

Original sponsor(s): State Affairs Committee

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 589 (State Affairs)
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 effective
9 date."

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

11 * Section 1. AS 37.13.010(a) is amended to read:

12 (a) Under art. IX, sec. 15 of the state constitution, there is
13 established as a separate fund the Alaska permanent fund. The [ALASKA
14 PERMANENT] fund consists of

15 (1) 25 percent of all mineral lease rentals, royalties,
16 royalty sale proceeds, net profit shares under AS 38.05.180(f) and
17 (g), and federal mineral revenue sharing payments received by the
18 state from mineral leases issued on or before December 1, 1979, and 25
19 percent of all bonuses received by the state from mineral leases
20 issued on or before February 15, 1980;

21 (2) 50 percent of all mineral lease rentals, royalties,
22 royalty sale proceeds, net profit shares under AS 38.05.180(f) and
23 (g), and federal mineral revenue sharing payments received by the
24 state from mineral leases issued after December 1, 1979, and 50 per-
25 cent of all bonuses received by the state from mineral leases issued
26 after February 15, 1980;

27 (3) interest earned by the state on money described in
28 (1) and (2) of this subsection before that money is deposited in the
29 fund;

1 (4) any other money appropriated to or otherwise allocated
2 by law to the [ALASKA PERMANENT] fund.

3 * Sec. 2. AS 37.13.020 is amended to read:

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

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

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

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

18 * Sec. 3. AS 37.13.030 is amended to read:

19 Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to
20 provide a mechanism for the management and investment of those [PERMA-
21 NENT] fund assets by [ALLOCATED TO] the Alaska Permanent Fund Corpora-
22 tion in a manner consistent with the findings in AS 37.13.020.

23 * Sec. 4. AS 37.13.040 is amended to read:

24 Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is
25 established the Alaska Permanent Fund Corporation. The corporation is
26 a public corporation and government instrumentality in the Department
27 of Revenue managed by the board of trustees. The purpose of the
28 corporation [BOARD] is to manage and invest the assets of the perma-
29 nent fund and other funds designated by law [CORPORATION] in

1 accordance with this chapter.

2 * Sec. 5. AS 37.13.060 is amended to read:

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

7 * Sec. 6. AS 37.13.110(b) is amended to read:

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

14 * Sec. 7. AS 37.13.120(a) is amended to read:

15 (a) The prudent-man rule shall be applied by the board in the
16 management and investment of [ALASKA PERMANENT] fund assets. The
17 prudent-man rule as applied to investments of the fund [CORPORATION]
18 means that in making investments the board shall exercise the judgment
19 and care under the circumstances then prevailing that an institutional
20 investor of ordinary prudence, discretion, and intelligence exercises
21 in the management of large investments entrusted to it not in regard
22 to speculation but in regard to the permanent disposition of funds,
23 considering probable safety of capital as well as probable income.

24 * Sec. 8. AS 37.13.120(b) is amended to read:

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

27 * Sec. 9. AS 37.13.120(e) is amended to read:

28 (e) The corporation may not borrow money [FUNDS] or guarantee
29 from principal of the [ALASKA PERMANENT] fund the obligations of

1 others.

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

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

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

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

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

19 (4) [CERTIFICATES OF DEPOSIT AND TERM DEPOSITS OF FEDERALLY
20 CHARTERED SAVINGS AND LOAN ASSOCIATIONS IN ALASKA THAT MAY BE READILY
21 SOLD IN A SECONDARY MARKET AT PRICES REFLECTING FAIR VALUE OR THAT ARE
22 FULLY SECURED AT ALL TIMES AS TO PAYMENTS OF PRINCIPAL AND INTEREST AS
23 DESCRIBED IN (m) OF THIS SECTION;

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

29 (6) CERTIFICATES OF DEPOSIT AND TERM DEPOSITS OF MUTUAL

1 SAVINGS BANKS IN ALASKA THAT MAY BE READILY SOLD IN A SECONDARY MARKET
2 AT PRICES REFLECTING FAIR VALUE OR THAT ARE FULLY SECURED AT ALL TIMES
3 AS TO PAYMENTS OF PRINCIPAL AND INTEREST AS DESCRIBED IN (m) OF THIS
4 SECTION;

