SCOMM

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Introduced: 1/11/78
Referred: The Special Committee on the Alaska Permanent Fund and Finance

IN THE HOUSE

BY THE SPECIAL COMMITTEE ON THE ALASKA PERMANENT FUND

HOUSE BILL NO. 596

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to nonrenewable resource revenues; and providing for an effective date."

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

* Section 1. AS 24.20 is amended by adding new sections to read:

ARTICLE IV. INVESTMENT OVERSIGHT COMMITTEE.

Sec. 24.20.600. INVESTMENT OVERSIGHT COMMITTEE ESTABLISHED. The Investment Oversight Committee is established as a permanent interim committee of the legislature. The establishment of the committee recognizes the need of the legislature for technical review and oversight of the performance of all agencies of the state which perform lending, borrowing or investment functions.

Sec. 24.20.610. FINDINGS. The legislature finds that there is a substantial need for oversight of the performance of all agencies of the state which perform lending, borrowing or investment functions since these functions do not receive the detailed review to which other expenditures of public money are subject, and therefore the knowledge necessary for sound legislation in this area is not readily available. There is a need for legislative oversight which will provide information on the policy and performance of these agencies, the extent to which the agencies conform to statutory intent, and the impact of their performance on the economy and treasury.

Sec. 24.20.620. PURPOSES. The purposes of the committee are to

(1) monitor and report

(A) the performance of the agencies of the state which

perform lending, borrowing or investment functions,

(B) the extent to which the performance of these agencies has contributed to the fiscal, financial, economic and social improvement of the state and its citizens,

(C) the extent to which these agencies and the executive have prepared and coordinated short and long term economic, fiscal, investment and financial planning;

(2) hold these agencies accountable to statutory intent in their performance by recommending, where appropriate, changes in policy to the agencies or changes in legislation to the legislature;

(3) annually review the extent of capitalization of the investment funds of the state and alternative investment policy for the general fund surplus and recommend needed legislation.

Sec. 24.20.630. MEMBERSHIP. The committee is composed of eight members: the president of the senate, the speaker of the house, and three members appointed from each house by the respective presiding officer. The membership from each house shall include at least one member from each of the two major political parties. The committee shall select its own chairman.

Sec. 24.20.640. TERM OF MEMBERSHIP. (a) The committee shall be organized within 15 days after the organization of each legislature. Members serve for the duration of the legislature during which they are appointed. If a member is reelected or his term of office extends into the next succeeding legislature, he continues to serve until reappointed or the appointment of his successor.

(b) When a member of the committee files a declaration of candidacy for an elective office other than that of member of either house of the legislature, and he has not resigned from membership on the committee, his committee membership terminates on the date of filing.

Sec. 24.20.650. VACANCIES. When a vacancy occurs in the statutory or appointive membership of the committee, the presiding officer of the house incurring the vacancy shall choose a successor. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy from the affected house occurs among the membership of the committee, the remaining committee members from the house incurring the vacancy shall appoint a new member.

Sec. 24.20.660. MEETINGS. The committee may meet during sessions of the legislature and during the interim between sessions at such times and places in the state as the chairman may determine. Members may receive, for the minimum time required to get to and from meetings and for the period while attending meetings, the same travel and per diem allowances provided by law for members of the legislature when attending sessions, except that members of the committee receive no per diem during legislative sessions other than the per diem allowance paid to other members of the legislature.

Sec. 24.20.670. POWERS. The committee has the power to

(1) organize, adopt rules for the conduct of its business, and prescribe procedures for the comprehensive fiscal analysis, budget review and post-audit functions over those agencies of the state which perform lending, borrowing or investment functions;

(2) hold public hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and production of papers, books, accounts, documents and testimony, and have the deposition of witnesses taken in a manner prescribed by court rule or law for taking depositions in civil actions;

(3) require all state officials and agencies of state government to give full cooperation to the committee or its staff in assembling and furnishing requested information;

(4) hold public hearings relating to the confirmation of the Board of Trustees of the Alaska Permanent Fund Corporation, the Board of Trustees of the Alaska Renewable Resources Corporation, and the Alaska Enterprise Investment Corporation Policy Board;

(5) prepare and distribute reports, memoranda, or other necessary materials;

(6) make recommendations concerning the structure and operating practices of all agencies of the state which perform lending, borrowing or investment functions;

(7) receive and review reports and post-audit analyses conducted by the Legislative Budget and Audit Committee relating to all agencies of the state which perform lending, borrowing or investment functions;

(8) enter into and enforce all contracts necessary or desirable for the functions of the committee.

Sec. 24.20.680. STAFF. The legislative audit division and the legislative finance division shall provide audits, reports and analyses requested by the committee. The committee may hire and determine the salary of the staff it considers necessary within the limit of the budget approved by the legislature.

