

## SENATE BILL NO. 329

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATORS POURCHOT, Sturgulewski, Duncan, Collins

Introduced: 1/13/92

Referred: STA, Finance

## A BILL

## FOR AN ACT ENTITLED

1 "An Act establishing the Alaska State Pension Investment Board; relating to management  
2 and investment of state pension funds, receipts of the supplemental employee benefits  
3 program, receipts of the deferred compensation program, and other state funds; and  
4 providing for an effective date."

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

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

7 ARTICLE 5. ALASKA STATE PENSION INVESTMENT BOARD.

8 Sec. 37.10.210. ALASKA STATE PENSION INVESTMENT BOARD. (a) There is  
9 established the Alaska State Pension Investment Board in the Department of Revenue. The  
10 purpose of the board is to provide prudent and productive management and investment of state  
11 pension funds and of other state funds upon agreement with the commissioner of the department  
12 or the fiduciary responsible for the fund.

13 (b) The board consists of eight trustees. Two of the trustees shall be elected by the  
14 members of the public employees' retirement system from the membership of the system.

1 Nominations may be made by the Public Employees' Retirement Board or by petition signed by  
2 at least 10 persons eligible to vote in the election. One of the trustees elected from the  
3 membership of the public employees' retirement system must be a participant in the supplemental  
4 employee benefits program established under AS 39.30.150 - 39.30.180. Two of the trustees  
5 shall be elected by the members of the teachers' retirement system from the membership of the  
6 system. Nominations may be made by the Teachers' Retirement Board or by petition signed by  
7 at least 10 persons eligible to vote in the election. The governor shall appoint three trustees. At  
8 least one of the appointed trustees must represent employers, other than the state, who participate  
9 in one of the retirement systems. The appointed trustees must have business and investment  
10 experience. The commissioner of revenue serves as a trustee.

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

13 (d) The governor may, by written notice to the trustee, remove an appointed trustee for  
14 cause. The Public Employees' Retirement Board may, by written notice to the trustee, remove  
15 a member elected from the membership of that retirement system for cause. The Teachers'  
16 Retirement Board may, by written notice to the trustee, remove a member elected from the  
17 membership of that retirement system for cause. After a trustee receives written notice of  
18 removal, the trustee may not participate in board business and may not be counted for purposes  
19 of establishing a quorum.

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

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

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

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

30 (i) The board shall adopt a policy concerning investment education for trustees.

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

- 1 (1) hold regular and special meetings at the call of the chair or of at least four  
2 members;
- 3 (2) establish investment policies for the funds for which it is responsible after  
4 reviewing recommendations from the investment advisory council and the Department of  
5 Revenue;
- 6 (3) submit long-range and quarterly investment reports to the Legislative Budget  
7 and Audit Committee;
- 8 (4) report to the governor, the legislature, and employers participating in the  
9 retirement systems by the first day of each regular legislative session concerning the investment  
10 of funds for which the board is responsible, including financial and investment policies  
11 established by the board, and enclose a summary of the most recent performance evaluations of  
12 the funds managed by the board;
- 13 (5) contract with external performance evaluators to review the performance of  
14 each fund for which the board is responsible and report each year on the fund's condition to the  
15 board of trustees and to the other appropriate boards;
- 16 (6) engage independent certified public accountants to perform an annual audit  
17 of each of the funds for which the board is responsible and to report to the board with the results  
18 of the audit;
- 19 (7) review the actuarial earnings assumption for each fund for which the board  
20 is responsible every two years and report its findings and recommendations to the appropriate  
21 board or agency;
- 22 (8) after reviewing the recommendations from the Department of Revenue and  
23 the advisory council, select and retain the external investment managers and custodians for the  
24 funds managed by the board;
- 25 (9) develop an annual operating budget plan and present it to the Department of  
26 Revenue, the office of management and budget, and the legislature.
- 27 (b) The board may
- 28 (1) employ outside investment advisors to review investment policies and make  
29 recommendations to the board;
- 30 (2) employ legal counsel;
- 31 (3) contract for services necessary to carry out its powers and duties;

1 (4) enter into an agreement with the commissioner of the department or the  
2 fiduciary responsible for another state fund to assume fiduciary or management responsibilities  
3 for investing the other state fund;

4 (5) do all acts necessary to carry out the powers expressly granted or necessarily  
5 implied in this chapter.

