

Introduced: 1/11/78
Referred: The Special Committee
on the Alaska Permanent Fund
and Finance

1 IN THE HOUSE

BY THE SPECIAL COMMITTEE ON
THE ALASKA PERMANENT FUND

2 SCS CS HOUSE BILL NO. 596 (FINANCE) (RUBEN)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to nonrenewable resource revenues; and
7 providing for an effective date."

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

9 * Section 1. AS 24.20 is amended by adding new sections to read:

10 ARTICLE IV. INVESTMENT OVERSIGHT COMMITTEE.

11 Sec. 24.20.600. INVESTMENT OVERSIGHT COMMITTEE ESTABLISHED. The
12 Investment Oversight Committee is established as a permanent interim
13 committee of the legislature. The establishment of the committee recog-
14 nizes the need of the legislature for technical review and oversight of
15 the performance of all agencies of the state which perform lending,
16 borrowing or investment functions.

17 Sec. 24.20.610. FINDINGS. The legislature finds that there is a
18 substantial need for oversight of the performance of all agencies of the
19 state which perform lending, borrowing or investment functions since
20 these functions do not receive the detailed review to which other ex-
21 penditures of public money are subject, and therefore the knowledge
22 necessary for sound legislation in this area is not readily available.
23 There is a need for legislative oversight which will provide information
24 on the policy and performance of these agencies, the extent to which the
25 agencies conform to statutory intent, and the impact of their perfor-
26 mance on the economy and treasury.

27 Sec. 24.20.620. PURPOSES. The purposes of the committee are to

28 (1) monitor and report

29 (A) the performance of the agencies of the state which

1 perform lending, borrowing or investment functions,

2 (B) the extent to which the performance of these agen-
3 cies has contributed to the fiscal, financial, economic and social
4 improvement of the state and its citizens,

5 (C) the extent to which these agencies and the executive
6 have prepared and coordinated short and long term economic, fiscal,
7 investment and financial planning;

8 (2) hold these agencies accountable to statutory intent in
9 their performance by recommending, where appropriate, changes in policy
10 to the agencies or changes in legislation to the legislature;

11 (3) annually review the extent of capitalization of the
12 investment funds of the state and alternative investment policy for the
13 general fund surplus and recommend needed legislation.

14 Sec. 24.20.630. MEMBERSHIP. The committee is composed of eight
15 members: the president of the senate, the speaker of the house, and
16 three members appointed from each house by the respective presiding
17 officer. The membership from each house shall include at least one
18 member from each of the two major political parties. The committee
19 shall select its own chairman.

20 Sec. 24.20.640. TERM OF MEMBERSHIP. (a) The committee shall be
21 organized within 15 days after the organization of each legislature.
22 Members serve for the duration of the legislature during which they are
23 appointed. If a member is reelected or his term of office extends into
24 the next succeeding legislature, he continues to serve until reappointed
25 or the appointment of his successor.

26 (b) When a member of the committee files a declaration of candi-
27 dacy for an elective office other than that of member of either house of
28 the legislature, and he has not resigned from membership on the com-
29 mittee, his committee membership terminates on the date of filing.

1 Sec. 24.20.650. VACANCIES. When a vacancy occurs in the statutory
2 or appointive membership of the committee, the presiding officer of the
3 house incurring the vacancy shall choose a successor. If the office of
4 the president of the senate or speaker of the house of representatives
5 becomes vacant and a vacancy from the affected house occurs among the
6 membership of the committee, the remaining committee members from the
7 house incurring the vacancy shall appoint a new member.

8 Sec. 24.20.660. MEETINGS. The committee may meet during sessions
9 of the legislature and during the interim between sessions at such times
10 and places in the state as the chairman may determine. Members may
11 receive, for the minimum time required to get to and from meetings and
12 for the period while attending meetings, the same travel and per diem
13 allowances provided by law for members of the legislature when attending
14 sessions, except that members of the committee receive no per diem
15 during legislative sessions other than the per diem allowance paid to
16 other members of the legislature.

17 Sec. 24.20.670. POWERS. The committee has the power to

18 (1) organize, adopt rules for the conduct of its business,
19 and prescribe procedures for the comprehensive fiscal analysis, budget
20 review and post-audit functions over those agencies of the state which
21 perform lending, borrowing or investment functions;

22 (2) hold public hearings, administer oaths, issue subpoenas,
23 compel the attendance of witnesses and production of papers, books,
24 accounts, documents and testimony, and have the deposition of witnesses
25 taken in a manner prescribed by court rule or law for taking depositions
26 in civil actions;

27 (3) require all state officials and agencies of state govern-
28 ment to give full cooperation to the committee or its staff in assem-
29 bling and furnishing requested information;

