

**SB374**

# HOUSE COMMITTEE REPORT

(11)

Date Referred: April 24, 1992

FURTHER REFERRALS:

Date of Committee Action: 5/5/92

The FINANCE Committee considered:

CSSB 374(FIN)

CS FOR SENATE BILL NO. 374 (FIN)

INVESTMENT POOLS FOR PUBLIC ENTITIES

"An Act relating to investment pools for public entities; and providing for an effective date."

**RECOMMENDATIONS:**

be replaced with HCS CS SB 374 (FIN)  the same title  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) EDUCATION 2/26/92 OERA 2/26/92

zero fiscal note \_\_\_\_\_

zero fiscal note(s) REVENUE 2/26/92 OOE 2/26/92

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Mike Navarre</i> NAVARRE	<input checked="" type="checkbox"/>	<i>Tommy Barnes</i> Barnes		<input checked="" type="checkbox"/>	
<i>Mark Boyer</i> Boyer	<input checked="" type="checkbox"/>	<i>Bob Sharp</i> Sharp		<input checked="" type="checkbox"/>	
<i>Jay Brown</i> Brown	<input checked="" type="checkbox"/>	<i>Red Phillips</i> Phillips		<input checked="" type="checkbox"/>	
<i>A. Ulmer</i> Ulmer	<input checked="" type="checkbox"/>				

*Mike Navarre* NAVARRE  
 \_\_\_\_\_  
 CD - CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: 2/7/92  
Title: An Act relating to investment pooling by public entities.  
Sponsor: Senate Rules Committee  
Requestor: Governor

Department Affected: Education  
BRU: Executive Administration  
Component: Commissioner's Office

COMPONENT SERIAL NO. 

1	8	9
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Changes in C55A.374 (sic) have no fiscal impact. This fiscal note is appropriate.  
3-10-92 date  
Comte Aide. (initial)

Prepared by: Mike Maher  
Division: Commissioner's Office

Phone: 465-2800  
Date: 2/7/92

Approved by Commissioner: [Signature]  
Agency: Education

Jerry Covey  
Date: February 7, 1992

FISCAL NOTE

No. 7

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Bill Version: SB 374

Revision Date: 2/6/92

(S) Publish Date: 2-26-92

Title: An act relating to investment pools for public entities; and providing for an effective date.

Department Affected: Revenue

BRU: Operations

Sponsor: Rules Committee

Component: Treasury Management

Requestor: Senator Frank

Component Serial No.

0	1	2	1
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
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						
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FUNDING: (Thousands of Dollars)

GENERAL FUND/Unrestricted						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Changes in SSA 374 (FIC) have no fiscal impact. This fiscal note is appropriate.

Estimate of current year impact: None

3-10-92 date Paul J. Kuss Comte Aide (initial)

ANALYSIS:

Prepared by: Brian C. Andrews Phone: 465-2350  
 Division: Treasury Date: February 6, 1992  
 Approved by Commissioner: David Kuss  
 Agency: Revenue

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Rev 12/91

Changes in SSB 374 (CRA) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.

Page \_\_\_ of \_\_\_

3-12-92 date D. Kuss Comte Aide (initial)

FISCAL NOTE

No. 3

Bill Version: SB 374

E (S) Publish Date: 2-26-92

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: Investment pools for public entities

Department Affected: Community and Regional Affairs  
BRU: \_\_\_\_\_  
Component: \_\_\_\_\_

Sponsor: Senate Rules by Request of Governor  
Requestor: (S) CRA Committee

COMPONENT SERIAL NO. 

0	0	0	0
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact No impact

<p>ANALYSIS: (Attach a separate sheet if necessary) Changes in <u>SB 374 (FIN)</u> have no fiscal impact. This fiscal note is appropriate.</p> <p><u>3-10-92</u> date <u>[Signature]</u> Comte Aide (initial)</p>	<p>Changes in <u>SB 374 (FIN)</u> reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.</p> <p><u>2/22/92</u> date <u>[Signature]</u> Comte Aide (initial)</p>
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Prepared By: Remond Henderson  
Division: Administrative Services Division

Phone: 465-4708  
Date: 2/10/92

Approved by Commissioner: [Signature]  
Agency: Department of Community and Regional Affairs

Date: 2-13-92

FISCAL NOTE

Bill Version: SB 374  
 (S) Publish Date: 2-26-92

STATE OF ALASKA  
 1992 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: Investment Pools for Public Entities  
 Sponsor: Senate Rules  
 Requestor: \_\_\_\_\_

Department Affected: Commerce & Econ. Dev.  
 BRU: Banking, Securities & Corpora...  
 Component: \_\_\_\_\_

COMPONENT SERIAL NO. 