Sec. 24.20.690. DUTIES. The committee shall

(1) report to the legislature its recommendations relating to the confirmation of suggested appointees to the Alaska Permanent Fund Corporation, the Board of Trustees of the Alaska Renewable Resources Corporation, and the Alaska Enterprise Investment Corporation Policy Board;

(2) annually review the long-range operating plans of all agencies of the state which perform lending, borrowing or investment functions;

(3) review periodic reports from all agencies of the state which perform lending, borrowing or investment functions;

(4) present a complete report of investment programs, plans, performance, and policies of all agencies of the state which perform lending, borrowing or investment functions to the legislature within 30 days after the convening of each regular session;

(5) present to the legislature within 30 days after the convening of each regular session a review of the report of the governor under AS 37.09.020(b) with recommendations for any needed legislation;

(6) in conjunction with the finance committee of each house recommend annually to the legislature the investment policy for the general fund surplus and the income from the permanent fund.

Sec. 24.20.700. RECORDS. The committee shall keep a complete file of all reports presented to it and all reports presented by it to the legislature or any legislative committee.

* Sec. 2. AS 37.07.020 is amended by adding a new subsection to read:

(b) The governor shall annually, before the convening of the legislature, report to the legislature through the Investment Oversight Committee the long-range fiscal and economic consequences of

(1) alternate levels of capitalization of the investment funds of the state; and

(2) alternative investment policy for the general fund surplus.

* Sec. 3. AS 37 is amended by adding a new chapter to read:

CHAPTER 13. ALASKA PERMANENT FUND.

Sec. 37.13.010. ALASKA PERMANENT FUND. Under art IX, sec. 15 of the state constitution, there is established as a separate fund the Alaska permanent fund. The permanent fund consists of 100 per cent of mineral lease bonuses after deduction of any amounts allocated to the

Alaska Native Fund under the Alaska Native Claims Settlement Act and implementing state legislation and any amounts allocated by law to the Alaska renewable resources development fund and 30 per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments received by the state and any other money allocated by law or appropriated to the principal of the fund which shall be paid to the Alaska Permanent Fund Corporation at least once each month. Management of the permanent fund is performed by (1) the Alaska Permanent Fund Corporation established in this chapter to which five-sixths of the receipts from these sources is allocated and (2) the Alaska Enterprise Investment Corporation established in AS 44.55 to which one-sixth of the receipts from these sources is allocated until the amount so allocated reaches the sum of $100,000,000. Thereafter the total receipts from these sources is allocated to the Alaska Permanent Fund Corporation.

Sec. 37.13.020. FINDINGS. The people of the state, by constitutional amendment, have required the placement of at least 25 per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses received by the state into a permanent fund. The legislature finds with respect to the Alaska Permanent Fund Corporation that

(1) it should provide a means of conserving a portion of the state's revenues from mineral resources to the ultimate benefit of future generations of Alaskans;

(2) the primary goal of the corporation should be to maximize total return while maintaining safety of principal;

(3) it should be used as a savings device managed to allow the maximum use of disposable income from the corporation as needed for purposes designated by law.

Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to provide a mechanism for the management and investment of permanent fund assets in a manner consistent with the findings established in sec. 20 of this chapter.

Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is established the Alaska Permanent Fund Corporation. The corporation is a public corporation and government instrumentality in the Department of Revenue managed by a board of trustees but has a legal existence independent of and separate from the state. The purpose of the board is to manage and invest the assets of the corporation in accordance with this chapter.

Sec. 37.13.050. COMPOSITION OF BOARD OF TRUSTEES. (a) The board of trustees consists of three members appointed by the governor and confirmed by a majority of the members of the legislature in joint session.

(b) The board shall annually elect a chairman from among its members.

Sec. 37.13.060. TERM OF OFFICE. The members of the board shall be appointed for terms of four years, and they may be reappointed. Terms shall be staggered. Initial terms shall be one member serving for two years, one member serving for three years, and one member serving for four years.

Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may remove a trustee from office by and with the consent of a majority of the members of the legislature in joint session. A removal by the governor shall be in writing and state the reason for removal. If the legislature is not in session, the governor may suspend a member of the board. Upon suspension, a trustee may not participate in board business and may not be counted for purposes of establishing a quorum. The joint

session shall be held within 30 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the legislature is not in session. If the legislature refuses to consent to his removal, the trustee shall be reinstated to his position.

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

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

Sec. 37.13.080. QUALIFICATIONS OF TRUSTEES. (a) No trustee may be appointed to the board who has not been a resident of the state for at least three years.

(b) No member of the board may hold any other state or federal office, position or employment, either elective or appointive, except as a member of the armed forces of the United States or of this state.

(c) At least one member of the board shall have recognized competence and wide experience in finance, investments, or other business management-related field. No two members may be appointed to the board who share substantially similar professional or occupational backgrounds

Sec. 37.13.090. QUORUM. Two members of the board constitute a quorum for the transaction of business and the exercise of the powers

and duties of the board.

Sec. 37.13.100. COMPENSATION OF TRUSTEES. Trustees receive an honorarium of $250 for each meeting day if they attend the meeting and are entitled to per diem and travel allowances as provided by law for members of state boards and commissions.

Sec. 37.13.110. EMPLOYMENT OF PERSONNEL. The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. The executive director may not be a trustee. The executive director and all employees of the board are in the exempt service under AS 39.25.

Sec. 37.13.120. CONFLICTS OF INTEREST. (a) Trustees are subject to the provisions of AS 39.50.

