

BY THE STATE AFFAIRS COMMITTEE

1 IN THE HOUSE

2

HOUSE BILL NO. 589

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the permanent fund, the Alaska  
7 Permanent Fund Corporation, and disposition of income  
8 from the permanent fund; and providing for an effec-  
9 tive date."

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

11 \* Section 1. AS 37.13.020 is amended to read:

12 Sec. 37.13.020. FINDINGS. The people of the state, by constitu-  
13 tional amendment, have required the placement of at least 25 percent  
14 of all mineral lease rentals, royalties, royalty sale proceeds, and  
15 federal mineral revenue sharing payments and bonuses received by the  
16 state into a permanent fund. The legislature finds with respect to  
17 the fund [ALASKA PERMANENT FUND CORPORATION] that

18 (1) the fund [CORPORATION] should provide a means of con-  
19 serving a portion of the state's revenue from mineral resources to  
20 benefit all generations of Alaskans;

21 (2) the fund's [CORPORATION'S] goal should be to maintain  
22 safety of principal while maximizing total return;

23 (3) the fund [CORPORATION] should be used as a savings  
24 device managed to allow the maximum use of disposable income from the  
25 fund [CORPORATION] for purposes designated by law.

26 \* Sec. 2. AS 37.13.030 is amended to read:

27 Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to  
28 provide a mechanism for the management and investment of those [PERMA-  
29 NENT] fund assets by [ALLOCATED TO] the Alaska Permanent Fund

1 Corporation in a manner consistent with the findings in AS 37.13.020.

2 \* Sec. 3. AS 37.13.040 is amended to read:

3 Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is  
4 established the Alaska Permanent Fund Corporation. The corporation is  
5 a public corporation and government instrumentality in the Department  
6 of Revenue managed by the board of trustees. The purpose of the  
7 corporation [BOARD] is to manage and invest the assets of the perma-  
8 nent fund and other funds designated by law [CORPORATION] in accor-  
9 dance with this chapter.

10 \* Sec. 4. AS 37.13.060 is amended to read:

11 Sec. 37.13.060. TERM OF OFFICE. The public members of the board  
12 shall be appointed for terms of six [FOUR] years, and they may be  
13 reappointed. The terms of the public members shall be staggered so  
14 that no more than one term of a public member expires each year.

15 \* Sec. 5. AS 37.13.110(b) is amended to read:

16 (b) If a member of the board or an employee of the corporation  
17 acquires, owns, or controls an interest, direct or indirect, in an  
18 entity or project in which fund [CORPORATION] assets are invested, the  
19 member shall immediately disclose the interest to the board. The  
20 disclosure is a matter of public record and shall be included in the  
21 minutes of the board meeting next following the disclosure.

22 \* Sec. 6. AS 37.13.120(a) is amended to read:

23 (a) The prudent-man rule shall be applied by the board in the  
24 management and investment of [ALASKA PERMANENT] fund assets. The  
25 prudent-man rule as applied to investments of the fund [CORPORATION]  
26 means that in making investments the board shall exercise the judgment  
27 and care under the circumstances then prevailing that an institutional  
28 investor of ordinary prudence, discretion, and intelligence exercises  
29 in the management of large investments entrusted to it not in regard

1 to speculation but in regard to the permanent disposition of funds,  
2 considering probable safety of capital as well as probable income.

3 \* Sec. 7. AS 37.13.120(b) is amended to read:

4 (b) The fund [CORPORATION] assets shall only be used for income-  
5 producing investments.

6 \* Sec. 8. AS 37.13.120(e) is amended to read:

7 (e) The corporation may not borrow money [FUNDS] or guarantee  
8 from principal of the [ALASKA PERMANENT] fund the obligations of  
9 others.