1	2	3	4
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
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
REVENUE FUND RESOURCE:	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact:

<p>ANALYSIS (Attach a separate p                  Changes in <u>CSB 374 (FIN)</u>                  have no fiscal impact. This                  fiscal note is appropriate.  <u>3-16-92</u> <u>[Signature]</u>                  date Comte Aide (initial)</p>	<p>Changes in <u>CSB 374 (CRA)</u>                  reflect NO FISCAL CHANGE from the original                  fiscal note. This fiscal note is appropriate.  <u>2/25/92</u> <u>[Signature]</u>                  date Comte Aide (initial)</p>
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Prepared By: Willis F. Kirkpatrick, Director Phone: 465-2521  
 Division: Banking, Securities & Corporations Date: \_\_\_\_\_  
 Approved by Commissioner: Glenn A. Olds [Signature]  
 Agency: Department of Commerce & Economic Development Date: 2-13-92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legls. Ofc., and Impacted Agency(ies).

*receptal*

HOUSE CS FOR CS FOR SENATE BILL NO. 374 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to investment pools for public entities; and providing for an effective  
2 date."

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

4 \* Section 1. PURPOSE. The purpose of this Act is to provide a means for certain public entities to  
5 secure the maximum investment return consistent with the preservation of capital and liquidity by  
6 pooling money temporarily available for investment. The Act allows for the establishment of

7 (1) centralized investment through pooling of certain available money by participating  
8 public entities; and

9 (2) operational and investment criteria for investment pools in order to attain the  
10 maximum investment return for the public entities' money consistent with the preservation of capital and  
11 liquidity.

12 \* Sec. 2. AS 29.35 is amended by adding a new section to read:

13 Sec. 29.35.015. INVESTMENT POOLS. A municipality may invest money in  
14 investment pools for public entities as authorized under AS 37.23 only if that municipality has

1 obtained the consent of its governing body through an ordinance authorizing the participation.

2 \* Sec. 3. AS 37 is amended by adding a new chapter to read:

3 CHAPTER 23. INVESTMENT POOLS FOR PUBLIC ENTITIES.

4 Sec. 37.23.010. INVESTMENT POOL PARTICIPATION. (a) Subject to this chapter,  
5 a public entity may enter into an agreement with other public entities to form and manage an  
6 investment pool under which funds of the participating public entities are administered and  
7 invested jointly. A public entity, by itself or with other public entities, may form a nonprofit  
8 corporation for the purpose of managing an investment pool.

9 (b) A public entity participating in an investment pool or a nonprofit corporation formed  
10 under (a) of this section may spend money reasonably necessary for the management of the pool,  
11 including the employment of staff. Income from investments of the pool may be used for  
12 management costs.

13 (c) The registration requirements of AS 45.55 do not apply to an investment pool formed  
14 under this chapter or to participating public entities with respect to activities of the pool.

15 Sec. 37.23.020. AUTHORIZED INVESTMENTS. An investment pool may invest only  
16 in securities that have a final maturity date within 13 months after the date of purchase.  
17 Investments may only include

18 (1) obligations of the United States and of an agency or instrumentality of the  
19 United States;

20 (2) repurchase and reverse repurchase agreements secured by the Treasury of the  
21 United States and obligations of an agency or instrumentality of the United States;

22 (3) certificates of deposit, bankers acceptances, and other similar obligations of  
23 a bank domiciled in the United States that has

24 (A) outstanding debt rated A or higher by at least one of the nationally  
25 recognized rating services; and

26 (B) a combined capital and surplus aggregating at least \$500,000,000;

27 (4) commercial paper and other short-term taxable instruments that, at the time  
28 of investment, maintain the highest rating by at least two nationally recognized rating services;

29 (5) obligations of a corporation domiciled in the United States or obligations of  
30 a municipality that are taxable under federal law, if the obligations are rated A or higher by at  
31 least two nationally recognized rating services at the time of investment;

1 (6) certificates of deposit that are issued by a state or federally chartered financial  
2 institution that is a commercial or mutual bank, savings and loan association, or credit union and  
3 if the institution's accounts are insured through the appropriate federal insuring agency of the  
4 United States, regardless of whether the institution meets the requirements of (3) of this section;

5 (7) money market funds in which the securities of the fund consist of obligations  
6 listed in this section and otherwise meet the requirements of this chapter;

7 (8) other cash equivalent investments with a maturity date of one year or less after  
8 date of the investment that are of similar quality to those listed in (1) - (7) of this section, are  
9 rated A or higher by at least one of the nationally recognized rating services, and are approved  
10 by the public entities participating in that investment pool.

