

Original sponsor: Ferguson

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1 IN THE SENATE

BY THE RULES COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 338 (Rules)

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; to
7 legislative oversight; and providing for an effective
8 date."

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

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

11 ARTICLE IV. INVESTMENT OVERSIGHT COMMITTEE.

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

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

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

29 (1) monitor and report

1 (A) the performance of the agencies of the state which
2 perform lending or investment functions,

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

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

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

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

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

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

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

1 mittee, his committee membership terminates on the date of filing.

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

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

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

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

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

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

1 bling and furnishing requested information;

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

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

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

11 (7) receive and review reports and post-audit analyses con-
12 ducted by the Legislative Budget and Audit Committee relating to all
13 agencies of the state which perform lending or investment 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 Board of Trustees, the Board of Trustees of the Alaska
25 Renewable Resources Corporation, and the Alaska Enterprise Investment
26 Corporation Policy Board;

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

29 (3) review periodic reports from all agencies of the state

1 which perform lending or investment functions;

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

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

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

12 (7) provide for an annual post audit and annual operational
13 and performance evaluation of the Alaska Permanent Fund Corporation in-
14 vestments and investment programs.

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

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

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

22 (1) alternate levels of capitalization of the investment
23 funds of the state; and

24 (2) alternative investment policy for the general fund sur-
25 plus.

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

27 CHAPTER 13. ALASKA PERMANENT FUND.

28 Sec. 37.13.010. ALASKA PERMANENT FUND. Under art IX, sec. 15 of
29 the state constitution, there is established as a separate fund the

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

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

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

27 (2) the corporation's primary goal should be to maximize
28 total return while maintaining safety of principal;

29 (3) the corporation should be used as a savings device

1 managed to allow the maximum use of disposable income from the corpora-
2 tion as needed for purposes designated by law.

3 Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to
4 provide a mechanism for the management and investment of those permanent
5 fund assets allocated to the Alaska Permanent Fund Corporation in a
6 manner consistent with the findings established in sec. 20 of this
7 chapter.

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

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

19 (b) The board shall annually elect a chairman from among its
20 members.

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

26 Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may
27 remove a trustee from office by and with the consent of a majority of
28 the members of the legislature in joint session. A removal by the
29 governor shall be in writing and state the reason for removal. If the

1 legislature is not in session, the governor may suspend a member of the
2 board. Upon suspension, a vacancy is not created but the trustee may
3 not participate in board business and may not be counted for purposes of
4 establishing a quorum. The joint session shall be held within 30 days
5 from the date of removal if the removal occurs while the legislature is
6 in session or within 30 days of convening of the legislature if the
7 legislature is not in session. If the legislature refuses to consent to
8 his removal, the trustee shall be reinstated to his position.

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

18 (c) A vacancy on the board does not impair the authority of a
19 quorum of the board to exercise all the powers and perform all the
20 duties of the board.

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

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

27 (c) At least one member of the board shall have recognized compe-
28 tence and wide experience in finance, investments, or other business
29 management-related field. No two members may be appointed to the board

1 who share substantially similar professional or occupational back-
2 grounds.

3 Sec. 37.13.090. QUORUM. Two members of the board constitute a
4 quorum for the transaction of business and the exercise of the powers
5 and duties of the board.

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

10 Sec. 37.13.110. EMPLOYMENT OF PERSONNEL. The board may employ and
11 determine the salary of an executive director. The executive director
12 may, with the approval of the board, select and employ additional staff
13 as necessary. No employee of the corporation, including the executive
14 director, may be a trustee. The executive director and all other em-
15 ployees of the board are in the exempt service under AS 39.25.

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

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

24 Sec. 37.13.130. POWERS AND DUTIES. (a) The prudent-man rule is
25 applicable to the board in the management and investment of permanent
26 fund assets. The prudent-man rule as applied to investments of the
27 corporation means that in making investments the board shall exercise
28 the judgment and care under the circumstances then prevailing which an
29 institutional investor of ordinary prudence, discretion, and intel-

1 ligence exercises in the management of large investments entrusted to it
2 not in regard to speculation but in regard to the permanent disposition
3 of funds, considering the probable income from them as well as probable
4 safety of capital.

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

7 (c) The board shall seek to maintain a reasonable diversification
8 among corporation investments unless under the circumstances it is
9 clearly prudent not to do so.

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

12 (e) The corporation may not borrow funds or guarantee from princi-
13 pal of the fund the obligations of others.

