

Introduced: 3/3/77  
Referred: Special Committee  
on the Alaska Permanent Fund  
and Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 298

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to management of the Alaska Permanent  
7 Fund; and providing for an effective date."

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

9 \* Section 1. AS 37 is amended by adding a new chapter to read:

10 CHAPTER 13. ALASKA PERMANENT FUND.

11 Sec. 37.13.010. ALASKA PERMANENT FUND. (a) Under art. IX, sec.  
12 15, of the Alaska Constitution, there is established as a separate  
13 fund, in the Department of Revenue, the Alaska Permanent Fund.

14 (b) There is created the Alaska Permanent Fund Corporation, a  
15 public corporation of the state. The corporation is an instrumentality  
16 of the state within the Department of Revenue but has a legal existence  
17 independent of and separate from the state and has continuing succession  
18 until its existence is terminated by law. The exercise by the corpora-  
19 tion of the powers conferred by this chapter is considered an essential  
20 governmental function of the state. The corporation shall manage and  
21 invest the principal of the permanent fund and shall distribute the  
22 income earned from the permanent fund in accordance with the provisions  
23 of this chapter.

24 Sec. 37.13.020. PURPOSE OF THE PERMANENT FUND. (a) The purpose  
25 of the permanent fund is to provide a means of conserving a portion of  
26 the state's revenues from mineral resources to the ultimate benefit of  
27 present and future generations of Alaskans. The revenues so conserved  
28 shall be invested in income-producing investments which will provide  
29 further benefits to present and future generations of Alaskans.

2 (b) Further benefits may be derived through use of the permanent  
fund to:

3 (1) assist the diversification of the economy of Alaska by  
4 making sound investments in Alaska's renewable and non-renewable  
5 resources;

6 (2) seek to smooth the cyclical pattern of growth of the  
7 Alaska economy;

8 (3) encourage and assist the participation of private  
9 capital, from both within and outside Alaska, in private enterprises  
10 of benefit to Alaskans;

11 (4) promote the investment of public and private capital  
12 for community development purposes;

13 (5) supplement private investment when sufficient private  
14 capital is not available on reasonable terms and conditions;

15 (6) seek to preserve the permanent fund capital for future  
16 generations through sound investments in investment grade securities.

17 (c) The permanent fund shall be guided in all its decisions by  
18 the purpose set out in (a) of this section.

19 Sec. 37.13.030. COMPOSITION OF THE PERMANENT FUND. The permanent  
20 fund consists of 50 per cent of all mineral lease rentals, royalties,  
21 royalty sale proceeds, federal mineral revenue sharing payments and  
22 bonuses received by the state. The commissioner of revenue shall  
23 deposit in the permanent fund 50 per cent of the receipts from these  
24 sources at least once each month. Income from investment of the perma-  
25 nent fund does not become a part of the permanent fund and shall be  
26 deposited in the general fund annually, except that income in the  
27 following amounts may be retained in the permanent fund and used as  
28 indicated:

29 (1) the amount needed to pay the operating and administrative

1 expenses of the corporation;

2 (2) any amount allocated to a reserve account established  
3 under sec. 110 of this chapter.

4 Sec. 37.13.040. INVESTMENT OF THE PERMANENT FUND. (a) The per-  
5 manent fund shall be used only for income-producing investments.

6 (b) At least 40 per cent of the resources of the permanent fund  
7 shall be invested in investment grade securities.

8 (c) The corporation may invest not more than 30 per cent of the  
9 resources of the permanent fund to provide a reasonable proportion of  
10 longer-term investment capital for financing the establishment, improve-  
11 ment, and expansion of productive private enterprises which will  
12 benefit Alaskans, and for which sufficient capital is not available  
13 from other sources on reasonable terms. These investments may take  
14 the form of equity, debt, or debt guarantees.

15 (d) The corporation may invest no more than 30 per cent of the  
16 resources of the permanent fund in financing a reasonable proportion  
17 of the longer-term investment capital needs for community development  
18 projects of municipalities and public corporate entities and private  
19 dwellings in Alaska for which sufficient financing is not available  
20 from other sources on reasonable terms. These investments may take  
21 the form of debt or debt guarantees.