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

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

13 (5) [(9)] short-term

14 (A) domestic corporate promissory notes of the highest
15 ratings assigned by a nationally recognized rating service; [,]
16 or

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

20 (6) [(10)] bankers' acceptances drawn on and accepted by
21 United States banks each of which has a combined capital and surplus
22 aggregating at least \$200,000,000;

23 (7) [(11)] repurchase agreements, the securities underlying
24 the agreements being any of the items in (1) - (6) [(1) - (3) AND
25 (8) - (10)] of this subsection;

26 (8) [(12)] THE GUARANTEED PORTION OF FEDERAL SMALL BUSINESS
27 ADMINISTRATION LOANS;

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

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

4 (9) [(15)] the guaranteed portion of Farmers Home Adminis-
5 tration loans;

6 (10) [(16)] notes secured by mortgages granting a first lien
7 on [COMMERCIAL OR] residential real estate improved by completed
8 buildings if the mortgages are insured by a private mortgage insurance
9 corporation that is authorized to do business in this state [ALASKA]
10 and has combined capital and surplus aggregating at least \$20,000,000,
11 and if loan-to-value ratios do not exceed [75 PERCENT FOR COMMERCIAL
12 MORTGAGES AND] 90 percent [FOR RESIDENTIAL MORTGAGES]; however,

13 [(A) MORTGAGE INSURANCE IS NOT NECESSARY FOR COMMERCIAL
14 LOANS HAVING LOAN-TO-VALUE RATIOS OF LESS THAN 50 PERCENT AND THE
15 MINIMUM COVERAGE OF OTHER COMMERCIAL LOANS SHALL BE 10 PERCENT
16 FOR THOSE HAVING A LOAN-TO-VALUE RATIO OF 50 - 60 PERCENT AND 15
17 PERCENT FOR THOSE HAVING A LOAN-TO-VALUE RATIO GREATER THAN 60
18 PERCENT BUT NO MORE THAN 75 PERCENT; AND

19 (B)] mortgage insurance is not necessary for residen-
20 tial loans having a loan-to-value ratio of less than 70 percent
21 and the minimum coverage of other residential loans shall be 10
22 percent for those having a loan-to-value ratio greater than 70
23 percent but less than 90 percent and 20 percent for those having
24 a loan-to-value ratio of 90 percent;

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

29 (18)] preferred and common stock of corporations

1 incorporated in the United States;

2 (12) ~~[(19)]~~ certificates of deposit, term deposits, or
3 bankers' acceptances, that are issued by a United States or nondomes-
4 tic bank or trust company located outside of the United States and are
5 denominated in United States or nondomestic currency, if either (A)
6 they may be readily sold in a secondary market at prices reflecting
7 fair value, or (B) the issuing bank or trust company has capital,
8 surplus, and retained earnings at the date of issue equaling at least
9 \$500,000,000; investments made under this paragraph are not subject to
10 the collateral requirements for domestic certificates under (m) of
11 this section;

12 (13) ~~[(20)]~~ equity interests in, and debt obligations
13 secured by mortgages granting a first lien on, real estate improved by
14 completed and substantially rented buildings and located in the United
15 States, if these investments are made

16 (A) in a corporation, partnership, trust, or other
17 entity in which, at the conclusion of each investment trans-
18 action, at least 60 percent of the beneficial ownership interests
19 are held by other institutional investors, and which is organized
20 and operated for the purpose of making real estate investments by
21 a bank, insurance company, or other manager of institutional
22 funds that has had at least five years of experience in the
23 management of real estate investments of institutional investors;
24 or

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

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

4 (ii) the rights and obligations of the fund are
5 substantially similar to those of the other institutional
6 investors, except for the percentage interest in the proper-
7 ty; and

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

13 (14) [(21)] securities of non-domestic governments and
14 non-domestic government agencies, the principal of, or interest on,
15 which is payable in either United States dollars or non-domestic
16 currencies;

17 (15) [(22)] securities of non-domestic corporations, includ-
18 ing common and preferred stock, whose dividends, if any, may be pay-
19 able in either United States dollars or non-domestic currencies;