10 \* Sec. 9. AS 37.13.120(g) is amended to read:

11 (g) Subject to the limitations contained in this section, the  
12 board may invest fund [CORPORATION] assets at the competitive national  
13 market rates or prices that are applicable to each investment only in

14 (1) obligations of, or obligations insured by or guaranteed  
15 by, the United States or agencies or instrumentalities of the United  
16 States;

17 (2) obligations secured by reserves paid in by the United  
18 States or agencies or instrumentalities of the United States or obli-  
19 gations of corporations in which the United States is a shareholder or  
20 member;

21 (3) certificates of deposit and term deposits of United  
22 States domestic banks that are members of the Federal Deposit Insur-  
23 ance Corporation and that may be readily sold in a secondary market at  
24 prices reflecting fair value or that are fully secured at all times as  
25 to payment of principal and interest as described in (m) of this  
26 section;

27 (4) [CERTIFICATES OF DEPOSIT AND TERM DEPOSITS OF FEDERALLY  
28 CHARTERED SAVINGS AND LOAN ASSOCIATIONS IN ALASKA THAT MAY BE READILY  
29 SOLD IN A SECONDARY MARKET AT PRICES REFLECTING FAIR VALUE OR THAT ARE

1 FULLY SECURED AT ALL TIMES AS TO PAYMENTS OF PRINCIPAL AND INTEREST AS  
2 DESCRIBED IN (m) OF THIS SECTION;

3 (5) CERTIFICATES OF DEPOSIT AND TERM DEPOSITS OF STATE  
4 CHARTERED SAVINGS AND LOAN ASSOCIATIONS IN ALASKA THAT MAY BE READILY  
5 SOLD IN A SECONDARY MARKET AT PRICES REFLECTING FAIR VALUE OR THAT ARE  
6 FULLY SECURED AT ALL TIMES AS TO PAYMENTS OF PRINCIPAL AND INTEREST AS  
7 DESCRIBED IN (m) OF THIS SECTION;

8 (6) CERTIFICATES OF DEPOSIT AND TERM DEPOSITS OF MUTUAL  
9 SAVINGS BANKS IN ALASKA THAT MAY BE READILY SOLD IN A SECONDARY MARKET  
10 AT PRICES REFLECTING FAIR VALUE OR THAT ARE FULLY SECURED AT ALL TIMES  
11 AS TO PAYMENTS OF PRINCIPAL AND INTEREST AS DESCRIBED IN (m) OF THIS  
12 SECTION;

13 (7) FIXED-TERM CERTIFICATES OF INDEBTEDNESS OF FEDERALLY  
14 INSURED CREDIT UNIONS IN ALASKA THAT MAY BE READILY SOLD IN A SECON-  
15 DARY MARKET AT PRICES REFLECTING FAIR VALUE OR THAT ARE FULLY SECURED  
16 AT ALL TIMES AS TO PAYMENTS OF PRINCIPAL AND INTEREST AS DESCRIBED IN  
17 (m) OF THIS SECTION;

18 (8)] domestic corporate debt securities that are rated AA  
19 or better by a nationally recognized rating service, or nondomestic  
20 corporate debt securities of comparable quality;

21 (5) [(9)] short-term

22 (A) domestic corporate promissory notes of the highest  
23 ratings assigned by a nationally recognized rating service; [,]

24 or

25 (B) nondomestic corporate promissory notes of compara-  
26 ble quality, the interest on which may be payable in either  
27 United States dollars or nondomestic currencies;

28 (6) [(10)] bankers' acceptances drawn on and accepted by  
29 United States banks each of which has a combined capital and surplus

1 aggregating at least \$200,000,000;

2 (7) [(11)] repurchase agreements, the securities underlying  
3 the agreements being any of the items in (1) - (6) [(1) - (3) AND  
4 (8) - (10)] of this subsection;

5 (8) [(12)] THE GUARANTEED PORTION OF FEDERAL SMALL BUSINESS  
6 ADMINISTRATION LOANS;

7 (13) THE PORTION OF FIRST LIEN REAL ESTATE MORTGAGES GUARAN-  
8 TEED BY THE FEDERAL VETERANS ADMINISTRATION;