14 (f) The board may enter into and enforce all contracts necessary,
15 convenient or desirable for purposes of the corporation except it may
16 not contract with agencies or departments of the state to recommend or
17 select investments.

18 (g) Subject to (a) and (b) of this section, the board may invest
19 corporation assets in obligations of, or obligations insured or guaran-
20 teed by, the United States or agencies or instrumentalities of the
21 United States; loans secured by first liens on unencumbered realty or
22 leaseholds; corporate securities which under the Securities Act of 1933
23 are freely marketable; and short-term investments which meet the re-
24 quirements of (a) and (b) of this section except for the term of the
25 investments.

26 (1) No portion of the assets of the fund may be used in the
27 purchase of stock of any corporation which is not paying dividends on
28 that stock in cash at the time of purchase; nor in the purchase of bonds
29 of any corporation, upon which any regular interest payment has been

1 defaulted at any time within five years before purchase, except bonds
2 never in default but which have been outstanding for less than five
3 years.

4 (2) No portion of the assets of the corporation may be used
5 in the purchase of stock if immediately following the purchase the
6 proportionate market value of all stocks held by the corporation would
7 exceed 30 per cent of the corporation's assets.

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

12 (i) Nothing in this section may be interpreted to preclude in-
13 state investments that have a risk level and expected yield comparable
14 to alternative investment opportunities.

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

28 Sec. 37.13.150. INCOME. The interest and dividends received in a
29 year are the income of the corporation for that year. The income avail-

1 able for disbursement shall be determined on an averaging basis. For
2 the first five years, income will be the simple averaging of the annual
3 current return at cost. Subsequently, there will be a moving average
4 current return, in which the latest fiscal year will replace the oldest
5 year. The income available for disbursement will be the lesser of the
6 latest fiscal year's income, or the average annual current income for
7 the past five fiscal years of the fund at cost, and after adjustment for
8 capital losses charged to that fiscal year.

9 Sec. 37.13.155. MORTGAGE LOSS RESERVE ACCOUNT. The board may
10 establish a mortgage loss reserve account for the purpose of protecting
11 the financial integrity of the fund.

12 Sec. 37.13.160. BOARD BUDGET. The board's operating budget is
13 from the general fund and is subject to the Executive Budget Act (AS
14 37.07).

15 Sec. 37.13.170. AUDITS. The Investment Oversight Committee shall
16 provide for an annual post audit and annual operational and performance
17 evaluations of the corporation's investments and investment programs.

18 Sec. 37.13.180. REPORTS AND PUBLICATIONS. No later than Septem-
19 ber 30 of each year, the board shall publish a report to the governor,
20 legislature, and the public in easily understandable language. Each
21 report must include financial statements audited by independent outside
22 auditors, a statement of the amount of money received by the permanent
23 fund from each investment during the period covered, a statement of
24 corporation investments including an appraisal at market value, a de-
25 scription of corporation investment activity during the period covered
26 by the report, a comparison of the corporation performance with the
27 intended goals contained in sec. 20 of this chapter, an examination of
28 the impact of the investment criteria of this chapter on the corporation
29 portfolio with recommendations of any needed changes and any other

1 information the board believes would be of interest to the governor, the
2 legislature, and the public. The annual income statement and balance
3 sheet of the corporation shall be published in at least one newspaper in
4 each judicial district. The income statement and balance sheet for the
5 two fiscal years preceding the publication of the election pamphlet
6 under AS 15.57 shall be included in that pamphlet. The board may also
7 publish other reports it considers desirable to carry out its purpose.

8 Sec. 37.13.190. TAX EXEMPTION. The corporation is exempt from all
9 taxes and assessments in the state. All security instruments issued by
10 the corporation, their transfer, and their income are exempt from all
11 taxes and assessments in the state.

12 Sec. 37.13.200. POLITICAL ACTIVITIES. The members of the board of
13 trustees and employees of the corporation may not engage in partisan
14 political activities. The resources of the corporation may not be used
15 to finance any partisan political activities.

16 Sec. 37.13.210. PUBLIC ACCESS TO INFORMATION. Information in the
17 possession of the corporation is a public record, except that infor-
18 mation which discloses the particulars of the business or affairs of a
19 private enterprise or investor is confidential and is not a public
20 record. Confidential information may be disclosed only for the purposes
21 of an official law enforcement investigation or when its production is
22 required 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. 4. AS 44 is amended by adding a new chapter to read:

26 CHAPTER 55. THE ALASKA ENTERPRISE INVESTMENT CORPORATION.

27 Sec. 44.55.010. CREATION OF CORPORATION; FUNDING. (a) There is
28 created the Alaska Enterprise Investment Corporation. The corporation
29 is a public corporation and government instrumentality in the Department

1 of Revenue but has legal existence independent of and separate from the
2 state. The exercise by the corporation of the powers conferred by this
3 chapter is considered an essential governmental function of the state.