1 (4) hold public hearings relating to the confirmation of the
2 Board of Trustees of the Alaska Permanent Fund Corporation, the Board of
3 Trustees of the Alaska Renewable Resources Corporation, and the Alaska
4 Enterprise Investment Corporation Policy Board;

5 (5) prepare and distribute reports, memoranda, or other
6 necessary materials;

7 (6) make recommendations concerning the structure and operat-
8 ing practices of all agencies of the state which perform lending, bor-
9 rowing or investment functions;

10 (7) receive and review reports and post-audit analyses con-
11 ducted by the Legislative Budget and Audit Committee relating to all
12 agencies of the state which perform lending, borrowing or investment
13 functions;

14 (8) enter into and enforce all contracts necessary or desira-
15 ble for the functions of the committee.

16 Sec. 24.20.680. STAFF. The legislative audit division and the
17 legislative finance division shall provide audits, reports and analyses
18 requested by the committee. The committee may hire and determine the
19 salary of the staff it considers necessary within the limit of the
20 budget approved by the legislature.

21 Sec. 24.20.690. DUTIES. The committee shall

22 (1) report to the legislature its recommendations relating to
23 the confirmation of suggested appointees to the Alaska Permanent Fund
24 Corporation, the Board of Trustees of the Alaska Renewable Resources
25 Corporation, and the Alaska Enterprise Investment Corporation Policy
26 Board;

27 (2) annually review the long-range operating plans of all
28 agencies of the state which perform lending, borrowing or investment
29 functions;

1 (3) review periodic reports from all agencies of the state
2 which perform lending, borrowing or investment functions;

3 (4) present a complete report of investment programs, plans,
4 performance, and policies of all agencies of the state which perform
5 lending, borrowing or investment functions to the legislature within 30
6 days after the convening of each regular session;

7 (5) present to the legislature within 30 days after the con-
8 vening of each regular session a review of the report of the governor
9 under AS 37.09.020(b) with recommendations for any needed legislation;

10 (6) in conjunction with the finance committee of each house
11 recommend annually to the legislature the investment policy for the
12 general fund surplus and the income from the permanent fund.

13 Sec. 24.20.700. RECORDS. The committee shall keep a complete file
14 of all reports presented to it and all reports presented by it to the
15 legislature or any legislative committee.

16 * Sec. 2. AS 37.07.020 is amended by adding a new subsection to read:

17 (b) The governor shall annually, before the convening of the
18 legislature, report to the legislature through the Investment Oversight
19 Committee the long-range fiscal and economic consequences of

20 (1) alternate levels of capitalization of the investment
21 funds of the state; and

22 (2) alternative investment policy for the general fund sur-
23 plus.

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

25 CHAPTER 13. ALASKA PERMANENT FUND.

26 Sec. 37.13.010. ALASKA PERMANENT FUND. Under art IX, sec. 15 of
27 the state constitution, there is established as a separate fund the
28 Alaska permanent fund. The permanent fund consists of 100 per cent of
29 mineral lease bonuses after deduction of any amounts allocated to the

1 Alaska Native Fund under the Alaska Native Claims Settlement Act and
2 implementing state legislation and any amounts allocated by law to the
3 Alaska renewable resources development fund and 30 per cent of all
4 mineral lease rentals, royalties, royalty sale proceeds, and federal
5 mineral revenue sharing payments received by the state and any other
6 money allocated by law or appropriated to the principal of the fund
7 which shall be paid to the Alaska Permanent Fund Corporation at least
8 once each month. Management of the permanent fund is performed by (1)
9 the Alaska Permanent Fund Corporation established in this chapter to
10 which five-sixths of the receipts from these sources is allocated and
11 (2) the Alaska Enterprise Investment Corporation established in AS 44.55
12 to which one-sixth of the receipts from these sources is allocated until
13 the amount so allocated reaches the sum of \$100,000,000. Thereafter the
14 total receipts from these sources is allocated to the Alaska Permanent
15 Fund Corporation.

16 Sec. 37.13.020. FINDINGS. The people of the state, by constitu-
17 tional amendment, have required the placement of at least 25 per cent of
18 all mineral lease rentals, royalties, royalty sale proceeds, and federal
19 mineral revenue sharing payments and bonuses received by the state into
20 a permanent fund. The legislature finds with respect to the Alaska
21 Permanent Fund Corporation that

22 (1) it should provide a means of conserving a portion of the
23 state's revenues from mineral resources to the ultimate benefit of
24 future generations of Alaskans;

25 (2) the primary goal of the corporation should be to maximize
26 total return while maintaining safety of principal;

27 (3) it should be used as a savings device managed to allow
28 the maximum use of disposable income from the corporation as needed for
29 purposes designated by law.

1 Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to
2 provide a mechanism for the management and investment of permanent fund
3 assets in a manner consistent with the findings established in sec. 20
4 of this chapter.

