

Introduced: 3/9/82  
Referred: Labor & Commerce,  
State Affairs and Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR (for the  
Permanent Fund board of trustees

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 684

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the investment and management of  
7 the Alaska Permanent Fund and to the computation of in-  
8 come of the fund which is available for distribution;  
9 and providing for an effective date."

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

11 \* Section 1. AS 37.13.050 is amended to read:

12 Sec. 37.13.050. COMPOSITION AND QUALIFICATIONS OF BOARD OF TRUST-  
13 EES. (a) The Board of Trustees of the Alaska Permanent Fund Corpora-  
14 tion consists of six members appointed by the governor. Two [THREE] of  
15 the members shall be heads of principal departments of state government,  
16 one of whom shall be the commissioner of revenue. Four [THREE] members  
17 shall be appointed by the governor from the public and may not hold any  
18 other state or federal office, position or employment, either elective  
19 or appointive, except as a member of the armed forces of either the  
20 United States or of this state. [MEMBERS OTHER THAN THE COMMISSIONER  
21 OF REVENUE SHALL BE SEPARATELY CONFIRMED BY A MAJORITY OF THE MEMBERS OF  
22 THE LEGISLATURE IN JOINT SESSION.]

23 (b) The four [THREE] public members of the board shall have  
24 recognized competence and wide experience in finance, investments, or  
25 other business management-related fields.

26 (c) The board shall annually elect a chairman from among its  
27 members.

28 \* Sec. 2. AS 37.13.060 is amended to read:

29 Sec. 37.13.060. TERM OF OFFICE. The public members of the

1 board shall be appointed for terms of four [THREE] years, and they  
2 may be reappointed [SUBJECT TO CONFIRMATION BY A MAJORITY OF THE  
3 MEMBERS OF THE LEGISLATURE IN JOINT SESSION]. Public members' terms  
4 [TERMS] shall be staggered so that no more than one public member's  
5 term expires each year [INITIAL TERMS FOR MEMBERS OTHER THAN THE  
6 COMMISSIONER OF REVENUE SHALL BE TWO MEMBERS SERVING FOR ONE YEAR,  
7 TWO MEMBERS SERVING FOR TWO YEARS, AND ONE MEMBER SERVING FOR THREE  
8 YEARS.]

9 \* Sec. 3. Transition to four-year terms as provided in sec. 2 of this  
10 Act shall be implemented as follows: at the expiration of the present  
11 term of each public member, the governor shall appoint a replacement, or  
12 reappoint the present member, for a term of four years. Within 90 days  
13 after the effective date of this Act, the governor shall appoint a public  
14 member to replace one of the two present commissioner members other than  
15 the commissioner of revenue, to serve for a term of four years or less  
16 which term expires in a year when no other public member's term expires.  
17 The commissioner who is to be replaced shall continue to serve on the  
18 board until the appointment of a replacement.

19 \* Sec. 4. AS 37.13.070 is amended to read:

20 Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may  
21 for good cause remove a member of the board from office. [HOWEVER,  
22 THE REMOVAL OF A MEMBER OF THE BOARD IS SUBJECT TO DISAPPROVAL BY A  
23 VOTE OF A MAJORITY OF THE MEMBERS OF THE LEGISLATURE AT THE FIRST  
24 JOINT SESSION HELD 10 OR MORE DAYS AFTER THE LEGISLATURE RECEIVES  
25 NOTICE OF THE REMOVAL FROM THE GOVERNOR.] A removal by the governor  
26 shall be in writing and shall state the reason for the removal. A  
27 member who is removed by the governor may not participate in board  
28 business and may not be counted for purposes of establishing a quorum  
29 after [BETWEEN THE TIME] he receives written notice of his removal

1 from the governor. [AND THE TIME THAT THE LEGISLATURE'S POWER TO  
2 DISAPPROVE THE REMOVAL UNDER THIS SUBSECTION EXPIRES. IF THE LEGIS-  
3 LATURE DISAPPROVES THE REMOVAL OF A BOARD MEMBER, THE BOARD MEMBER  
4 SHALL BE REINSTATED.]

