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Referred: Special Committee on  
the Alaska Permanent Fund and  
Finance

1 IN THE HOUSE

BY THE SPECIAL COMMITTEE ON  
THE ALASKA PERMANENT FUND

2 HOUSE BILL NO. 300

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 the Alaska Permanent Fund; and  
7 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. PURPOSE OF THE PERMANENT FUND. The purpose of the  
12 Alaska Permanent Fund is to provide a means of conserving a portion of  
13 the state's revenues from mineral resources to the ultimate benefit of  
14 present and future generations of Alaskans. The revenues so conserved  
15 shall be invested in income-producing investments which will provide  
16 further benefits to present and future generations of Alaskans. Further  
17 benefits may be derived through use of the permanent fund to

18 (1) assist the diversification of the economy of Alaska by  
19 making sound investments in Alaska's renewable and nonrenewable re-  
20 sources;

21 (2) seek to smooth the cyclical pattern of growth of the  
22 Alaska economy;

23 (3) encourage and assist the participation of private capi-  
24 tal, from both inside and outside Alaska, in private enterprises of  
25 benefit to Alaskans;

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

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

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

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4 Sec. 37.13.020. ALASKA PERMANENT FUND. Under art. IX, sec. 15 of  
5 the Alaska Constitution, there is established as a separate fund the  
6 Alaska Permanent Fund. The permanent fund is a public corporation of  
7 the state and an instrumentality of the state within the Department of  
8 Revenue but has a legal existence independent of and separate from the  
9 state and has continuing succession until its existence is terminated by  
10 law. The exercise by the corporation of the powers conferred by this  
11 chapter is considered an essential governmental function of the state.  
12 The corporation shall manage and invest the principal of the permanent  
13 fund and will distribute the income earned from the permanent fund in  
14 accordance with the provisions of this chapter.

15 Sec. 37.13.030. COMPOSITION OF THE PERMANENT FUND. The permanent  
16 fund consists of 50 per cent of all mineral lease rentals, royalties,  
17 royalty sale proceeds, and federal mineral revenue-sharing payments and  
18 100 per cent of all bonuses received by the state. The commissioner of  
19 revenue shall deposit in the permanent fund 50 per cent of the receipts  
20 from all mineral lease rentals, royalties, royalty sale proceeds, and  
21 federal mineral revenue-sharing payments and 100 per cent of all bonuses  
22 at least once each month. Income from investment of the permanent fund  
23 does not become a part of the permanent fund and shall be deposited in  
24 the general fund annually, except that income in the following amounts  
25 shall be retained in the permanent fund:

26 (1) the amount needed to pay the operating and administrative  
27 expenses of the permanent fund;

28 (2) any amount allocated to a reserve account established  
29 under sec. 90 of this chapter.

30 Sec. 37.13.040. INVESTMENT OF THE PERMANENT FUND. The permanent

1 fund may be used only for income-producing investments, in accordance  
2 with the following requirements:

3 (1) At least 40 per cent of the resources of the permanent  
4 fund shall be invested in investment grade securities.

5 (2) The permanent fund may invest not more than 30 per cent  
6 of its resources to provide a reasonable proportion of longer-term in-  
7 vestment capital for financing the establishment, improvement, and  
8 expansion of productive private enterprises which will benefit Alaskans,  
9 and for which sufficient capital is not available from other sources on  
10 reasonable terms. These investments may take the form of equity, debt  
11 or debt guarantees.

12 (3) The permanent fund may invest not more than 30 per cent  
13 of its resources in financing a reasonable proportion of the longer-term  
14 investment capital needs for community development projects of munici-  
15 palities and public corporate entities and private dwellings in Alaska  
16 for which sufficient financing is not available from other sources on  
17 reasonable terms. These investments may take the form of debt or debt  
18 guarantees.

19 Sec. 37.13.050. PERMANENT FUND POLICY BOARD. (a) There is estab-  
20 lished the Alaska Permanent Fund Policy Board, consisting of the commis-  
21 sioner of commerce and economic development, the commissioner of revenue,  
22 and seven members to be appointed by the governor and confirmed by the  
23 legislature in joint session. The seven appointed members must have  
24 been residents of Alaska for at least three years and may not be employ-  
25 ees of the state. Their term of office is four years, and they may be  
26 reappointed. Terms shall be staggered. Initial terms shall be one  
27 member serving for one year, two members for two years, two members for  
28 three years, and two members for four years. Members may be removed for  
29 cause. Members continue to serve until their successors are appointed.

1 (b) The president of the Alaska Permanent Fund serves as the  
2 chairman of the policy board, but is not a voting member.