6 (c) The board shall meet annually, either jointly or separately, with the Public  
7 Employees' Retirement Board, the Teachers' Retirement Board, and the Department of  
8 Administration to review benefit administration of each of the retirement systems and of the  
9 employee benefits program established under AS 39.30.150 - 39.30.180 and the deferred  
10 compensation program under AS 39.45. The Department of Administration and each retirement  
11 board shall report to the investment board on benefit administration and other issues for that  
12 retirement system or program that may affect the investment and management of the fund.

13 (d) The chair of the board shall appoint a trustee to present the board's position to  
14 legislative committees when the committees are considering the board's operating budget. The  
15 board is otherwise subject to AS 37.07.

16 Sec. 37.10.230. CONFLICTS OF INTEREST. (a) Trustees are subject to the provisions  
17 of AS 39.50.

18 (b) If a trustee acquires, owns, or controls an interest, direct or indirect, in an entity or  
19 project in which assets under the control of the board are invested, the trustee shall immediately  
20 disclose the interest to the board. The disclosure is a matter of public record and shall be  
21 included in the minutes of the board meeting next following the disclosure. The board shall  
22 adopt regulations to restrict trustees from having a substantial interest in an entity or project in  
23 which assets under the control of the board are invested.

24 Sec. 37.10.240. REGULATIONS AND OPEN MEETINGS. (a) The board may adopt  
25 regulations to implement AS 37.10.210 - 37.10.390. Regulations adopted by the board are not  
26 subject to the Administrative Procedure Act (AS 44.62). The board shall adopt regulations  
27 required by AS 36.30.015(f) relating to procurement. The board shall comply with the  
28 requirements of AS 44.62.310 - 44.62.312.

29 (b) Notwithstanding (a) of this section, a regulation adopted under AS 37.10.210 -  
30 37.10.390 shall be published in the Alaska Administrative Register and Alaska Administrative  
31 Code for informational purposes. A regulation adopted under this section shall conform to the

1 style and format requirements of the drafting manual for administrative regulations that is  
2 published under AS 44.62.050.

3 (c) At least 30 days before the adoption, amendment, or repeal of a regulation under this  
4 chapter, the board shall provide notice of the action that is being considered. The notice must  
5 include publication in one or more newspapers of general circulation in each judicial district of  
6 the state.

7 (d) A regulation adopted under this chapter takes effect 30 days after adoption by the  
8 board unless a later effective date is stated in the regulation.

9 (e) Notwithstanding the other provisions of this section, a regulation may be adopted,  
10 amended, or repealed, effective immediately, as an emergency regulation. For an emergency  
11 regulation to be effective the board must find that the immediate adoption, amendment, or repeal  
12 of the regulation is necessary. The board shall, within 10 days after adoption of an emergency  
13 regulation, give notice of the adoption under (c) of this section. An emergency regulation  
14 adopted under this subsection may not remain in effect past the date of the next regular meeting  
15 of the board unless the board complies with the procedures set out in this section and adopts the  
16 regulation as a permanent regulation.

17 (f) In this section, "regulation" has the meaning given in AS 44.62.640(a).

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

26 Sec. 37.10.260. STAFF. (a) The Department of Revenue shall provide staff for the  
27 board.

28 (b) The board may designate a trustee or an officer or employee of the Department of  
29 Revenue to be responsible for signing on behalf of the board a deed, contract, or other document  
30 that must be executed by or on behalf of the board.

31 Sec. 37.10.270. INVESTMENT ADVISORY COUNCIL. (a) The board shall appoint

1 an investment advisory council composed of at least three and not more than five members.  
2 Members of the council shall possess experience and expertise in financial investments and  
3 management of investment portfolios for public, corporate, or union pension benefit funds,  
4 foundations, or endowments.

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

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

10 (d) The council shall

11 (1) review the investments made by the board;

12 (2) make recommendations to the board concerning the board's investment  
13 policies, investment strategy, and investment procedures;

14 (3) advise the board on selection of performance consultants and on the form and  
15 content of annual reports;

16 (4) provide other advice as requested by the board.

