

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. 282

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Enterprise Investment  
7 Corporation; and providing for an effective date."

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

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

10 CHAPTER 09. THE ALASKA ENTERPRISE INVESTMENT CORPORATION.

11 Sec. 37.09.010. CREATION OF CORPORATION; FUNDING. (a) There is  
12 created the Alaska Enterprise Investment Corporation. The corporation  
13 is a public corporation and government instrumentality in the Department  
14 of Revenue but has legal existence independent of and separate from the  
15 state. The exercise by the corporation of the powers conferred by this  
16 chapter is considered an essential governmental function of the state.

17 (b) One-sixth of the receipts of all mineral lease rentals, roy-  
18 alties, royalty sale proceeds, and federal mineral revenue sharing pay-  
19 ments and bonuses allocated to the Alaska permanent fund shall be paid  
20 directly into the Alaska Enterprise Investment Corporation until a total  
21 of \$100,000,000 has been paid in. The amount paid into the Alaska  
22 Enterprise Investment Corporation under this subsection is the paid-in  
23 capital of the corporation.

24 Sec. 37.09.020. FINDINGS. The legislature finds

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

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

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

7 Sec. 37.09.030. PURPOSE. The purpose of the corporation is to  
8 provide capital at market rates and terms which are not available from  
9 other sources on reasonable terms for small and medium scale productive  
10 private enterprises and community development projects.

11 Sec. 37.09.040. ALASKA ENTERPRISE INVESTMENT CORPORATION POLICY  
12 BOARD. (a) There is established the Alaska Enterprise Investment  
13 Corporation Policy Board consisting of a person employed in the execu-  
14 tive branch of state government appointed by the governor and six public  
15 members appointed by the governor with due regard for geographical  
16 representation and confirmed by a majority of the members of the legis-  
17 lature in joint session. At least two of the public members shall have  
18 recognized competency and wide experience in investment and finance. No  
19 public member may be appointed to the board who has not been a resident  
20 of the state for at least three years. The board shall elect one of the  
21 public members as chairman and other officers they determine desirable.

22 (b) The six public members shall serve for four-year terms, and  
23 they may be reappointed. Terms shall be staggered. Initial terms shall  
24 be two members serving for two years, two members serving for three  
25 years, and two members serving for four years. A member continues to  
26 serve until his successor is appointed and confirmed.

27 (c) A majority of the policy board members constitutes a quorum  
28 for the transaction of business by the board. Decisions of the board  
29 shall be taken by a majority vote. The board shall hold at least one

1 public meeting each year.

2 (d) Public members of the policy board receive an honorarium of  
3 \$250 for each meeting day if they attend the meeting and are entitled to  
4 per diem and travel allowances as provided by law for members of state  
5 boards and commissions.

6 Sec. 37.09.050. REMOVAL AND VACANCIES ON BOARD. (a) The governor  
7 may remove a policy board member from office by and with the consent of  
8 a majority of the members of the legislature in joint session. The  
9 joint session shall be held within 10 days from the date of removal if  
10 the removal occurs while the legislature is in session or within 30 days  
11 of convening of the legislature if the member was suspended. If the  
12 legislature is not in session, the governor may suspend a member of the  
13 policy board for cause. Upon suspension, a vacancy is not created but  
14 a board member may not participate in policy board business and may not  
15 be counted for purposes of establishing a quorum. If the legislature  
16 refuses to consent to his removal, the member shall be reinstated to his  
17 position.

18 (b) A vacancy arising on the policy board shall be promptly filled  
19 by appointment by the governor and confirmation by a majority of the  
20 members of the legislature in joint session, and an appointee to fill a  
21 vacancy shall hold office for the balance of the term for which his  
22 predecessor on the board was appointed. If a vacancy arises on the  
23 board while the legislature is not in session, the governor may appoint  
24 an interim board member who shall exercise all powers of a permanent  
25 board member until such time as the legislature in joint session fails  
26 to confirm the interim member's appointment.