3 (c) Two-thirds of the board members constitute a quorum for the  
4 transaction of business by the board. Decisions of the board shall be  
5 taken by a majority vote, including not less than a majority of the  
6 appointed members. The board shall hold at least one public meeting  
7 each year.

8 (d) Members of the policy board receive \$250 per meeting day and  
9 are entitled to per diem and travel allowances as provided by law for  
10 members of state boards and commissions.

11 Sec. 37.13.060. DUTIES OF THE POLICY BOARD. The policy board  
12 shall

13 (1) select and appoint the president and other members of the  
14 Alaska Permanent Fund Investment Committee established in sec. 70 of  
15 this chapter;

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

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

24 (4) review quarterly reports from the investment committee  
25 concerning investment decisions and investment supervision;

26 (5) review, consider and approve policies;

27 (6) review and publish an annual report including financial  
28 statements audited by independent outside auditors;

29 (7) establish an audit committee, consisting of the

1 commissioner of revenue and other members of the policy board to be  
2 designated, which shall select the independent outside auditors, and  
3 receive all audit reports;

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

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

7 (10) present a complete report of investment programs, plans,  
8 performance and policies to a joint meeting of the senate and house  
9 finance committees of the legislature within 30 days after the beginning  
10 of each session.

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

21 (b) Four members of the investment committee constitute a quorum.  
22 Decisions of the committee shall be taken by majority vote.

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

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

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

3 (2) be responsible for the ordinary business of the permanent  
4 fund and the organization, appointment, dismissal, and remuneration of  
5 the officers and staff;

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

8 (4) establish and maintain adequate and appropriate organi-  
9 zational, operating and financial controls.

10 Sec. 37.13.090. EXEMPTION FROM EXECUTIVE BUDGET ACT. The perma-  
11 nent fund is exempt from the provisions of the Executive Budget Act (AS  
12 37.07).

13 Sec. 37.13.100. PERSONNEL OF PERMANENT FUND. The president,  
14 officers, and staff of the permanent fund are in the exempt service.

15 Sec. 37.13.110. POWERS OF PERMANENT FUND. The permanent fund has  
16 all powers necessary to carry out the purposes of this chapter including  
17 but not limited to the following:

18 (1) sue and be sued;

19 (2) adopt a seal;

20 (3) have perpetual succession;

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

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

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

26 Sec. 37.13.120. RESERVES. The permanent fund shall establish,  
27 from income derived from its investments, reserve accounts to preserve  
28 the principal of the permanent fund, consistent with sound financial  
29 practices.

1           Sec. 37.13.130. OPERATIONAL PRINCIPLES. (a) The operations of  
2 the permanent fund shall be conducted in accordance with the following  
3 principles:

4           (1) In making investments, the investment committee and staff  
5 shall exercise the judgment and care under the circumstances then pre-  
6 vailing which a person of ordinary prudence, discretion, and intelli-  
7 gence exercises in the management of his own affairs not in regard to  
8 speculation but in regard to the permanent disposition of funds, con-  
9 sidering the probable income from them as well as probable safety of  
10 principal.

11           (2) The permanent fund shall not undertake any financing for  
12 which, in its opinion, sufficient private capital could be obtained on  
13 reasonable terms.

14           (3) The permanent fund shall not assume responsibility for  
15 managing any enterprise or project in which it has invested and shall  
16 not exercise voting rights for that purpose or for any other purpose  
17 which, in its opinion, properly is within the scope of managerial con-  
18 trol.

19           (4) The permanent fund shall only undertake its financing on  
20 terms and conditions which it considers appropriate, taking into account  
21 the terms and conditions normally obtained by private investors for  
22 similar financing, the requirements of the enterprise or projects, the  
23 risks being undertaken by the permanent fund, and the participation of  
24 other investors unless the legislature has appropriated funds for subsi-  
25 dizing investments which, in the opinion of the permanent fund, are of  
26 such high priority that special terms and conditions are appropriate.

27           (5) The permanent fund may seek to revolve its funds by  
28 selling its investments to other investors whenever it can appropriately  
29 do so on satisfactory terms.

1 (6) The permanent fund shall seek to maintain a reasonable  
2 diversification in its investments.

3 (7) The permanent fund shall only consider investment pro-  
4 posals after the applicant for an investment has submitted a detailed  
5 proposal to the permanent fund staff and the staff of the permanent fund  
6 has prepared a written report recommending the investment after a study  
7 of its merits.

8 (8) The permanent fund shall analyze the economic and other  
9 effects of an investment decision, including the effects on employment,  
10 income distribution, environment, health, social and other factors. The  
11 permanent fund shall be sensitive to the views of affected local com-  
12 munities and shall include an analysis of those views in proposals for  
13 large investments.