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

19 Sec. 37.10.280. INSURANCE. The board shall ensure that trustee assets and its own  
20 assets and services are protected. The board may purchase insurance or provide for self-  
21 insurance retention in amounts recommended by the commissioner of revenue and approved by  
22 the board to cover the acts, including fiduciary acts, errors, and omissions of its board members  
23 and agents. Insurance must protect the board and the state from liability to others and from loss  
24 of trustee assets due to the acts or omissions of the trustees.

25 Sec. 37.10.290. EXEMPTION FROM TAXATION. Except as provided in  
26 AS 29.45.030(a) for property acquired through foreclosure or deed in lieu of foreclosure, the  
27 board and all properties at any time owned by it, managed by it, or held by it in trust, and the  
28 income from those activities, are exempt from all taxes and assessments in the state. All security  
29 instruments issued by the board and income from them are exempt from all taxes and  
30 assessments in the state, including transfer taxes.

31 Sec. 37.10.300. LIMITATIONS. The board may not engage in commercial banking

1 activity or private trust activity. The board may not act as a depository or trustee for a private  
2 person, association, or corporation. The board may not act as a lender to a private person,  
3 association, or corporation of money from any source except state funds under management by  
4 the board.

5 Sec. 37.10.310. LIABILITY. A liability incurred by the board shall be satisfied  
6 exclusively from the trust assets or trust revenue, and a creditor or other person may not have  
7 a right of action against the state because of a debt, obligation, or liability of the board.

8 Sec. 37.10.390. DEFINITIONS. In AS 37.10.210 - 37.10.390, unless the context  
9 otherwise requires,

10 (1) "board" means the board of trustees of the Alaska State Pension Investment  
11 Board;

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

15 \* Sec. 2. AS 14.25.035(d) is amended to read:

16 (d) The commissioner of administration shall report to the board concerning the condition  
17 and administration of the system. The reports shall be distributed to the members of the system.  
18 The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE] shall provide  
19 reports to the board on the condition and investment performance of the teachers' retirement trust  
20 fund including a summary of an annual external performance review.

21 \* Sec. 3. AS 14.25.035 is amended by adding a new subsection to read:

22 (j) The board shall adopt regulations for the election of trustees to the Alaska State  
23 Pension Investment Board and for removal from the investment board of trustees elected from  
24 the system.

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

26 Sec. 14.25.180. MANAGEMENT AND INVESTMENT OF FUND. (a) The Alaska  
27 State Pension Investment Board [COMMISSIONER OF REVENUE] is the [TREASURER OF  
28 THE SYSTEM AND THE] fiduciary of the fund. In managing the fund, the Alaska State  
29 Pension Investment Board [COMMISSIONER OF REVENUE] shall

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

1 (2) determine the appropriate investment objectives for the fund;  
2 (3) establish investment policies aimed at achieving the objectives; and  
3 (4) act only in regard to the best financial interests of the system's plan and  
4 beneficiaries.

5 (b) The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE]  
6 may invest the fund on the basis of probable total rate of return without regard to the distinction  
7 between principal and income or to the generation of income.

8 (c) In carrying out investment duties under this chapter, the Alaska State Pension  
9 Investment Board [COMMISSIONER OF REVENUE] has the same powers and duties in regard  
10 to the teacher's retirement trust fund as are provided in AS 37.10.071, except that the standard  
11 of prudence that the board [COMMISSIONER] must obey under AS 37.10.071(c) shall be in  
12 regard to the management of large trust investments rather than large investments.

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

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

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

24 (c) The Alaska State Pension Investment Board [COMMISSIONER OF REVENUE]  
25 is the [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund and has the same  
26 powers and duties under this section in regard to the judicial retirement trust fund as are provided  
27 in AS 14.25.180.

