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A M E N D M E N T

Offered in the SENATE

By Duncan

TO: CSSB 93(Judiciary)

Page 2, line 29, to page 3, line 1:

Delete "with the approval of the trustor"

Page 3, line 1, following "obligations":

Insert ", for short-term cash management purposes,"

Page 3, line 2, following "in,":

Insert "a money market mutual fund operating as"

Original sponsor: Duncan

1 IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 93 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to investments by financial insti-
7 tutions."

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

9 * Section 1. AS 06.05.180 is amended to read:

10 Sec. 06.05.190. POWERS AS TRUSTEE AUTHORIZED. Every bank organ-
11 ized under this chapter, subject to the restrictions and limitations
12 of laws and the regulations of the department, may

13 (1) act as trustee under any mortgage or bond issued by the
14 state, or any municipality, body politic, or corporation, foreign or
15 domestic, and accept and execute any municipal or corporate trust not
16 prohibited by the laws of this state;

17 (2) accept a trust from, and execute a trust for a married
18 woman in respect to the married woman's [HER] separate property, and
19 act as agent in the management of the property or transact any busi-
20 ness in relation to the property;

21 (3) act under the order or appointment of a court of compe-
22 tent jurisdiction including any probate court as guardian, receiver,
23 or trustee of the estate of a minor, and as depository of money paid
24 into court for the benefit of any person, corporation, or party, and
25 in any other fiduciary capacity;

26 (4) act under the order or appointment of a court of compe-
27 tent jurisdiction including any probate court as trustee, guardian,
28 receiver or committee of the estate of a lunatic, idiot, spendthrift,
29 person of unsound mind or habitual drunkard, or as receiver or

1 committee of the property or estate of any person in insolvency
2 bankruptcy proceedings;

3 (5) act as executor or administrator with or without
4 will annexed of the estate of a deceased person;

5 (6) accept and execute any legal trust, duty and power
6 regard to the holding, management and disposition of any estate, real
7 or personal, wherever located, and the rents and profits from it,
8 the sale of it, as may be granted or confided to it by a court
9 competent jurisdiction including any probate court or by any person
10 corporation, municipality or other authority, and is accountable
11 all parties in interest for the faithful discharge of every trust
12 duty, or power which it may accept;

13 (7) accept and execute any trust or power conferred upon
14 by any person or any body politic or domestic or foreign corporation
15 or any other authority, grant, assignment, transfer, devise, bequest
16 or otherwise, or which may be entrusted or committed or transferred
17 it by order of a court of competent jurisdiction including any probate
18 court;

19 (8) receive, manage, hold and dispose of according to
20 terms of any trust or power any property or estate, real or personal
21 which may be the subject of any such trust or power;

22 (9) act as the fiscal or transfer agent of the United
23 States or of any state, territory, municipality, or other body po-
24 tic, and in this capacity may receive and disburse moneys, transfer
25 register and countersign certificates of stocks, bonds, or other
26 evidences of indebtedness;

27 (10) whenever the instrument or power governing the fi-
28 ciary relationship directs, requires, authorizes, or permits inve-
29 stment in obligations of the United States government, invest in

1 obligations, for short-term cash management purposes, either directly
2 or in the form of securities of, or other interests in, a money market
3 mutual fund operating as an open-end management type investment com-
4 pany or investment trust registered under 15 U.S.C. 80a-1 - 80a-64
5 (Investment Company Act of 1940), if

6 (A) the portfolio of the investment company or invest-
7 ment trust is limited to obligations of the United States govern-
8 ment and repurchase agreements fully collateralized by the obli-
9 gations; and

10 (B) the investment company or investment trust takes
11 delivery of the collateral directly or through an authorized
12 custodian.

