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SENATE FINANCE COMMITTEE REPORT

DATE: 4/7/90

FURTHER:

DATE TURNED INTO OFFICE: _____

The Finance Committee considered

SB 197

"An Act relating to management and investment of state retirement funds."

and recommended:

- replace with _____ CS _____ same title
 or adopt _____ CS _____ new title
 attached amendment(s) technical title change (HB only)
 _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

Bill died in committee.

ATTACHES NEW FISCAL NOTE(S):

Dept./Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:

Dept./Date:

fiscal note(s) _____

zero fiscal note(s) _____

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

1. _____

2. _____

Co-Chairs: Signatures and Recommendations

SENATE COMMITTEE REPORT

6-0682E/20

b

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 3-7-90
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

FIN

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035
2/28/89

DATE TURNED INTO OFFICE 4-7-90

Mr. President:

STATE AFFAIRS Committee considered SB 197

management and investment of state retirement funds

and recommended: and a majority of the committee recommends

- replace with CS SP 117 (SA) same title new title
- attached amendment(s) and and do pass
- _____ letter of intent adopted

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

2 FN's forthcoming (b)
Ø FN-DOA-SB
& FN-DOA-CS

FISCAL NOTE(S) attached zero
 appropriation no FN attached

fiscal impact
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

1 Jan Fair
1 Tom Kelly
1 Al Adams

2 Rich Hobbie (Worse)

Pat [Signature]
Chairman signature and recommendation

Committee backup attached

Offered: 4/7/90
Referred: Finance

6-0682E

Original sponsor(s): SEN. EINKLEY, Kelly, Pearce

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR SENATE BILL NO. 197 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to management and investment of
7 certain state funds; and providing for an effective
8 date."

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

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

11 ARTICLE 5. ALASKA STATE INVESTMENT CORPORATION.

12 Sec. 37.10.210. ALASKA STATE INVESTMENT CORPORATION. (a) There
13 is established the Alaska State Investment Corporation. The corpo-
14 ration is a public corporation and government instrumentality in the
15 Department of Revenue managed by a board of directors. The purpose of
16 the corporation is to provide professional management and investment
17 of state trust funds and other state funds upon agreement with the
18 managers of those funds.

19 (b) The board consists of seven members:

20 (1) one member who is nominated by the Teachers' Retirement
21 Board and appointed by the governor;

22 (2) one member who is nominated by the Public Employees'
23 Retirement Board and appointed by the governor;

24 (3) the commissioner of revenue;

25 (4) two public members, appointed by the governor;

26 (5) two professional investors, nominated by the other
27 board members and appointed by the governor.

28 (c) The public members must have recognized competence and wide
29 experience in finance, investments, or other business management-

1 related fields. A public member may not hold another state or federal
2 office, position, or employment, either elective or appointive, except
3 as a member of the armed forces of either the United States or of this
4 state.

5 (d) The public members, retirement system members, and profes-
6 sional investor members of the board shall be appointed for staggered
7 terms of three years and may be reappointed to the board.

8 (e) The governor may remove a member of the board from office.
9 A removal by the governor must be in writing and must state the reason
10 for the removal. After a member receives written notice of removal
11 from the governor, the member may not participate in board business
12 and may not be counted for purposes of establishing a quorum.

13 (f) Members representing a state retirement system and members
14 serving as professional investors may not hold another compensated
15 state office, position, or employment, either elective or appointive,
16 except as a member of the armed forces of the state.

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

23 (h) The board shall annually elect a chair from among its mem-
24 bers.

25 (i) Four members of the board constitute a quorum for the trans-
26 action of business and the exercise of the powers and duties of the
27 board.

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

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

3 (1) hold regular and special meetings at the call of the
4 chair or of at least four of the members;

5 (2) establish investment policies for the funds for which
6 it is responsible;

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

9 (4) report to the governor and the legislature by Septem-
10 ber 30 of each year concerning the investment of state funds including
11 financial and investment policies established by the board;

12 (5) contract with external performance evaluators to review
13 the performance of each fund managed or invested by the corporation
14 and report each year to the board and to the other boards directly
15 responsible for the activities supported by the fund on the fund's
16 condition; the report must be complete, understandable, and presented
17 in acceptable format according to industry patterns and customs;

18 (6) engage independent certified public accountants to
19 prepare an annual audit of each of the funds for which the corporation
20 is responsible and to report to the board with the results of the
21 audit.

22 (b) The board may

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

25 (2) employ legal counsel;

26 (3) enter into an agreement with the manager of another
27 state fund to assume fiduciary responsibilities for managing and
28 investing the other state fund; an agreement under this paragraph may
29 not be for a term longer than three years but may be renewed;

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

4 Sec. 37.10.230. CONFLICTS OF INTEREST. (a) Members of the
5 board and the executive director are subject to the provisions of
6 AS 39.50.

7 (b) If a member of the board or an employee of the corporation
8 acquires, owns, or controls an interest, direct or indirect, in an
9 entity or project in which assets under the control of the corporation
10 are invested, the member shall immediately disclose the interest to
11 the board. The disclosure is a matter of public record and shall be
12 included in the minutes of the board meeting next following the dis-
13 closure.

14 Sec. 37.10.240. REGULATIONS. The board may adopt rules after
15 giving reasonable public notice. The board is exempt from the Admin-
16 istrative Procedure Act (AS 44.62).

17 Sec. 37.10.250. COMPENSATION OF BOARD MEMBERS. Members of the
18 board other than the commissioner of revenue receive an honorarium of
19 \$400 for each day spent at a meeting of the board or at a meeting of a
20 subcommittee of the board or at a public meeting as a representative
21 of the board. Members of the board are entitled to per diem and
22 travel allowances as provided for members of state boards and commis-
23 sions under AS 39.20.180.

24 Sec. 37.10.260. STAFF. (a) The board shall employ an executive
25 director. The executive director must be qualified by training and
26 experience to manage, administer, and direct the investment of funds.
27 The board shall fix the compensation of the executive director. The
28 executive and administrative functions of the board are vested in the
29 executive director who serves under the supervision of the board. The

1 executive director shall appoint employees of the corporation as
2 necessary.

3 (b) The board shall appoint an investment director to serve
4 under the executive director and to act as assistant director. How-
5 ever, if the office of investment director is vacant, the executive
6 director may temporarily designate the assistant director. The assis-
7 tant director shall act in place of the executive director in the
8 absence or disability of the executive director.