5 Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is
6 established the Alaska Permanent Fund Corporation. The corporation is a
7 public corporation and government instrumentality in the Department of
8 Revenue managed by a board of trustees but has a legal existence inde-
9 pendent of and separate from the state. The purpose of the board is to
10 manage and invest the assets of the corporation in accordance with this
11 chapter.

12 Sec. 37.13.050. COMPOSITION OF BOARD OF TRUSTEES. (a) The board
13 of trustees consists of three members appointed by the governor and
14 confirmed by a majority of the members of the legislature in joint
15 session.

16 (b) The board shall annually elect a chairman from among its
17 members.

18 Sec. 37.13.060. TERM OF OFFICE. The members of the board shall be
19 appointed for terms of four years, and they may be reappointed. Terms
20 shall be staggered. Initial terms shall be one member serving for two
21 years, one member serving for three years, and one member serving for
22 four years.

23 Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may
24 remove a trustee from office by and with the consent of a majority of
25 the members of the legislature in joint session. A removal by the
26 governor shall be in writing and state the reason for removal. If the
27 legislature is not in session, the governor may suspend a member of the
28 board. Upon suspension, a trustee may not participate in board business
29 and may not be counted for purposes of establishing a quorum. The joint

1 session shall be held within 30 days from the date of removal if the
2 removal occurs while the legislature is in session or within 30 days of
3 convening of the legislature if the legislature is not in session. If
4 the legislature refuses to consent to his removal, the trustee shall be
5 reinstated to his position.

6 (b) A vacancy on the board shall be promptly filled by appointment
7 by the governor and confirmation by a majority of the members of the
8 legislature in joint session, and an appointee to fill a vacancy shall
9 hold office for the balance of the term for which his predecessor on the
10 board was appointed. If a vacancy arises on the board while the legis-
11 lature is not in session, the governor may appoint an interim trustee
12 who shall exercise all powers of a permanent trustee until such time as
13 the legislature in joint session fails to confirm the interim trustee's
14 appointment.

15 (c) A vacancy on the board does not impair the authority of a
16 quorum of the board to exercise all the powers and perform all the
17 duties of the board.

18 Sec. 37.13.080. QUALIFICATIONS OF TRUSTEES. (a) No trustee may
19 be appointed to the board who has not been a resident of the state for
20 at least three years.

21 (b) No member of the board may hold any other state or federal
22 office, position or employment, either elective or appointive, except as
23 a member of the armed forces of the United States or of this state.

24 (c) At least one member of the board shall have recognized com-
25 petence and wide experience in finance, investments, or other business
26 management-related field. No two members may be appointed to the board
27 who share substantially similar professional or occupational backgrounds

28 Sec. 37.13.090. QUORUM. Two members of the board constitute a
29 quorum for the transaction of business and the exercise of the powers

1 and duties of the board.

2 Sec. 37.13.100. COMPENSATION OF TRUSTEES. Trustees receive an
3 honorarium of \$250 for each meeting day if they attend the meeting and
4 are entitled to per diem and travel allowances as provided by law for
5 members of state boards and commissions.

6 Sec. 37.13.110. EMPLOYMENT OF PERSONNEL. The board may employ and
7 determine the salary of an executive director. The executive director
8 may, with the approval of the board, select and employ additional staff
9 as necessary. The executive director may not be a trustee. The execu-
10 tive director and all employees of the board are in the exempt service
11 under AS 39.25.

12 Sec. 37.13.120. CONFLICTS OF INTEREST. (a) Trustees are subject
13 to the provisions of AS 39.50.

14 (b) If a member or employee acquires, owns or controls an in-
15 terest, direct or indirect, in an entity or project in which corporation
16 assets are invested, he shall immediately disclose the interest to the
17 board. The disclosure is a matter of public record and shall be in-
18 cluded in the minutes of the board meeting next following the disclo-
19 sure.

20 Sec. 37.13.130. POWERS AND DUTIES. (a) The prudent-man rule is
21 applicable to the board in its management and investment of permanent
22 fund assets. The prudent-man rule as applied to investments of the
23 corporation means that in making investments the board shall exercise
24 the judgment and care under the circumstances then prevailing which an
25 institutional investor of ordinary prudence, discretion, and intel-
26 ligence exercises in the management of large investments entrusted to it
27 not in regard to speculation but in regard to the permanent disposition
28 of funds, considering the probable income from them as well as probable
29 safety of capital.

1 (b) The corporation assets may only be used for income-producing
2 investments.

3 (c) The board shall seek to maintain a reasonable diversification
4 in its investments unless under the circumstances it is clearly prudent
5 not to do so.

6 (d) The board shall submit long-range and quarterly investment
7 reports to the Investment Oversight Committee.

