

HOUSE CS FOR CS FOR SENATE BILL NO. 329 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/24/92

Referred: Rules

Sponsor(s): SENATORS POURCHOT, Sturgulewski, Duncan, Collins, Pearce, Rodey, Kerttula, Craft, Uehling, Shultz, Ellason

REPRESENTATIVES Donley, Navarre, Ulmer

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, upon agreement with the commissioner of the department or the fiduciary
 12 responsible for the fund, of other state funds.

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 subject to the approval of the attorney general;

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 services are protected. The board may purchase insurance or provide for self-insurance retention
21 in amounts recommended by the commissioner of revenue and approved by the board to cover
22 the acts, including fiduciary acts, errors, and omissions of its board members and agents. Insur-
23 ance must protect the board and the state from liability to others and from loss of trustee assets
24 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. 37.10.390. DEFINITIONS. In AS 37.10.210 - 37.10.390, unless the context
6 otherwise requires,

7 (1) "board" means the board of trustees of the Alaska State Pension Investment
8 Board;

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

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

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

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

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

22 * Sec. 4. AS 14.25.180 is amended to read:

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

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

29 (2) determine the appropriate investment objectives for the fund;

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

31 (4) act only in regard to the best financial interests of the system's plan and

1 beneficiaries.

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

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

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

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

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

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

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

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

29 * Sec. 8. AS 36.30.015(f) is amended to read:

30 (f) The board of directors of the Alaska Housing Finance Corporation, notwithstanding
31 AS 18.56.088, and the board of directors of the Alaska State Housing Authority shall adopt

1 regulations under the Administrative Procedure Act (AS 44.62) and the board of trustees of the
2 Alaska State Pension Investment Board shall adopt regulations under AS 37.10.240 to
3 govern the procurement of supplies, services, professional services, and construction for the
4 respective public corporations and board. The regulations must

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

7 (2) include procurement methods to meet emergency and extraordinary
8 circumstances.

9 * Sec. 9. AS 36.30.850(b)(15) is amended to read:

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

14 * Sec. 10. AS 36.30.990(1) is amended to read:

15 (1) "agency"

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

19 (B) does not include

20 (i) the University of Alaska;

21 (ii) the Alaska State Housing Authority;

22 (iii) the Alaska Railroad Corporation;

23 (iv) the Alaska Housing Finance Corporation;

24 (v) a regional Native housing authority created under AS 18.55.996

25 [,] or a regional electrical authority created under AS 18.57.020;

26 (vi) the Alaska Aerospace Development Corporation;

27 (vii) the Alaska State Pension Investment Board;

28 * Sec. 11. AS 37.05.146 is amended to read:

29 Sec. 37.05.146. DEFINITION OF PROGRAM RECEIPTS. In AS 37.05.142 - 37.05.146
30 and AS 37.07.080, "program receipts" means fees, charges, income earned on assets, and other
31 state money received by a state agency in connection with the performance of its functions; all

1 program receipts except the following are general fund program receipts:

2 (1) federal receipts;

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

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

6 (4) receipts of the following funds:

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

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

9 (C) loan funds;

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

11 (E) funds managed by the Alaska State Housing Authority (AS 18.55.020),
12 the Alaska Housing Finance Corporation (AS 18.56.020), the Alaska Railroad Corporation
13 (AS 42.40.010), the Municipal Bond Bank Authority (AS 44.85.020), the Alaska
14 Aerospace Development Corporation (AS 14.40.821), or the Alaska Industrial
15 Development and Export Authority (AS 44.88.020);

16 (F) fish and game fund (AS 16.05.100);

17 (G) school fund (AS 43.50.140);

18 (H) training and building fund (AS 23.20.130);

19 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222, AS 39.35, and
20 former AS 39.37);

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

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

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

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

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

26 (O) receipts of the employee benefits program established under
27 AS 39.30.150 - 39.30.180;

28 (P) receipts of the deferred compensation program established under
29 AS 39.45.

30 * Sec. 12. AS 37.10.071 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (9) declare records to be confidential and exempt from AS 09.25.110 and
18 09.25.120 if the records contain information that discloses the particulars of the business or the
19 affairs of a private enterprise, investor, borrower, advisor, consultant, counsel, or manager.

20 (c) In exercising investment, custodial, or depository powers or duties under this section,
21 the fiduciary of a state fund shall apply the prudent investor rule and exercise the fiduciary
22 duty in the sole financial best interest of the fund entrusted to the fiduciary. Among
23 beneficiaries of a fund, the fiduciaries shall treat beneficiaries with impartiality
24 [COMMISSIONER SHALL EXERCISE THE JUDGMENT AND CARE UNDER THE
25 CIRCUMSTANCES THEN PREVAILING THAT AN INSTITUTIONAL INVESTOR OF
26 ORDINARY PROFESSIONAL PRUDENCE, DISCRETION, AND INTELLIGENCE
27 EXERCISES IN MANAGING LARGE INVESTMENTS WITH CONSIDERATION FOR THE
28 PURPOSE OF THE FUND, THE INVESTMENT OBJECTIVES, THE CONTINUING
29 DISPOSITION OF THE FUND'S INVESTMENTS, AND THE PROBABLE SAFETY OF THE
30 CAPITAL AS WELL AS THE PROBABLE INVESTMENT RETURNS].