14 (9) The permanent fund may make investments in financial  
15 intermediaries in order to facilitate investment by the intermediaries  
16 in specific enterprises or projects whose individual financing require-  
17 ments are not, in the opinion of the permanent fund, large enough to  
18 warrant its direct supervision.

19 (10) The permanent fund shall provide for operational and  
20 performance evaluations (post-audits) of its investments and investment  
21 programs and report the results to the Policy Board Audit Committee.

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

29 Sec. 37.13.140. BORROWING POWERS. The permanent fund has the  
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1 power to borrow funds, and in that connection to furnish the collateral  
2 or other security as it determines necessary.

3 Sec. 37.13.150. REPORTS AND PUBLICATIONS. (a) The policy board  
4 shall publish an annual report to the governor, legislature and the  
5 public. Each report shall include financial statements audited by in-  
6 dependent outside auditors, a statement of the amount of money received  
7 by the permanent fund from each source during the period covered, a  
8 statement of permanent fund investments, a description of permanent fund  
9 investment activity during the period covered by the report, and any  
10 other information the policy board believes would be of interest to the  
11 governor, the legislature and the public. The annual income statement  
12 and balance sheet of the permanent fund shall be published in at least  
13 one newspaper in each judicial district. The permanent fund may also  
14 publish such other reports as it considers desirable to carry out its  
15 purpose.

16 (b) The policy board of the permanent fund is prohibited from any  
17 campaign or general advertising expenditures to either promote or defend  
18 its policies and operations.

19 Sec. 37.13.160. TECHNICAL ASSISTANCE. (a) The permanent fund may  
20 provide financing for pre-investment activities including feasibility  
21 studies, when, in the opinion of the permanent fund, the proposed in-  
22 vestment is of high priority and the financing is not available from  
23 other sources on reasonable terms and conditions. Amounts so advanced  
24 may form a part of a later investment, if the enterprise or project is  
25 financed by the permanent fund.

26 (b) The permanent fund may provide for technical and management  
27 advice and assistance to proposed and actual investments as it considers  
28 necessary in the circumstances.

29 Sec. 37.13.170. CONFLICT OF INTEREST POLICIES. Members of the

1 investment committee shall disclose their financial interest in an  
2 investment proposal and disqualify themselves from voting on any invest-  
3 ment proposal in which they have a financial interest. The permanent  
4 fund may not make an investment in any project or enterprise in which  
5 the president or officers of the permanent fund have a financial inter-  
6 est. Members of the policy board are prohibited from all attempts to  
7 influence the investment committee, president, officers and staff in the  
8 discharge of their ordinary operating duties. The president, officers  
9 and staff of the permanent fund, in the discharge of their offices, owe  
10 their duty entirely to the permanent fund and no other authority.

11 Sec. 37.13.180. POLITICAL ACTIVITY. The members of the policy  
12 board, members of the investment committee, and officers and staff of  
13 the permanent fund may not engage in partisan political activities which  
14 involve the permanent fund. The resources of the permanent fund may not  
15 be used to finance any partisan political activities.

16 Sec. 37.13.190. PUBLIC ACCESS TO INFORMATION. Information in the  
17 possession of the permanent fund is a public record, except information  
18 which discloses the particulars of the business or affairs of a private  
19 enterprise or investor is confidential and is not a public record. Con-  
20 fidential information may be disclosed only for the purposes of an  
21 official law enforcement investigation or when its production is re-  
22 quired in a court proceeding. These restrictions do not prohibit the  
23 publication of statistics presented in a manner that prevents the iden-  
24 tification of particular reports, items, persons, or enterprises.

25 Sec. 37.13.200. TAX EXEMPTION. The permanent fund is exempt from  
26 all taxes and assessments in the state. All security instruments issued  
27 by the permanent fund, their transfer and their income are exempt from  
28 all taxes and assessments in the state.

29 Sec. 37.13.210. DEFINITIONS. In this chapter, unless the context

1 indicates otherwise,

2 (1) "board" or "policy board" means the Alaska Permanent Fund  
3 Policy Board created by sec. 50 of this chapter;

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

6 (3) "investments" includes equity, debt and debt guarantees.

7 \* Sec. 2. AS 39.25.110 is amended by adding a new paragraph to read:

8 (21) The policy board, investment committee, president,  
9 officers and staff of the Alaska Permanent Fund.

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

12 (MM) Alaska Permanent Fund Policy Board and Investment  
13 Committee.

14 \* Sec. 4. Investments outstanding as of the effective date of this Act,  
15 made from money in the Alaska Permanent Fund, shall be transferred to the  
16 corporation established in AS 37.13.010 in sec. 1 of this Act.

17 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-  
18 070(c).

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