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

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

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

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

3 (1) municipal or state property, except that

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

6 (B) notwithstanding any other provision of law, property acquired by an  
7 agency, corporation, or other entity of the state through foreclosure or deed in lieu of  
8 foreclosure and retained as an investment of a state entity is taxable; this subparagraph  
9 does not apply to federal land granted to the University of Alaska under AS 14.40.380  
10 or 14.40.390, or to other land granted to the university by the state to replace land that  
11 had been granted under AS 14.40.380 or 14.40.390;

12 (C) an ownership interest of a municipality in real property located outside  
13 the municipality acquired after December 31, 1990, is taxable by another municipality;  
14 however, a borough may not tax an interest in real property located in the borough and  
15 owned by a city in that borough;

16 (D) property acquired by a retirement fund or program managed by  
17 the Alaska State Pension Investment Board through foreclosure or deed in lieu of  
18 foreclosure and retained as an investment is taxable;

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

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

22 (4) property of a nonbusiness organization composed entirely of persons with 90  
23 days or more of active service in the armed forces of the United States whose conditions of  
24 service and separation were other than dishonorable, or the property of an auxiliary of that  
25 organization;

26 (5) money on deposit;

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

29 (7) real property or an interest in real property that is exempt from taxation under  
30 43 U.S.C. 1620(d), as amended;

31 (8) property of a political subdivision, agency, corporation, or other entity of the

1 United States to the extent required by federal law; except that a private leasehold, contract, or  
2 other interest in the property is taxable to the extent of that interest.

3 \* Sec. 9. AS 29.45.295 is amended to read:

4 Sec. 29.45.295. COLLECTION OF DELINQUENT TAXES ON CERTAIN  
5 GOVERNMENTAL PROPERTY. AS 29.45.300 - 29.45.490 do not apply to property taxable  
6 under AS 29.45.030(a)(1)(B) - (D) [AS 29.45.030(a)(1)(B) OR (C)] or to federal property not  
7 exempted under AS 29.45.030(a)(8). A municipality may bring an action in the superior court  
8 to compel payment of property taxes due from the state, municipal, or federal entity if the entity  
9 does not pay the amount due within six months after the date that the taxes are due.

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

11 (f) The board of directors of the Alaska Housing Finance Corporation, notwithstanding  
12 AS 18.56.088, and the board of directors of the Alaska State Housing Authority shall adopt  
13 regulations under the Administrative Procedure Act (AS 44.62) and the board of trustees of the  
14 Alaska State Pension Investment Board shall adopt regulations under AS 37.10.240 to  
15 govern the procurement of supplies, services, professional services, and construction for the  
16 respective public corporations and board. The regulations must

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

19 (2) include procurement methods to meet emergency and extraordinary  
20 circumstances.

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

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

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

27 (1) "agency"

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

31 (B) does not include

- 1 (i) the University of Alaska;
- 2 (ii) the Alaska State Housing Authority;
- 3 (iii) the Alaska Railroad Corporation;
- 4 (iv) the Alaska Housing Finance Corporation;
- 5 (v) a regional Native housing authority created under AS 18.55.996
- 6 [,] or a regional electrical authority created under AS 18.57.020;
- 7 (vi) the Alaska Aerospace Development Corporation;
- 8 **(vii) the Alaska State Pension Investment Board;**

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

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

- 14 (1) federal receipts;
- 15 (2) University of Alaska receipts (AS 14.40.491);
- 16 (3) individual, foundation, or corporation gifts, grants, or bequests that by their  
17 terms are restricted to a specific purpose;
- 18 (4) receipts of the following funds:
  - 19 (A) highway working capital fund (AS 44.68.210);
  - 20 (B) correctional industries fund (AS 33.32.020);
  - 21 (C) loan funds;
  - 22 (D) international airport revenue fund (AS 37.15.430);
  - 23 (E) funds managed by the Alaska State Housing Authority (AS 18.55.020),  
24 the Alaska Housing Finance Corporation (AS 18.56.020), the Alaska Railroad Corporation  
25 (AS 42.40.010), the Municipal Bond Bank Authority (AS 44.85.020), the Alaska  
26 Aerospace Development Corporation (AS 14.40.821), or the Alaska Industrial  
27 Development and Export Authority (AS 44.88.020);
  - 28 (F) fish and game fund (AS 16.05.100);
  - 29 (G) school fund (AS 43.50.140);
  - 30 (H) training and building fund (AS 23.20.130);
  - 31 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and

1 former AS 39.37);

2 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);

3 (K) public school fund (AS 37.14.110);

4 (L) second injury fund (AS 23.30.040);

