

Original sponsor(s): State Affairs Committee

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 589 (Finance)

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 and the Alaska  
7 Permanent Fund Corporation; and providing for an  
8 effective date."

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

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

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

14 (1) 25 percent of all mineral lease rentals, royalties,  
15 royalty sale proceeds, net profit shares under AS 38.05.180(f) and  
16 (g), and federal mineral revenue sharing payments received by the  
17 state from mineral leases issued on or before December 1, 1979, and 25  
18 percent of all bonuses received by the state from mineral leases  
19 issued on or before February 15, 1980;

20 (2) 50 percent of all mineral lease rentals, royalties,  
21 royalty sale proceeds, net profit shares under AS 38.05.180(f) and  
22 (g), and federal mineral revenue sharing payments received by the  
23 state from mineral leases issued after December 1, 1979, and 50 per-  
24 cent of all bonuses received by the state from mineral leases issued  
25 after February 15, 1980;

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

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

1 \* Sec. 2. AS 37.13.020 is amended to read:

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

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

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

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

16 \* Sec. 3. AS 37.13.030 is amended to read:

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

21 \* Sec. 4. AS 37.13.040 is amended to read:

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

29 \* Sec. 5. AS 37.13.060 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (6) CERTIFICATES OF DEPOSIT AND TERM DEPOSITS OF MUTUAL  
28 SAVINGS BANKS IN ALASKA THAT MAY BE READILY SOLD IN A SECONDARY MARKET  
29 AT PRICES REFLECTING FAIR VALUE OR THAT ARE FULLY SECURED AT ALL TIMES

1 AS TO PAYMENTS OF PRINCIPAL AND INTEREST AS DESCRIBED IN (m) OF THIS  
2 SECTION;

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

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

11 (5) [(9)] short-term

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

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

18 (6) [(10)] bankers' acceptances drawn on and accepted by  
19 United States banks each of which has a combined capital and surplus  
20 aggregating at least \$200,000,000;

21 (7) [(11)] repurchase agreements, the securities underlying  
22 the agreements being any of the items in (1) - (6) [(1) - (3) AND  
23 (8) - (10)] of this subsection;

24 (8) [(12)] THE GUARANTEED PORTION OF FEDERAL SMALL BUSINESS  
25 ADMINISTRATION LOANS;

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

28 (14)] the portions of business and industrial loans made  
29 under the Rural Development Act of 1972 that are guaranteed by the

1 Farmers Home Administration;

2 (9) [(15)] the guaranteed portion of Farmers Home Adminis-  
3 tration loans;

4 (10) [(16)] notes secured by mortgages granting a first lien  
5 on [COMMERCIAL OR] residential real estate improved by completed  
6 buildings if the mortgages are insured by a private mortgage insurance  
7 corporation that is authorized to do business in this state [ALASKA]  
8 and has combined capital and surplus aggregating at least \$20,000,000,  
9 and if loan-to-value ratios do not exceed [75 PERCENT FOR COMMERCIAL  
10 MORTGAGES AND] 90 percent [FOR RESIDENTIAL MORTGAGES]; however,

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

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

23 (11) [(17)] NOTES SECURED BY MORTGAGES GRANTING A FIRST LIEN  
24 ON COMMERCIAL REAL ESTATE IMPROVED BY COMPLETED BUILDINGS IF THE  
25 ORIGINATING FINANCIAL INSTITUTION RETAINS AT LEAST 25 PERCENT OF THE  
26 MORTGAGE UNTIL MATURITY;

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

29 (12) [(19)] certificates of deposit, term deposits, or

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

10 (13) [(20)] equity interests in, and debt obligations  
11 secured by mortgages granting a first lien on, real estate improved by  
12 completed and substantially rented buildings and located in the United  
13 States, if these investments are made

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

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

28 (i) at the time of investment the fund has no  
29 more than a 40 percent beneficial ownership interest in the

1           real estate invested in as a whole;

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

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

11           (14) [(21)] securities of non-domestic governments and  
12 non-domestic government agencies, the principal of, or interest on,  
13 which is payable in either United States dollars or non-domestic  
14 currencies;

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

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

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

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

29                   (1) mortgages under (g)(10) [(g)(16)] of this section - 15

1           percent;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16           (3) the guaranteed portion of Federal Small Business Admin-  
17 istration loans;

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

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

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

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

1 \* Sec. 17. AS 37.13.140 is amended to read:

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

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

13           Sec. 37.13.150. CORPORATION BUDGET. The revenue generated by  
14 the fund's [CORPORATION'S] investments must be identified as the  
15 source of the operating budget of the corporation in the state's  
16 operating budget under AS 37.07 (Executive Budget Act). The unexpended  
17 balance of the corporation's annual operating budget does not lapse  
18 at the end of the fiscal year but shall be treated as income under  
19 AS 37.13.140.

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

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

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

26           Sec. 37.13.170. REPORTS AND PUBLICATIONS. By September 30 of  
27 each year, the board shall publish a report of the fund [CORPORATION]  
28 for distribution to the governor, legislature, and the public. The  
29 report shall be written in easily understandable language. The report

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

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

18 Sec. 37.13.180. TAX EXEMPTION. The corporation and the fund  
19 are [IS] exempt from all taxes and assessments in the state. All  
20 security instruments issued by the corporation or the fund, their  
21 transfer, and their income are exempt from all taxes and assessments  
22 in the state.

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

24 Sec. 37.13.190. POLITICAL ACTIVITIES. The resources of the  
25 corporation or the fund may not be used to finance or influence polit-  
26 ical activities.

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

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

1     \* Sec. 24. Notwithstanding AS 37.13.060, as amended in sec. 5 of this  
2 Act, the members of the board of the Alaska Permanent Fund Corporation in  
3 office on the effective date of this Act serve only the period of the term  
4 of office to which they were appointed.

5     \* Sec. 25. This Act takes effect July 1, 1990.