11 Sec. 37.23.030. COLLATERALIZATION. Investment in certificates of deposit under  
12 AS 37.23.020(6) and the entire amount of principal and interest payable upon maturity of the  
13 certificates must be collateralized by a combination of securities that are marked to market at  
14 least monthly and have maturity dates that do not exceed five years. Only the following  
15 securities may serve as collateral:

16 (1) obligations of the United States with a maturity date of five years or less after  
17 the date of the pool's investment transaction, and with a market value of at least 102 percent;

18 (2) securities in United States agencies or instrumentalities that are actively traded,  
19 other than mortgage pass-through securities, with a maturity date of

20 (A) one year or less after the date of the pool's investment transaction, and  
21 with a market value of at least 103 percent;

22 (B) of more than one year and less than five years after the date of the  
23 pool's investment transaction, and with a market value of at least 107 percent;

24 (3) mortgage pass-through securities issued by the Government National Mortgage  
25 Association with a market value of at least 120 percent;

26 (4) obligations of the state or its political subdivisions secured by the full faith,  
27 credit, and taxing power of the state or its political subdivisions, rated A or higher by at least one  
28 of the nationally recognized rating services, with a maturity date of

29 (A) one year or less after the date of the pool's investment transaction, and  
30 with a market value of at least 102 percent;

31 (B) more than one and less than five years after the date of the pool's

1 investment transaction, and with a market value of at least 107 percent.

2 Sec. 37.23.040. PORTFOLIO RESTRICTIONS. The portfolio of an investment pool  
3 under this chapter may not contain

4 (1) more than five percent of total investments in securities of one issuer unless  
5 the securities are an obligation of or guaranteed by the United States;

6 (2) more than 30 percent of total investments in securities of companies whose  
7 principal business is in the same industry; or

8 (3) transactions in futures, options, derivative securities, or short sales.

9 Sec. 37.23.050. INVESTMENT MANAGEMENT. The public entities participating in  
10 an investment pool under this chapter shall provide for management of investments in the pool  
11 by contracting for investment management and related services with

12 (1) a securities broker-dealer registered under AS 45.55.030 and under 15 U.S.C.  
13 78o (Securities Exchange Act of 1934);

14 (2) an investment adviser registered under AS 45.55.030 and under 15 U.S.C.  
15 80b-3 (Investment Advisers Act of 1940);

16 (3) the Department of Revenue; or

17 (4) a financial institution that is a state or federally chartered commercial or  
18 mutual bank, savings and loan association, or credit union if the institutions's accounts are  
19 insured through the appropriate federal insuring agency of the United States, and if the institution  
20 has trust powers under state or federal law.

21 Sec. 37.23.060. INVESTMENT RESPONSIBILITIES. The management and investment  
22 of assets by investment pools shall be done with the care, skill, prudence, and diligence under  
23 the circumstances then prevailing that an institutional investor would use in the conduct of an  
24 enterprise of a like character and with like aims.

25 Sec. 37.23.070. REPORTS; DISCLOSURE STATEMENT. (a) The manager of an  
26 investment pool shall provide to the participating public entities a monthly report on the  
27 allocation of income of investments of the pool and describing activities of the pool. At least  
28 annually, the manager of an investment pool shall provide a disclosure statement on the  
29 management and operation of the pool to each public entity participating in the pool. The  
30 disclosure statement must include a copy of the annual audit required under AS 37.23.080.

31 (b) A public entity participating in an investment pool that is an organization composed

1 of political subdivisions of the state shall promptly provide a copy of each report or statement  
2 received under (a) of this section to its members who are participating in the investment pool.

3 (c) The manager of an investment pool shall provide to a prospective participant in the  
4 pool copies of monthly reports prepared under (a) of this section for the past year, and a copy  
5 of the most recent disclosure statement prepared under (a) of this section:

6 Sec. 37.23.080. ANNUAL AUDIT. By September 30 of each year, the manager of an  
7 investment pool shall submit to the participating public entities an audit of the pool's investments  
8 as of June 30 of that year. The audit must be performed by a certified public accountant licensed  
9 under AS 08.04 who is not

10 (1) an employee of a public entity participating in the investment pool; or

11 (2) a contractor or an employee of a contractor who performed investment  
12 services for the investment pool.