5 (b) A vacancy on the board shall be promptly filled by appoint-  
6 ment by the governor [AND CONFIRMATION BY A MAJORITY OF THE MEMBERS  
7 OF THE LEGISLATURE IN JOINT SESSION]. An appointee to a vacancy  
8 shall hold office for the balance of the term for which his predecessor  
9 on the board was appointed. [IF A VACANCY ARISES ON THE BOARD WHILE  
10 THE LEGISLATURE IS NOT IN SESSION, THE GOVERNOR MAY APPOINT AN INTERIM  
11 BOARD MEMBER WHO SHALL EXERCISE THE POWERS OF A BOARD MEMBER UNTIL  
12 THE LEGISLATURE FAILS TO CONFIRM THE APPOINTMENT OF THE INTERIM BOARD  
13 MEMP'R.]

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

17 \* Sec. 5. AS 37.13.090 is amended to read:

18 Sec. 37.13.090. COMPENSATION OF BOARD MEMBERS. As compensation  
19 for performance of their duties, including but not limited to attend-  
20 ance at board meetings, public [PUBLIC] members of the board are enti-  
21 tled to receive an annual fee equal to the salary prescribed for state  
22 legislators by AS 24.15.020 [HONORARIUM OF \$400 FOR EACH MEETING DAY IF  
23 THEY ATTEND THE MEETING]. The public members' fee shall be paid in  
24 equal monthly installments at the end of each month of board service.  
25 If the chairman is a public member, he or she is entitled to receive an  
26 additional amount equal to the increment prescribed by law for the pres-  
27 ident of the senate and the speaker of the house of representatives.  
28 All members of the board are entitled to per diem and travel allowances  
29 as provided by law for members of state boards and commissions.

1 \* Sec. 6. AS 37.13.120(g) is amended to read:

2 (g) Subject to the limitations contained in [(h) AND (i) OF] this  
3 section, the board may invest corporation assets at competitive national  
4 market rates or prices applicable to each investment in

5 (1) obligations of, or obligations insured by or guaranteed  
6 by, the United States or agencies or instrumentalities of the United  
7 States;

8 (2) obligations secured by reserves paid in by the United  
9 States or agencies or instrumentalities of the United States or obliga-  
10 tions of corporations in which the United States is a shareholder or  
11 member;

12 (3) certificates of deposit, term deposits, or the equiva-  
13 lent, of [ISSUED BY] United States domestic banks which are members of  
14 the Federal Deposit Insurance Corporation and [FOR] which may be readily  
15 sold in a [GENERALLY RECOGNIZED] secondary market at prices reflecting  
16 fair value [EXISTS] or which are fully secured at all times as to pay-  
17 ment of principal and interest as [BY INVESTMENTS] described in (m)  
18 [(1), (2), (8) OR (12) -- (16)] of this section [SUBSECTION; THE SECURI-  
19 TY PLEDGED UNDER THIS PARAGRAPH SHALL BE AT LEAST EQUAL TO THE FACE  
20 VALUE OF THE DEPOSIT AND THE BOARD MAY REQUIRE SUBSTITUTION OF COLLATER-  
21 AL];

22 (4) certificates of deposit, term deposits, or the equiva-  
23 lent, [SHARES] of federally chartered savings and loan [LOANS] associa-  
24 tions in Alaska which may be readily sold in a secondary market at  
25 prices reflecting fair value or which are fully secured at all times as  
26 to payments of principal and interest as [BY INVESTMENTS] described in  
27 (m) [(1), (2)] of this section [SUBSECTION];

28 (5) [SAVINGS] certificates of deposit, term deposits, or the  
29 equivalent, of [ISSUED BY] state chartered savings and loan associations

1 in Alaska which may be readily sold in a secondary market at prices  
2 reflecting fair value or which are fully secured at all times as to  
3 payments of principal and interest as [BY INVESTMENTS] described in (m)  
4 [(1), (2)] of this section [SUBSECTION];

5 (6) certificates of deposit, term deposits, or the equiva-  
6 lent, of [DEPOSITS WITH] mutual savings banks in Alaska which may be  
7 readily sold in a secondary market at prices reflecting fair value or  
8 which are fully secured at all times as to payments of principal and  
9 interest as [BY INVESTMENTS] described in (m) [(1), (2)] of this section  
10 [SUBSECTION];