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

22 * Sec. 11. AS 37.13.120(i) is amended to read:

23 (i) The [ALASKA PERMANENT] fund may at no time own more than
24 five percent of the voting stock of a corporation. Domestic stocks,
25 except for bank and insurance company stocks, must be listed at the
26 date of purchase on an exchange registered with the Securities and
27 Exchange Commission. At the time of each investment, the aggregate
28 investment of the fund in each stated category of investment may not
29 exceed the following stated percentage of the total investments of the

1 fund:

2 (1) mortgages under (g)(10) ~~[(g)(16)]~~ of this section - 15
3 percent;

4 (2) real estate investments under (g)(13) ~~[(g)(20)]~~ of this
5 section - 15 percent;

6 (3) certificates of deposit, term deposit, or bankers'
7 acceptances under (g)(12) ~~[(g)(19)]~~ of this section - 20 percent;

8 (4) securities of nondomestic governments, nondomestic
9 government agencies, and nondomestic corporations under (g)(4), (14),
10 and (15) ~~[(g)(8), (21), AND (22)]~~ of this section, domestic corporate
11 stocks and debt securities under (g)(4) ~~[(g)(8)]~~ and (11) ~~[(18)]~~ of
12 this section, and short-term nondomestic corporate promissory notes
13 under (g)(5)(B) ~~[(g)(9)(B)]~~ of this section - 50 percent.

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

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

20 * Sec. 13. AS 37.13.120(k) is amended to read:

21 (k) The board shall establish and from time to time as necessary
22 modify guidelines for the investment of the assets of the fund [CORPO-
23 RATION]. Before adoption of any guidelines the guidelines shall be
24 reported to the Legislative Budget and Audit Committee for review and
25 comment.

26 * Sec. 14. AS 37.13.120(1) is amended to read:

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

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

3 (2) are included in the list of permissible investments in
4 (g) of this section.

5 * Sec. 15. AS 37.13.120(m) is amended to read:

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

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

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

18 (3) the guaranteed portion of Federal Small Business Admin-
19 istration loans;

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

22 (5) notes secured by mortgages granting a first lien on
23 commercial or residential real estate improved by completed buildings
24 if the originating financial institution retains at least 25 percent
25 of the mortgage until maturity. [THE BOARD MAY REQUIRE SUBSTITUTION
26 OF COLLATERAL IN ORDER TO ENSURE CONTINUED SATISFACTION OF THE RE-
27 QUIREMENTS SET OUT IN THIS SUBSECTION.]

28 * Sec. 16. AS 37.13.120 is amended by adding a new subsection to read:

29 (n) The board may require substitution of collateral in order to

1 ensure continued satisfaction of the requirements set out in (m) of
2 this section.

3 * Sec. 17. AS 37.13.140 is amended to read:

4 Sec. 37.13.140. INCOME. Net income of the fund includes income
5 of the earnings reserve account established under AS 37.13.145. Net
6 income [CORPORATION] shall be computed annually as of the last day of
7 the fiscal year in accordance with generally accepted accounting
8 principles, excluding any unrealized gains or losses. Income avail-
9 able for distribution equals 21 percent of the net income of the fund
10 [CORPORATION] for the last five fiscal years, including the fiscal
11 year just ended, or [BUT MAY NOT EXCEED] net income of the corporation
12 for the fiscal year just ended plus the balance in the earnings re-
13 serve account, whichever is less [DESCRIBED IN AS 37.13.145].

14 * Sec. 18. AS 37.13.145 is repealed and reenacted to read:

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

20 (b) At the end of each fiscal year, the corporation shall trans-
21 fer from the earnings reserve account to the dividend fund 50 percent
22 of the income available for distribution under AS 37.13.140. However,
23 income earned on money awarded after trial in State v. Amerada Hess,
24 et al., 1JU-77-847 Civ. (Superior Court, First Judicial District)
25 shall be treated in the same manner as other income of the permanent
26 fund, except that it is not available for distribution to the dividend
27 fund, and shall be annually deposited into the principal of the perma-
28 nent fund.