9 (c) The board shall adopt regulations that restrict the execu-
10 tive director, investment directors, other officers, and employees
11 from having financial interest, directly or indirectly, in firms or
12 corporations that provide services to the corporation. Officers and
13 employees of the corporation are subject to AS 39.52.

14 (d) The executive director and each investment director shall
15 file a bond for the faithful performance of duties in the amount and
16 with the sureties as required by the board.

17 (e) Officers and employees of the corporation are members of the
18 exempt service under AS 39.25.110.

19 (f) A deed, contract, or other document that must be executed by
20 or on behalf of the corporation shall be signed by the executive
21 director.

22 Sec. 37.10.270. INSURANCE. The corporation shall protect
23 trusted assets and its own assets, services, and employees by pur-
24 chasing insurance or providing for self-insurance retentions in
25 amounts recommended by the executive director and approved by the
26 board to cover the acts, including fiduciary acts, errors, and
27 omissions of its board members, officers, employees, and agents.
28 Insurance shall protect the corporation and the state from liability
29 to others and from loss of trusted assets and assets of the

1 corporation.

2 Sec. 37.10.280. EXEMPTION FROM TAXATION. The corporation and
3 all properties at any time owned by it, managed by it, or held by it
4 in trust, and the income from these activities, are exempt from all
5 taxes and assessments in the state. All security instruments issued
6 by the corporation and income from them are exempt from all taxes and
7 assessments in the state, including transfer taxes.

8 Sec. 37.10.290. SURETY FOR DEPOSITS WITH BANKS. Banks, trust
9 companies, savings banks, and other persons carrying on a banking
10 business are authorized to give sureties to the corporation. The
11 sureties shall be approved by the corporation to the effect that the
12 banks or banking institutions shall faithfully keep and pay over to
13 the order of or upon the warrant of the corporation or its authorized
14 agent all money deposited with them by the corporation and agreed
15 interest, at the times or upon the demands agreed on with the banks or
16 banking institutions. In lieu of these sureties, a depository bank or
17 other banking institution shall deposit with the corporation or its
18 authorized agent or a trustee as collateral, securities approved by
19 the corporation. The deposits of the corporation may be evidenced by
20 agreements in the form and upon the terms and conditions that are
21 agreed upon by the corporation and the depository banks or banking
22 institutions.

23 Sec. 37.10.300. LIMITATIONS. The corporation may not engage in
24 commercial banking activity or private trust activity. The corpora-
25 tion may not act as a depository or trustee for a private person,
26 association, or corporation. The corporation may not act as a lender
27 to a private person, association, or corporation of money from any
28 source except state funds under management by the corporation.

29 Sec. 37.10.310. LIABILITY. (a) Except with respect to a

1 written agreement authorized under (b) of this section, a liability
2 incurred by the corporation shall be satisfied exclusively from the
3 assets or revenue of the corporation and a creditor or other person
4 may not have a right of action against the state because of a debt,
5 obligation, or liability of the corporation. A liability of the
6 corporation may not be satisfied from trust assets unless expressly
7 authorized by law.

8 (b) Notwithstanding any other law to the contrary, the
9 corporation may enter into a written agreement with a Federal Reserve
10 Bank or the board of governors of the Federal Reserve System providing
11 that, to the extent permitted by the contracts, trust agreements, or
12 other fiduciary instruments between the corporation and the Federal
13 Reserve System, the corporation's obligations shall be guaranteed by
14 the state, and the state expressly waives all defenses of governmental
15 immunity by and on behalf of the corporation and the state and the
16 state expressly consents to sue and be sued in federal court or in any
17 court of competent jurisdiction. However, this provision does not
18 alter or affect the immunity accorded to state officials and employees
19 under state law.

20 Sec. 37.10.399. DEFINITIONS. In AS 37.10.210 - 37.10.399,
21 unless the context otherwise requires,

22 (1) "board" means the board of directors of the corpora-
23 tion;

24 (2) "corporation" means the Alaska State Investment Corpo-
25 ration.

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

27 (d) The commissioner of administration shall report to the board
28 concerning the condition and administration of the system. The re-
29 ports shall be distributed to the members of the system. The Alaska

1 State Investment Corporation [COMMISSIONER OF REVENUE] shall provide
2 reports to the board on the condition and investment performance of
3 the teachers' retirement trust fund and an annual external performance
4 review.

5 * Sec. 3. AS 14.25.180 is amended to read:

6 Sec. 14.25.180. MANAGEMENT AND INVESTMENT OF FUND. (a) The
7 Alaska State Investment Corporation [COMMISSIONER OF REVENUE] is
8 [TREASURER OF THE SYSTEM AND THE] fiduciary of the fund. In managing
9 the fund, the Alaska State Investment Corporation [COMMISSIONER OF
10 REVENUE] shall

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

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

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

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

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

23 (c) In carrying out investment duties under this chapter, the
24 Alaska State Investment Corporation [COMMISSIONER OF REVENUE] has the
25 same powers and duties in regard to the teacher's retirement trust
26 fund as are provided in AS 37.10.071, except that the standard of
27 prudence that the corporation [COMMISSIONER] must obey under AS 37.-
28 10.071(c) shall be in regard to the management of large trust invest-
29 ments rather than large investments.

1 * Sec. 4. AS 14.40.400(b) is amended to read:

2 (b) The Alaska State Investment Corporation [COMMISSIONER OF
3 REVENUE] is the fiduciary of the trust fund and shall account for and
4 invest the fund as set out in AS 37.14.110(c), 37.14.160, and 37.14.-
5 170, except that the corporation [COMMISSIONER] shall report the
6 condition and investment performance of the fund to the Board of
7 Regents.

