section to read:

10 Sec. 29.45.295. **COLLECTION OF DELINQUENT TAXES ON CERTAIN**  
11 **GOVERNMENTAL PROPERTY.** AS 29.45.300 - 29.45.490 do not apply to property taxable  
12 under AS 29.45.030(a)(1)(B). A municipality may bring an action in the court of proper  
13 jurisdiction to compel payment of property taxes due from the Alaska State Pension Corporation,  
14 if the corporation does not pay the amount due within six months after the date that the taxes are  
15 due.

16 \* **Sec. 10.** AS 36.30.015(f) is amended to read:

17 (f) The board of directors of the Alaska Housing Finance Corporation, notwithstanding  
18 AS 18.56.088, [AND] the board of directors of the Alaska State Housing Authority, and the  
19 board of trustees of the Alaska State Pension Corporation shall adopt regulations under the  
20 Administrative Procedure Act (AS 44.62) to govern the procurement of supplies, services,  
21 professional services, and construction for the respective public corporations. The regulations  
22 must

23 (1) reflect competitive bidding principles and provide vendors reasonable and  
24 equitable opportunities to participate in the procurement process; and

25 (2) include procurement methods to meet emergency and extraordinary  
26 circumstances.

27 \* **Sec. 11.** AS 36.30.850(b)(15) is amended to read:

28 (15) a contract that is a delegation, in whole or in part, of investment powers held  
29 by the commissioner of revenue under [AS 14.25.180,] AS 14.40.400, AS 14.42.200, 14.42.210,  
30 AS 18.56.095, [AS 22.25.048, AS 26.05.228,] AS 37.10.070, 37.10.071, or AS 37.14 [, OR  
31 AS 39.35.080];

1 \* Sec. 12. AS 36.30.990(1) is amended to read:

2 (1) "agency"

3 (A) means a department, institution, board, commission, division,  
4 authority, public corporation, the Alaska Pioneers' Home, or other administrative unit of  
5 the executive branch of state government;

6 (B) does not include

7 (i) the University of Alaska;

8 (ii) the Alaska State Housing Authority;

9 (iii) the Alaska Railroad Corporation;

10 (iv) the Alaska Housing Finance Corporation;

11 (v) a regional Native housing authority created under  
12 AS 18.55.996, or a regional electrical authority created under AS 18.57.020; or

13 (vi) the Alaska State Pension Corporation;

14 \* Sec. 13. AS 37.05.146 is amended to read:

15 Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS. In AS 37.05.142 - 37.05.146  
16 and AS 37.07.080 "program receipts" means fees, charges, income earned on assets, and other  
17 state money received by a state agency in connection with the performance of its functions; all  
18 program receipts except the following are general fund program receipts:

19 (1) federal receipts;

20 (2) University of Alaska receipts (AS 14.40.491);

21 (3) individual, foundation, or corporation gifts, grants, or bequests that by their  
22 terms are restricted to a specific purpose;

23 (4) receipts of the following funds:

24 (A) highway working capital fund (AS 44.68.210);

25 (B) correctional industries fund (AS 33.32.020);

26 (C) loan funds;

27 (D) international airport revenue fund (AS 37.15.430);

28 (E) funds managed by the Alaska State Housing Authority (AS 18.55.020),  
29 the Alaska Housing Finance Corporation (AS 18.56.020), the Medical Indemnity  
30 Corporation of Alaska (AS 21.88.020), the Alaska Railroad Corporation (AS 42.40.010),  
31 the Municipal Bond Bank Authority (AS 44.85.020), or the Alaska Industrial

- 1 Development and Export Authority (AS 44.88.020);
- 2 (F) fish and game fund (AS 16.05.100);
- 3 (G) school fund (AS 43.50.140);
- 4 (H) training and building fund (AS 23.20.130);
- 5 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and
- 6 former AS 39.37);
- 7 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);
- 8 (K) public school trust (AS 37.14.110);
- 9 (L) second injury fund (AS 23.30.040);
- 10 (M) fishermen's fund (AS 23.35.060);
- 11 (N) FICA administration fund (AS 39.30.050);
- 12 (O) receipts of the employee benefits program established under
- 13 AS 39.30.150 - 39.30.180;
- 14 (P) receipts of the deferred compensation program established under
- 15 AS 39.45.