29 (c) After the transfer under (b) of this section, an amount

1 equal to the principal of the permanent fund at the end of the fiscal
2 year multiplied by the inflation proofing percentage shall be trans-
3 ferred by the corporation from the earnings reserve account to the
4 principal of the fund to offset the effect of inflation. The in-
5 flation proofing percentage shall be calculated by

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

9 (2) computing the percentage change between the first and
10 second calendar year average.

11 (d) If the amount in the earnings reserve account is not suffi-
12 cient to fully fund the transfer under (c) of this section, the amount
13 of the deficiency, together with an amount to offset the effect of
14 inflation on that deficiency, shall be transferred to the principal of
15 the permanent fund during the next or a subsequent fiscal year from
16 the account after the transfers under (b) and (c) of this section for
17 that fiscal year are made.

18 * Sec. 19. AS 37.13.150 is amended to read:

19 Sec. 37.13.150. CORPORATION BUDGET. The revenue generated by
20 the fund's [CORPORATION'S] investments must be identified as the
21 source of the operating budget of the corporation in the state's
22 operating budget under AS 37.07 (Executive Budget Act). The unexpend-
23 ed balance of the corporation's annual operating budget does not lapse
24 at the end of the fiscal year but shall be treated as income under
25 AS 37.13.140.

26 * Sec. 20. AS 37.13.160 is amended to read:

27 Sec. 37.13.160. AUDITS. The Legislative Budget and Audit Com-
28 mittee may provide for an annual post audit and annual operational and
29 performance evaluations of the fund's [CORPORATION'S] investments and

1 investment programs.

2 * Sec. 21. AS 37.13.170 is amended to read:

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

23 * Sec. 22. AS 37.13.180 is amended to read:

24 Sec. 37.13.180. TAX EXEMPTION. The corporation and the fund
25 are [IS] exempt from all taxes and assessments in the state. All
26 security instruments issued by the corporation or the fund, their
27 transfer, and their income are exempt from all taxes and assessments
28 in the state.

29 * Sec. 23. AS 37.13.190 is amended to read:

1 Sec. 37.13.190. POLITICAL ACTIVITIES. The resources of the
2 corporation or the fund may not be used to finance or influence polit-
3 ical activities.

4 * Sec. 24. AS 37.13.210 is amended by adding a new paragraph to read:

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

7 * Sec. 25. AS 43.23.025(a) is amended to read:

8 (a) By October 1 of each year the commissioner shall give public
9 notice of the value of each permanent fund dividend for that year.
10 The public notice shall contain a statement disclosing the amount by
11 which each individual dividend has been reduced in order to pay the
12 costs of administering the program and the hold harmless provisions of
13 AS 43.23.075. The commissioner shall also include the statement on the
14 stub attached to each individual dividend check. The commissioner
15 shall determine the value of a permanent fund dividend by

16 (1) determining the total amount available for dividend
17 payments, which equals

18 (A) the amount of income of the Alaska permanent fund
19 transferred to the dividend fund under AS 37.13.145(b) [AS 43.-
20 23.045(b)] during the current year;

21 (B) plus the unexpended and unobligated balances of
22 prior fiscal year appropriations that lapse into the dividend
23 fund under AS 43.23.045(d);

24 (C) less the amount necessary to pay dividends from
25 the dividend fund in the current year under AS 43.23.055(3);

26 (D) less the amount necessary to pay dividends from
27 the dividend fund due to eligible applicants who, as determined
28 by the department, filed for a previous year's dividend by the
29 filing deadline but who were not included in a previous year's

1 dividend computation;

2 (2) determining the number of individuals eligible to

3 receive a dividend payment for the current year; and

4 (3) dividing the amount determined under (1) of this sec-

5 tion by the amount determined under (2) of this section.

6 * Sec. 26. AS 43.23.045(b) is repealed.

7 * Sec. 27. Notwithstanding AS 37.13.060, as amended in sec. 5 of this

8 Act, the members of the board of the Alaska Permanent Fund Corporation in

9 office on the effective date of this Act serve only the period of the term

10 of office to which they were appointed.

11 * Sec. 28. This Act takes effect July 1, 1990.