8 * Sec. 5. AS 22.25.048(c) is amended to read:

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

13 * Sec. 6. AS 26.05.228(c) is amended to read:

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

18 * Sec. 7. AS 36.30.015 is amended by adding a new subsection to read:

19 (f) The board of directors of the Alaska State Investment Corpo-
20 ration shall adopt procedures to govern the procurement of supplies,
21 services, professional services, and construction. The procedures
22 must

23 (1) reflect competitive principles and provide vendors
24 reasonable and equitable opportunities to participate in the procure-
25 ment process; and

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

28 * Sec. 8. AS 36.30.990(1) is amended to read:

29 (1) "agency"

1 (A) means a department, institution, board, commis-
2 sion, division, authority, public corporation, the Alaska Pio-
3 neers' Home, or other administrative unit of the executive branch
4 of state government;

5 (B) does not include

6 (i) [, EXCEPT FOR] the University of Alaska;

7 (ii) [,] the Alaska State Housing Authority;

8 (iii) the [AND] Alaska Railroad Corporation;

9 (iv) the Alaska State Investment Corporation;

10 (v) [IT DOES NOT INCLUDE] a regional Native
11 housing authority created under AS 18.55.996, or a regional
12 electrical authority created under AS 18.57.020;

13 * Sec. 9. AS 37.10.071 is amended to read:

14 Sec. 37.10.071. INVESTMENT POWERS AND DUTIES. (a) In making
15 investments under this section, the fiduciary of a state fund [COMMI-
16 SIONER OF REVENUE] shall

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

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

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

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

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

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

28 (7) perform all acts, not prohibited by this section,
29 whether or not expressly authorized, that the fiduciary [COMMISSIONER]

1 considers necessary or proper in administering the assets;

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

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

7 (10) enter into and enforce contracts or agreements con-
8 sidered necessary, convenient, or desirable for the investment pur-
9 poses of this section; and

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

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

16 (1) delegate investment, custodial, or depository authority
17 on a discretionary or nondiscretionary basis to officers or employees
18 of the state or to independent firms, banks, or trust companies, by
19 designation through appointments, contracts, or letters of authority;

20 (2) acquire or dispose of investments either directly,
21 indirectly, or through investment pools or trusts, by competitive or
22 negotiated agreements, contracts, or auctions, in public or private
23 markets;

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

28 (4) protect the market value or the rate of return of the
29 investments by entering into forward agreements to buy or sell assets

1 at a future date as a hedge against existing held assets or as a
2 precommitment of future cash flows;

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

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

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

11 (8) utilize consultants, advisors, custodians, investment
12 services, and legal counsel for assistance in investment matters on
13 either a continuing or a limited-term basis and with or without com-
14 pensation;

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

20 (c) In exercising investment, custodial, or depository powers or
21 duties under this section, the fiduciary of a state fund [COMMISS-
22 SIONER] shall exercise the judgment and care under the circumstances
23 then prevailing that an institutional investor of ordinary profession-
24 al prudence, discretion, and intelligence exercises in managing large
25 investments with consideration for the purpose of the fund, the in-
26 vestment objectives, the continuing disposition of the fund's
27 investments, and the probable safety of the capital as well as the
28 probable investment returns.

29 (d) In exercising investment, custodial, or depository powers or

1 duties under this section, the fiduciary or the fiduciary's [COMMISS-
2 SIONER OR A] designee [OF THE COMMISSIONER] is liable for a breach of
3 a duty that is assigned or delegated under this section, or under
4 AS 14.25.180, AS 14.40.400(b), AS 37.10.070, AS 37.14.110(c), 37.14.-
5 160, 37.14.170, or AS 39.35.080. However, the fiduciary or the [COM-
6 MISSIONER OR THE COMMISSIONER'S] designee is not liable for a breach
7 of a duty that has been delegated to another person if the delegation
8 is prudent under the applicable standard of prudence set out in
9 statute or if the duty is assigned by law to another person, except to
10 the extent that the fiduciary [COMMISSIONER] or designee

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

15 (2) by failure to comply with this section in the adminis-
16 tration of specific responsibilities, enables another person to commit
17 a breach of duty; or

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

21 (e) The state shall defend and indemnify the fiduciary [COMMISS-
22 SIONER] or an officer or employee of the state against liability under
23 (d) of this section to the extent that the alleged act or omission was
24 performed in good faith and was prudent under the applicable standard
25 of prudence.

26 (F) In this section, "fiduciary of a state fund" or "fiduciary"
27 ["COMMISSIONER OF REVENUE" OR "COMMISSIONER"] means

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

1 (2) the Alaska State Investment Corporation for investments
2 under AS 14.25.080; or

3 (3) the person or body provided by law to manage the in-
4 vestments, for investments not subject to AS 14.25.180 or AS 37.10.-
5 070.

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

7 (c) The Alaska State Investment Corporation [COMMISSIONER OF
8 REVENUE] shall account for the fund in accordance with generally
9 accepted accounting principles and shall determine the net income of
10 the fund [IN ACCORDANCE WITH INVESTMENT ACCOUNTING PRINCIPLES AND] in
11 a manner that preserves the distinction between principal and income
12 and that excludes capital gains or losses realized on principal. The
13 principal of the fund and the capital gains or losses realized on
14 principal shall be perpetually retained in the fund for investment
15 purposes.

16 * Sec. 11. AS 37.14.140 is amended to read:

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

23 * Sec. 12. AS 37.14.160 is amended to read:

24 Sec. 37.14.160. DUTIES OF THE ALASKA STATE INVESTMENT CORPO-
25 RATION [COMMISSIONER OF REVENUE]. The Alaska State Investment Corpo-
26 ration [COMMISSIONER OF REVENUE] is the treasurer of the trust fund
27 created in AS 37.14.110 and shall

28 (1) exercise the powers and duties established in AS 14.-
29 25.180(c);

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

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

5 (4) provide reports to the board established under AS 37.-
6 14.120 on the condition and investment performance of the fund.

7 * Sec. 13. AS 37.14.170 is amended to read:

8 Sec. 37.14.170. INVESTMENTS. The Alaska State Investment
9 Corporation [COMMISSIONER OF REVENUE] is the fiduciary of the trust
10 fund and shall invest the fund to provide increasing net income over
11 long-term periods to the fund's income beneficiaries. The corporation
12 [COMMISSIONER] may invest the money in the fund on the basis of proba-
13 ble total rate of return to promote the long-term generation of in-
14 come. In managing the trust fund, the corporation [COMMISSIONER]
15 shall

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

18 (2) determine the appropriate investment objectives;

19 (3) establish investment policies to achieve the objec-
20 tives; and

21 (4) act only in regard to the financial interests of the
22 fund's beneficiaries.

23 * Sec. 14. AS 37.14.200(c) is amended to read:

24 (c) The net income of the fund shall be determined by the Alaska
25 State Investment Corporation [COMMISSIONER OF REVENUE] in accordance
26 with generally accepted [INVESTMENT] accounting principles. However,
27 the corporation shall preserve [AND IN A MANNER THAT PRESERVES] the
28 distinction between principal and income.