8 (e) The corporation may not borrow funds or guarantee the obli-
9 gations of others.

10 (f) The board may enter into and enforce all contracts necessary,
11 convenient or desirable for purposes of the fund except it may not
12 contract with agencies or departments of the state to recommend or
13 select investments.

14 (g) Subject to (a) of this section the board may invest its assets
15 in obligations of the United States or obligations for which the full
16 faith and credit of the United States are pledged for payment of princi-
17 pal and interest; loans secured by first liens on unencumbered realty or
18 leaseholds; and corporate stock and corporate obligations which under
19 the Securities Act of 1933 are freely marketable.

20 (1) No portion of the assets of the fund may be used in the
21 purchase of stock of any corporation which is not paying dividends on
22 that stock in cash at the time of purchase; nor in the purchase of bonds
23 of any corporation, upon which any regular interest payment has been
24 defaulted at any time within five years before purchase, except bonds
25 never in default but which have been outstanding for less than five
26 years.

27 (2) No portion of the assets of the corporation may be used
28 in the purchase of stocks if immediately following the purchase the
29 proportionate market value of all stocks held by the corporation would

1 exceed 30 per cent of the corporation's assets.

2 (h) The board shall establish and from time to time as necessary
3 modify guidelines for the investment of the corporation's assets.
4 Before adoption of any guidelines the guidelines shall be reported to
5 the Investment Oversight Committee for review and comment.

6 Sec. 37.13.140. GAINS AND LOSSES. At the end of each fiscal year,
7 the total amount of losses on the sales of securities, not offset by
8 gains on the sales of securities during that year, shall be computed,
9 with a portion of these losses to be deducted each fiscal year from the
10 interest and dividend income and the resulting amount of interest and
11 dividend income added to the principal of the fund. Losses taken on the
12 sales of bonds shall be accumulated over a period equal to the average
13 remaining life of the bonds sold, and losses taken on the sales of
14 stocks shall be accumulated within a period of five years, unless these
15 losses are offset by gains on future sales of securities. In any fiscal
16 year in which the gains on the sales of securities exceed the losses on
17 the sales of securities, the excess shall be added to the principal of
18 the fund.

19 Sec. 37.13.150. INCOME. The interest and dividends received in a
20 year are the income of the fund for that year. The income available for
21 disbursement shall be determined on an averaging basis. For the first
22 five years, income will be the simple averaging of the annual current
23 return at cost. Subsequently, there will be a moving average current
24 return, in which the latest fiscal year will replace the oldest year.
25 The income available for disbursement will be the lesser of the latest
26 fiscal year's income, or the average annual current income for the past
27 five fiscal years of the fund at cost, and after adjustment for capital
28 losses charged to that fiscal year.

29 Sec. 37.13.160. BOARD BUDGET. The board's operating budget is

1 from the general fund and is subject to the Executive Budget Act (AS
2 37.07).

3 Sec. 37.13.170. AUDITS. The Investment Oversight Committee shall
4 provide for an annual post audit and annual operational and performance
5 evaluations of the board's investments and investment programs.

6 Sec. 37.13.180. REPORTS AND PUBLICATIONS. No later than Septem-
7 ber 30 of each year, the board shall publish a report to the governor,
8 legislature, and the public in easily understandable language. Each
9 report must include financial statements audited by independent outside
10 auditors, a statement of the amount of money received by the permanent
11 fund from each investment during the period covered, a statement of
12 permanent fund investments, a description of permanent fund investment
13 activity during the period covered by the report, a comparison of the
14 fund performance with the intended goals contained in sec. 20 of this
15 chapter, an examination of the impact of the investment criteria of this
16 chapter on the fund portfolio with recommendations of any needed changes
17 and any other information the board believes would be of interest to the
18 governor, the legislature, and the public. The annual income statement
19 and balance sheet of the permanent fund shall be published in at least
20 one newspaper in each judicial district. The income statement and
21 balance sheet for the two fiscal years preceding the publication of the
22 election pamphlet under AS 15.57 shall be included in that pamphlet.
23 The board may also publish other reports it considers desirable to carry
24 out its purpose.

25 Sec. 37.13.190. CONFLICT OF INTEREST. (a) Members of the board
26 of trustees are subject to the provisions of AS 39.50.

27 (b) Members of the board of trustees shall disclose their finan-
28 cial interest in an investment proposal and disqualify themselves from
29 voting on any investment proposal in which they have a financial in-

1 terest. The board may not make an investment in any project or enter-
2 prise in which officers of the corporation have a financial interest.
3 All officers of the corporation in the discharge of their offices owe
4 their duty entirely to the corporation and no other authority.

5 Sec. 37.13.200. POLITICAL ACTIVITIES. The members of the board of
6 trustees and officers and staff of the corporation may not engage in
7 partisan political activities. The resources of the corporation may not
8 be used to finance any partisan political activities.