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

1           Sec. 37.09.060. DUTIES OF THE POLICY BOARD. The policy board shall

2                   (1) select and appoint the president and other members  
3 of the Investment Committee established in AS 37.09.080;

4                   (2) annually review and approve long-range operating plans,  
5 the budget for the forthcoming year, and the financial plan for the  
6 following years;

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

11                   (4) review quarterly reports from the Investment Committee  
12 concerning investment decisions and investment supervision, but the  
13 board may not impose an investment decision upon, or override an invest-  
14 ment decision of, the Investment Committee;

15                   (5) review, consider and approve policies;

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

18           Sec. 37.09.070. PRESIDENT. The president of the corporation is  
19 appointed by the policy board for a term of four years, may be reap-  
20 pointed, and serves at the pleasure of the policy board. The salary of  
21 the president is set at the discretion of the policy board, but may not  
22 be set below that of the highest paid member of the Investment Commit-  
23 tee. The president shall

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

26                   (2) be responsible for the ordinary business of the corpo-  
27 ration and the organization, appointment, dismissal, and remuneration of  
28 the officers and staff;

29                   (3) be responsible for making investments in investment grade

1 securities, subject to review by the Investment Committee;

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

4 Sec. 37.09.080. INVESTMENT COMMITTEE. (a) There is established  
5 the Investment Committee, consisting of the president and four members  
6 appointed by the policy board. No member of the policy board may be a  
7 member of the committee. Members of the committee shall be persons of  
8 recognized competence and wide experience in investments, finance, and  
9 other business management-related fields. No member may be appointed to  
10 the committee who has not been a resident of the state for at least  
11 three years. A member may be reappointed and continue to serve until  
12 his successor is appointed. The president and members shall serve for  
13 four-year terms. Terms shall be staggered. Initial terms shall be one  
14 member serving for one year, one member serving for two years, one  
15 member serving for three years, and one member and the president serving  
16 for four years.

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

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

21 Sec. 37.09.090. DUTIES OF THE COMMITTEE. The committee has sole  
22 responsibility to approve all investment proposals regarding productive  
23 private enterprises and community development projects in the state, and  
24 review all investments in investment grade securities.

25 Sec. 37.09.100. BUDGET. The corporation operating budget is from  
26 the general fund and is subject to the provisions of the Executive  
27 Budget Act (AS 37.07).

28 Sec. 37.09.110. PERSONNEL OF CORPORATION. Policy board members,  
29 committee members, and officers and staff of the corporation are in the

1 exempt service under AS 39.25.

2 Sec. 37.09.120. POWERS OF THE CORPORATION. (a) In carrying out  
3 the corporate purposes of the corporation, the policy board has power to

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

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

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

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

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

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

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

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

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

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

22 (1) invest, as it considers appropriate, by purchasing the  
23 capital stock of, or lending money to, projects, except that any invest-  
24 ment in the capital stock of or other ownership interest in a project  
25 may not exceed 25 per cent of the capital stock of, or other ownership  
26 interest in, the project, and no loan or other investment in the project  
27 by the corporation may exceed 90 per cent of the cost of the project  
28 unless, in the judgment of the committee, additional amounts must be  
29 loaned to protect the interests of the investment fund;

1 (2) deposit or invest surplus funds in such obligations as  
2 the committee may determine;

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

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

7 Sec. 37.09.125. INVESTMENTS. (a) In making investments, the  
8 committee and staff shall exercise the judgment and care under the  
9 circumstances then prevailing which a person of ordinary prudence,  
10 discretion, and intelligence exercises in the management of his own  
11 affairs taking into consideration the probable income from the invest-  
12 ments as well as probable safety of principal.

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

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

29 (d) The committee may not invest or guarantee obligations totaling

1 more than five per cent of the assets of the corporation or \$5,000,000,  
2 whichever is less, in a single project unless the legislature has ap-  
3 proved the investment by concurrent resolution.

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

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

11 (g) The committee shall only undertake its financing on terms and  
12 conditions which it considers appropriate, taking into account the terms  
13 and conditions normally obtained by private investors for similar fi-  
14 nancing, the requirements of the enterprise or project, the risks being  
15 undertaken by the corporation, and the participation of other investors  
16 unless the legislature has appropriated funds for subsidizing invest-  
17 ments which in the opinion of the corporation are of such high priority  
18 that special terms and conditions are appropriate.

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

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

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

28 (k) The committee shall analyze the economic and other effects of  
29 an investment decision, including the effects on employment, income

1 distribution, environment, health, social and other factors. The com-  
2 mittee shall be sensitive to the views of affected local communities.