31 (d) In exercising investment, custodial, or depository powers or duties under this section,

1 the fiduciary or the fiduciary's [COMMISSIONER OR A] designee [OF THE
2 COMMISSIONER] is liable for a breach of a duty that is assigned or delegated under this
3 section, or under AS 14.25.180, AS 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.160,
4 37.14.170, or AS 39.35.080. However, the fiduciary or the [COMMISSIONER OR THE
5 COMMISSIONER'S] designee is not liable for a breach of a duty that has been delegated to
6 another person if the delegation is prudent under the applicable standard of prudence set out in
7 statute or if the duty is assigned by law to another person, except to the extent that the fiduciary
8 [COMMISSIONER] or designee

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

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

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

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

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

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

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

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

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

31 (3) the person or body provided by law to manage the investments [,] for

1 investments not subject to AS 14.25.180 or AS 37.10.070.

2 * **Sec. 13.** AS 37.14.160 is amended to read:

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

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

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

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

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

14 * **Sec. 14.** AS 39.30 is amended by adding a new section to read:

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

20 (b) The board may provide a range of investment options and permit a participant or
21 beneficiary of the program to exercise control over the assets in the individual employee annuity
22 account established under AS 39.30.150(a). If the board offers investment options, and if a
23 participant or beneficiary exercises control over the assets in the individual employee annuity
24 account,

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

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

29 (c) If the board is considering entering into a contract or modifying an existing contract
30 concerning the management or investment of the mandatory receipts of the supplemental
31 employee benefits program, the board shall consult with the commissioner of administration

1 before making a decision on the issue.

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

4 (e) Except to the extent clearly set out in the terms of the plan document offered by the
5 employer to the employee, the employer is not liable to the employee for investment losses if the
6 prudent investment standard has been met.

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

8 * Sec. 15. AS 39.35.020 is amended to read:

9 Sec. 39.35.020. ADMINISTRATION. The commissioner of administration is responsible
10 for the administration of the system and for carrying out this chapter. In addition, the
11 commissioner shall

12 (1) maintain the accounts of the system;

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

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

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

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

20 (A) a balance sheet;

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

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

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

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

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

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

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

3 * Sec. 16. AS 39.35.040 is amended by adding a new paragraph to read:

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

6 * Sec. 17. AS 39.35.080 is amended to read:

7 Sec. 39.35.080. DUTIES OF THE ALASKA STATE PENSION INVESTMENT
8 BOARD [COMMISSIONER OF REVENUE]. The Alaska State Pension Investment Board
9 [COMMISSIONER OF REVENUE] is the [TREASURER OF THE SYSTEM AND THE]
10 fiduciary of the fund. The board [COMMISSIONER] has the same powers and duties
11 established under this chapter in regard to the fund as are provided in AS 14.25.035(d) and
12 14.25.180.

13 * Sec. 18. AS 39.35.500 is amended to read:

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

24 * Sec. 19. AS 39.45.030(a) is repealed and reenacted to read:

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

29 * Sec. 20. AS 39.45.030 is amended by adding new subsections to read:

30 (c) The board may provide a range of investment options and permit a participant or
31 beneficiary of the program to exercise control over the assets in the individual's account. If the

1 board offers investment options, and if a participant or beneficiary exercises control over the
2 assets in the individual's account,

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

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

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

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

13 (f) Except to the extent clearly set out in the terms of the plan document offered by the
14 employer to the employee, the employer is not liable to the employee for investment losses if the
15 prudent investment standard has been met.

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

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

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

19 * Sec. 22. AS 44.25.020 is amended to read:

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

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

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

26 (3) register cattle brands;

27 (4) supply necessary clerical and administrative services for the Alcoholic
28 Beverage Control Board; [AND]

29 (5) invest and manage the balance of the power development fund in accordance
30 with AS 44.83.386;

31 (6) in accordance with the policies established by the board of trustees of the

1 Alaska State Pension Investment Board, collect, account for, have custody of, invest, and
2 manage the state funds for which the board is responsible.

3 * Sec. 23. AS 44.25 is amended by adding a new section to read:

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

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

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

19 * Sec. 24. AS 39.45.030(b) is repealed.

20 * Sec. 25. TRANSITION. All litigation, hearings, investigations, and other proceedings pending
21 under a law amended or repealed by this Act, or in connection with functions transferred by this Act,
22 continue in effect and may be continued and completed notwithstanding a transfer, amendment, or repeal
23 provided for in this Act. Orders and regulations issued or adopted under authority of a law amended
24 or repealed by this Act remain in effect for the term issued, or until revoked, vacated, or otherwise
25 modified under the provisions of this Act. All contracts, rights, liabilities, and obligations created by
26 or under a law amended or repealed by this Act, and in effect on the effective date set out in sec. 30 of
27 this Act, remain in effect notwithstanding this Act's taking effect. Records, equipment, and other
28 property of agencies of the state whose functions are transferred under this Act shall be transferred
29 commensurate with the provisions of this Act.

30 * Sec. 26. ORGANIZATION OF TRUSTEES. (a) Notwithstanding AS 37.10.210(c), enacted by
31 sec. 1 of this Act, the initial terms of the members, other than the commissioner of revenue, of the board

1 of trustees of the Alaska State Pension Investment Board shall be as follows:

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

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

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

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

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

11 * Sec. 27. AS 37.10.210 and 37.10.230 - 37.10.390, enacted by sec. 1 of this Act, and sec. 26 of this
12 Act take effect July 1, 1992.

13 * Sec. 28. Except as provided in sec. 27 of this Act, this Act takes effect on the earlier of July 1,
14 1993, or the date established by resolution of the board of trustees of the Alaska State Pension
15 Investment Board for the transfer to it of securities and assets of all the funds of the retirement systems,
16 as defined in AS 37.10.390, enacted by sec. 1 of this Act, and the receipts of the employee benefits
17 program established under AS 39.30.150 - 39.50.180 and of the deferred compensation programs under
18 AS 39.45. The board shall promptly provide the revisor of statutes and the lieutenant governor with a
19 copy of this resolution.