22 Sec. 37.13.050. PERMANENT FUND POLICY BOARD. (a) There is  
23 established the Alaska Permanent Fund Policy Board, consisting of the  
24 commissioner of commerce and economic development, the commissioner of  
25 revenue, and seven members to be appointed by the governor. The seven  
26 appointed members must be Alaska residents and may not be employees of  
27 the state. Their term of office is four years, and they may be  
28 reappointed. Terms shall be staggered. Initial terms are one year  
29 for one member, two years for two members, three years for two members,

1 and four years for two members. Members may be removed for cause.  
2 Members may continue to serve until their successors are appointed.

3 (b) The president of the permanent fund, appointed under sec. 90  
4 of this chapter, shall serve as the chairman of the policy board, but  
5 is not a voting member.

6 (c) A quorum for the transaction of policy board business consists  
7 of at least two-thirds of the members. Decisions of the board must be  
8 made by a majority vote, including not less than a majority of the  
9 appointed members. The board shall hold at least one public meeting  
10 each year.

11 (d) Appointed members of the policy board are not entitled to  
12 compensation as such but are entitled to per diem and travel allowances  
13 as provided by law for members of state boards and commissions.

14 Sec. 37.13.060. DUTIES OF THE POLICY BOARD. The policy board  
15 shall:

16 (1) select and appoint the president and other members of  
17 the investment committee;

18 (2) annually review and approve long-range operating plans,  
19 to include an investment program based on sectoral analysis of the  
20 Alaska economy, the budget for the forthcoming year, and the financial  
21 plan for the following years;

22 (3) have sole responsibility for relations with the general  
23 public, legislature, executive, local communities, and special interest  
24 groups concerning all matters other than specific investments of the  
25 permanent fund;

26 (4) review quarterly reports from the investment committee  
27 concerning investment decisions and investment supervision;

28 (5) review, consider and approve policies;

29 (6) review and publish an annual report including financial

1 statements audited by independent outside auditors;

2 (7) establish an audit committee, consisting of the commis-  
3 sioner of revenue and other members of the policy board to be desig-  
4 nated by the board itself, which shall select the independent outside  
5 auditors, and receive all audit reports;

6 (8) decide appeals from interpretations of this chapter;

7 (9) determine the remuneration and terms of service of the  
8 president and other members of the investment committee;

9 (10) be prepared to present a complete report of investment  
10 programs, plans, performance, and policies to the finance committees  
11 of the Alaska Legislature within 30 days after the beginning of each  
12 regular session.

13 Sec. 37.13.070. PERMANENT FUND INVESTMENT COMMITTEE. (a) There  
14 is established the Alaska Permanent Fund Investment Committee, consist-  
15 ing of the president of the corporation, who shall serve as chairman,  
16 and four members appointed by the policy board. No member of the  
17 policy board may be a member of the investment committee. All members  
18 must be Alaska residents, may not be state employees, and must be  
19 persons of recognized competence and wide experience in investments,  
20 finance, and other business-management-related fields. Members may be  
21 reappointed or continue to serve until their successors are appointed.

22 (b) A quorum consists of four members of the investment committee.  
23 All decisions must be made by majority vote.

24 Sec. 37.13.080. DUTIES OF THE INVESTMENT COMMITTEE. The invest-  
25 ment committee has sole responsibility to approve all investment  
26 proposals and review all investments in investment grade securities.

27 Sec. 37.13.090. PERMANENT FUND PRESIDENT. The president of the  
28 corporation shall be appointed by the policy board for a term of five  
29 years, may be reappointed, and shall serve at the pleasure of the policy

1 board. The president

2 (1) has sole responsibility for presenting investment pro-  
3 posals to the investment committee;

4 (2) is responsible for the ordinary business of the corpora-  
5 tion and the organization, appointment, dismissal, and remuneration of  
6 the officers and staff;

7 (3) is responsible for making investments in investment  
8 grade securities, subject to review by the investment committee;

9 (4) shall establish and maintain adequate and appropriate  
10 organizational, operating, and financial controls.