9 (14)] the portions of business and industrial loans made  
10 under the Rural Development Act of 1972 that are guaranteed by the  
11 Farmers Home Administration;

12 (9) [(15)] the guaranteed portion of Farmers Home Adminis-  
13 tration loans;

14 (10) [(16)] notes secured by mortgages granting a first lien  
15 on commercial or residential real estate improved by completed build-  
16 ings if the mortgages are insured by a private mortgage insurance  
17 corporation that is authorized to do business in this state [ALASKA]  
18 and has combined capital and surplus aggregating at least \$20,000,000,  
19 and if loan-to-value ratios do not exceed 75 percent for commercial  
20 mortgages and 90 percent for residential mortgages; however,

21 (A) mortgage insurance is not necessary for commercial  
22 loans having loan-to-value ratios of less than 50 percent and the  
23 minimum coverage of other commercial loans shall be 10 percent  
24 for those having a loan-to-value ratio of 50 - 60 percent and 15  
25 percent for those having a loan-to-value ratio greater than 60  
26 percent but no more than 75 percent; and

27 (B) mortgage insurance is not necessary for residen-  
28 tial loans having a loan-to-value ratio of less than 70 percent  
29 and the minimum coverage of other residential loans shall be 10

1 percent for those having a loan-to-value ratio greater than 70  
2 percent but less than 90 percent and 20 percent for those having  
3 a loan-to-value ratio of 90 percent;

4 (11) [(17) NOTES SECURED BY MORTGAGES GRANTING A FIRST LIEN  
5 ON COMMERCIAL REAL ESTATE IMPROVED BY COMPLETED BUILDINGS IF THE  
6 ORIGINATING FINANCIAL INSTITUTION RETAINS AT LEAST 25 PERCENT OF THE  
7 MORTGAGE UNTIL MATURITY;

8 (18)] preferred and common stock of corporations incorpo-  
9 rated in the United States;

10 (12) [(19)] certificates of deposit, term deposits, or  
11 bankers' acceptances, that are issued by a United States or nondomes-  
12 tic bank or trust company located outside of the United States and are  
13 denominated in United States or nondomestic currency, if either (A)  
14 they may be readily sold in a secondary market at prices reflecting  
15 fair value, or (B) the issuing bank or trust company has capital,  
16 surplus, and retained earnings at the date of issue equaling at least  
17 \$500,000,000; investments made under this paragraph are not subject to  
18 the collateral requirements for domestic certificates under (m) of  
19 this section;

20 (13) [(20)] equity interests in, and debt obligations  
21 secured by mortgages granting a first lien on, real estate improved by  
22 completed and substantially rented buildings and located in the United  
23 States, if these investments are made

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

1 funds that has had at least five years of experience in the  
2 management of real estate investments of institutional investors;  
3 or

4 (B) with corporations, partnerships, trusts, or en-  
5 tities in which, at the conclusion of each investment trans-  
6 action, at least 60 percent of the beneficial ownership interests  
7 in the co-investing entity or entities as a whole are held by  
8 institutional investors, if

9 (i) at the time of investment the fund has no  
10 more than a 40 percent beneficial ownership interest in the  
11 real estate invested in as a whole;

12 (ii) the rights and obligations of the fund are  
13 substantially similar to those of the other institutional  
14 investors, except for the percentage interest in the proper-  
15 ty; and

16 (iii) the property is managed and operated by an  
17 entity that has had at least five years of experience in the  
18 management of real estate investments of institutional  
19 investors [IN CONJUNCTION WITH AND ON SUBSTANTIALLY THE SAME  
20 TERMS AS AN ENTITY DESCRIBED IN (A) OF THIS PARAGRAPH];

21 (14) [(21)] securities of non-domestic governments and  
22 non-domestic government agencies, the principal of, or interest on,  
23 which is payable in either United States dollars or non-domestic  
24 currencies;

25 (15) [(22)] securities of non-domestic corporations, includ-  
26 ing common and preferred stock, whose dividends, if any, may be pay-  
27 able in either United States dollars or non-domestic currencies;

28 (16) taxable municipal or state debt securities that are  
29 rated "AA" or better by a nationally recognized rating service.

