

Introduced: 2/22/79
Referred: Special Permanent
Fund Committee and Finance

1 IN THE HOUSE

BY THE SPECIAL
PERMANENT FUND COMMITTEE

2

HOUSE BILL NO. 281

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

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

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

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

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ARTICLE IV. INVESTMENT OVERSIGHT COMMITTEE.

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Sec. 24.20.600. INVESTMENT OVERSIGHT COMMITTEE ESTABLISHED. The

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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.

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Sec. 24.20.610. FINDINGS. The legislature finds that there is a

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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.

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Sec. 24.20.620. PURPOSES. The purposes of the Investment Over-
29 Sight Committee are to

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(1) monitor and report

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

(B) the extent to which the performance of these agencies has contributed to the fiscal, financial, economic and social improvement of the state and its citizens,

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

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

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

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

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

(b) When a member of the Investment Oversight Committee files a declaration of candidacy for an elective office other than that of

1 member of either house of the legislature, and he has not resigned from
2 membership on the committee, his committee membership terminates on the
3 date of filing.

4 Sec. 24.20.650. VACANCIES. When a vacancy occurs in the statutory
5 or appointive membership of the Investment Oversight Committee, the
6 presiding officer of the house incurring the vacancy shall choose a
7 successor. If the office of the president of the senate or speaker of
8 the house of representatives becomes vacant and a vacancy from the
9 affected house occurs among the membership of the committee, the re-
10 maining committee members from the house incurring the vacancy shall
11 appoint a new member.

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

21 Sec. 24.20.670. POWERS. The Investment Oversight Committee has
22 the power to

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

27 (2) hold public hearings, administer oaths, issue subpoenas,
28 compel the attendance of witnesses and production of papers, books,
29 accounts, documents and testimony, and have the deposition of witnesses

1 taken in a manner prescribed by court rule or law for taking depositions
2 in civil actions;

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

6 (4) hold public hearings on the confirmation of the members
7 of the Board of Trustees of the Alaska Permanent Fund Corporation, and
8 the members of the Board of Trustees of the Alaska Renewable Resources
9 Corporation;

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

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

15 (7) receive and review reports and post-audit analyses con-
16 ducted by the Legislative Budget and Audit Committee relating to all
17 agencies of the state which perform lending or investment functions;

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

20 Sec. 24.20.680. STAFF. The legislative audit division and the
21 legislative finance division shall provide audits, reports and analyses
22 requested by the Investment Oversight Committee. The committee may hire
23 and determine the salary of the staff it considers necessary within the
24 limit of the budget approved by the legislature.

25 Sec. 24.20.690. DUTIES. The Investment Oversight Committee shall
26 (1) report to the legislature its recommendations relating to
27 the confirmation of suggested appointees to the Board of Trustees of the
28 Alaska Permanent Fund Corporation and the Board of Trustees of the
29 Alaska Renewable Resources Corporation;

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

3 (3) review periodic reports from all agencies of the state
4 which perform lending or investment functions;

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

9 (5) present to the legislature within 30 days after the con-
10 vening of each regular session a review of the report of the governor
11 under AS 37.07.020(b) with recommendations for any needed legislation;

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

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

18 Sec. 24.20.700. RECORDS. The Investment Oversight Committee shall
19 keep a complete file of all reports presented to it and all reports
20 presented by it to the legislature or to a legislative committee.

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

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

25 (1) alternate levels of capitalization of the investment
26 funds of the state; and

27 (2) alternative investment policy for the general fund sur-
28 plus.

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

CHAPTER 13. ALASKA PERMANENT FUND.

Sec. 37.13.010. ALASKA PERMANENT FUND. (a) Under art IX, sec. 15 of the state constitution, there is established as a separate fund the Alaska permanent fund. The Alaska permanent fund consists of

(1) one hundred per cent of mineral lease bonuses after deduction of any amounts allocated

(A) to the Alaska Native Fund under the Alaska Native Claims Settlement Act and implementing state legislation; and

(B) in AS 37.11.020 to the Alaska renewable resources development fund;

(2) thirty per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments received by the state; and

(3) any other money appropriated or otherwise allocated by law to the Alaska permanent fund.

(b) Payments due the Alaska permanent fund under (a) of this section shall be made to the fund once each month.

(c) The Alaska permanent fund shall be managed by the Alaska Permanent Fund Corporation established in this chapter.

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

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

(2) the corporation's primary goal should be to maximize

1 total return while maintaining safety of principal;

2 (3) the corporation should be used as a savings device
3 managed to allow the maximum use of disposable income from the corpora-
4 tion as needed for purposes designated by law.

5 Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to
6 provide a mechanism for the management and investment of those permanent
7 fund assets allocated to the Alaska Permanent Fund Corporation in a
8 manner consistent with the findings established in AS 37.13.020.