29 * Sec. 15. AS 37.14.210 is amended to read:

1 Sec. 37.14.210. POWERS AND DUTIES OF THE ALASKA STATE INVESTMENT
2 CORPORATION [COMMISSIONER OF REVENUE]. The Alaska State Investment
3 Corporation [COMMISSIONER OF REVENUE] is the fiduciary [TREASURER] of
4 the fund and has the power and duty to:

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

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

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

13 (4) invest and reinvest the assets of the fund as provided
14 in this section and as provided for the investment of funds under
15 AS 14.25.130(c) and AS 37.14.170;

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

18 (6) maintain accounting records of the fund in accordance
19 with generally accepted [INVESTMENT] accounting principles; however,
20 the corporation shall preserve the [AND WITH] distinction between the
21 principal and income accounts of the fund;

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

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

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

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

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

3 * Sec. 16. AS 39.30.095(d) is amended to read:

4 (d) If the commissioner of administration determines that there
5 is more money in the fund than the amount needed to pay premiums or
6 benefits for the current fiscal year, the surplus, or so much of it as
7 the commissioner of administration considers advisable, may be in-
8 vested by the Alaska State Investment Corporation [COMMISSIONER OF
9 REVENUE] in the same manner as retirement funds are invested under
10 AS 14.25.130.

11 * Sec. 17. AS 39.25.110(11) is amended by adding a new subparagraph to
12 read:

13 (G) Alaska State Investment Corporation;

14 * Sec. 18. AS 39.30 is amended by adding a new section to read:

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

21 * Sec. 19. AS 39.35.020 is amended to read:

22 Sec. 39.35.020. ADMINISTRATION. The commissioner of administra-
23 tion is responsible for the administration of the system and for
24 carrying out this chapter. In addition the commissioner shall

- 25 (1) maintain the accounts of the system;
26 (2) make payments for the various purposes specified;
27 (3) submit periodic reports or statements of account that
28 are needed;
29 (4) issue a statement of account to an employee requesting

1 it showing the amount of the employee's contributions to the system;

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

6 (A) a balance sheet;

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

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

11 (D) a summary of assets held in the pension fund
12 listed by the categories of investment, as provided by the Alaska
13 State Investment Corporation [COMMISSIONER OF REVENUE];

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

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

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

22 (8) report to the board concerning the condition and admin-
23 istration of the system and distribute the report to the members of
24 the system.

25 * Sec. 20. AS 39.35.080 is amended to read:

26 Sec. 39.35.080. DUTIES OF THE ALASKA STATE INVESTMENT
27 CORPORATION [COMMISSIONER OF REVENUE]. The Alaska State Investment
28 Corporation [COMMISSIONER OF REVENUE] is the [TREASURER OF THE SYSTEM
29 AND THE] fiduciary of the fund. The corporation [COMMISSIONER] has the

1 same powers and duties established under this chapter in regard to the
2 fund as are provided in AS 14.25.035(d) and 14.25.180.

3 * Sec. 21. AS 39.45.030(a) is amended to read:

4 (a) The Alaska State Investment Corporation or the administrator
5 of the [STATE OR] political subdivision deferred compensation program
6 is authorized, subject to contracts with individual employees, to
7 invest the funds held under a deferred compensation program in

8 (1) fixed and variable life insurance and annuity contracts
9 or other contracts issued by life insurance companies;

10 (2) shares of or deposits in insured state or federal
11 chartered credit unions in the state;

12 (3) shares of or deposits in insured state or federal
13 chartered savings and loan associations in the state;

14 (4) deposits in insured mutual savings banks in the state;

15 (5) deposits in insured state and national banks in the
16 state; and

17 (6) multi-employer trusts established for investment of
18 deferred compensation assets of state and local governments.

19 * Sec. 22. AS 39.50.200(b) is amended by adding a new paragraph to
20 read:

21 (50) Alaska State Investment Corporation (AS 37.10.210).

22 * Sec. 23. AS 44.25.020 is amended to read:

23 Sec. 44.25.020. DUTIES OF DEPARTMENT. The Department of Revenue
24 shall

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

26 (2) collect, account for, have custody of, invest, and
27 manage all state funds and all revenues of the state except revenues
28 incidental to a program of licensing and regulation carried on by
29 another state department and funds managed and invested by the Alaska

1 State Investment Corporation;

2 (3) register cattle brands;

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

5 (5) invest and manage the balance of the power development
6 fund in accordance with AS 44.83.336.

7 * Sec. 24. TRANSITION. All litigation, hearings, investigations, and
8 other proceedings pending under a law amended or repealed by this Act, or
9 in connection with functions transferred by this Act, continue in effect
10 and may be continued and completed notwithstanding a transfer, amendment,
11 or repeal provided for in this Act. Orders and regulations issued or
12 adopted under authority of a law amended or repealed by this Act remain in
13 effect for the term issued, or until revoked, vacated, or otherwise mod-
14 ified under the provisions of this Act. All contracts, rights, liabilities
15 and obligations created by or under a law amended or repealed by this Act,
16 and in effect on the effective date of this Act, remain in effect notwith-
17 standing this Act's taking effect. Records, equipment, and other property
18 of agencies of the state whose functions are transferred under this Act
19 shall be transferred commensurate with the provisions of this Act.

20 * Sec. 25. The board of directors of the Alaska State Investment Corpo-
21 ration may hold organizational meetings as soon as a quorum of the board
22 has been appointed to or selected for the board.

23 * Sec. 25. AS 37.10.210 and 37.10.230 - 37.10.399, enacted by sec. 1 of
24 this Act, and sec. 25 of this Act take effect immediately under AS 01.-
25 10.070(c).

26 * Sec. 27. Except as provided in sec. 26 of this Act, this Act takes
27 effect January 1, 1991.

1 IN THE SENATE

BY BINKLEY, KELLY, PEARCE

2 SENATE BILL NO. 197

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to management and investment of
7 state retirement funds."

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

9 * Section 1. AS 14.25.035(d) is amended to read:

10 (d) The commissioner of administration shall report to the board
11 concerning the condition and administration of the system. The reports
12 shall be distributed to the members of the system. The Board of Trust-
13 ees of the Alaska Permanent Fund Corporation [COMMISSIONER OF REVENUE]
14 shall provide reports to the board on the condition and investment
15 performance of the teachers' retirement trust fund.