5 (M) fishermen's fund (AS 23.35.060);

6 (N) FICA administration fund (AS 39.30.050);

7 (O) receipts of the employee benefits program established under

8 AS 39.30.150 - 39.30.180:

9 (P) receipts of the deferred compensation program established under

10 AS 39.45.

11 • Sec. 14. AS 37.10.071 is amended to read:

12 Sec. 37.10.071. INVESTMENT POWERS AND DUTIES. (a) In making investments  
13 under this section, the fiduciary of a state fund [COMMISSIONER OF REVENUE] shall

14 (1) act as official custodian of cash and investments by securing adequate and safe  
15 custodial facilities for them;

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

17 (3) collect and deposit the principal of and income from owned or acquired  
18 investments;

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

20 (5) receive and spend appropriations to cover the cost of the exercise of duties  
21 under this section;

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

23 (7) perform all acts, not prohibited by this section, whether or not expressly  
24 authorized, that the fiduciary [COMMISSIONER] considers necessary or proper in administering  
25 the assets;

26 (8) maintain accounting records in accordance with generally accepted  
27 [INVESTMENT] accounting principles;

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

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

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

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

6 (1) delegate investment, custodial, or depository authority on a discretionary or  
7 nondiscretionary basis to officers or employees of the state or to independent firms, banks,  
8 financial institutions, or trust companies [,] by designation through appointments, contracts, or  
9 letters of [OR] authority;

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

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

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

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

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

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

26 (8) utilize consultants, advisors, custodians, investment services, and legal counsel  
27 for assistance in investment matters on either a continuing or a limited-term basis and with or  
28 without compensation;

29 (9) declare records to be confidential and exempt from AS 09.25.110 and  
30 09.25.120 if the records contain information that discloses the particulars of the business or the  
31 affairs of a private enterprise, investor, borrower, advisor, consultant, counsel, or manager.

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

12 (d) In exercising investment, custodial, or depository powers or duties under this section,  
13 the fiduciary or the fiduciary's [COMMISSIONER OR A] designee [OF THE  
14 COMMISSIONER] is liable for a breach of a duty that is assigned or delegated under this  
15 section, or under AS 14.25.180, AS 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.160,  
16 37.14.170, or AS 39.35.080. However, the fiduciary or the [COMMISSIONER OR THE  
17 COMMISSIONER'S] designee is not liable for a breach of a duty that has been delegated to  
18 another person if the delegation is prudent under the applicable standard of prudence set out in  
19 statute or if the duty is assigned by law to another person, except to the extent that the fiduciary  
20 [COMMISSIONER] or designee

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

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

26 (3) has knowledge of a breach of duty by another person, unless the fiduciary  
27 [COMMISSIONER] or designee makes reasonable efforts under the circumstances to remedy the  
28 breach.

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

1 prudence.

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

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

6 (2) with respect to the Alaska State Pension Investment Board, for  
7 investments under AS 14.25.180,

8 (A) each trustee who serves on the board of trustees; and

9 (B) any other person who exercises control or authority with respect  
10 to management or disposition of assets for which the board is responsible or who  
11 gives investment advice to the board; or

12 (3) the person or body provided by law to manage the investments [,] for  
13 investments not subject to AS 14.25.180 or AS 37.10.070.

14 \* Sec. 15. AS 37.14.160 is amended to read:

15 Sec. 37.14.160. DUTIES OF THE COMMISSIONER OF REVENUE. The commissioner  
16 of revenue is the treasurer of the trust fund created in AS 37.14.110 and shall

17 (1) in carrying out investment duties under this section, exercise the same  
18 powers and duties established for the Alaska State Pension Investment Board in  
19 AS 14.25.180(c);

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

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

24 (4) provide reports to the board established under AS 37.14.120 on the condition  
25 and investment performance of the fund.

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

27 Sec. 39.30.175. INVESTMENT OF BENEFIT PROGRAM RECEIPTS. (a) The Alaska  
28 State Pension Investment Board is the fiduciary of the mandatory receipts, under  
29 AS 39.30.150(a), of the employee benefits program established under AS 39.30.150 - 39.30.180  
30 and has the same powers and duties concerning the management and investment in regard to  
31 those receipts as are provided under AS 14.25.180.