11 Sec. 37.13.100. STATUS AND POWERS OF PERMANENT FUND CORPORATION.  
12 The CORPORATION is exempt from the provisions of the Executive Budget  
13 Act (AS 37.07). The president, officers, and staff of the corporation  
14 are in the exempt service under AS 39.25.

15 (b) The corporation has all powers necessary to carry out the  
16 purposes of this chapter including but not limited to the following:

17 (1) sue and be sued;

18 (2) adopt a seal;

19 (3) have perpetual succession;

20 (4) adopt and amend policies and operational procedures  
21 when not inconsistent with this chapter;

22 (5) make and execute contracts and other instruments;

23 (6) in its own name, own, exchange, transfer, lease, rent,  
24 convey, acquire, or dispose of by other means real and personal property

25 Sec. 37.13.110. RESERVES. The corporation may establish, from  
26 income derived from its permanent fund reserve accounts to preserve  
27 the principal of the permanent fund, consistent with sound financial  
28 practices.

29 Sec. 37.13.120. OPERATIONAL PRINCIPLES. The operations of the

1 corporation shall be conducted in accordance with the following  
2 principles:

3 (1) the prudent-person rule of investments is applicable;  
4 in making investments, the investment committee and staff shall exercise  
5 the judgment and care under the circumstances then prevailing which a  
6 person of ordinary prudence, discretion, and intelligence exercises in  
7 the management of his or her own affairs not in regard to speculation  
8 but in regard to the permanent disposition of funds, considering the  
9 probable income from them as well as probable safety of principal;

10 (2) the corporation may not undertake any financing for  
11 which, in its opinion, sufficient private capital could be obtained on  
12 reasonable terms;

13 (3) the corporation may not assume responsibility for  
14 managing any enterprise or project in which it has invested and may  
15 not exercise voting rights for that purpose or for any other purpose  
16 which, in its opinion, properly is within the scope of managerial  
17 control;

18 (4) the corporation shall only undertake its financing on  
19 terms and conditions which it considers appropriate, taking into  
20 account the requirements of the enterprise or project, the participation  
21 of other investors, the risks being undertaken by the corporation and  
22 the terms and conditions normally obtained by private investors from  
23 similar financing, unless the legislature has appropriated funds for  
24 subsidizing investments which, in the opinion of the corporation are  
25 of such high priority that special terms and conditions are appropriate;

26 (5) the corporation may seek to revolve its funds by selling  
27 its investments to other investors whenever it can appropriately do so  
28 on satisfactory terms;

29 (6) the corporation shall seek to maintain a reasonable

1 diversification in its investments;

2 (7) the corporation shall only consider investment pro-  
3 posals after the applicant for an investment has submitted a detailed  
4 proposal to the corporation staff, and the staff has prepared a written  
5 report recommending the investment after a study of its merits;

6 (8) the corporation shall make investment decisions with  
7 regard to economic and other considerations, including consideration  
8 of employment, income distribution, environment, health, social, and  
9 other factors; the corporation shall be sensitive to the views of  
10 affected local communities and shall include an analysis of those  
11 views in proposals for large investments;

12 (9) the corporation may make investments in financial  
13 intermediaries in order to facilitate investment by the intermediaries  
14 in specific enterprises or projects whose individual financing require-  
15 ments are not, in the opinion of the corporation, large enough to  
16 warrant its direct supervision;

17 (10) the corporation shall provide for operational and  
18 performance evaluations (post-audits) of its investments and invest-  
19 ment programs, and report the results to the policy board audit  
20 committee;

21 (11) nothing in this section prevents the corporation, in  
22 the event of actual or threatened default on any of the permanent fund  
23 investments, actual or threatened insolvency of the enterprise in  
24 which the investment has been made, or other situations which, in the  
25 opinion of the corporation, threaten to jeopardize the investment,  
26 from taking the action and exercising the rights it considers necessary  
27 for the protection of its interests.

28 Sec. 37.13.130. BORROWING POWERS. The corporation may borrow  
29 funds, and, in that connection, may furnish the collateral or other

1 security for them that it determines is necessary.