16 * Sec. 2. AS 14.25.180 is amended to read:

17 Sec. 14.25.180. MANAGEMENT AND INVESTMENT OF FUND. (a) The
18 Board of Trustees of the Alaska Permanent Fund Corporation [COMMIS-
19 SIONER OF REVENUE] is the treasurer of the system and the fiduciary of
20 the fund. In managing the fund, the board of trustees [COMMISSIONER OF
21 REVENUE] shall

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

24 (2) determine the appropriate investment objectives for the
25 fund;

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

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

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

5 (c) In carrying out investment duties under this chapter, the
6 board of trustees [COMMISSIONER OF REVENUE] has the same powers and
7 duties in regard to the teacher's retirement trust fund as are pro-
8 vided in AS 37.13.120 and 37.13.125 [AS 37.10.071, EXCEPT THAT THE
9 STANDARD OF PRUDENCE THAT THE COMMISSIONER MUST OBEY UNDER AS 37.10.-
10 071(c) SHALL BE IN REGARD TO THE MANAGEMENT OF LARGE TRUST INVESTMENTS
11 RATHER THAN LARGE INVESTMENTS].

12 * Sec. 3. AS 22.25.048(c) is amended to read:

13 (c) The Board of Trustees of the Alaska Permanent Fund Corpora-
14 tion [COMMISSIONER OF REVENUE] is the treasurer of the system and the
15 fiduciary of the fund and has the same powers and duties under this
16 section in regard to the judicial retirement trust fund as are pro-
17 vided in AS 14.25.180.

18 * Sec. 4. AS 26.05.228(c) is amended to read:

19 (c) The Board of Trustees of the Alaska Permanent Fund Corpora-
20 tion [COMMISSIONER OF REVENUE] is the treasurer of the system and the
21 fiduciary of the fund and has the same powers and duties under this
22 section in regard to the fund as are provided under AS 14.25.180.

23 * Sec. 5. AS 36.30.850(b) is amended to read:

24 (b) This chapter applies to every expenditure of state funds,
25 irrespective of their sources, including federal assistance except as
26 otherwise specified in AS 36.30.890, by the state, acting through an
27 agency, under a contract, except that this chapter does not apply to

28 (1) grants;

29 (2) contracts for professional witnesses to provide for

1 professional services or testimony relating to existing or probable
2 lawsuits in which the state is or may become a party;

3 (3) contracts of the University of Alaska where the work is
4 to be performed substantially by students enrolled in the university;

5 (4) contracts for medical doctors and dentists;

6 (5) acquisitions or disposals of real property or interest
7 in real property, except as provided in AS 36.30.080;

8 (6) disposals under AS 38.05;

9 (7) contracts for the preparation of ballots under AS 15.-
10 15.030;

11 (8) acquisitions or disposals of property and other con-
12 tracts relating to airports under AS 02.15.070, 02.15.090, and 02.15.-
13 091;

14 (9) disposals of obsolete property under AS 19.05.060;

15 (10) disposals of obsolete material or equipment under
16 AS 35.20.060;

17 (11) agreements with providers of services under AS 47.07;
18 AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310;

19 (12) contracts of the Department of Fish and Game for
20 flights that involve specialized flying and piloting skills and are
21 not point-to-point;

22 (13) purchases of income-producing assets for the state
23 treasury or a public corporation of the state; [.]

24 (14) operation of the state boarding school established under
25 AS 14.16, if the State Board of Education or the commissioner of
26 education adopts regulations for use by the state boarding school in
27 procurement and contracting;

28 (15) a contract that is a delegation, in whole or in part, of
29 investment powers held by the commissioner of revenue under

1 [AS 14.25.180,] AS 14.40.400, AS 14.42.200, 14.42.210, AS 18.56.095,
2 [AS 22.25.048, AS 26.05.228,] AS 37.10.070, 37.10.071, AS 37.14.010 -
3 37.14.050 or 37.14.200 - 37.14.210 [AS 37.14, OR AS 39.35.080];

4 (16) a contract that is a delegation, in whole or in part, of
5 investment powers of the Board of Trustees of the Alaska Permanent
6 Fund Corporation under AS 14.25.180, AS 22.25.048, AS 26.05.228,
7 AS 37.13, AS 37.14.110 - 37.14.170, or AS 39.35.080; or

8 (17) the purchase of books, book binding services, newspa-
9 pers, periodicals, audio-visual materials, network information ser-
10 vices access, approval plans, professional memberships, archival
11 materials, objects of art, and items for museum or archival acquisi-
12 tion having cultural, historical, or archaeological significance; in
13 this paragraph

14 (A) "approval plans" means book selection services in
15 which current book titles meeting an agency's customized specifi-
16 cations are provided to the agency subject to the right of the
17 agency to return those books that do not meet with the agency's
18 approval;

19 (B) "audio-visual materials" means nonbook prerecorded
20 materials, including records, tapes, slides, transparencies,
21 films, filmstrips, cassettes, videos, compact discs, laser discs,
22 and items that require the use of equipment to render them
23 usable;

24 (C) "archival materials" means the noncurrent records
25 of an agency that are preserved after appraisal because of their
26 value;

27 (D) "network information services" means a group of
28 resources from which cataloging information, holdings records,
29 inter-library loans, acquisitions information, and other

1 reference resources can be obtained.

2 * Sec. 6. AS 37.10.071(d) is amended to read:

3 (d) In exercising investment, custodial, or depository powers or
4 duties under this section, the commissioner or a designee of the
5 commissioner is liable for a breach of a duty that is assigned or
6 delegated under this section, or under [AS 14.25.180,] AS 14.40.-
7 400(b), or AS 37.10.070 [, AS 37.14.110(c), 37.14.160, 37.14.170, OR
8 AS 39.35.080]. However, the commissioner or the commissioner's desig-
9 nee is not liable for a breach of a duty that has been delegated to
10 another person if the delegation is prudent under the applicable
11 standard of prudence set out in statute or if the duty is assigned by
12 law to another person, except to the extent that the commissioner or
13 designee

14 (1) knowingly participate in, or knowingly undertakes to
15 conceal, an act or omission of another person, knowing that the act or
16 omission is a breach of that person's duties under this chapter;

17 (2) by failure to comply with this section in the adminis-
18 tration of specific responsibilities, enables another person to commit
19 a breach of duty; or

20 (3) has knowledge of a breach of duty by another person,
21 unless the commissioner or designee makes reasonable efforts under the
22 circumstances to remedy the breach.