1 (b) The board may provide a range of investment options and permit a participant or  
2 beneficiary of the program to exercise control over the assets in the individual employee annuity  
3 account established under AS 39.30.150(a). If the board offers investment options, and if a  
4 participant or beneficiary exercises control over the assets in the individual employee annuity  
5 account,

6 (1) the participant or beneficiary is not considered a fiduciary for any reason on  
7 the basis of exercising that control; and

8 (2) a person who is otherwise a fiduciary is not liable under this section for any  
9 loss, or by reason of any breach, that results from the individual's exercise of control.

10 (c) If the board is considering entering into a contract or modifying an existing contract  
11 concerning the management or investment of the mandatory receipts of the supplemental  
12 employee benefits program, the board shall consult with the commissioner of administration  
13 before making a decision on the issue.

14 (d) The board shall develop a contingency plan that addresses the board's response to  
15 possible future investment problems.

16 (e) In this section, "board" means the Alaska State Pension Investment Board.

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

18 Sec. 39.35.020. ADMINISTRATION. The commissioner of administration is responsible  
19 for the administration of the system and for carrying out this chapter. In addition, the  
20 commissioner shall

21 (1) maintain the accounts of the system;

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

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

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

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

29 (A) a balance sheet;

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

31 (C) a report on an actuarial valuation of its assets and liabilities;

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

4 (E) other statistical financial data that are necessary for a proper  
5 understanding of the financial condition of the system and the result of its operations;

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

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

10 (8) report to the board concerning the condition and administration of the system  
11 and distribute the report to the members of the system.

12 \* Sec. 18. AS 39.35.040 is amended by adding a new paragraph to read:

13 (11) adopt regulations for the election of trustees to the Alaska State Pension  
14 Investment Board and for removal from the investment board of trustees elected from the system.

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

16 Sec. 39.35.080. DUTIES OF THE ALASKA STATE PENSION INVESTMENT  
17 BOARD [COMMISSIONER OF REVENUE]. The Alaska State Pension Investment Board  
18 [COMMISSIONER OF REVENUE] is the [TREASURER OF THE SYSTEM AND THE]  
19 fiduciary of the fund. The board [COMMISSIONER] has the same powers and duties  
20 established under this chapter in regard to the fund as are provided in AS 14.25.035(d) and  
21 14.25.180.

22 \* Sec. 20. AS 39.35.500 is amended to read:

23 Sec. 39.35.500. SAFEGUARD OF EMPLOYEE FUNDS HELD BY THE SYSTEM.  
24 Except as provided in AS 29.45.030(a)(1)(D), employee [EMPLOYEE] contributions and other  
25 amounts held in the system are exempt from Alaska state and local taxes. Amounts held on  
26 behalf of, or payable to, any employee or other person who is or may become eligible for  
27 benefits under the system are not subject to anticipation, alienation, sale, transfer, assignment,  
28 pledge, encumbrance, or charge of any kind, either voluntary or involuntary, before being  
29 received by the person entitled to the amount under the terms of the system. An attempt to  
30 anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of a  
31 right to amounts held under the system is void. However, an employee's right to receive benefits

1 may be assigned under a qualified domestic relations order.

2 \* Sec. 21. AS 39.45.030(a) is repealed and reenacted to read:

3 (a) The Alaska State Pension Investment Board is authorized, subject to contracts with  
4 individual employees, to invest the funds held under a deferred compensation program. The  
5 board has the same powers and duties concerning the management and investment in regard to  
6 those funds as are provided under AS 14.25.180.

7 \* Sec. 22. AS 39.45.030 is amended by adding new subsections to read:

8 (c) The board may provide a range of investment options and permit a participant or  
9 beneficiary of the program to exercise control over the assets in the individual's account. If the  
10 board offers investment options, and if a participant or beneficiary exercises control over the  
11 assets in the individual's account,

12 (1) the participant or beneficiary is not considered a fiduciary for any reason on  
13 the basis of exercising that control; and

14 (2) a person who is otherwise a fiduciary is not liable under this section for any  
15 loss, or by reason of any breach, that results from the individual's exercise of control.