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

Sec. 37.13.130. POWERS AND DUTIES. (a) The prudent-man rule is applicable to the board in its management and investment of permanent fund assets. The prudent-man rule as applied to investments of the corporation means that in making investments the board shall exercise the judgment and care under the circumstances then prevailing which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income from them as well as probable safety of capital.

(b) The corporation assets may only be used for income-producing investments.

(c) The board shall seek to maintain a reasonable diversification in its investments unless under the circumstances it is clearly prudent not to do so.

(d) The board shall submit long-range and quarterly investment reports to the Investment Oversight Committee.

(e) The corporation may not borrow funds or guarantee the obligations of others.

(f) The board may enter into and enforce all contracts necessary, convenient or desirable for purposes of the fund except it may not contract with agencies or departments of the state to recommend or select investments.

(g) Subject to (a) of this section the board may invest its assets in obligations of the United States or obligations for which the full faith and credit of the United States are pledged for payment of principal and interest; loans secured by first liens on unencumbered realty or leaseholds; and corporate stock and corporate obligations which under the Securities Act of 1933 are freely marketable.

(1) No portion of the assets of the fund may be used in the purchase of stock of any corporation which is not paying dividends on that stock in cash at the time of purchase; nor in the purchase of bonds of any corporation, upon which any regular interest payment has been defaulted at any time within five years before purchase, except bonds never in default but which have been outstanding for less than five years.

(2) No portion of the assets of the corporation may be used in the purchase of stocks if immediately following the purchase the proportionate market value of all stocks held by the corporation would

exceed 30 per cent of the corporation's assets.

(h) The board shall establish and from time to time as necessary modify guidelines for the investment of the corporation's assets. Before adoption of any guidelines the guidelines shall be reported to the Investment Oversight Committee for review and comment.

Sec. 37.13.140. GAINS AND LOSSES. At the end of each fiscal year, the total amount of losses on the sales of securities, not offset by gains on the sales of securities during that year, shall be computed, with a portion of these losses to be deducted each fiscal year from the interest and dividend income and the resulting amount of interest and dividend income added to the principal of the fund. Losses taken on the sales of bonds shall be accumulated over a period equal to the average remaining life of the bonds sold, and losses taken on the sales of stocks shall be accumulated within a period of five years, unless these losses are offset by gains on future sales of securities. In any fiscal year in which the gains on the sales of securities exceed the losses on the sales of securities, the excess shall be added to the principal of the fund.

Sec. 37.13.150. INCOME. The interest and dividends received in a year are the income of the fund for that year. The income available for disbursement shall be determined on an averaging basis. For the first five years, income will be the simple averaging of the annual current return at cost. Subsequently, there will be a moving average current return, in which the latest fiscal year will replace the oldest year. The income available for disbursement will be the lesser of the latest fiscal year's income, or the average annual current income for the past five fiscal years of the fund at cost, and after adjustment for capital losses charged to that fiscal year.

Sec. 37.13.160. BOARD BUDGET. The board's operating budget is

from the general fund and is subject to the Executive Budget Act (AS 37.07).

Sec. 37.13.170. AUDITS. The Investment Oversight Committee shall provide for an annual post audit and annual operational and performance evaluations of the board's investments and investment programs.

Sec. 37.13.180. REPORTS AND PUBLICATIONS. No later than September 30 of each year, the board shall publish a report to the governor, legislature, and the public in easily understandable language. Each report must include financial statements audited by independent outside auditors, a statement of the amount of money received by the permanent fund from each investment during the period covered, a statement of permanent fund investments, a description of permanent fund investment activity during the period covered by the report, a comparison of the fund performance with the intended goals contained in sec. 20 of this chapter, an examination of the impact of the investment criteria of this chapter on the fund portfolio with recommendations of any needed changes and any other information the board believes would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the permanent fund shall be published in at least one newspaper in each judicial district. The income statement and balance sheet for the two fiscal years preceding the publication of the election pamphlet under AS 15.57 shall be included in that pamphlet. The board may also publish other reports it considers desirable to carry out its purpose.

Sec. 37.13.190. CONFLICT OF INTEREST. (a) Members of the board of trustees are subject to the provisions of AS 39.50.

(b) Members of the board of trustees shall disclose their financial interest in an investment proposal and disqualify themselves from voting on any investment proposal in which they have a financial in-

terest. The board may not make an investment in any project or enterprise in which officers of the corporation have a financial interest. All officers of the corporation in the discharge of their offices owe their duty entirely to the corporation and no other authority.

Sec. 37.13.200. POLITICAL ACTIVITIES. The members of the board of trustees and officers and staff of the corporation may not engage in partisan political activities. The resources of the corporation may not be used to finance any partisan political activities.

Sec. 37.13.210. PUBLIC ACCESS TO INFORMATION. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

* Sec. 4. AS 44 is amended by adding a new chapter to read:

CHAPTER 55. THE ALASKA ENTERPRISE INVESTMENT CORPORATION.

Sec. 44.55.010. CREATION OF CORPORATION; FUNDING. (a) There is created the Alaska Enterprise Investment Corporation. The corporation is a public corporation and government instrumentality in the Department of Revenue but has legal existence independent of and separate from the state. The exercise by the corporation of the powers conferred by this chapter is considered an essential governmental function of the state.