11 (7) fixed-term certificates of indebtedness of federally in-  
12 sured credit unions in Alaska which may be readily sold in a market at  
13 prices reflecting fair value or which are fully secured at all times as  
14 to payments of principal and interest as [BY INVESTMENTS] described in  
15 (m) [(1), (2)] of this section [SUBSECTION];

16 (8) corporate debt securities which are rated AA or better by  
17 a nationally recognized rating service;

18 (9) short-term corporate promissory notes of the highest  
19 ratings assigned by a nationally recognized rating service;

20 (10) bankers' acceptances drawn on and accepted by United  
21 States banks each of which have a combined capital and surplus aggregat-  
22 ing at least \$200,000,000;

23 (11) repurchase agreements, the securities underlying the  
24 agreements being any of the items in (1) -- (3) and (8) -- (10) of this  
25 subsection;

26 (12) the guaranteed portion of Federal Small Business  
27 Administration loans;

28 (13) the portion of first lien real estate mortgages  
29 guaranteed by the Federal Veterans Administration [ASSOCIATION];

1 (14) the portions of business and industrial loans made  
2 under the Rural Development Act of 1972 which are guaranteed by the  
3 Farmer's Home Administration;

4 (15) the guaranteed portion of Farmer's Home Administration  
5 loans;

6 (16) notes secured by mortgages granting a first lien on com-  
7 mercial or [OF] residential real estate improved by completed buildings  
8 if the mortgages are insured by a private mortgage insurance corporation  
9 which is authorized to do business in Alaska and has combined capital,  
10 surplus and reserves aggregating at least \$20,000,000, and if loan-to-  
11 value ratios do not exceed 75 percent for commercial mortgages and 90  
12 percent for residential mortgages; [THE MINIMUM COVERAGE SHALL BE 10  
13 PERCENT FOR LOANS HAVING A LOAN-TO-VALUE RATIO OF LESS THAN 90 PERCENT,  
14 AND THE MINIMUM COVERAGE SHALL BE 20 PERCENT FOR LOANS HAVING A LOAN-  
15 TO-VALUE RATIO OF 90 PERCENT OR MORE.] however,

16 (A) no mortgage insurance is necessary for commercial  
17 loans having loan-to-value ratios of less than 50 percent and the  
18 minimum coverage of other commercial loans shall be 10 percent for  
19 those having a loan-to-value ratio of 50-60 percent and 15 percent  
20 for those having a loan-to-value ratio greater than 60 percent but  
21 no more than 75 percent, and

22 (B) no mortgage insurance is necessary for residential  
23 loans having a loan-to-value ratio of less than 70 percent and the  
24 minimum coverage of other residential loans shall be 10 percent for  
25 those having a loan-to-value ratio greater than 70 percent but less  
26 than 90 percent and 20 percent for those having a loan-to-value  
27 ratio of 90 percent;

28 (17) notes secured by mortgages granting a first lien on com-  
29 mercial real estate improved by completed buildings if the originating

1 financial institution retains at least 25 percent of the mortgage until  
2 maturity;

3 (18) preferred and common stock of corporations incorporated  
4 in the United States, on which dividends have been paid in each of the  
5 three years immediately preceding the investment;

6 (19) debt securities of foreign governments or corporations  
7 and preferred and common stock of foreign corporations which are of sub-  
8 stantially equivalent quality as those domestic securities permitted  
9 under this section;

10 (20) certificates of deposit, term deposits, bankers' accept-  
11 ances, or equivalent instruments, which are issued by a United States  
12 or foreign bank or trust company located in a foreign country and are  
13 denom' nated in either United States or foreign currency, if either (A)  
14 they may be readily sold in a secondary market at prices reflecting fair  
15 value, or (B) the issuing bank or trust company has capital and surplus  
16 at the date of issue equalling at least \$500,000,000; investments made  
17 under this paragraph are not subject to the collateral requirements for  
18 domestic certificates under (m) of this section;

19 (21) equity interests in, and debt obligations secured by  
20 mortgages granting a first lien on, real property improved by completed  
21 and substantially rented buildings and located in the United States, if  
22 these investments are made

23 (A) in a corporation, partnership, trust, or other  
24 entity in which, at the conclusion of each investment transaction,  
25 at least 60 percent of the beneficial ownership interests are  
26 held by other institutional investors, and which is organized and  
27 operated for the purpose of making real estate investments by a  
28 bank, insurance company, or other manager of institutional funds  
29 which has had at least five years of experience in the management

1                   of real estate investments of institutional investors; or  
2                   (B) in conjunction with and on substantially the same  
3                   terms as an entity described in (A) of this paragraph.