4 (b) One-sixth of the receipts of all mineral lease rentals, roy-
5 alties, royalty sale proceeds, and federal mineral revenue sharing pay-
6 ments and bonuses allocated to the Alaska permanent fund shall be paid
7 by the Alaska Permanent Fund Corporation directly into the Alaska
8 Enterprise Investment Corporation until a total of \$100,000,000 has been
9 paid in. The amount paid into the Alaska Enterprise Investment Corpora-
10 tion under this subsection is the paid-in capital of the corporation.

11 Sec. 44.55.020. FINDINGS. The legislature finds

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

17 (2) there is a shortage of investment capital available from
18 other sources on reasonable terms for financially sound small and medium
19 scale productive private enterprise and community development projects;

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

23 Sec. 44.55.030. PURPOSE. The purpose of the corporation is to
24 provide capital at market rates and terms which are not available from
25 other sources on reasonable terms for small and medium scale productive
26 private enterprises and community development projects.

27 Sec. 44.55.040. ALASKA ENTERPRISE INVESTMENT CORPORATION POLICY
28 BOARD. (a) There is established the Alaska Enterprise Investment
29 Corporation Policy Board consisting of a person employed in the execu-

1 tive branch of state government appointed by the governor and six public
2 members appointed by the governor with due regard for geographical
3 representation and confirmed by a majority of the members of the legis-
4 lature in joint session. At least two of the public members shall have
5 recognized competency and wide experience in investment and finance. No
6 public member may be appointed to the board who has not been a resident
7 of the state for at least three years. The board shall elect one of the
8 public members as chairman and other officers they determine desirable.

9 (b) The six public members shall serve for four-year terms, and
10 they may be reappointed. Terms shall be staggered. Initial terms shall
11 be two members serving for two years, two members serving for three
12 years, and two members serving for four years. A member continues to
13 serve until his successor is appointed and confirmed.

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

18 (d) Public members of the policy board receive an honorarium of
19 \$250 for each meeting day if they attend the meeting and are entitled to
20 per diem and travel allowances as provided by law for members of state
21 boards and commissions.

22 Sec. 44.55.050. REMOVAL AND VACANCIES ON BOARD. (a) The governor
23 may remove a policy board member from office by and with the consent of
24 a majority of the members of the legislature in joint session. The
25 joint session shall be held within 10 days from the date of removal if
26 the removal occurs while the legislature is in session or within 30 days
27 of convening of the legislature if the member was suspended. If the
28 legislature is not in session, the governor may suspend a member of the
29 policy board for cause. Upon suspension, a vacancy is not created but a

1 board member may not participate in policy board business and may not be
2 counted for purposes of establishing a quorum. If the legislature
3 refuses to consent to his removal, the member shall be reinstated to his
4 position.

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

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

17 Sec. 44.55.060. DUTIES OF THE POLICY BOARD. The policy board
18 shall

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

21 (2) annually review and approve long-range operating plans,
22 the budget for the forthcoming year, and the financial plan for the
23 following years;

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

28 (4) review quarterly reports from the Investment Committee
29 concerning investment decisions and investment supervision, but the

1 board may not impose an investment decision upon, or override an invest-
2 ment decision of, the Investment Committee;

3 (5) review, consider and approve policies;

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

6 Sec. 44.55.070. PRESIDENT. The president of the corporation is
7 appointed by the policy board for a term of four years, may be reap-
8 pointed, and serves at the pleasure of the policy board. The salary of
9 the president is set at the discretion of the policy board; but may not
10 be set below that of the highest paid member of the Investment Commit-
11 tee. The president shall

12 (1) have sole responsibility for presenting investment pro-
13 posals to the Investment Committee;

14 (2) be responsible for the ordinary business of the corpo-
15 ration and the organization, appointment, dismissal, and remuneration of
16 the officers and staff;

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

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

21 Sec. 44.55.080. INVESTMENT COMMITTEE. (a) There is established
22 the Investment Committee, consisting of the president and four members
23 appointed by the policy board. No member of the policy board may be a
24 member of the committee. Members of the committee shall be persons of
25 recognized competence and wide experience in investments, finance, and
26 other business management-related fields. No member may be appointed to
27 the committee who has not been a resident of the state for at least
28 three years. A member may be reappointed and continue to serve until
29 his successor is appointed. The president and members shall serve for

1 four-year terms. Terms shall be staggered. Initial terms shall be one
2 member serving for one year, one member serving for two years, one
3 member serving for three years, and one member and the president serving
4 for four years.