13 Sec. 37.23.090. LIMITATION OF LIABILITY. The state, except when providing  
14 investment management and related services under AS 37.23.050(3), and participating public  
15 entities are not liable for any acts or omissions of an investment manager with whom the  
16 participating entities have contracted for investment management and related services under  
17 AS 37.23.050.

18 Sec. 37.23.900. DEFINITION. For purposes of this chapter, "public entity" means a  
19 political subdivision of the state, including a municipality and its subdivisions, a school district,  
20 a regional educational attendance area, or an organization composed of political subdivisions of  
21 the state.

22 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

Attachment  
5/5/92

**DIVISION OF LEGAL SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

240 Main Street, Suite 500  
Juneau, Alaska 99801-2101

**MEMORANDUM**

March 19, 1992

**SUBJECT:** Different Treatment of In-state and Out-of-State Investment Managers (CSSB 374(FIN))

**TO:** Senator Al Adams

**FROM:** Tamara Brandt Cook  
Director TBC

The bill dealing with investment pools for public organizations requires that pools established under the chapter provide for management of investments by only certain entities listed in Sec. 37.23.050. Under paragraph 1 certain broker-dealers may manage investments, but only if they are employed by a company with a permanently staffed office located in the state. Under paragraph 4 certain financial institutions may manage investments, but only if their principal offices are in the state. You have asked whether these two requirements which favor in-state businesses raise constitutional questions.

It appears that these requirements could be challenged under the state equal protection provision. I cannot predict whether a challenge would be successful, but the outcome would depend upon the purpose behind the distinctions made between businesses with offices in the state and others.

It is clear that corporations which are authorized to do business in the state are afforded protection under the equal protection clause. Discrimination between resident businesses and nonresident businesses based solely on a purpose of assisting the one class over the other economically will not be upheld under equal protection analysis. (Lynden Transport, Inc. v. State, 532 P.2d 700 (Alaska 1975)) With respect to the paragraphs at issue, I cannot think of what the purpose would be of treating in-state and out-of-state businesses differently if the different treatment is not economically motivated. However, if there is a legitimate purpose behind the different treatment (perhaps safety of investments), then the state will be in a much better position to defend the distinction.

TBC:lmb  
92-065.lmb



May 3, 1992

## Position Paper

### CS SB 374 (FINANCE) - Investment Pools for Public Entities

The Alaska Municipal League supports CS SB 374 (FINANCE), an Act relating to investment pools for public entities. Such legislation authorizing the formation and operation of investment pools by and for public entities, such as municipalities, school districts, and organizations composed of public entities, is a legislative priority of the Alaska Municipal League. SB 374 represents a compromise on behalf of the AML and the administration to meet their objections which resulted in Governor Hickel's veto of SB 182, introduced last year by the Senate Community and Regional Affairs Committee at the request of the League. It is the intent of the AML to form an investment pool under the legislation to assist municipalities and other public entities with the safekeeping, investment, and return on their funds. See a copy of the AML's Municipal Platform statement on investment pool legislation attached.

The major difference between SB 374 and CS for SB 182 (Finance), the legislation approved by the legislature last year, is one of philosophy. As authorizing legislation requiring cooperative agreements, CS for SB 182 (Finance) relied on the agreements or contracts between the public entities (which did not include the State of Alaska and state funds) choosing to participate in an investment pool to spell out in detail investment criteria and policies. SB 374, which also requires such agreements, puts many of the investment criteria and policies, such as a list of authorized investments, collateralization and reporting requirements, and liability limitations, in statute. The result is a longer bill with perhaps less flexibility on the part of the pool to respond to the sometimes rapidly changing world of finance. However, the effect will be the same - an investment alternative for public entities to realize maximum returns on short-term, non-pension funds consistent with the preservation of capital and liquidity. SB 374 would allow municipalities, school districts, and the AML to form, operate, and invest in an investment pool for public entities. CS SB 374 (FINANCE) amends the original bill in a few relatively minor ways, and the AML does not object to any of the changes.

The AML has spent considerable time and money researching and developing an investment pool and has been ready to proceed with the formation of a pool for public entities under this or similar legislation for over a year. The Alaska Municipal League urges the passage of SB 374 as soon as possible.