16 \* Sec. 14. AS 37.10.071 is amended to read:

17 Sec. 37.10.071. INVESTMENT POWERS AND DUTIES. (a) In making investments

18 under this section, the fiduciary of a state fund [COMMISSIONER OF REVENUE] shall

19 (1) act as official custodian of cash and investments by securing adequate and safe

20 custodial facilities for them;

21 (2) receive all items of cash and investments;

22 (3) collect and deposit the principal of and income from owned or acquired

23 investments;

24 (4) invest and reinvest the assets in accordance with this section;

25 (5) receive and spend appropriations to cover the cost of the exercise of duties

26 under this section;

27 (6) exercise the powers of an owner with respect to the assets;

28 (7) perform all acts, not prohibited by this section, whether or not expressly

29 authorized, that the fiduciary [COMMISSIONER] considers necessary or proper in administering

30 the assets;

31 (8) maintain accounting records in accordance with generally accepted

1 [INVESTMENT] accounting principles;

2 (9) engage an independent certified public accountant to conduct an annual audit  
3 of the financial condition and investment transactions;

4 (10) enter into and enforce contracts or agreements considered necessary,  
5 convenient, or desirable for the investment purposes of this section; and

6 (11) when choosing to acquire or dispose of investments, secure competitive  
7 national or international market rates or prices, or the equivalence of those rates or prices in the  
8 judgment of the fiduciary [COMMISSIONER].

9 (b) Under this section, the fiduciary of a state fund or the fiduciary's  
10 [COMMISSIONER OR THE COMMISSIONER'S] designee may

11 (1) delegate investment, custodial, or depository authority on a discretionary or  
12 nondiscretionary basis to officers or employees of the state or to independent firms, banks,  
13 financial institutions, or trust companies, by designation through appointments, contracts, or  
14 letters or authority;

15 (2) acquire or dispose of investments either directly, indirectly, or through  
16 investment pools or trusts, by competitive or negotiated agreements, contracts, or auctions, in  
17 public or private markets;

18 (3) concentrate or diversify investments as the fiduciary [COMMISSIONER]  
19 considers appropriate to increase the probable total rate of return or to decrease the overall  
20 exposure to potentially adverse market value risks;

21 (4) protect the market value or the rate of return of the investments by entering  
22 into forward agreements to buy or sell assets at a future date as a hedge against existing held  
23 assets or as a precommitment of future cash flows;

24 (5) lend assets, under an agreement and for a fee, against deposited collateral of  
25 equivalent market value;

26 (6) borrow assets on a short-term basis, under an agreement and for a fee, against  
27 the deposit of collateral consisting of other assets in order to accommodate temporary cash or  
28 investment needs;

29 (7) hold investments in bearer or registered form in the name of the state, a fund,  
30 or nominees authorized by the fiduciary [COMMISSIONER];

31 (8) utilize consultants, advisors, custodians, investment services, and legal counsel

1 for assistance in investment matters on either a continuing or a limited-term basis and with or  
2 without compensation;

3 (9) declare records to be confidential and exempt from AS 09.25.110 and  
4 09.25.120 if the records contain information that discloses the particulars of the business or the  
5 affairs of a private enterprise, investor, borrower, advisor, consultant, counsel, or manager.

6 (c) In exercising investment, custodial, or depository powers or duties under this section,  
7 the fiduciary of a state fund [COMMISSIONER] shall exercise the judgment and care under  
8 the circumstances then prevailing that an institutional investor of ordinary professional prudence,  
9 discretion, and intelligence exercises in managing large investments with consideration for the  
10 purpose of the fund, the investment objectives, the continuing disposition of the fund's  
11 investments, and the probable safety of the capital as well as the probable investment returns.  
12 With respect to the Alaska State Pension Corporation, the fiduciaries of the corporation  
13 shall apply the prudent investor rule and exercise their fiduciary duty in the sole financial  
14 best interest of the funds entrusted to them and of the beneficiaries of those funds. The  
15 trustees may not make or authorize investment decisions or the voting of shares for a  
16 purpose other than the sole financial best interest of the funds or beneficiaries.