16 (d) If the board is considering entering into a contract or modifying an existing contract  
17 concerning the management or investment of funds of the deferred compensation program, the  
18 board shall consult with the commissioner of administration before making a decision on the  
19 issue.

20 (e) The board shall develop a contingency plan that addresses the board's response to  
21 possible future investment problems.

22 (f) In this section, "board" means the Alaska State Pension Investment Board.

23 \* Sec. 23. AS 39.50.200(b) is amended by adding a new paragraph to read:

24 (54) Alaska State Pension Investment Board (AS 37.10.210).

25 \* Sec. 24. AS 44.25.020 is amended to read:

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

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

28 (2) collect, account for, have custody of, invest, and manage all state funds and  
29 all revenues of the state except revenues incidental to a program of licensing and regulation  
30 carried on by another state department and funds managed and invested by the Alaska State  
31 Pension Investment Board;

- 1 (3) register cattle brands;
- 2 (4) supply necessary clerical and administrative services for the Alcoholic  
3 Beverage Control Board; [AND]
- 4 (5) invest and manage the balance of the power development fund in accordance  
5 with AS 44.83.386;
- 6 (6) in accordance with the policies established by the board of trustees of the  
7 Alaska State Pension Investment Board, collect, account for, have custody of, invest, and  
8 manage the state funds for which the board is responsible.

9 \* Sec. 25. AS 44.25 is amended by adding a new section to read:

10 Sec. 44.25.028. CONFLICT OF INTEREST FOR ALASKA STATE PENSION  
11 INVESTMENT BOARD. (a) The commissioner of revenue may designate employees of the  
12 department who are subject to the provisions of AS 39.50 because of their responsibility for  
13 participating in the management or investment of the funds for which the Alaska State Pension  
14 Investment Board is responsible.

15 (b) If an officer or employee of the department with responsibility for funds for which  
16 the Alaska State Pension Investment Board is responsible acquires, owns, or controls an interest,  
17 direct or indirect, in an entity or project in which assets under the control of the board are  
18 invested, the officer or employee shall immediately disclose the interest to the board. The  
19 disclosure is a matter of public record and shall be included in the minutes of the board meeting  
20 next following the disclosure. The commissioner shall adopt regulations to restrict officers and  
21 employees of the department from having a substantial interest in an entity or project in which  
22 assets under the control of the board are invested.

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

25 \* Sec. 26. AS 39.45.030(b) is repealed.

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

1 or under a law amended or repealed by this Act, and in effect on the effective date set out in sec. 30 of  
2 this Act, remain in effect notwithstanding this Act's taking effect. Records, equipment, and other  
3 property of agencies of the state whose functions are transferred under this Act shall be transferred  
4 commensurate with the provisions of this Act.

5 \* Sec. 28. ORGANIZATION OF TRUSTEES. (a) Notwithstanding AS 37.10.210(c), enacted by  
6 sec. 1 of this Act, the initial terms of the members, other than the commissioner of revenue, of the board  
7 of trustees of the Alaska State Pension Investment Board shall be as follows:

8 (1) one member elected from the public employees' retirement system and one appointed  
9 member shall serve terms of four years;

10 (2) one member elected from the teachers' retirement system and one appointed member  
11 shall serve terms of three years;

12 (3) one member elected from the public employees' retirement system and one appointed  
13 member shall serve terms of two years;

14 (4) one member elected from the teachers' retirement system shall serve a one-year term.

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

17 \* Sec. 29. AS 37.10.210 and 37.10.230 - 37.10.390, enacted by sec. 1 of this Act, and sec. 28 of this  
18 Act take effect July 1, 1992.

19 \* Sec. 30. Except as provided in sec. 29 of this Act, this Act takes effect on the earlier of July 1,  
20 1993, or the date established by resolution of the board of trustees of the Alaska State Pension  
21 Investment Board for the transfer to it of securities and assets of all the funds of the retirement systems,  
22 as defined in AS 37.10.390, enacted by sec. 1 of this Act, and the receipts of the employee benefits  
23 program established under AS 39.30.150 - 39.50.180 and of the deferred compensation programs under  
24 AS 39.45. The board shall promptly provide the revisor of statutes and the lieutenant governor with a  
25 copy of this resolution.