4 \* Sec. 7. AS 37.13.120(i) is repealed and reenacted to read:

5           (1) At the time of each investment, the aggregate investment of  
6 the Alaska permanent fund in each stated category of investment may not  
7 exceed the following stated percentage of the total investments of the  
8 fund: mortgages under (g)(16) of this section, 15 percent; real  
9 estate investments under (g)(21) of this section, 15 percent; foreign  
10 securities under (g)(19) of this section, 10 percent; foreign cer-  
11 tificates of deposit or the equivalent under (g)(20) of this section,  
12 20 percent; corporate stocks and debt securities under (g)(8), (9), and  
13 (18) of this section, 50 percent. The fund may at no time own more  
14 than five percent of the voting stock of any corporation. Domestic  
15 stocks, except for bank and insurance company stocks, must be listed at  
16 the date of purchase on an exchange registered with the Securities and  
17 Exchange Commission.

18 \* Sec. 8. AS 37.13.120 is amended by adding a new subsection to read:

19           (m) Certificates of deposit or the equivalent instruments which  
20 are not of a quality which may be readily sold in a secondary market at  
21 prices reflecting fair value must be secured by a pledge as collateral  
22 of investments authorized for the permanent fund under (g)(1), (2), (8)  
23 or (12) -- (17) of this section, which have value at least equal to the  
24 face value of the certificate of deposit. The board may require  
25 substitution of collateral in order to ensure continued satisfaction of  
26 these requirements.

27 \* Sec. 9. AS 37.13.130 is repealed.

28 \* Sec. 10. AS 37.13.140 is repealed and reenacted to read:

29           Sec. 37.13.140. INCOME. Net income must be computed annually as

1 of the last day of the fiscal year in accordance with generally accepted  
2 accounting principles, excluding any unrealized gains or losses.

3 Income available for distribution equals the average net income for the  
4 last five fiscal years, including the fiscal year just ended, but may  
5 not exceed net income for the fiscal year just ended plus the balance  
6 in the undistributed income account described in AS 37.13.145.

7 \* Sec. 11. AS 37.13 is amended by adding a new section to read:

8 Sec. 37.13.145. DISPOSITION OF INCOME. At the end of each  
9 fiscal year, an amount equal to 50 percent of net income as defined in  
10 AS 37.13.140, excluding any income on the undistributed income account  
11 in the permanent fund, must be transferred to principal for reinvestment.  
12 The other 50 percent of the net income must be transferred to the  
13 undistributed income account. Money in the undistributed income account  
14 must be invested in investments authorized under AS 37.13.120. Income  
15 from the investment of the undistributed income account must be treated  
16 as an addition to that account.

17 \* Sec. 12. AS 37.13.150 is amended to read:

18 Sec. 37.13.150. CORPORATION [BOARD] BUDGET. The revenues genera-  
19 ted by the corporation's investments must be identified as the source  
20 of the [THE] operating budget of the corporation in the state's operat-  
21 ing budget under [BOARD IS FROM THE GENERAL FUND AND IS SUBJECT TO] the  
22 Executive Budget Act (AS 37.07.010 -- 37.07.130). The unexpended bal-  
23 ance of the corporation's annual operating budget does not lapse at  
24 the end of the fiscal year but must be treated as income under AS 37.-  
25 13.140.

26 \* Sec. 13. AS 37.13.160 is amended to read:

27 Sec. 37.13.160. AUDITS. The Legislative Budget and Audit Commit-  
28 tee may [SHALL] provide for an annual post audit and annual operational  
29 and performance evaluations of the corporation's investments and

1 investment programs.

2 \* Sec. 14. AS 37.13 is amended by adding a new section to read:

3 Sec. 37.13.205. REGULATIONS. The board may adopt regulations  
4 under the Administrative Procedure Act (AS 44.62) to interpret and  
5 implement this chapter.

6 \* Sec. 15. This Act takes effect July 1, 1982.  
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