(b) One-sixth of the receipts of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses allocated to the permanent fund shall be paid by the Alaska Permanent Fund Corporation directly into the Alaska Enterprise

Investment Corporation until a total of $100,000,000 has been paid in. The amount paid into the Alaska Enterprise Investment Corporation under this subsection is the paid-in capital of the corporation.

Sec. 44.55.020. FINDINGS. The legislature finds

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

(2) there is a shortage of investment capital for financially sound small and medium scale (A) productive private enterprises and, (B) for community development projects for which sufficient capital is not available from other sources on reasonable terms;

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

Sec. 44.55.030. PURPOSE. The purpose of the corporation is to provide capital at market rates and terms for small and medium scale (1) productive private enterprises, and (2) community development projects for which sufficient capital is not available from other sources on reasonable terms.

Sec. 44.55.040. ALASKA ENTERPRISE INVESTMENT CORPORATION POLICY BOARD. (a) There is established the Alaska Enterprise Investment Corporation Policy Board consisting of a person employed in the executive branch of state government appointed by the governor and six public members appointed by the governor with due regard for geographical representation and confirmed by a majority of the members of the legislature in joint session. At least two of the public members shall have recognized competency and wide experience in investment finance. The

board shall elect one of the public members as chairman and other officers they determine desirable.

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

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

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

Sec. 44.55.050. REMOVAL AND VACANCIES ON BOARD. (a) The governor may remove a policy board member from office by and with the consent of a majority of the members of the legislature in joint session. The joint session shall be held within 10 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the member was suspended. If the legislature is not in session, the governor may suspend a member of the policy board for cause. Upon suspension, a board member may not participate in policy board business and may not be counted for purposes of establishing a quorum. If the legislature refuses to consent to his removal, the member shall be reinstated to his position.

(b) A vacancy arising on the policy board shall be promptly filled by appointment by the governor and confirmation by a majority of the members of the legislature in joint session, and an appointee to fill a

vacancy shall hold office for the balance of the term for which his predecessor on the board was appointed. If a vacancy arises on the board while the legislature is not in session, the governor may appoint an interim board member who shall exercise all powers of a permanent board member until such time as the legislature in joint session fails to confirm the interim member's appointment.

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

Sec. 44.55.060. DUTIES OF THE POLICY BOARD. The policy board shall

(1) select and appoint the president and other members of the Investment Committee established in sec. 80 of this chapter;

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

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

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

(5) review, consider and approve policies;

(6) establish an audit committee which shall select independent outside auditors, and receive all audit reports.

Sec. 44.55.070. PRESIDENT. The president of the corporation is appointed by the policy board for a term of four years, may be reap-

pointed, and serves at the pleasure of the policy board. The salary of the president is set at the discretion of the policy board; but may not be set below that of the highest paid member of the Investment Committee. The president shall

(1) have sole responsibility for presenting investment proposals to the Investment Committee;

(2) be responsible for the ordinary business of the corporation and the organization, appointment, dismissal, and remuneration of the officers and staff;

(3) be responsible for making investments in investment grade securities, subject to review by the Investment Committee;

(4) establish and maintain adequate and appropriate organizational, operating and financial controls.

Sec. 44.55.080. INVESTMENT COMMITTEE. (a) There is established the Investment Committee, consisting of the president and four members appointed by the policy board. No member of the policy board may be a member of the committee. Members of the committee shall be persons of recognized competence and wide experience in investments, finance, and other business management-related fields. A member may be reappointed and continue to serve until his successor is appointed. The president and members shall serve for four-year terms. Terms shall be staggered. Initial terms shall be one member serving for one year, one member serving for two years, one member serving for three years, and one member and the president serving for four years.

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

(c) Members of the committee other than the president receive an annual salary within Range 30 in the salary schedule for state employees established by AS 39.27.011.

Sec. 44.55.090. DUTIES OF THE COMMITTEE. The committee has sole responsibility to approve all investment proposals.

Sec. 44.55.100. BUDGET. The corporation operating budget is from the general fund and is subject to the provisions of the Executive Budget Act (AS 37.07).

Sec. 44.55.110. PERSONNEL OF CORPORATION. Policy board members, committee members, and officers and staff of the corporation are in the exempt service under AS 39.25.

Sec. 44.55.120. POWERS OF THE CORPORATION. (a) In carrying out the corporate purposes of the corporation, the policy board has power to

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

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

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

(4) borrow funds, and in that connection furnish such collateral or other security as it determines, except that corporation borrowing may not exceed its paid-in capital;

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

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

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

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

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

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

(1) invest, in such form and such amounts not to exceed

$100,000,000, as it considers appropriate, by purchasing the capital stock of, or lending money to, projects, except that any investment in the capital stock of or other ownership interest in a project may not exceed 25 per cent of the capital stock of, or other ownership interest in, the project, and no loan or other investment in the project by the corporation may exceed 90 per cent of the cost of the project unless, in the judgment of the committee, additional amounts must be loaned to protect the interests of the investment fund;

(2) deposit surplus funds, or invest surplus funds through the Alaska Permanent Fund Corporation in such obligations as it may determine;

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

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

Sec. 44.55.125. INVESTMENTS. (a) In making investments, the committee and staff shall exercise the judgment and care under the circumstances then prevailing which a person of ordinary prudence, discretion, and intelligence exercises in the management of his own affairs taking into consideration the probable income from the investments as well as probable safety of principal.