Attachment

SAB6:SB374.503



## **Investment Pooling for Public Entities**

**The Alaska Municipal League urges the legislature and the governor to approve legislation authorizing public entities to enter into agreements with other public entities regarding the formation and operation of investment pools under which funds of the participating public entities can be administered and invested jointly.**

Governor Hickel vetoed investment pool legislation (SB 182) introduced at the request of the Alaska Municipal League and passed by the 17th Legislature in 1991. The League continues to support such legislation to allow formation of a pool to provide professional investment advice and services to "public entities" for short-term, non-pension funds. Investments in such a pool would emphasize security and liquidity while providing a good rate of return. Investment policies and procedures would be included in the agreement between the pool and the entity choosing to participate. The pool would utilize only prime grade securities with short-term maturities and those with active secondary markets. "Public entities" should include municipalities, municipal school districts, REAA's, and organizations composed of such entities.

Such legislation would clarify the "joint powers" statute (AS 29.35.010 (13)) to specifically authorize such pools, give the AML the authority to establish the pool as a service program, and assist the pool in receiving a favorable IRS tax ruling. The AML is not seeking the assistance of the state in operating the pool. No state funds would be involved, and therefore there is no liability on the state. This is an example of how municipalities and school districts can work together to assist themselves and reduce their dependence on the state.

Local government investment pools exist in over 28 states. Some are operated by the state treasury and some are independent of the state. In November 1989, the AML membership, representing 125 municipalities, passed a resolution asking the AML Board of Directors to investigate the feasibility of a municipal investment pool. After a great deal of research and expense, the AML 1) determined the feasibility of such a pool and decided to proceed with the formation of a pool, 2) introduced legislation to clarify the League's authority to form and operate a pool, and 3) after sending out a request for proposals, selected a professional investment management firm and financial institution to assist the League with the formation and operation of the pool. Unfortunately, even though the legislation was approved by the legislature, Governor Hickel vetoed the legislation, delaying the implementation of the League pool.

The AML is waiting for the passage of legislation to establish a pool to provide investment services to public entities to protect and make the most of public funds.

WALTER J. HICKEL  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 29, 1992

*The Honorable Richard I. Eliason  
President of the Senate  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182*

*Dear President Eliason:*

*Under authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to investment pools for public entities.*

*Section 2 of the bill amends AS 14.08.101 by allowing a regional educational attendance area (REAA) to participate in an investment pool, but only if approved by the commissioner of education. This will provide state oversight of an REAA's desire to participate in an investment pool. I believe such oversight is necessary because of the potential state liability problems associated with REAA's (which do not enjoy a distinct legal existence separate from the state). However, because only temporarily available surplus cash is allowed to be invested in an investment pool, the commissioner of education can determine whether a particular REAA is financially healthy and should be allowed to participate.*

*Section 3 of the bill amends AS 29 by requiring a municipality's governing body to consent to the municipality participating in an investment pool established under AS 37.27 before it may join.*

*Section 4 of the bill adds a new chapter on investment pools for public entities to AS 37. Specific investment criteria, objectives and guidelines, audit requirements, and disclosure policies to be followed by participants in an investment pool are set out in this section. Additionally, investment portfolio restrictions are established.*

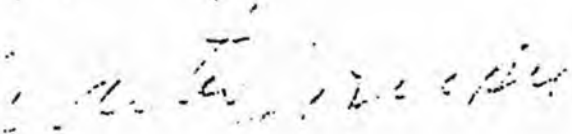
The Honorable Richard I. Eliason  
January 29, 1992  
Page 2

*The bill provides that public entities participating in an investment pool may form nonprofit corporations for the purpose of overseeing the management of a pool. A nonprofit corporation and the participants in a pool are given explicit authority to spend money reasonably necessary for the management of the pool, including the hiring of necessary employees. However, the nonprofit corporation may not provide direct investment services. Instead, all investment pools (whether managed by nonprofit corporations or not) must provide for investment management and related services by contracting with one of the following: (1) an investment advisor registered under the Investment Advisors Act of 1940 (15 U.S.C. 80b-1 - 80b-2); (2) the state Department of Revenue; or (3) an Alaska financial institution having trust powers. Investment managers are subject to the prudent-expert rule in performance of investment management and related services.*

*Finally, the bill defines those public entities allowed to participate in an investment pool as including all classes of municipalities and their subdivisions, school districts, REAA's (with the approval of the commissioner of education), organizations composed of political subdivisions (such as the Alaska Municipal League). Villages and nonprofit community corporations are excluded as public entities for the purposes of this bill.*

*I urge your support of this bill. Investment pools for public entities have been highly successful in other states that allow such investments. By allowing our public entities to invest jointly in investment pools, it is my hope that these entities will realize maximum investment returns with preservation of capital and liquidity and, eventually, help alleviate the growing local government burden on decreasing state revenue.*

Sincerely,

  
Walter J. Hickel  
Governor