23 * Sec. 7. AS 37.10.071(f) is amended to read:

24 (f) In this section, "commissioner of revenue" or "commissioner"
25 means

26 (1) the commissioner of revenue for investments under
27 [AS 14.25.180 OR] AS 37.10.070; or

28 (2) the person or body provided by law to manage the invest-
29 ments, for investments not subject to [AS 14.25.180 OR] AS 37.10.070.

1 * Sec. 8. AS 37.13 is amended by adding a new section to read:

2 Sec. 37.13.125. INVESTMENT RESPONSIBILITIES FOR RETIREMENT
3 FUNDS. (a) The board shall manage and invest the assets of the
4 teachers' retirement system under AS 14.25.180, the judicial retire-
5 ment system under AS 22.25.048, the Alaska National Guard and Alaska
6 Naval Militia retirement system under AS 26.05.228, and the public
7 employees' retirement system under AS 39.35.080 in accordance with
8 this section.

9 (b) Except as provided in this section, in managing and invest-
10 ing the assets of the retirement funds, the board has the same respon-
11 sibilities as are set out for managing and investing the Alaska perma-
12 nent fund assets in AS 37.13.120. The following differences apply to
13 the board's investment and management powers:

14 (1) in addition to the domestic corporate debt securities
15 approved under AS 37.13.120(g)(8), the board may invest in nondomestic
16 corporate debt securities of comparable quality;

17 (2) in addition to the short-term domestic corporate prom-
18 issory notes approved under AS 37.13.120(g)(9), the board may invest
19 in nondomestic corporate promissory notes of comparable quality; the
20 interest on nondomestic corporate promissory notes may be payable in
21 either United States dollars or nondomestic currencies;

22 (3) in addition to the certificates of deposit, term depos-
23 its, and bankers' acceptances issued by a United States bank or trust
24 company that are approved under AS 37.13.120(g)(19), the board may
25 invest in certificates of deposit, term deposits, or bankers' accep-
26 tances that are issued by a nondomestic bank or trust company and may
27 invest in certificates, deposits, and acceptances that are denominated
28 in United States or nondomestic currency; in addition to the other
29 factors the board may consider in evaluating the issuing bank or trust

1 company, the board may consider the retained earnings of the issuing
2 bank or trust company;

3 (4) subject to the limitations contained in AS 37.13.-
4 120(g), the board may invest retirement fund assets at the competitive
5 national market rates or prices that are applicable to each investment
6 in

7 (A) securities of nondomestic governments and nondo-
8 mestic government agencies, the principal of which, or interest
9 on which, is payable in either United States dollars or nondomes-
10 tic currencies; and

11 (B) securities of nondomestic corporations, including
12 common and preferred stock, whose dividends, if any, may be
13 payable in either United States dollars or nondomestic curren-
14 cies.

15 (c) The board may enter into future contracts for the sale of
16 nondomestic currencies, only for the purpose of hedging an existing
17 equivalent ownership position in these investments.

18 (d) The limitations established in AS 37.13.120(i) apply to the
19 investment of the assets of the retirement funds except for the limi-
20 tation that corporate stocks and debt securities under AS 37.13.-
21 120(g)(8), (9), and (18) not exceed 50 percent of the total invest-
22 ments of the fund and the limitation that foreign certificates of
23 deposit or the equivalent under AS 37.13.120(g)(19) not exceed 20
24 percent of the fund. Instead, the securities of nondomestic govern-
25 ments, nondomestic government agencies, and nondomestic corporations
26 under (b)(1) and (4) of this section and AS 37.13.120(g)(8); domestic
27 corporate stocks and debt securities under (b)(1) of this section and
28 AS 37.13.120(8) and (18); and short-term nondomestic corporate prom-
29 issory notes under (b)(2) of this section may not exceed 50 percent of

1 the total investments of the fund. In addition, all certificates of
2 deposit, term deposits, and bankers' acceptances, whether foreign or
3 domestic, may not exceed 20 percent of the fund.

4 * Sec. 9. AS 37.14.110(c) is amended to read:

5 (c) The Board of Trustees of the Alaska Permanent Fund Corpora-
6 tion [COMMISSIONER OF REVENUE] shall determine the net income of the
7 fund in accordance with investment accounting principles and in a
8 manner that preserves the distinction between principal and income and
9 that excludes capital gains or losses realized on principal. The
10 principal of the fund and the capital gains or losses realized on
11 principal shall be perpetually retained in the fund for investment
12 purposes.

13 * Sec. 10. AS 37.14.120(a) is amended to read:

14 (a) There is created in the Department of Revenue the Public
15 School Fund Advisory Board composed of the commissioner of education,
16 three members elected by the Board of Education from among its member-
17 ship, and the executive director of the Alaska Permanent Fund Corpo-
18 ration [THE COMMISSIONER OF REVENUE].

19 * Sec. 11. AS 37.14.140 is amended to read:

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

27 * Sec. 12. AS 37.14.160 is amended to read:

28 Sec. 37.14.160. DUTIES OF THE BOARD OF TRUSTEES OF THE ALASKA
29 PERMANENT FUND CORPORATION [COMMISSIONER OF REVENUE]. The Board of

1 Trustees of the Alaska Permanent Fund Corporation [COMMISSIONER OF
2 REVENUE] is the treasurer of the trust fund created in AS 37.14.110
3 and shall

4 (1) exercise the powers and duties established in AS 14.-
5 25.180(c);

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

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

10 (4) provide reports to the board established under AS 37.-
11 14.120 on the condition and investment performance of the fund.

12 * Sec. 13. AS 37.14.170 is amended to read:

13 Sec. 37.14.170. INVESTMENTS. The Board of Trustees of the
14 Alaska Permanent Fund Corporation [COMMISSIONER OF REVENUE] is the
15 fiduciary of the trust fund and shall invest the fund to provide
16 increasing net income over long-term periods to the fund's income
17 beneficiaries. The board of trustees [COMMISSIONER] may invest the
18 money in the fund on the basis of probable total rate of return to
19 promote the long-term generation of income. In managing the trust
20 fund, the board of trustees [COMMISSIONER] shall

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

23 (2) determine the appropriate investment objectives;

24 (3) establish investment policies to achieve the objec-
25 tives; and

26 (4) act only in regard to the financial interests of the
27 fund's beneficiaries.