(b) An amount equal to at least 150 per cent of all guarantees by the corporation shall be invested in investment-grade securities.

(c) The committee may invest not more than 50 per cent of the resources of the corporation to provide a reasonable proportion of longer-term investment capital for financing the establishment, improvement, and expansion of productive private enterprises which will benefit Alaskans, and for which sufficient capital is not available from other sources on reasonable terms. These investments may take the form of

equity, debt, or debt guarantees.

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

(e) The committee may not invest or guarantee obligations totaling more than five per cent of the resources of the bank or $2,500,000, whichever is less, in a single project unless the legislature has approved the investment by concurrent resolution.

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

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

(h) The committee shall only undertake its financing on terms and conditions which it considers appropriate, taking into account the terms and conditions normally obtained by private investors for similar financing, the requirements of the enterprise or project, the risks being undertaken by the corporation, and the participation of other investors unless the legislature has appropriated funds for subsidizing investments which in the opinion of the corporation are of such high priority that special terms and conditions are appropriate.

(i) The committee may seek to revolve the corporation's money by

selling its investments to other investors whenever it can appropriately do so on satisfactory terms.

(j) The committee shall seek to maintain a reasonable diversification in its investments.

(k) The committee shall only consider investment proposals after the applicant for an investment has submitted a detailed proposal to the committee's staff and the staff has prepared a written report recommending the investment after a study of its merits.

(l) The committee shall analyze the economic and other effects of an investment decision, including the effects on employment, income distribution, environment, health, social and other factors. The committee shall be sensitive to the views of affected local communities.

(m) The committee may guarantee qualifying loans made by financial intermediaries in order to facilitate investment by the intermediaries in specific enterprises or projects whose individual financing requirements are not, in the opinion of the committee, large enough to warrant its direct supervision.

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

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

Sec. 44.55.130. CAPITAL RESERVE ACCOUNT. For the purpose of securing its obligations, the corporation shall establish a special

account called the capital reserve account. The corporation shall pay into that account the income of the corporation until the amount in the capital reserve account is equal to 25 per cent of the outstanding obligations of the corporation. Subsequently, at the beginning of each fiscal year the corporation shall withdraw from the capital reserve account any amount in the account in excess of 25 per cent of the obligations secured or, if the amount in the account is less than 25 per cent of the obligations secured, pay into the account from income the amount necessary to bring the reserve to 25 per cent. All money held in the capital reserve account may be used as required solely for (1) the payment of the principal of obligations, (2) the purchase or redemption of obligations, (3) the payment of interest on obligations, or (4) the payment of any redemption premium required to be paid when those obligations are redeemed before maturity.

Sec. 44.55.140. INITIAL DETERMINATIONS. Before beginning its financing operations, the policy board shall render a detailed report to the legislature which shall

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

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

(3) determine specific projects which are feasible for corporation and private financing;

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

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

Sec. 44.55.150. REPORTS AND PUBLICATIONS. The policy board shall publish an annual report in easily understandable language to the

governor, legislature and the public. Each report shall include financial statements audited by independent outside auditors, a statement of the amount of money received by the corporation from each source during the period covered, a statement of corporation investments, a description of corporation investment activity during the period covered by the report, an analysis of economic and other effects of investment decisions including, but not limited to, the effects on employment, income distribution, environment, health, social and other factors, and any other information the policy board believes would be of interest to the governor, the legislature and the public. The corporation may also publish such other reports as it considers desirable to carry out its purpose.

Sec. 44.55.160. CONFLICT OF INTEREST. (a) Members of the board of trustees are subject to the provisions of AS 39.50.

(b) Members of the board of trustees shall disclose their financial interest in an investment proposal and disqualify themselves from voting on any investment proposal in which they have a financial interest. The board may not make an investment in any project or enterprise in which officers of the corporation have a financial interest. All officers of the corporation in the discharge of their offices owe their duty entirely to the corporation and no other authority.

Sec. 44.55.170. POLITICAL ACTIVITIES. The members of the board of trustees and officers and staff of the corporation may not engage in partisan political activities. The resources of the corporation may not be used to finance any partisan political activities.

Sec. 44.55.180. PUBLIC ACCESS TO INFORMATION. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public

record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

Sec. 44.55.190. TAX EXEMPTION. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation, their transfer, and their income are exempt from all taxes and assessments in the state.

Sec. 44.55.200. DEFINITIONS. In this chapter

(1) "board" or "policy board" means the Alaska Enterprise Investment Corporation Policy Board established by sec. 20 of this chapter;

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

(3) "committee" means the Investment Committee established by sec. 60 of this chapter;

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

* Sec. 5. AS 39.25.110 is amended by adding new paragraphs to read:

(21) members of the policy board and Investment Committee, and the president, officers, and staff of the Alaska Enterprise Investment Corporation;

(22) members of the board of trustees, the executive director, and staff of the Alaska Permanent Fund Corporation.

* Sec. 6. AS 39.50.200(9) is amended by adding new subparagraphs to read:

(NN) Alaska Enterprise Investment Corporation Policy Board and Investment Committee;

(OO) Alaska Permanent Fund Corporation Board of Trustees.