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

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

9 (n) Nothing in this section prevents the committee, in the event  
10 of actual or threatened default on any of its investments, actual or  
11 threatened insolvency of the enterprise in which the investment has been  
12 made, or other situations which, in the opinion of the committee,  
13 threaten to jeopardize the investment, from taking such action and  
14 exercising such rights as it may consider necessary for the protection  
15 of its interests.

16 Sec. 37.09.140. INITIAL DETERMINATIONS. Before beginning its  
17 financing operations, the policy board shall render a detailed report to  
18 the legislature which shall

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

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

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

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

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

29 Sec. 37.09.150. REPORTS AND PUBLICATIONS. The policy board shall

1 publish an annual report in easily understandable language to the gover-  
2 nor, legislature and the public. Each report shall include financial  
3 statements audited by independent outside auditors, a statement of the  
4 amount of money received by the corporation from each source during the  
5 period covered, a statement of corporation investments, a description of  
6 corporation investment activity during the period covered by the report,  
7 an analysis of economic and other effects of investment decisions in-  
8 cluding, but not limited to, the effects on employment, income distri-  
9 bution, environment, health, social and other factors, and any other  
10 information the policy board believes would be of interest to the gover-  
11 nor, the legislature and the public. The corporation may also publish  
12 such other reports as it considers desirable to carry out its purpose.

13 Sec. 37.09.160. CONFLICT OF INTEREST. (a) Members of the policy  
14 board and the committee are subject to the provisions of AS 39.50.

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

19 Sec. 37.09.170. POLITICAL ACTIVITIES. The members of the policy  
20 board and the committee and officers and staff of the corporation may  
21 not engage in partisan political activities. The resources of the  
22 corporation may not be used to finance any partisan political activi-  
23 ties.

24 Sec. 37.09.180. PUBLIC ACCESS TO INFOPMATION. Information in the  
25 possession of the corporation is a public record, except that infor-  
26 mation which discloses the particulars of the business or affairs of a  
27 private enterprise or investor is confidential and is not a public  
28 record. Confidential information may be disclosed only for the purposes  
29 of an official law enforcement investigation or when its production is

1 required in a court proceeding. These restrictions do not prohibit the  
2 publication of statistics presented in a manner that prevents the iden-  
3 tification of particular reports, items, persons, or enterprises.

4 Sec. 37.09.190. TAX EXEMPTION. The corporation is exempt from all  
5 taxes and assessments in the state. All security instruments issued by  
6 the corporation, their transfer, and their income are exempt from all  
7 taxes and assessments in the state.

8 Sec. 37.09.200. DEFINITIONS. In this chapter

9 (1) "board" or "policy board" means the Alaska Enterprise In-  
10 vestment Corporation Policy Board established by AS 37.09.020;

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

13 (3) "committee" means the Investment Committee established by  
14 AS 37.09.060;

15 (4) "corporation" means the Alaska Enterprise Investment  
16 Corporation.

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

18 (22) members of the policy board and Investment Committee, and  
19 the president, officers, and staff of the Alaska Enterprise Investment  
20 Corporation.

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

23 (QQ) Alaska Enterprise Investment Corporation Policy  
24 Board and Investment Committee.

25 \* Sec. 4. TRANSITION. (a) The commissioner of revenue shall transfer  
26 one-sixth of the funds of the Alaska permanent fund to the Alaska Enterprise  
27 Investment Corporation established by this Act after request for transfer is  
28 made by the policy board of the corporation.

29 (b) The Alaska Enterprise Investment Corporation may not expend funds

1 for any purpose other than normal operating expenses of the corporation until  
2 the paid-in capital of the corporation reaches \$50,000,000. Other funds of  
3 the corporation including the funds received under AS 37.09.010 in sec. 1 of  
4 this Act shall be invested as surplus funds under AS 37.09.120(b)(2) in sec.  
5 1 of this Act until the paid-in capital reaches \$50,000,000.

6 \* Sec. 5. Section 4 of this Act takes effect upon transfer of one-sixth  
7 of the funds of the Alaska permanent fund to the Alaska Enterprise Investment  
8 Corporation as provided in sec. 4(a) of this Act. The remainder of this Act  
9 takes effect immediately in accordance with AS 01.10.070(c).

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