28 * Sec. 14. AS 39.30.095(d) is amended to read:

29 (d) If the commissioner of administration determines that there

1 is more money in the fund than the amount needed to pay premiums or
2 benefits for the current fiscal year, the surplus, or so much of it as
3 the commissioner of administration considers advisable, may be in-
4 vested by the commissioner of revenue in accordance with (f) - (h) of
5 this section [IN THE SAME MANNER AS RETIREMENT FUNDS ARE INVESTED
6 UNDER AS 14.25.180].

7 * Sec. 15. AS 39.30.095 is amended by adding new subsections to read:

8 (f) In managing the surplus, the commissioner of revenue shall

9 (1) consider the status of the investments of the surplus
10 and the fund's liabilities on both a current and a probable future
11 basis;

12 (2) determine the appropriate investment objectives for the
13 surplus;

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

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

18 (g) The commissioner of revenue may invest the surplus on the
19 basis of probable total rate of return without regard to the distinc-
20 tion between principal and income or to the generation of income.

21 (h) In carrying out investment duties under this section, the
22 commissioner of revenue has the same powers and duties in regard to
23 the surplus as are provided in AS 37.10.071, except that the standard
24 of prudence that the commissioner must obey under AS 37.10.071(c)
25 shall be in regard to the management of large trust investments rather
26 than large investments.

27 * Sec. 16. AS 39.35.020 is amended to read:

28 Sec. 39.35.020. ADMINISTRATION. The commissioner of administra-
29 tion is responsible for the administration of the system and for

1 carrying out this chapter. In addition the commissioner shall:

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

1 administration of the system and distribute the report to the members
2 of the system.

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

4 Sec. 39.35.080. DUTIES OF THE BOARD OF TRUSTEES OF THE PERMA-
5 NENT FUND CORPORATION [COMMISSIONER OF REVENUE]. The Board of Trust-
6 ees of the Alaska Permanent Fund Corporation [COMMISSIONER OF REVENUE]
7 is the treasurer of the system and the fiduciary of the fund. The
8 board of trustees [COMMISSIONER] has the same powers and duties estab-
9 lished under this chapter in regard to the fund as are provided in
10 AS 14.25.035(d) and 14.25.180.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Administration
 Title: An Act relating to management BRU: Retirement and Benefits
and investment of certain State funds.
 Sponsor: Binkley Components: Retirement and Benefits
 Requestor: SSA

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER 1034	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

See attached position paper.

Prepared by: Sally Smith, Director Phone: 465-4470
 Division: Retirement and Benefits Date: 9 April 1990
 Approved by Commissioner: Frank S. Baxter Date: 4/16/90
 Agency: Department of Administration

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

1990 LEGISLATION
POSITION PAPER
DEPARTMENT OF ADMINISTRATION

Division Retirement and Benefits Bill Number CS SB 197 (SA)

Bill Title Management and Investment of Certain State Funds

Position Statement: Explain briefly what bill does, its impacts and Departments' position, i.e. a) support, b) do not support, c) neutral or d) oppose.

Section 1 establishes a board of seven members to manage a State Investment Corporation. Although the Corporation would invest monies of the PERS, TRS, SBS and Deferred Compensation programs administered by the Department of Administration, the Commissioner of Administration has not been placed on this board. To assure an understanding of program operations and federal rules and restrictions on these programs, the Commissioner of Administration or the Commissioner's designee should be added as a member of this board. Expansion of the board to an even number of eight members should not hinder its proceedings. The Permanent Fund Board has run well with six.

Section 21 of this committee substitute provides that the State Investment Corporation have responsibility for the fund investments of the State's Deferred Compensation Plan. This VOLUNTARY plan is currently qualified under Section 457 of the Internal Revenue Code. The division of retirement and benefits is reviewing the change proposed by Section 21 to determine if it would affect the qualified status of the plan. If the plan must be rewritten and requalified, and the needed changes result in new procedures, there may be associated costs. This fiscal note will be rewritten as the issues are clarified.

I believe Deferred Comp should be eliminated from Bill.

APPROVED:

Director Sally Smith Division Retirement and Benefits

Signature *Sally Smith* Date April 9, 1990

Commissioner Frank S. Baxter

Signature *Frank Baxter* Date 4/10/90

(For more information, call Sioux Plummer 465-2200)

Rev. 12/89

2 of 2

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Management and investment of certain state funds
Sponsor: Senate State Affairs
Requestor: Senate State Affairs

Agency Affected: Alaska State Investment Corp.
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
OPERATING						
PERSONAL SERVICES	494.6	989.3	989.3	989.3	989.3	989.3
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	7200.9	14474.4	14662.8	14894.2	15189.3	15445.8
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	7695.5	15463.7	15652.1	15883.5	16178.6	16435.1
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	7695.5	15463.7	15652.1	15883.5	16178.6	16435.1
TOTAL	7695.5	15463.7	15652.1	15883.5	16178.6	16435.1

POSITIONS:

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

ANALYSIS: attach a separate page for analysis. Fiscal year 1990 effect is zero. Fiscal years 1991-1996 are the sum of the amounts deleted from the Treasury budget on the attached fiscal note plus estimated common stock management fees for SBS shown on the attached schedule.

Prepared By: Milt Barker *MB*
Division: Treasury

Phone: 465-2350
Date: April 6, 1990

Approved by Commissioner: *Milton B. Barker for*
Agency: Department of Revenue

Date: _____

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: _____	Agency Affected: <u>Department of Revenue</u>
Title: <u>Management and investment of certain state funds</u>	BRU: <u>Treasury</u>
Sponsor: <u>Senate State Affairs</u>	Components: _____
Requestor: <u>Senate State Affairs</u>	_____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
OPERATING						
PERSONAL SERVICES	(494.6)	(989.3)	(989.3)	(989.3)	(989.3)	(989.3)
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	(7080.2)	(14160.5)	(14160.5)	(14160.5)	(14160.5)	(14160.5)
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	(7574.8)	(15149.8)	(15149.8)	(15149.8)	(15149.8)	(15149.8)
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	(7574.8)	(15149.8)	(15149.8)	(15149.8)	(15149.8)	(15149.8)
TOTAL	(7574.8)	(15149.8)	(15149.8)	(15149.8)	(15149.8)	(15149.8)

POSITIONS:

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

ANALYSIS: attach a separate page for analysis. Fiscal year 1990 effect is zero. Fiscal years 1992 through 1996 based on the State Investment Corporation assuming responsibility for trust fund investments January 1, 1991. The amounts are the retirement and endowment funding contained in Treasury's fiscal year 1991 budget. Fiscal year 1991 effect is half of the Treasury fiscal year 1991 budget.