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

7 (c) Members of the committee other than the president receive an
8 annual salary in the amount set by the policy board.

9 Sec. 44.55.090. DUTIES OF THE COMMITTEE. The committee has sole
10 responsibility to approve all investment proposals regarding productive
11 private enterprises and community development projects in the state, and
12 review all investments in investment grade securities.

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

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

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

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

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

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

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

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

29 (6) enter into agreements necessary or convenient in the

1 exercise of its powers and functions;

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

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

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

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

10 (1) invest, as it considers appropriate, by purchasing the
11 capital stock of, or lending money to, projects, except that any invest-
12 ment in the capital stock of or other ownership interest in a project
13 may not exceed 25 per cent of the capital stock of, or other ownership
14 interest in, the project, and no loan or other investment in the project
15 by the corporation may exceed 90 per cent of the cost of the project
16 unless, in the judgment of the committee, additional amounts must be
17 loaned to protect the interests of the investment fund;

18 (2) deposit or invest surplus funds through the Alaska Perma-
19 nent Fund Corporation in such obligations as the committee may deter-
20 mine;

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

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

25 Sec. 44.55.125. INVESTMENTS. (a) In making investments, the
26 committee and staff shall exercise the judgment and care under the
27 circumstances then prevailing which a person of ordinary prudence,
28 discretion, and intelligence exercises in the management of his own
29 affairs taking into consideration the probable income from the invest-

1 ments as well as probable safety of principal.

2 (b) The committee may invest not more than 50 per cent of the
3 resources of the corporation to provide a reasonable proportion of
4 longer-term investment capital for financing the establishment, improve-
5 ment, and expansion of financially sound small and medium scale produc-
6 tive private enterprises which will benefit Alaskans, and for which
7 sufficient capital is not available from other sources on reasonable
8 terms. These investments may take the form of equity, debt, or debt
9 guarantees.

10 (c) The committee may invest not more than 50 per cent of the
11 resources of the corporation in financing a reasonable proportion of the
12 longer-term investment capital needs for financially sound small and
13 medium scale community development projects of municipalities and public
14 corporate entities and private dwellings in the state for which suf-
15 ficient financing is not available from other sources on reasonable
16 terms. These investments may take the form of equity, debt, or debt
17 guarantees.

18 (d) The committee may not invest or guarantee obligations totaling
19 more than five per cent of the assets of the corporation or \$5,000,000,
20 whichever is less, in a single project unless the legislature has ap-
21 proved the investment by concurrent resolution.

22 (e) The committee may not undertake any financing for which, in
23 its opinion, sufficient private capital could be obtained on reasonable
24 terms.

25 (f) The committee may not assume responsibility for managing any
26 enterprise or project in which it has invested and may not exercise
27 voting rights for that purpose or for any other purpose which, in its
28 opinion, properly is within the scope of managerial control.

29 (g) The committee shall only undertake its financing on terms and

1 conditions which it considers appropriate, taking into account the terms
2 and conditions normally obtained by private investors for similar fi-
3 nancing, the requirements of the enterprise or project, the risks being
4 undertaken by the corporation, and the participation of other investors
5 unless the legislature has appropriated funds for subsidizing invest-
6 ments which in the opinion of the corporation are of such high priority
7 that special terms and conditions are appropriate.

8 (h) The committee may seek to revolve the corporation's money by
9 selling its investments to other investors whenever it can appropriately
10 do so on satisfactory terms.

11 (i) The committee shall seek to maintain a reasonable diversi-
12 fication in its investments.

13 (j) The committee shall only consider investment proposals after
14 the applicant for an investment has submitted a detailed proposal to the
15 committee's staff and the staff has prepared a written report recommend-
16 ing the investment after a study of its merits.

17 (k) The committee shall analyze the economic and other effects of
18 an investment decision, including the effects on employment, income
19 distribution, environment, health, social and other factors. The com-
20 mittee shall be sensitive to the views of affected local communities.

21 (l) The committee may guarantee qualifying loans made by financial
22 intermediaries in order to facilitate investment by the intermediaries
23 in specific enterprises or projects.

24 (m) The committee shall provide for operational and performance
25 evaluations (post-audits) of its investments and investment programs and
26 report the results to the policy board.