9 Sec. 37.13.210. PUBLIC ACCESS TO INFORMATION. Information in the
10 possession of the corporation is a public record, except that infor-
11 mation which discloses the particulars of the business or affairs of a
12 private enterprise or investor is confidential and is not a public
13 record. Confidential information may be disclosed only for the purposes
14 of an official law enforcement investigation or when its production is
15 required in a court proceeding. These restrictions do not prohibit the
16 publication of statistics presented in a manner that prevents the iden-
17 tification of particular reports, items, persons, or enterprises.

18 * Sec. 4. AS 44 is amended by adding a new chapter to read:

19 CHAPTER 55. THE ALASKA ENTERPRISE INVESTMENT CORPORATION.

20 Sec. 44.55.010. CREATION OF CORPORATION; FUNDING. (a) There is
21 created the Alaska Enterprise Investment Corporation. The corporation
22 is a public corporation and government instrumentality in the Department
23 of Revenue but has legal existence independent of and separate from the
24 state. The exercise by the corporation of the powers conferred by this
25 chapter is considered an essential governmental function of the state.

26 (b) One-sixth of the receipts of all mineral lease rentals, roy-
27 alties, royalty sale proceeds, and federal mineral revenue sharing pay-
28 ments and bonuses allocated to the permanent fund shall be paid by the
29 Alaska Permanent Fund Corporation directly into the Alaska Enterprise

1 Investment Corporation until a total of \$100,000,000 has been paid in.
2 The amount paid into the Alaska Enterprise Investment Corporation under
3 this subsection is the paid-in capital of the corporation.

4 Sec. 44.55.020. FINDINGS. The legislature finds

5 (1) that investment in financially sound small and medium
6 scale (A) productive private enterprises and (B) community development
7 projects in the state, for which sufficient capital is not available
8 from other sources on reasonable terms, is of benefit to the citizens of
9 the state;

10 (2) there is a shortage of investment capital for financially
11 sound small and medium scale (A) productive private enterprises and, (B)
12 for community development projects for which sufficient capital is not
13 available from other sources on reasonable terms;

14 (3) that the corporation working with private financial
15 institutions to supplement but not supplant their services can help to
16 alleviate this shortage.

17 Sec. 44.55.030. PURPOSE. The purpose of the corporation is to
18 provide capital at market rates and terms for small and medium scale (1)
19 productive private enterprises, and (2) community development projects
20 for which sufficient capital is not available from other sources on
21 reasonable terms.

22 Sec. 44.55.040. ALASKA ENTERPRISE INVESTMENT CORPORATION POLICY
23 BOARD. (a) There is established the Alaska Enterprise Investment
24 Corporation Policy Board consisting of a person employed in the execu-
25 tive branch of state government appointed by the governor and six public
26 members appointed by the governor with due regard for geographical
27 representation and confirmed by a majority of the members of the legis-
28 lature in joint session. At least two of the public members shall have
29 recognized competency and wide experience in investment finance. The

1 board shall elect one of the public members as chairman and other offi-
2 cers they determine desirable.

3 (b) The six appointed members shall serve for four-year terms, and
4 they may be reappointed. Terms shall be staggered. Initial terms shall
5 be two members serving for two years, two members serving for three
6 years, and two members serving for four years. A member continues to
7 serve until his successor is appointed and confirmed.

8 (c) A majority of the policy board members constitutes a quorum
9 for the transaction of business by the board. Decisions of the board
10 shall be taken by a majority vote. The board shall hold at least one
11 public meeting each year.

12 (d) Members of the policy board receive an honorarium of \$250 for
13 each meeting day if they attend the meeting and are entitled to per diem
14 and travel allowances as provided by law for members of state boards and
15 commissions.

16 Sec. 44.55.050. REMOVAL AND VACANCIES ON BOARD. (a) The governor
17 may remove a policy board member from office by and with the consent of
18 a majority of the members of the legislature in joint session. The
19 joint session shall be held within 10 days from the date of removal if
20 the removal occurs while the legislature is in session or within 30 days
21 of convening of the legislature if the member was suspended. If the
22 legislature is not in session, the governor may suspend a member of the
23 policy board for cause. Upon suspension, a board member may not par-
24 ticipate in policy board business and may not be counted for purposes of
25 establishing a quorum. If the legislature refuses to consent to his
26 removal, the member shall be reinstated to his position.

27 (b) A vacancy arising on the policy board shall be promptly filled
28 by appointment by the governor and confirmation by a majority of the
29 members of the legislature in joint session, and an appointee to fill a

1 vacancy shall hold office for the balance of the term for which his
2 predecessor on the board was appointed. If a vacancy arises on the
3 board while the legislature is not in session, the governor may appoint
4 an interim board member who shall exercise all powers of a permanent
5 board member until such time as the legislature in joint session fails
6 to confirm the interim member's appointment.