1 \* Sec. 10. AS 37.13.120(i) is amended to read:

2 (i) The [ALASKA PERMANENT] fund may at no time own more than  
3 five percent of the voting stock of a corporation. Domestic stocks,  
4 except for bank and insurance company stocks, must be listed at the  
5 date of purchase on an exchange registered with the Securities and  
6 Exchange Commission. At the time of each investment, the aggregate  
7 investment of the fund in each stated category of investment may not  
8 exceed the following stated percentage of the total investments of the  
9 fund:

10 (1) [MORTGAGES UNDER (g)(16) OF THIS SECTION - 15 PERCENT;

11 (2)] real estate investments under (g)(13) [(g)(20)] of  
12 this section - 15 percent;

13 (2) [(3)] certificates of deposit, term deposit, or bank-  
14 ers' acceptances under (g)(12) [(g)(19)] of this section - 20 percent;

15 (3) [(4)] securities of nondomestic governments, nondomes-  
16 tic government agencies, and nondomestic corporations under (g)(4),  
17 (14), and (15) [(g)(8), (21), AND (22)] of this section, domestic  
18 corporate stocks and debt securities under (g)(4) [(g)(8)] and (11)  
19 [(18)] of this section, and short-term nondomestic corporate promis-  
20 sory notes under (g)(5)(B) [(g)(9)(B)] of this section - 50 percent.

21 \* Sec. 11. AS 37.13.120(j) is amended to read:

22 (j) The assets of the [ALASKA PERMANENT] fund may not be used  
23 for the purchase of bonds of a corporation, upon which any regular  
24 interest payment has been defaulted within five years before purchase,  
25 except bonds never in default but which have been outstanding for less  
26 than five years.

27 \* Sec. 12. AS 37.13.120(k) is amended to read:

28 (k) The board shall establish and from time to time as necessary  
29 modify guidelines for the investment of the assets of the fund

1 [CORPORATION]. Before adoption of any guidelines the guidelines shall  
2 be reported to the Legislative Budget and Audit Committee for review  
3 and comment.

4 \* Sec. 13. AS 37.13.120(1) is amended to read:

5 (1) The board shall invest the assets of the fund [CORPORATION]  
6 in in-state investments to the extent in-state investments are avail-  
7 able if the in-state investments

8 (1) have a risk level and expected yield comparable to  
9 alternate investment opportunities; and

10 (2) are included in the list of permissible investments in  
11 (g) of this section.

12 \* Sec. 14. AS 37.13.120(m) is amended to read:

13 (m) Certificates of deposit or the equivalent instruments that  
14 are not of a quality that may be readily sold in a secondary market at  
15 prices reflecting fair value must be secured by a pledge as collateral  
16 of

17 (1) investments authorized for the [ALASKA PERMANENT] fund  
18 under (g)(1), (2), (4), or (8) - (10) [(8), OR (12) - (17)] of this  
19 section;

20 (2) [OR BY A PLEDGE AS COLLATERAL OF] obligations of the  
21 state or instrumentalities of the state that are rated at least "A" by  
22 a major bond rating service and have a demonstrated secondary market,  
23 which investments or obligations have value at least equal to the face  
24 value of the certificate of deposit;

25 (3) the guaranteed portion of Federal Small Business Admin-  
26 istration loans;

27 (4) the portion of first lien real estate mortgages guaran-  
28 teed by the federal Veterans Administration; or

29 (5) notes secured by mortgages granting a first lien on

1 commercial real estate improved by completed buildings if the origi-  
2 nating financial institution retains at least 25 percent of the mort-  
3 gage until maturity. [THE BOARD MAY REQUIRE SUBSTITUTION OF COLLATER-  
4 AL IN ORDER TO ENSURE CONTINUED SATISFACTION OF THE REQUIREMENTS SET  
5 OUT IN THIS SUBSECTION.]