* Sec. 7. TRANSITION. (a) The commissioner of revenue shall transfer all funds of the Alaska permanent fund to the Alaska Permanent Fund Corporation established by this Act within 10 days after request for transfer is made by the corporation board of trustees.

(b) The Alaska Enterprise Investment Corporation may not expend funds for any purpose other than normal operating expenses of the corporation until the paid-in capital of the corporation reaches $50,000,000. Other funds of the corporation including the funds received under AS 44.55.010 in sec. 4 of this Act shall be invested as surplus funds under AS 44.55.120(b)(3) in sec. 4 of this Act until the paid-in capital reaches $50,000,000.

* Sec. 8. AS 37.10.065 is repealed.

* Sec. 9. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Original sponsor: Special Committee on the Alaska Permanent Fund

Offered: 2/24/78
Referred: Finance

IN THE HOUSE

BY THE SPECIAL COMMITTEE ON THE ALASKA PERMANENT FUND

CS FOR HOUSE BILL NO. 596

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to nonrenewable resource revenues; to legislative oversight; and providing for an effective date."

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

* Section 1. AS 24.20 is amended by adding new sections to read:

ARTICLE IV. INVESTMENT OVERSIGHT COMMITTEE.

Sec. 24.20.600. INVESTMENT OVERSIGHT COMMITTEE ESTABLISHED. The Investment Oversight Committee is established as a permanent interim committee of the legislature. The establishment of the committee recognizes the need of the legislature for technical review and oversight of the performance of all agencies of the state which perform lending or investment functions.

Sec. 24.20.610. FINDINGS. The legislature finds that there is a substantial need for oversight of the performance of all agencies of the state which perform lending or investment functions since these functions do not receive the detailed review to which other expenditures of public money are subject, and therefore the knowledge necessary for sound legislation in this area is not readily available. There is a need for legislative oversight which will provide information on the policy and performance of these agencies, the extent to which the agencies conform to statutory intent, and the impact of their performance on the economy and treasury.

Sec. 24.20.620. PURPOSES. The purposes of the committee are to

(1) monitor and report

(A) the performance of the agencies of the state which perform lending or investment functions,

(B) the extent to which the performance of these agencies has contributed to the fiscal, financial, economic and social improvement of the state and its citizens,

(C) the extent to which these agencies and the executive have prepared and coordinated short and long term economic, fiscal, investment and financial planning;

(2) hold these agencies accountable to statutory intent in their performance by recommending, where appropriate, changes in policy to the agencies or changes in legislation to the legislature;

(3) annually review the extent of capitalization of the investment funds of the state and alternative investment policy for the general fund surplus and recommend needed legislation.

Sec. 24.20.630. MEMBERSHIP. The committee is composed of eight members: the president of the senate, the speaker of the house, and three members appointed from each house by the respective presiding officer. The membership from each house shall include at least one member from each of the two major political parties. The committee shall select its own chairman.

Sec. 24.20.640. TERM OF MEMBERSHIP. (a) The committee shall be organized within 15 days after the organization of each legislature. Members serve for the duration of the legislature during which they are appointed. If a member is reelected or his term of office extends into the next succeeding legislature, he continues to serve until reappointed or the appointment of his successor.

(b) When a member of the committee files a declaration of candidacy for an elective office other than that of member of either house of the legislature, and he has not resigned from membership on the com-

mittee, his committee membership terminates on the date of filing.

Sec. 24.20.650. VACANCIES. When a vacancy occurs in the statutory or appointive membership of the committee, the presiding officer of the house incurring the vacancy shall choose a successor. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy from the affected house occurs among the membership of the committee, the remaining committee members from the house incurring the vacancy shall appoint a new member.

Sec. 24.20.660. MEETINGS. The committee may meet during sessions of the legislature and during the interim between sessions at such times and places in the state as the chairman may determine. Members may receive, for the minimum time required to get to and from meetings and for the period while attending meetings, the same travel and per diem allowances provided by law for members of the legislature when attending sessions, except that members of the committee receive no per diem during legislative sessions other than the per diem allowance paid to other members of the legislature.

Sec. 24.20.670. POWERS. The committee has the power to

(1) organize, adopt rules for the conduct of its business, and prescribe procedures for the comprehensive fiscal analysis, budget review and post-audit functions of those agencies of the state which perform lending or investment functions;

(2) hold public hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and production of papers, books, accounts, documents and testimony, and have the deposition of witnesses taken in a manner prescribed by court rule or law for taking depositions in civil actions;

(3) require all state officials and agencies of state government to give full cooperation to the committee or its staff in assem-

bling and furnishing requested information;

(4) hold public hearings relating to the confirmation of the Board of Trustees of the Alaska Permanent Fund Corporation, the Board of Trustees of the Alaska Renewable Resources Corporation, and the Alaska Enterprise Investment Corporation Policy Board;

(5) prepare and distribute reports, memoranda, or other necessary materials;

(6) make recommendations concerning the structure and operating practices of all agencies of the state which perform lending or investment functions;

(7) receive and review reports and post-audit analyses conducted by the Legislative Budget and Audit Committee relating to all agencies of the state which perform lending or investment functions;

(8) enter into and enforce all contracts necessary or desirable for the functions of the committee.