7 (c) A vacancy on the policy board does not impair the authority of
8 a quorum of the board to exercise all the powers and perform all the
9 duties of the board.

10 Sec. 44.55.060. DUTIES OF THE POLICY BOARD. The policy board
11 shall

12 (1) select and appoint the president and other members of the
13 Investment Committee established in sec. 80 of this chapter;

14 (2) annually review and approve long-range operating plans,
15 the budget for the forthcoming year, and the financial plan for the
16 following years;

17 (3) have responsibility on behalf of the corporation for
18 relations with the general public, legislature, executive branch, local
19 communities, and interest groups concerning all things excepting only
20 those matters that are the responsibility of the Investment Committee;

21 (4) review quarterly reports from the Investment Committee
22 concerning investment decisions and investment supervision, but the
23 board may not impose an investment decision upon, or override an invest-
24 ment decision of, the Investment Committee;

25 (5) review, consider and approve policies;

26 (6) establish an audit committee which shall select inde-
27 pendent outside auditors, and receive all audit reports.

28 Sec. 44.55.070. PRESIDENT. The president of the corporation is
29 appointed by the policy board for a term of four years, may be reap-

1 pointed, and serves at the pleasure of the policy board. The salary of
2 the president is set at the discretion of the policy board; but may not
3 be set below that of the highest paid member of the Investment Commit-
4 tee. The president shall

5 (1) have sole responsibility for presenting investment propo-
6 sals to the Investment Committee;

7 (2) be responsible for the ordinary business of the corpo-
8 ration and the organization, appointment, dismissal, and remuneration of
9 the officers and staff;

10 (3) be responsible for making investments in investment grade
11 securities, subject to review by the Investment Committee;

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

14 Sec. 44.55.080. INVESTMENT COMMITTEE. (a) There is established
15 the Investment Committee, consisting of the president and four members
16 appointed by the policy board. No member of the policy board may be a
17 member of the committee. Members of the committee shall be persons of
18 recognized competence and wide experience in investments, finance, and
19 other business management-related fields. A member may be reappointed
20 and continue to serve until his successor is appointed. The president
21 and members shall serve for four-year terms. Terms shall be staggered.
22 Initial terms shall be one member serving for one year, one member
23 serving for two years, one member serving for three years, and one
24 member and the president serving for four years.

25 (b) Three members of the committee constitute a quorum. Decisions
26 of the committee shall be taken by majority vote.

27 (c) Members of the committee other than the president receive an
28 annual salary within Range 30 in the salary schedule for state employees
29 established by AS 39.27.011.

1 Sec. 44.55.090. DUTIES OF THE COMMITTEE. The committee has sole
2 responsibility to approve all investment proposals.

3 Sec. 44.55.100. BUDGET. The corporation operating budget is from
4 the general fund and is subject to the provisions of the Executive
5 Budget Act (AS 37.07).

6 Sec. 44.55.110. PERSONNEL OF CORPORATION. Policy board members,
7 committee members, and officers and staff of the corporation are in the
8 exempt service under AS 39.25.

9 Sec. 44.55.120. POWERS OF THE CORPORATION. (a) In carrying out
10 the corporate purposes of the corporation, the policy board has power to

11 (1) adopt, alter and use a corporate seal;

12 (2) prescribe, adopt, amend, and repeal bylaws;

13 (3) sue and be sued in the name of the corporation;

14 (4) borrow funds, and in that connection furnish such collat-
15 eral or other security as it determines, except that corporation borrow-
16 ing may not exceed its paid-in capital;

17 (5) guarantee obligations of another corporation or legal
18 entity in order to facilitate their sale;

19 (6) enter into agreements necessary or convenient in the
20 exercise of its powers and functions;

21 (7) acquire, hold, use, lease, sell or otherwise dispose of
22 property of any kind, real, personal or mixed, or any interest in it;

23 (8) contract with state, federal and other agencies to
24 develop needed information and analyses;

25 (9) do all acts and things necessary, convenient or desirable
26 to carry out the powers granted or implied in this chapter.

27 (b) In carrying out the corporate purposes of the corporation, the
28 committee has the power to

29 (1) invest, in such form and such amounts not to exceed

1 \$100,000,000, as it considers appropriate, by purchasing the capital
2 stock of, or lending money to, projects, except that any investment in
3 the capital stock of or other ownership interest in a project may not
4 exceed 25 per cent of the capital stock of, or other ownership interest
5 in, the project, and no loan or other investment in the project by the
6 corporation may exceed 90 per cent of the cost of the project unless, in
7 the judgment of the committee, additional amounts must be loaned to
8 protect the interests of the investment fund;

9 (2) deposit surplus funds, or invest surplus funds through
10 the Alaska Permanent Fund Corporation in such obligations as it may
11 determine;

12 (3) buy and sell securities the corporation has issued or
13 guaranteed or in which it has invested;

14 (4) do all acts and things necessary, convenient or desirable
15 to carry out the powers granted or implied in this chapter.