2 Sec. 37.13.140. REPORTS AND PUBLICATIONS. The policy board shall  
3 publish an annual report to the governor, legislature, and the public.  
4 Each report must include financial statements audited by independent  
5 outside auditors, a statement of the amount of money received by the  
6 permanent fund from each source during the period covered, a statement  
7 of permanent fund investments, a description of permanent fund invest-  
8 ment activity during the period covered by the report, and any other  
9 information the policy board believes would be of interest to the  
10 governor, the legislature, and the public. The annual income statement  
11 and balance sheet of the corporation shall be published in at least  
12 one newspaper in each judicial district. The corporation may also  
13 publish other reports it considers desirable to carry out its purpose.

14 Sec. 37.13.150. TECHNICAL ASSISTANCE. (a) The corporation may  
15 provide financing for pre-investment activities including feasibility  
16 studies, when, in its opinion, the proposed investment is of high  
17 priority and the financing is not available from other sources on  
18 reasonable terms and conditions. Amounts so advanced may form a part  
19 of a later investment, if the enterprise or project is financed by the  
20 corporation.

21 (b) The corporation may provide for technical and management  
22 advice and assistance to proposed and actual investments as it con-  
23 sidered necessary in the circumstances.

24 Sec. 37.13.160. CONFLICT-OF-INTERESTS POLICIES. Members of the  
25 investment committee shall disclose their financial interest in an  
26 investment proposal and disqualify themselves from voting on any invest-  
27 ment proposal in which they have a financial interests. Members of the  
28 policy board shall refrain from all attempts to influence the investment  
29 committee, president, officers and staff in the discharge of their

1 ordinary operating duties. The president, officers, and staff of the  
2 corporation, in the discharge of their offices, owe their duty en-  
3 tirely to the corporation and no other authority.

4 Sec. 37.13.170. CONFIDENTIALITY OF INFORMATION. Information in  
5 the possession of the corporation which discloses the particulars of  
6 the business or affairs of a private enterprise or private investor is  
7 not a matter of public record, except for purposes of investigation  
8 and law enforcement. The information must be kept confidential except  
9 when its production is required in an official investigation or court  
10 proceeding. These restrictions do not prohibit the publication of  
11 statistics presented in a manner that prevents the identification of  
12 particular reports, items, persons, or enterprises.

13 Sec. 37.13.180. TAX EXEMPTION. The corporation is a public  
14 corporation and is exempt from all taxes and assessments in the  
15 state. All security instruments issued by the corporation, their  
16 transfer, and their income are exempt from all taxes and assessments  
17 in the state.

18 Sec. 37.13.900. DEFINITIONS. In this chapter, unless the context  
19 requires otherwise

20 (1) "corporation" means the Alaska Permanent Fund Corpora-  
21 tion created by sec. 10(b) of this chapter;

22 (2) "investment committee" means the Alaska Permanent Fund  
23 Investment Committee created by sec. 70 of this chapter;

24 (3) "investments" includes equity, debt, and debt guarantees;

25 (4) "permanent fund" means the Alaska Permanent Fund  
26 created under authority of art. IX, sec. 15, of the Alaska Constitu-  
27 tion;

28 (5) "policy board" means the Alaska Permanent Fund Policy  
29 Board created by sec. 50 of this chapter.

1 \* Sec. 2. AS 39.25.110 is amended by adding a new paragraph to read:  
2 (21) members of the policy board and investment committee,  
3 and the president, officers, and staff of the Alaska Permanent Fund  
4 Corporation.

5 \* Sec. 3. AS 39.50.200(9) is amended by adding a new subparagraph to  
6 read:

7 (MM) Alaska Permanent Fund Policy Board and Alaska  
8 Permanent Fund Investment Committee.

9 \* Sec. 4. Investments outstanding as of the effective date of this Act,  
10 made from money in the Alaska Permanent Fund, shall be transferred to the  
11 corporation established by AS 37.13.010(b), enacted in sec. 1 of this Act.

12 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.-  
13 10.070(c).

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