13 * Sec. 2. AS 06.05.270(a) is amended to read:

14 (a) In addition to loans and acquisitions expressly authorized
15 by this chapter, a state bank may deal in, underwrite, and invest in
16 for its own account

17 (1) direct or guaranteed obligations of the United States,
18 either directly or in the form of securities of, or other interests
19 in, an open-end management type investment company or investment trust
20 registered under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of
21 1940), if

22 (A) the portfolio of the investment company or invest-
23 ment trust is limited to obligations of the United States govern-
24 ment and repurchase agreements fully collateralized by the obli-
25 gations; and

26 (B) the investment company or investment trust takes
27 delivery of the collateral directly or through an authorized
28 custodian;

29 (2) general obligations of the State of Alaska and its

1 political subdivisions;

2 (3) general obligations of a state of the United States or
3 its political subdivisions;

4 (4) revenue obligations of the State of Alaska or its
5 political subdivisions subject to the limitation of (b) of this sec-
6 tion;

7 (5) revenue obligations of a state of the United States or
8 its political subdivisions subject to the limitation of (b) of this
9 section;

10 (6) obligations of instrumentalities of the United States
11 government including, but not limited to Federal Intermediate Credit
12 Banks, Federal Land Banks, the Federal National Mortgage Association,
13 and Banks for Cooperatives;

14 (7) commercial paper of prime or equivalent quality as
15 rated by a recognized national rating service subject to the limita-
16 tion of (b) of this section;

17 (8) secured corporate obligations rated within the three
18 highest grades of a national rating service subject to the limitation
19 of (b) of this section;

20 (9) obligations of the International Bank for Reconstruc-
21 tion and Development or the Inter-American Development Bank subject to
22 the limitation of (b) of this section;

23 (10) stock in the Federal National Mortgage Association or a
24 Federal Reserve Bank.
25
26
27
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29

HOUSE COMMITTEE REPORT

(7)

Date referred: 4/1/87

FURTHER REFERRALS: Judiciary

DATE: 5/15/87
CS\$B 93(Jud)

The Labor & Commerce Committee has considered
"An Act relating to investments by financial institutions."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING TO PASS:

Alvin Korman
D. W. Bombardieri

SIGNING OTHER RECOMMENDATIONS:

David Conley NO REC
David Conley NO REC

David Conley
 Chairman's signature

11064

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SB 93
Publish Date: _____

REQUEST: _____
Revision Date: _____
Title: Investments by Financial Institutions
Sponsor: _____
Requestor: _____

Agency Affected: Comm. & Econ. Dev.
BRU: Banking, Securities & Corp.
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS :

[Empty box for analysis]

Prepared by: Willis F. Kirkpatrick, Director Phone: 465-2521
Division: Banking, Securities & Corporations Date: _____

Approved by Commissioner: J. Anthony Smith, Commissioner Date: _____
Agency: Department of Commerce and Economic Development

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

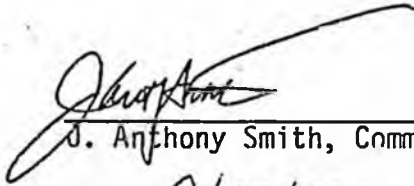
SB 93: "An Act relating to investments by financial institutions."

The Department of Commerce and Economic Development supports this bill if amended in the following manner. Page 2 line 29 after government insert "with approval of the trustor(s),"

Section 1 of the bill allows a trustee of a bank to invest in a mutual fund made up of government securities when the trust customer of the bank grants authority for the trustee to invest in government securities. This provision expands the trust power beyond that of the trustee agreement without allowing the trustor to make the determination as to whether this investment accords with the trustors' wishes. If the bank's trust customer gives the bank fiduciary freedom to invest in government securities the trustee of the trust should do just that. As SB 93 is now written, if the bank customer did not want government securities in the form of shares in a mutual fund the trust agreement would have to so state. There are a number of reasons why a trustor might choose not to have the trustee invest in mutual funds, one of which is that the trustor ends up paying double fees for the investment, one for the trustee administration cost and another for mutual fund management fees.

The department favors Section 2 of the bill as written. This section allows bank management to invest, as part of the bank's investment portfolio, mutual funds as long as the mutual fund limits its portfolio to legal investments. This allows a small financial institution the ability to have greater use of expertise of the mutual fund's managers, thus, diversifying some market risk.

This bill will have no affect on the program of regulating financial institutions nor will it have a fiscal impact.


J. Anthony Smith, Commissioner
DATE: 2/25/87



Alaska State Legislature

APR 8 1987

SENATOR JIM DUNCAN

P. O. Box V JUNEAU, ALASKA 99811

(907) 465-4766

COMMITTEES:
FINANCE
RESOURCES
BUDGET AND AUDIT

MEMORANDUM

April 8, 1987

TO: Representative Dave Donley
Chairman, House Labor & Commerce

FROM: Senator Jim Duncan

SUBJECT: Hearing SB 93

Senate Bill 93, An Act relating to Investments By Financial Institutions has passed the Senate and was assigned to your committee in the House. I would like to request that you schedule this legislation for a hearing before your committee at the earliest convenience.