6 \* Sec. 15. AS 37.13.120 is amended by adding a new subsection to read:

7 (n) The board may require substitution of collateral in order to  
8 ensure continued satisfaction of the requirements set out in (m) of  
9 this section.

10 \* Sec. 16. AS 37.13.140 is amended to read:

11 Sec. 37.13.140. INCOME. Net income of the fund includes income  
12 of the earnings reserve account established under AS 37.13.145. Net  
13 income [CORPORATION] shall be computed annually as of the last day of  
14 the fiscal year in accordance with generally accepted accounting  
15 principles, excluding any unrealized gains or losses. Income avail-  
16 able for distribution equals 21 percent of the net income of the fund  
17 [CORPORATION] for the last five fiscal years, including the fiscal  
18 year just ended, or [BUT MAY NOT EXCEED NET INCOME OF THE CORPORATION  
19 FOR THE FISCAL YEAR JUST ENDED PLUS] the balance in the earnings  
20 reserve account, whichever is less [DESCRIBED IN AS 37.13.145].

21 \* Sec. 17. AS 37.13.145 is repealed and reenacted to read:

22 Sec. 37.13.145. DISPOSITION OF INCOME. (a) The earnings re-  
23 serve account is established as a separate account in the fund.  
24 Income from the fund shall be deposited by the corporation into the  
25 account as soon as it is received. Money in the account shall be  
26 invested in investments authorized under AS 37.13.120.

27 (b) At the end of each fiscal year, the corporation shall trans-  
28 fer from the earnings reserve account to the dividend fund 50 percent  
29 of the income available for distribution under AS 37.13.140. However,

1 income earned on money awarded after trial in State v. Amerada Hess,  
2 et al., 1JU-77-847 Civ. (Superior Court, First Judicial District)  
3 shall be treated in the same manner as other income of the permanent  
4 fund, except that it is not available for distribution to the dividend  
5 fund, and shall be annually deposited into the principal of the perma-  
6 nent fund.

7 (c) After the transfer under (b) of this section, an amount  
8 equal to the principal of the permanent fund at the end of the fiscal  
9 year multiplied by the inflation proofing percentage shall be trans-  
10 ferred by the corporation from the earnings reserve account to the  
11 principal of the fund to offset the effect of inflation. The in-  
12 flation proofing percentage shall be calculated by

13 (1) computing the average of the monthly United States  
14 Consumer Price Index for all urban consumers for each of the two  
15 previous calendar years; and

16 (2) computing the percentage change between the first and  
17 second calendar year average.

18 (d) If the amount in the earnings reserve account is not suffi-  
19 cient to fully fund the transfer under (c) of this section, the amount  
20 of the deficiency, together with an amount to offset the effect of  
21 inflation on that deficiency, shall be transferred to the principal of  
22 the permanent fund during the next or a subsequent fiscal year from  
23 the account after the transfer under (b) of this section for that  
24 fiscal year is made.

25 \* Sec. 18. AS 37.13.150 is amended to read:

26 Sec. 37.13.150. CORPORATION BUDGET. The revenue generated by  
27 the fund's [CORPORATION'S] investments must be identified as the  
28 source of the operating budget of the corporation in the state's  
29 operating budget under AS 37.07 (Executive Budget Act). The

1 unexpended balance of the corporation's annual operating budget does  
2 not lapse at the end of the fiscal year but shall be treated as income  
3 under AS 37.13.140.

4 \* Sec. 19. AS 37.13.160 is amended to read:

5 Sec. 37.13.160. AUDITS. The Legislative Budget and Audit Com-  
6 mittee may provide for an annual post audit and annual operational and  
7 performance evaluations of the fund's [CORPORATION'S] investments and  
8 investment programs.