16 Sec. 44.55.125. INVESTMENTS. (a) In making investments, the
17 committee and staff shall exercise the judgment and care under the
18 circumstances then prevailing which a person of ordinary prudence,
19 discretion, and intelligence exercises in the management of his own
20 affairs taking into consideration the probable income from the invest-
21 ments as well as probable safety of principal.

22 (b) An amount equal to at least 150 per cent of all guarantees by
23 the corporation shall be invested in investment-grade securities.

24 (c) The committee may invest not more than 50 per cent of the
25 resources of the corporation to provide a reasonable proportion of
26 longer-term investment capital for financing the establishment, improve-
27 ment, and expansion of productive private enterprises which will benefit
28 Alaskans, and for which sufficient capital is not available from other
29 sources on reasonable terms. These investments may take the form of

1 equity, debt, or debt guarantees.

2 (d) The committee may invest not more than 50 per cent of the
3 resources of the corporation in financing a reasonable proportion of the
4 longer-term investment capital needs for financially sound small and
5 medium scale community development projects of municipalities and public
6 corporate entities and private dwellings in the state for which suf-
7 ficient financing is not available from other sources on reasonable
8 terms. These investments may take the form of equity, debt, or debt
9 guarantees.

10 (e) The committee may not invest or guarantee obligations totaling
11 more than five per cent of the resources of the bank or \$2,500,000,
12 whichever is less, in a single project unless the legislature has ap-
13 proved the investment by concurrent resolution.

14 (f) The committee may not undertake any financing for which, in
15 its opinion, sufficient private capital could be obtained on reasonable
16 terms.

17 (g) The committee may not assume responsibility for managing any
18 enterprise or project in which it has invested and may not exercise
19 voting rights for that purpose or for any other purpose which, in its
20 opinion, properly is within the scope of managerial control.

21 (h) The committee shall only undertake its financing on terms and
22 conditions which it considers appropriate, taking into account the terms
23 and conditions normally obtained by private investors for similar fi-
24 nancing, the requirements of the enterprise or project, the risks being
25 undertaken by the corporation, and the participation of other investors
26 unless the legislature has appropriated funds for subsidizing invest-
27 ments which in the opinion of the corporation are of such high priority
28 that special terms and conditions are appropriate.

29 (i) The committee may seek to revolve the corporation's money by

1 selling its investments to other investors whenever it can appropriately
2 do so on satisfactory terms.

3 (j) The committee shall seek to maintain a reasonable diversi-
4 fication in its investments.

5 (k) The committee shall only consider investment proposals after
6 the applicant for an investment has submitted a detailed proposal to the
7 committee's staff and the staff has prepared a written report recommend-
8 ing the investment after a study of its merits.

9 (l) The committee shall analyze the economic and other effects of
10 an investment decision, including the effects on employment, income
11 distribution, environment, health, social and other factors. The com-
12 mittee shall be sensitive to the views of affected local communities.

13 (m) The committee may guarantee qualifying loans made by financial
14 intermediaries in order to facilitate investment by the intermediaries
15 in specific enterprises or projects whose individual financing require-
16 ments are not, in the opinion of the committee, large enough to warrant
17 its direct supervision.

18 (n) The committee shall provide for operational and performance
19 evaluations (post-audits) of its investments and investment programs and
20 report the results to the policy board.

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

28 Sec. 44.55.130. CAPITAL RESERVE ACCOUNT. For the purpose of
29 securing its obligations, the corporation shall establish a special

1 account called the capital reserve account. The corporation shall pay
2 into that account the income of the corporation until the amount in the
3 capital reserve account is equal to 25 per cent of the outstanding
4 obligations of the corporation. Subsequently, at the beginning of each
5 fiscal year the corporation shall withdraw from the capital reserve
6 account any amount in the account in excess of 25 per cent of the obli-
7 gations secured or, if the amount in the account is less than 25 per
8 cent of the obligations secured, pay into the account from income the
9 amount necessary to bring the reserve to 25 per cent. All money held in
10 the capital reserve account may be used as required solely for (1) the
11 payment of the principal of obligations, (2) the purchase or redemption
12 of obligations, (3) the payment of interest on obligations, or (4) the
13 payment of any redemption premium required to be paid when those obli-
14 gations are redeemed before maturity.