27 (n) Nothing in this section prevents the committee, in the event
28 of actual or threatened default on any of its investments, actual or
29 threatened insolvency of the enterprise in which the investment has been

1 made, or other situations which, in the opinion of the committee,
2 threaten to jeopardize the investment, from taking such action and
3 exercising such rights as it may consider necessary for the protection
4 of its interests.

5 Sec. 44.55.140. INITIAL DETERMINATIONS. Before beginning its
6 financing operations, the policy board shall render a detailed report to
7 the legislature which shall

8 (1) define the sectors which need financing for expansion of
9 existing projects or the development of new projects;

10 (2) define the size and nature of projects which are feasible
11 for corporation financing;

12 (3) determine specific projects which are feasible for corpo-
13 ration and private financing;

14 (4) determine the availability of private investment capital
15 for the projects it determines are feasible;

16 (5) forecast the capital requirements of the corporation for
17 the first three years of its operations.

18 Sec. 44.55.150. REPORTS AND PUBLICATIONS. The policy board shall
19 publish an annual report in easily understandable language to the gover-
20 nor, legislature and the public. Each report shall include financial
21 statements audited by independent outside auditors, a statement of the
22 amount of money received by the corporation from each source during the
23 period covered, a statement of corporation investments, a description of
24 corporation investment activity during the period covered by the report,
25 an analysis of economic and other effects of investment decisions in-
26 cluding, but not limited to, the effects on employment, income distri-
27 bution, environment, health, social and other factors, and any other
28 information the policy board believes would be of interest to the gover-
29 nor, the legislature and the public. The corporation may also publish

1 such other reports as it considers desirable to carry out its purpose.

2 Sec. 44.55.160. CONFLICT OF INTEREST. (a) Members of the policy
3 board and the committee are subject to the provisions of AS 39.50.

4 (b) Members of the policy board and the committee shall disclose
5 their financial interest in an investment proposal and disqualify them-
6 selves from voting on any investment proposal in which they have a
7 financial interest.

8 Sec. 44.55.170. POLITICAL ACTIVITIES. The members of the policy
9 board and the committee and officers and staff of the corporation may
10 not engage in partisan political activities. The resources of the
11 corporation may not be used to finance any partisan political activi-
12 ties.

13 Sec. 44.55.180. PUBLIC ACCESS TO INFORMATION. Information in the
14 possession of the corporation is a public record, except that infor-
15 mation which discloses the particulars of the business or affairs of a
16 private enterprise or investor is confidential and is not a public
17 record. Confidential information may be disclosed only for the purposes
18 of an official law enforcement investigation or when its production is
19 required in a court proceeding. These restrictions do not prohibit the
20 publication of statistics presented in a manner that prevents the iden-
21 tification of particular reports, items, persons, or enterprises.

22 Sec. 44.55.190. TAX EXEMPTION. The corporation is exempt from all
23 taxes and assessments in the state. All security instruments issued by
24 the corporation, their transfer, and their income are exempt from all
25 taxes and assessments in the state.

26 Sec. 44.55.200. DEFINITIONS. In this chapter

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

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

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

5 (4) "corporation" means the Alaska Enterprise Investment
6 Corporation.

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

8 (21) members of the policy board and Investment Committee, and
9 the president, officers, and staff of the Alaska Enterprise Investment
10 Corporation;

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

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

14 (NN) Alaska Enterprise Investment Corporation Policy
15 Board and Investment Committee;

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

17 * Sec. 7. TRANSITION. (a) The commissioner of revenue shall transfer
18 all funds of the Alaska permanent fund to the Alaska Permanent Fund Corpora-
19 tion established by this Act after request for transfer is made by the cor-
20 poration board of trustees.

21 (b) The Alaska Enterprise Investment Corporation may not expend funds
22 for any purpose other than normal operating expenses of the corporation until
23 the paid-in capital of the corporation reaches \$50,000,000. Other funds of
24 the corporation including the funds received under AS 44.55.010 in sec. 4 of
25 this Act shall be invested as surplus funds under AS 44.55.120(b)(2) in sec.
26 4 of this Act until the paid-in capital reaches \$50,000,000.

27 * Sec. 8. AS 37.10.065(c) is repealed.

28 * Sec. 9. AS 37.10.065(a) and (b) are repealed.

29 * Sec. 10. Section 9 of this Act takes effect upon transfer of the funds

1 of the Alaska permanent fund to the Alaska Permanent Fund Corporation as
2 provided in sec. 7(a) of this Act. The remainder of this Act takes effect
3 immediately in accordance with AS 01.10.070(c).

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