9 \* Sec. 20. AS 37.13.170 is amended to read:

10 Sec. 37.13.170. REPORTS AND PUBLICATIONS. By September 30 of  
11 each year, the board shall publish a report of the fund [CORPORATION]  
12 for distribution to the governor, legislature, and the public. The  
13 report shall be written in easily understandable language. The report  
14 must include financial statements audited by independent outside  
15 auditors, a statement of the amount of money received by the [ALASKA  
16 PERMANENT] fund from each investment during the period covered, a  
17 statement of investments of the fund [CORPORATION] including an ap-  
18 praisal at market value, a description of fund [CORPORATION] invest-  
19 ment activity during the period covered by the report, a comparison of  
20 the fund [CORPORATION] performance with the intended goals contained  
21 in AS 37.13.020, an examination of the impact of the investment cri-  
22 teria of this chapter on the fund [CORPORATION] portfolio with recom-  
23 mendations of any needed changes, and any other information the board  
24 believes would be of interest to the governor, the legislature, and  
25 the public. The annual income statement and balance sheet of the fund  
26 [CORPORATION] shall be published in at least one newspaper in each  
27 judicial district. The income statement and balance sheet for the two  
28 fiscal years preceding the publication of the election pamphlet under  
29 AS 15.58 shall be included in that pamphlet.

1 \* Sec. 21. AS 37.13.180 is amended to read:

2       Sec. 37.13.180. TAX EXEMPTION. The corporation and the fund  
3 are [IS] exempt from all taxes and assessments in the state. All  
4 security instruments issued by the corporation or the fund, their  
5 transfer, and their income are exempt from all taxes and assessments  
6 in the state.

7 \* Sec. 22. AS 37.13.190 is amended to read:

8       Sec. 37.13.190. POLITICAL ACTIVITIES. The resources of the  
9 corporation or the fund may not be used to finance or influence polit-  
10 ical activities.

11 \* Sec. 23. AS 37.13.210 is amended by adding a new paragraph to read:

12       (3) "fund" means the Alaska permanent fund established  
13 under art. IX, sec. 15, Constitution of the State of Alaska.

14 \* Sec. 24. AS 43.23.025(a) is amended to read:

15       (a) By October 1 of each year the commissioner shall give public  
16 notice of the value of each permanent fund dividend for that year.  
17 The public notice shall contain a statement disclosing the amount by  
18 which each individual dividend has been reduced in order to pay the  
19 costs of administering the program and the hold harmless provisions of  
20 AS 43.23.075. The commissioner shall also include the statement on the  
21 stub attached to each individual dividend check. The commissioner  
22 shall determine the value of a permanent fund dividend by

23       (1) determining the total amount available for dividend  
24 payments, which equals

25               (A) the amount of income of the Alaska permanent fund  
26 transferred to the dividend fund under AS 37.13.145(b) [AS 43.-  
27 23.045(b)] during the current year;

28               (B) plus the unexpended and unobligated balances of  
29 prior fiscal year appropriations that lapse into the dividend

1 fund under AS 43.23.045(d);  
2 (C) less the amount necessary to pay dividends from  
3 the dividend fund in the current year under AS 43.23.055(3);

4 (D) less the amount necessary to pay dividends from  
5 the dividend fund due to eligible applicants who, as determined  
6 by the department, filed for a previous year's dividend by the  
7 filing deadline but who were not included in a previous year's  
8 dividend computation;

9 (2) determining the number of individuals eligible to  
10 receive a dividend payment for the current year; and

11 (3) dividing the amount determined under (1) of this sec-  
12 tion by the amount determined under (2) of this section.

13 \* Sec. 25. AS 43.23.045(b) is repealed.

14 \* Sec. 26. Notwithstanding AS 37.13.060, as amended in sec. 4 of this  
15 Act, the members of the board of the Alaska Permanent Fund Corporation in  
16 office on the effective date of this Act serve only the period of the term  
17 of office to which they were appointed.

18 \* Sec. 27. This Act takes effect July 1, 1990.