17 (d) In exercising investment, custodial, or depository powers or duties under this section,  
18 the fiduciary or the fiduciary's [COMMISSIONER OR A] designee [OF THE  
19 COMMISSIONER] is liable for a breach of a duty that is assigned or delegated under this  
20 section, or under AS 14.25.180, AS 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.160, 37.-  
21 14.170, or AS 39.35.080. However, the fiduciary or the [COMMISSIONER OR THE  
22 COMMISSIONER'S] designee is not liable for a breach of a duty that has been delegated to  
23 another person if the delegation is prudent under the applicable standard of prudence set out in  
24 statute or if the duty is assigned by law to another person, except to the extent that the fiduciary  
25 [COMMISSIONER] or designee

26 (1) knowingly participates [PARTICIPATE] in, or knowingly undertakes to  
27 conceal, an act or omission of another person, knowing that the act or omission is a breach of  
28 that person's duties under this chapter;

29 (2) by failure to comply with this section in the administration of specific  
30 responsibilities, enables another person to commit a breach of duty; or

31 (3) has knowledge of a breach of duty by another person, unless the fiduciary

1 [COMMISSIONER] or designee makes reasonable efforts under the circumstances to remedy the  
2 breach.

3 (e) The state shall defend and indemnify the fiduciary [COMMISSIONER] or an officer  
4 or employee of the state against liability under (d) of this section to the extent that the alleged  
5 act or omission was performed in good faith and was prudent under the applicable standard of  
6 prudence.

7 (f) In this section, "fiduciary of a state fund" or "fiduciary" ["COMMISSIONER OF  
8 REVENUE" OR "COMMISSIONER"] means

9 (1) the commissioner of revenue for investments under [AS 14.25.180 OR]  
10 AS 37.10.070; [OR]

11 (2) with respect to the Alaska State Pension Corporation, for investments  
12 under AS 14.25.180,

13 (A) each trustee who serves on the corporation's board of directors;

14 (B) each officer of the corporation; and

15 (C) any other person who exercises control or authority with respect  
16 to management or disposition of assets held by the corporation or who gives  
17 investment advice to the corporation; or

18 (3) the person or body provided by law to manage the investments, for  
19 investments not subject to AS 14.25.180 or AS 37.10.070.

20 \* Sec. 15. AS 39.25.110(11) is amended by adding a new subparagraph to read:

21 (G) Alaska State Pension Corporation;

22 \* Sec. 16. AS 39.30 is amended by adding a new section to read:

23 Sec. 39.30.175. INVESTMENT OF BENEFIT PROGRAM RECEIPTS. The State  
24 Pension Corporation is the fiduciary of the receipts of the employee benefits program established  
25 under AS 39.30.150 - 39.30.180 and has the same powers and duties concerning the management  
26 and investment in regard to those receipts as are provided under AS 14.25.180.

27 \* Sec. 17. AS 39.35.020 is amended to read:

28 Sec. 39.35.020. ADMINISTRATION. The commissioner of administration is responsible  
29 for the administration of the system and for carrying out this chapter. In addition the  
30 commissioner shall

31 (1) maintain the accounts of the system;

- 1 (2) make payments for the various purposes specified;
- 2 (3) submit periodic reports or statements of account that are needed;
- 3 (4) issue a statement of account to an employee requesting it showing the amount
- 4 of the employee's contributions to the system;
- 5 (5) as soon as possible after the close of each fiscal year, and not later than six
- 6 months after the close of each fiscal year, send to the governor, the legislature, and the board an
- 7 annual statement on the operations of the system containing
- 8 (A) a balance sheet;
- 9 (B) a statement of income and expenditures for the year;
- 10 (C) a report on an actuarial valuation of its assets and liabilities;
- 11 (D) a summary of assets held in the pension fund listed by the categories
- 12 of investment, as provided by the Alaska State Pension Corporation [COMMISSIONER
- 13 OF REVENUE];
- 14 (E) other statistical financial data that are necessary for a proper
- 15 understanding of the financial condition of the system and the result of its operations;
- 16 (6) establish a public employees retirement trust fund in which the assets of the
- 17 system shall be deposited and held;
- 18 (7) engage an independent certified public accountant to conduct an annual audit
- 19 of the system's accounts and the annual report of the system's financial condition and activity;
- 20 (8) report to the board concerning the condition and administration of the system
- 21 and distribute the report to the members of the system.

22 \* Sec. 18. AS 39.35.080 is amended to read:

23 Sec. 39.35.080. DUTIES OF THE ALASKA STATE PENSION CORPORATION

24 [COMMISSIONER OF REVENUE]. The Alaska State Pension Corporation

25 [COMMISSIONER OF REVENUE] is the [TREASURER OF THE SYSTEM AND THE]

26 fiduciary of the fund. The corporation [COMMISSIONER] has the same powers and duties

27 established under this chapter in regard to the fund as are provided in AS 14.25.035(d) and

28 14.25.180.