Sec. 24.20.680. STAFF. The legislative audit division and the legislative finance division shall provide audits, reports and analyses requested by the committee. The committee may hire and determine the salary of the staff it considers necessary within the limit of the budget approved by the legislature.

Sec. 24.20.690. DUTIES. The committee shall

(1) report to the legislature its recommendations relating to the confirmation of suggested appointees to the Alaska Permanent Fund Corporation Board of Trustees, the Board of Trustees of the Alaska Renewable Resources Corporation, and the Alaska Enterprise Investment Corporation Policy Board;

(2) annually review the long-range operating plans of all agencies of the state which perform lending or investment functions;

(3) review periodic reports from all agencies of the state

which perform lending or investment functions;

(4) present a complete report of investment programs, plans, performance, and policies of all agencies of the state which perform lending or investment functions to the legislature within 30 days after the convening of each regular session;

(5) present to the legislature within 30 days after the convening of each regular session a review of the report of the governor under AS 37.09.020(b) with recommendations for any needed legislation;

(6) in conjunction with the finance committee of each house recommend annually to the legislature the investment policy for the general fund surplus and the income from the permanent fund.

Sec. 24.20.700. RECORDS. The committee shall keep a complete file of all reports presented to it and all reports presented by it to the legislature or any legislative committee.

* Sec. 2. AS 37.07.020 is amended by adding a new subsection to read:

(b) The governor shall annually, before the convening of the legislature, report to the legislature through the Investment Oversight Committee the long-range fiscal and economic consequences of

(1) alternate levels of capitalization of the investment funds of the state; and

(2) alternative investment policy for the general fund surplus.

* Sec. 3. AS 37 is amended by adding a new chapter to read:

CHAPTER 13. ALASKA PERMANENT FUND.

Sec. 37.13.010. ALASKA PERMANENT FUND. Under art IX, sec. 15 of the state constitution, there is established as a separate fund the Alaska permanent fund. The permanent fund consists of 100 per cent of mineral lease bonuses after deduction of any amounts allocated to the Alaska Native Fund under the Alaska Native Claims Settlement Act and

implementing state legislation and any amounts allocated by law to the Alaska renewable resources development fund and 30 per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments received by the state and any other money allocated by law or appropriated to the principal of the fund which shall be paid to the Alaska Permanent Fund Corporation at least once each month. Management of the permanent fund is performed by (1) the Alaska Permanent Fund Corporation established in this chapter to which five-sixths of the receipts from these sources is allocated and (2) the Alaska Enterprise Investment Corporation established in AS 44.55 to which one-sixth of the receipts from these sources is allocated until the amount so allocated reaches the sum of $100,000,000. Thereafter the total receipts from these sources is allocated to the Alaska Permanent Fund Corporation.

Sec. 37.13.020. FINDINGS. The people of the state, by constitutional amendment, have required the placement of at least 25 per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses received by the state into a permanent fund. The legislature finds with respect to the Alaska Permanent Fund Corporation that

(1) the corporation should provide a means of conserving a portion of the state's revenues from mineral resources to the ultimate benefit of future generations of Alaskans;

(2) the corporation's primary goal should be to maximize total return while maintaining safety of principal;

(3) the corporation should be used as a savings device managed to allow the maximum use of disposable income from the corporation as needed for purposes designated by law.

Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to

provide a mechanism for the management and investment of those permanent fund assets allocated to the Alaska Permanent Fund Corporation in a manner consistent with the findings established in sec. 20 of this chapter.

Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is established the Alaska Permanent Fund Corporation. The corporation is a public corporation and government instrumentality in the Department of Revenue managed by a board of trustees but has a legal existence independent of and separate from the state. The purpose of the board is to manage and invest the assets of the corporation in accordance with this chapter.

Sec. 37.13.050. COMPOSITION OF BOARD OF TRUSTEES. (a) The board of trustees consists of three members appointed by the governor and confirmed by a majority of the members of the legislature in joint session.

(b) The board shall annually elect a chairman from among its members.

Sec. 37.13.060. TERM OF OFFICE. The members of the board shall be appointed for terms of four years, and they may be reappointed. Terms shall be staggered. Initial terms shall be one member serving for two years, one member serving for three years, and one member serving for four years.

Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may remove a trustee from office by and with the consent of a majority of the members of the legislature in joint session. A removal by the governor shall be in writing and state the reason for removal. If the legislature is not in session, the governor may suspend a member of the board. Upon suspension, a vacancy is not created but the trustee may not participate in board business and may not be counted for purposes

of establishing a quorum. The joint session shall be held within 30 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the legislature is not in session. If the legislature refuses to consent to his removal, the trustee shall be reinstated to his position.

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

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

Sec. 37.13.080. QUALIFICATIONS OF TRUSTEES. (a) No trustee may be appointed to the board who has not been a resident of the state for at least three years.

(b) No member of the board may hold any other state or federal office, position or employment, either elective or appointive, except as a member of the armed forces of the United States or of this state.

(c) At least one member of the board shall have recognized competence and wide experience in finance, investments, or other business management-related field. No two members may be appointed to the board who share substantially similar professional or occupational backgrounds.