I have attached some backup material for your review.

Senate Bill 93 proposes two statutory amendments to Alaska banking laws.

Amendment to AS 06.05.180.

The proposed amendment to AS 06.05.180(10) provides that where an Alaska domiciled bank or national bank holds assets under a trust agreement, that said assets can be invested in shares of a "money market mutual fund" limited to short term U.S. Treasury obligations.

Reason for Amendment.

In the course of its examination of national banks and trust departments, the U.S. Office of the Comptroller of the Currency has construed trust instruments that permit or require investments in U.S. Obligations not to authorize investments in money market funds limited to short term U.S. Treasury Obligations. The regulations of the Office of Comptroller of the Currency applicable to fiduciary activities provides that funds held by a national bank, in a fiduciary capacity, shall be invested in accordance with the instrument establishing the fiduciary relationship and local law. In making their own interpretation of state law, the Office of Comptroller of the Currency has consistently rejected contrary views of local bank counsel and has required national banks in some states to remove their assets from the money market mutual funds, with a subsequent loss to the bank's underlying account of the cost-effectiveness, convenience and liquidity afforded by the trust. The Office of the Comptroller of the Currency nonetheless has said that it will yield on the issue in the event of appropriate state legislation action. The decision of the Office of the Comptroller to yield to clarifying legislation has prompted introduction of legislation similar to the proposed amendment to AS 06.05.180(10) in many states.

Similar legislation has now been adopted by twenty (20) states: Alabama, California, Connecticut, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Minnesota, Missouri, New Jersey, New York, North Carolina, Oklahoma, Ohio, Texas & Virginia.

Amendment to AS 06.05.270.

The proposed amendment to AS 06.05.270(a)(1) formalizes the position taken by the Director of Banking for the State of Alaska which allows Alaska domiciled banks to invest their own assets in money market mutual funds which are limited to short term U.S. Treasury Obligations.

Reason for Amendment, Senate Bill 93.

1) Formalizes statutory amendment, the practice currently authorized by the State of Alaska's Director of Banking and 2) clarifies existing law.

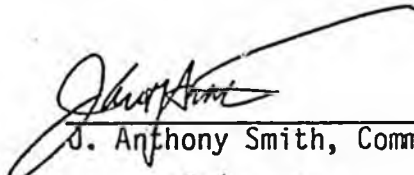
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The department favors Section 2 of the bill as written. This section allows bank management to invest, as part of the bank's investment portfolio, mutual funds as long as the mutual fund limits its portfolio to legal investments. This allows a small financial institution the ability to have greater use of expertise of the mutual fund's managers, thus, diversifying some market risk.

This bill will have no affect on the program of regulating financial institutions nor will it have a fiscal impact.



J. Anthony Smith, Commissioner

DATE: 2/25/87

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : SR 93

Publish Date : _____

Revision Date: _____

Title : Investments by Financial Institutions

Agency Affected: Comm. & Econ. Dev.

BRU: Banking, Securities & Corp.

Sponsor : _____

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Components : _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Willis F. Kirkpatrick, Director
 Division: Banking, Securities & Corporations

Phone: 465-2521
 Date: _____

Approved by Commissioner: J. Anthony Smith, Commissioner
 Agency: Department of Commerce and Economic Development

Date: _____

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Imp. ed Agency(ies)
 - Senate Secretary

(10) whenever the instrument or power governing the fiduciary relationship directs, requires, authorizes, or permits investment in obligations of the United States government, with the approval of the trustor, invest in the obligation, for short term cash management purposes ~~with~~, ¹⁰⁴ either directly or in the form of securities of, or other interests in, a money market mutual fund operating as an open-end management type investment company or investment trust registered under 15 U.S.C. 80a-1 - 80a-64 (Investment Company Act of 1940), if

(A) the portfolio of the investment company or investment trust is limited to obligations of the United States government and repurchase agreements fully collateralized by the obligations; and

(B) the investment company or investment trust takes delivery of the collateral directly or through an authorized custodian.

OK
2/28/87
4/30/87