29 \* Sec. 19. AS 39.35.500 is amended to read:

30 Sec. 39.35.500. SAFEGUARD OF EMPLOYEE FUNDS HELD BY THE SYSTEM.

31 Except as provided in AS 29.45.030(a)(1)(B), employee [EMPLOYEE] contributions and other

1 amounts held in the system are exempt from Alaska state and local taxes. Amounts held on  
2 behalf of, or payable to, any employee or other person who is or may become eligible for  
3 benefits under the system are not subject to anticipation, alienation, sale, transfer, assignment,  
4 pledge, encumbrance, or charge of any kind, either voluntary or involuntary, before being  
5 received by the person entitled to the amount under the terms of the system. An attempt to  
6 anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of a  
7 right to amounts held under the system is void. However, an employee's right to receive benefits  
8 may be assigned under a qualified domestic relations order.

9 \* **Sec. 20.** AS 39.45.030 is amended by adding a new subsection to read:

10 (c) Before investing the funds held under the state deferred compensation program, the  
11 administrator of the program shall consult with the Alaska State Pension Corporation. The  
12 commissioner shall reimburse the corporation for the cost of providing the advice.

13 \* **Sec. 21.** AS 39.50.200(b) is amended by adding a new paragraph to read:

14 (52) Alaska State Pension Corporation (AS 37.10.210).

15 \* **Sec. 22.** AS 44.25.020 is amended to read:

16 Sec. 44.25.020. DUTIES OF DEPARTMENT. The Department of Revenue shall

17 (1) enforce the tax laws of the state;

18 (2) collect, account for, have custody of, invest, and manage all state funds and  
19 all revenues of the state except revenues incidental to a program of licensing and regulation  
20 carried on by another state department and funds managed and invested by the Alaska State  
21 Pension Corporation;

22 (3) register cattle brands;

23 (4) supply necessary clerical and administrative services for the Alcoholic  
24 Beverage Control Board; and

25 (5) invest and manage the balance of the power development fund in accordance  
26 with AS 44.83.386.

27 \* **Sec. 23.** TRANSITION. All litigation, hearings, investigations, and other proceedings pending  
28 under a law amended or repealed by this Act, or in connection with functions transferred by this Act,  
29 continue in effect and may be continued and completed notwithstanding a transfer, amendment, or repeal  
30 provided for in this Act. Orders and regulations issued or adopted under authority of a law amended  
31 or repealed by this Act remain in effect for the term issued, or until revoked, vacated, or otherwise

1 modified under the provisions of this Act. All contracts, rights, liabilities and obligations created by or  
2 under a law amended or repealed by this Act, and in effect on the effective date set out in sec. 26 of this  
3 Act, remain in effect notwithstanding this Act's taking effect. Records, equipment, and other property  
4 of agencies of the state whose functions are transferred under this Act shall be transferred commensurate  
5 with the provisions of this Act.

6 \* Sec. 24. ORGANIZATION OF TRUSTEES. (a) Notwithstanding AS 37.10.210(c), enacted by  
7 sec. 1 of this Act, the initial terms of the members, other than the commissioner of revenue and the  
8 commissioner of administration, of the board of trustees of the Alaska State Pension Corporation shall  
9 be as follows:

- 10 (1) one elected member and one appointed member shall serve terms of four years;
- 11 (2) one elected member shall serve a three-year term;
- 12 (3) one elected member and one appointed member shall serve terms of two years;
- 13 (4) one elected member and one appointed member shall serve one-year terms.

14 (b) The board of trustees of the Alaska State Pension Corporation may hold organizational  
15 meetings as soon as a quorum of the board has been appointed to or selected for the board.

16 \* Sec. 25. AS 37.10.210 and 37.10.230 - 37.10.390, enacted by sec. 1 of this Act, and sec. 24 of this  
17 Act take effect July 1, 1991.

18 \* Sec. 26. Except as provided in sec. 25 of this Act, this Act takes effect on the earlier of July 1,  
19 1992, or the date established by resolution of the board of trustees of the Alaska State Pension  
20 Corporation for the transfer to it of securities and assets of the retirement funds. The board shall  
21 promptly provide the revisor of statutes and the lieutenant governor with a copy of this resolution.