15 Sec. 44.55.140. INITIAL DETERMINATIONS. Before beginning its
16 financing operations, the policy board shall render a detailed report to
17 the legislature which shall

- 18 (1) define the sectors which need financing for expansion of
19 existing projects or the development of new projects;
- 20 (2) define the size and nature of projects which are feasible
21 for corporation financing;
- 22 (3) determine specific projects which are feasible for corpo-
23 ration and private financing;
- 24 (4) determine the availability of private investment capital
25 for the projects it determines are feasible;
- 26 (5) forecast the capital requirements of the corporation for
27 the first three years of its operations.

28 Sec. 44.55.150. REPORTS AND PUBLICATIONS. The policy board shall
29 publish an annual report in easily understandable language to the

1 governor, legislature and the public. Each report shall include finan-
2 cial statements audited by independent outside auditors, a statement of
3 the amount of money received by the corporation from each source during
4 the period covered, a statement of corporation investments, a descrip-
5 tion of corporation investment activity during the period covered by the
6 report, an analysis of economic and other effects of investment deci-
7 sions including, but not limited to, the effects on employment, income
8 distribution, environment, health, social and other factors, and any
9 other information the policy board believes would be of interest to the
10 governor, the legislature and the public. The corporation may also
11 publish such other reports as it considers desirable to carry out its
12 purpose.

13 Sec. 44.55.160. CONFLICT OF INTEREST. (a) Members of the board
14 of trustees are subject to the provisions of AS 39.50.

15 (b) Members of the board of trustees shall disclose their finan-
16 cial interest in an investment proposal and disqualify themselves from
17 voting on any investment proposal in which they have a financial in-
18 terest. The board may not make an investment in any project or enter-
19 prise in which officers of the corporation have a financial interest.
20 All officers of the corporation in the discharge of their offices owe
21 their duty entirely to the corporation and no other authority.

22 Sec. 44.55.170. POLITICAL ACTIVITIES. The members of the board of
23 trustees and officers and staff of the corporation may not engage in
24 partisan political activities. The resources of the corporation may not
25 be used to finance any partisan political activities.

26 Sec. 44.55.180. PUBLIC ACCESS TO INFORMATION. Information in the
27 possession of the corporation is a public record, except that infor-
28 mation which discloses the particulars of the business or affairs of a
29 private enterprise or investor is confidential and is not a public

1 record. Confidential information may be disclosed only for the purposes
2 of an official law enforcement investigation or when its production is
3 required in a court proceeding. These restrictions do not prohibit the
4 publication of statistics presented in a manner that prevents the iden-
5 tification of particular reports, items, persons, or enterprises.

6 Sec. 44.55.190. TAX EXEMPTION. The corporation is exempt from all
7 taxes and assessments in the state. All security instruments issued by
8 the corporation, their transfer, and their income are exempt from all
9 taxes and assessments in the state.

10 Sec. 44.55.200. DEFINITIONS. In this chapter

11 (1) "board" or "policy board" means the Alaska Enterprise In-
12 vestment Corporation Policy Board established by sec. 20 of this chap-
13 ter;

14 (2) "business enterprise" means a private corporation, firm,
15 partnership or sole proprietorship;

16 (3) "committee" means the Investment Committee established by
17 sec. 60 of this chapter;

18 (4) "corporation" means the Alaska Enterprise Investment
19 Corporation.

20 * Sec. 5. AS 39.25.110 is amended by adding new paragraphs to read:

21 (21) members of the policy board and Investment Committee, and
22 the president, officers, and staff of the Alaska Enterprise Investment
23 Corporation;

24 (22) members of the board of trustees, the executive director,
25 and staff of the Alaska Permanent Fund Corporation.

26 * Sec. 6. AS 39.50.200(9) is amended by adding new subparagraphs to read:

27 (NN) Alaska Enterprise Investment Corporation Policy
28 Board and Investment Committee;

29 (OO) Alaska Permanent Fund Corporation Board of Trustees.

1 * Sec. 7. TRANSITION. (a) The commissioner of revenue shall transfer
2 all funds of the Alaska permanent fund to the Alaska Permanent Fund Corpora-
3 tion established by this Act within 10 days after request for transfer is
4 made by the corporation board of trustees.

5 (b) The Alaska Enterprise Investment Corporation may not expend funds
6 for any purpose other than normal operating expenses of the corporation until
7 the paid-in capital of the corporation reaches \$50,000,000. Other funds of
8 the corporation including the funds received under AS 44.55.010 in sec. 4 of
9 this Act shall be invested as surplus funds under AS 44.55.120(b)(3) in sec.
10 4 of this Act until the paid-in capital reaches \$50,000,000.

11 * Sec. 8. AS 37.10.065 is repealed.

12 * Sec. 9. This Act takes effect immediately in accordance with AS 01.10.-
13 070(c).