Prepared By: Milt Barker *MB*
Division: Treasury

Phone: 465-2350
Date: April 6, 1990

Approved by Commissioner: Phillip B. Barker for
Agency: Department of Revenue

Date: _____

Distribution (by preparer):

Legislative Finance
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CSSB 197 (SA)
SBS Investment Management Costs

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
	(\$ Millions)					(\$000)					
Fiscal Year	Beginning Liquid Balance	GIC Maturities	Net Contributions	Average Balance	Investment Earnings	Ending Liquid Balance	Stock Management Fees	Custodian Fees	Audit Fees	Performance Measurement Fees	Total Fees
FY91	0	151.1	50.0	100.5	9.0	210.1	93.5	5.2	10.0	12.0	120.7
FY92	210.1	118.9	55.0	297.1	26.7	410.7	276.3	15.6	10.0	12.0	313.9
FY93	410.7	96.3	60.0	488.8	44.0	610.9	454.6	25.7	10.0	12.0	502.3
FY94	610.9	202.9	65.0	744.8	67.0	945.8	692.6	39.1	10.0	12.0	733.7
FY95	945.8	128.7	70.0	1045.1	94.1	1238.6	971.9	54.9	10.0	12.0	1028.8
FY96	1238.6	60.0	75.0	1306.1	117.5	1491.1	1214.7	68.6	10.0	12.0	1285.3

Notes:

1. Column 6, prior year
2. From Division of Retirement & Benefits
3. Treasury Division estimate based on FY 89 contributions
4. Column 1 + (Column 2 + Column 3)/2
5. 9% x Column 4
6. Column 1 + Column 2 + Column 3 + Column 5
7. Column 4 x .31% per contract x 30% asset allocation to common stocks
8. Column 4 x 5.25¢/\$1000 per contract
9. Per contract
10. Treasury Division estimate
11. Columns 7 + 8 + 9 + 10.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Management and investment of
state retirement funds
Sponsor: Binkley
Requestor: Senate State Affairs

Agency Affected: Department of Revenue
BRU: Treasury
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
OPERATING						
PERSONAL SERVICES	(989.3)	(989.3)	(989.3)	(989.3)	(989.3)	(989.3)
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	(14112.9)	(14112.9)	(14112.9)	(14112.9)	(14112.9)	(14112.9)
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	(15102.2)	(15102.2)	(15102.2)	(15102.2)	(15102.2)	(15102.2)
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	(15102.2)	(15102.2)	(15102.2)	(15102.2)	(15102.2)	(15102.2)
TOTAL	(15102.2)	(15102.2)	(15102.2)	(15102.2)	(15102.2)	(15102.2)

POSITIONS:

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

ANALYSIS: attach a separate page for analysis. Fiscal year 1990 effect is zero. Fiscal years 1991-1996 based on Permanent Fund Corporation assuming management of retirement funds and Public School Fund July 1, 1990. Amounts are the retirement and Public School but not the University trust monies budgeted in Treasury's fiscal year 1991 budget.

Prepared By: Milt Barker *MB*
Division: Treasury

Phone: 465-2350
Date: April 6, 1990

Approved by Commissioner: *William B. Bunker*
Agency: Department of Revenue

Date: _____

Distribution (by preparer):

Legislative Finance
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Office of Management and Budget
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STEVE COWPER, GOVERNOR

STATE OF ALASKA
DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

P.O. BOX 5
JUNEAU, ALASKA 99811-0400
PHONE: (907) 465-2300
TELEFAX: (907) 465-2389

April 9, 1990

APR 10 1990

The Honorable Rick Uehling
Co-Chairman
Senate Finance Committee
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Dear Senator Uehling:

Upon further review of CSSB 197 (SA), an Act relating to management and investment of certain state funds, I would like to offer for the Senate Finance Committee's consideration the enclosed amendments.

The proposed amendments would strengthen accountability by:

1. holding fiduciaries personally liable for acts of imprudence or bad faith;
2. specifically identifying the fiduciaries;
3. providing beneficiaries, participants, and fiduciaries a clear standing to sue to enforce statutory provisions for trust fund management; and
4. providing for examination by the Division of Banking and Securities.

Sincerely



Hugh Malone
Commissioner

HMMBB\ph

encls.

90-81

Amendments to CSSB 197 (SA)
Offered by Department of Revenue

1. Page 7, after line 19, insert new subsections and section to read:

"(c) The corporation may defend and indemnify a current or former member of the board, employee, or agent of the corporation against all costs, expenses, judgments, and liabilities including reasonable attorney fees, incurred by or imposed upon that person in connection with a civil or criminal action in which the person is involved by affiliation with the corporation. However, the indemnity provided under this subsection does not apply if the person committed an intentional tort, acted in bad faith, acted outside the scope of official duties or powers, or, in the case of fiduciary acts, acted in an imprudent manner under the applicable standard of prudence.

(d) For the purposes of this chapter and AS 37.10.071, the following persons are fiduciaries of the assets held by the corporation:

- (1) each member of the corporation's board of directors;
- (2) each officer of the corporation; and
- (3) any other person who exercises control or authority with respect to management or disposition of assets held by the corporation, or gives investment advice to the corporation.

Sec. 37.10.320. CIVIL ENFORCEMENT. A civil action may be brought in a superior court of the state by a beneficiary, trustor, including an employer participant in a state retirement system, or fiduciary of trust assets under management by the corporation

- (a) to enjoin any act or practice which violates any provision of this chapter; or
- (b) to obtain other appropriate equitable relief
 - (1) to redress such violations; or
 - (2) to enforce any provision of this chapter."

2. Page 7, after line 25, insert:

"Sec. 2. AS 06.05.025 is amended to read:

Sec. 06.05.025. BANK EXAMINATIONS. (a) The department shall select one or more competent persons to make examinations of state banks and the Alaska State Investment Corporation created under AS 37.10.210. A copy of the report of examination shall be sent to the organization examined.

- (b) Irregularities in the conduct of a bank's business and any violation of law shall be promptly called to the attention of the directors of the bank or the Alaska State Investment Corporation by the department.
- (c) Banks and the Alaska State Investment Corporation regulated under this chapter are subject to at least one examination a year. Additional examinations may be conducted at the discretion of the commissioner."

and renumber succeeding sections accordingly.