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

16 Sec. 37.13.050. COMPOSITION OF BOARD OF TRUSTEES. (a) The Board
17 of Trustees of the Alaska Permanent Fund Corporation consists of three
18 members appointed by the governor and confirmed by a majority of the
19 members of the legislature in joint session.

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

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

27 Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may
28 remove a member of the board from office by and with the consent of a
29 majority of the members of the legislature in joint session. A removal

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

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

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

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

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

29 (c) At least one member of the board shall have recognized compe-

1 tence and wide experience in finance, investments, or other business
2 management-related field. No two members may be appointed to the board
3 who share substantially similar professional or occupational back-
4 grounds.

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

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

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

18 Sec. 37.13.120. CONFLICTS OF INTEREST. (a) Members of the board
19 are subject to the provisions of AS 39.50.

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

26 Sec. 37.13.130. POWERS AND DUTIES. (a) The prudent-man rule is
27 applicable to the board in the management and investment of permanent
28 fund assets. The prudent-man rule as applied to investments of the
29 corporation means that in making investments the board shall exercise

1 the judgment and care under the circumstances then prevailing which an
2 institutional investor of ordinary prudence, discretion, and intel-
3 ligence exercises in the management of large investments entrusted to it
4 not in regard to speculation but in regard to the permanent disposition
5 of funds, considering the probable income from them as well as probable
6 safety of capital.

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

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

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

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

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

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

28 (1) No portion of the assets of the fund may be used in the
29 purchase of stock of a corporation which is not paying dividends on that

1 stock in cash at the time of purchase; nor in the purchase of bonds of
2 any corporation, upon which any regular interest payment has been de-
3 faulted within five years before purchase, except bonds never in default
4 but which have been outstanding for less than five years.

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

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

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

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

29 Sec. 37.13.150. INCOME. The interest and dividends received in a

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

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

13 Sec. 37.13.160. BOARD BUDGET. The board's operating budget is
14 from the general fund and is subject to the Executive Budget Act (AS
15 37.07).

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

19 Sec. 37.13.180. REPORTS AND PUBLICATIONS. No later than Septem-
20 ber 30 of each year, the board shall publish a report of the corporation
21 for distribution to the governor, legislature, and the public. The
22 report shall be written in easily understandable language. The report
23 must include financial statements audited by independent outside audi-
24 tors, a statement of the amount of money received by the permanent fund
25 from each investment during the period covered, a statement of corpora-
26 tion investments including an appraisal at market value, a description
27 of corporation investment activity during the period covered by the
28 report, a comparison of the corporation performance with the intended
29 goals contained in AS 37.13.020, an examination of the impact of the

1 investment criteria of this chapter on the corporation portfolio with
2 recommendations of any needed changes and any other information the
3 board believes would be of interest to the governor, the legislature,
4 and the public. The annual income statement and balance sheet of the
5 corporation shall be published in at least one newspaper in each judi-
6 cial district. The income statement and balance sheet for the two
7 fiscal years preceding the publication of the election pamphlet under
8 AS 15.57 shall be included in that pamphlet. The board may also publish
9 other reports it considers desirable to carry out its purpose.

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

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

18 Sec. 37.13.210. PUBLIC ACCESS TO INFORMATION. Information in the
19 possession of the corporation is a public record, except that infor-
20 mation which discloses the particulars of the business or affairs of a
21 private enterprise or investor is confidential and is not a public
22 record. Confidential information may be disclosed only for the purposes
23 of an official law enforcement investigation or when its production is
24 required in a court proceeding. These restrictions do not prohibit the
25 publication of statistics presented in a manner that prevents the iden-
26 tification of particular reports, items, persons, or enterprises.

27 Sec. 37.13.220. DEFINITIONS. In this chapter,

28 (1) "board" means the Board of Trustees of the Alaska Per-
29 manent Fund Corporation;

1 (2) "corporation" means the Alaska Permanent Fund Corpora-
2 tion.

3 * Sec. 4. AS 39.25.110 is amended by adding a new paragraph to read:

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

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

8 (QQ) Board of Trustees of the Alaska Permanent Fund
9 Corporation.

10 * Sec. 6. TRANSITION. The commissioner of revenue shall transfer all
11 funds of the Alaska permanent fund to the Alaska Permanent Fund Corporation
12 established by this Act after request for transfer is made by the board of
13 trustees of the corporation.

14 * Sec. 7. AS 37.10.065(c) is repealed.

15 * Sec. 8. AS 37.10.065(a) and (b) are repealed.

16 * Sec. 9. Section 8 of this Act takes effect upon transfer of the funds
17 of the Alaska permanent fund to the Alaska Permanent Fund Corporation as
18 provided in sec. 6 of this Act. The remainder of this Act takes effect
19 immediately in accordance with AS 01.10.070(c).

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