Sec. 37.13.090. QUORUM. Two members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board.

Sec. 37.13.100. COMPENSATION OF TRUSTEES. Trustees receive an honorarium of $250 for each meeting day if they attend the meeting and are entitled to per diem and travel allowances as provided by law for members of state boards and commissions.

Sec. 37.13.110. EMPLOYMENT OF PERSONNEL. The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. No employee of the corporation, including the executive director, may be a trustee. The executive director and all other employees of the board are in the exempt service under AS 39.25.

Sec. 37.13.120. CONFLICTS OF INTEREST. (a) Trustees are subject to the provisions of AS 39.50.

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

Sec. 37.13.130. POWERS AND DUTIES. (a) The prudent-man rule is applicable to the board in its management and investment of permanent fund assets. The prudent-man rule as applied to investments of the corporation means that in making investments the board shall exercise the judgment and care under the circumstances then prevailing which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it not in regard to speculation but in regard to the permanent disposition

of funds, considering the probable income from them as well as probable safety of capital.

(b) The corporation assets may only be used for income-producing investments.

(c) The board shall seek to maintain a reasonable diversification among corporation investments unless under the circumstances it is clearly prudent not to do so.

(d) The board shall submit long-range and quarterly investment reports to the Investment Oversight Committee.

(e) The corporation may not borrow funds or guarantee from principal of the fund the obligations of others.

(f) The board may enter into and enforce all contracts necessary, convenient or desirable for purposes of the corporation except it may not contract with agencies or departments of the state to recommend or select investments.

(g) Subject to (a) and (b) of this section the board may invest corporation assets in obligations of the United States or obligations for which the full faith and credit of the United States are pledged for payment of principal and interest; loans secured by first liens on unencumbered realty or leaseholds; and corporate securities which under the Securities Act of 1933 are freely marketable.

(1) No portion of the assets of the fund may be used in the purchase of stock of any corporation which is not paying dividends on that stock in cash at the time of purchase; nor in the purchase of bonds of any corporation, upon which any regular interest payment has been defaulted at any time within five years before purchase, except bonds never in default but which have been outstanding for less than five years.

(2) No portion of the assets of the corporation may be used

in the purchase of stock if immediately following the purchase the proportionate market value of all stocks held by the corporation would exceed 30 per cent of the corporation's assets.

(h) The board shall establish and from time to time as necessary modify guidelines for the investment of the corporation's assets. Before adoption of any guidelines the guidelines shall be reported to the Investment Oversight Committee for review and comment.

(i) Nothing in this section may be interpreted to preclude in-state investments that have a risk level and expected yield comparable to alternative investment opportunities.

Sec. 37.13.140. GAINS AND LOSSES. At the end of each fiscal year, the total amount of losses on the sales of securities, not offset by gains on the sales of securities during that year, shall be computed, with a portion of these losses to be deducted each fiscal year from the interest and dividend income and the resulting amount of interest and dividend income added to the principal of the fund. Losses taken on the sales of bonds shall be accumulated over a period equal to the average remaining life of the bonds sold, and losses taken on the sales of stocks shall be accumulated within a period of five years, unless these losses are offset by gains on future sales of securities. In any fiscal year in which the gains on the sales of securities exceed the losses on the sales of securities, the excess shall be added to the principal of the fund.

Sec. 37.13.150. INCOME. The interest and dividends received in a year are the income of the corporation for that year. The income available for disbursement shall be determined on an averaging basis. For the first five years, income will be the simple averaging of the annual current return at cost. Subsequently, there will be a moving average current return, in which the latest fiscal year will replace the oldest

year. The income available for disbursement will be the lesser of the latest fiscal year's income, or the average annual current income for the past five fiscal years of the fund at cost, and after adjustment for capital losses charged to that fiscal year.

Sec. 37.13.160. BOARD BUDGET. The board's operating budget is from the general fund and is subject to the Executive Budget Act (AS 37.07).

Sec. 37.13.170. AUDITS. The Investment Oversight Committee shall provide for an annual post audit and annual operational and performance evaluations of the corporation's investments and investment programs.

Sec. 37.13.180. REPORTS AND PUBLICATIONS. No later than September 30 of each year, the board shall publish a report to the governor, legislature, and the public in easily understandable language. Each report must include financial statements audited by independent outside auditors, a statement of the amount of money received by the permanent fund from each investment during the period covered, a statement of corporation investments, a description of corporation investment activity during the period covered by the report, a comparison of the corporation performance with the intended goals contained in sec. 20 of this chapter, an examination of the impact of the investment criteria of this chapter on the corporation portfolio with recommendations of any needed changes and any other information the board believes would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the corporation shall be published in at least one newspaper in each judicial district. The income statement and balance sheet for the two fiscal years preceding the publication of the election pamphlet under AS 15.57 shall be included in that pamphlet. The board may also publish other reports it considers desirable to carry out its purpose.

Sec. 37.13.190. TAX EXEMPTION. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation, their transfer, and their income are exempt from all taxes and assessments in the state.

Sec. 37.13.200. POLITICAL ACTIVITIES. The members of the board of trustees and employees of the corporation may not engage in partisan political activities. The resources of the corporation may not be used to finance any partisan political activities.

Sec. 37.13.210. PUBLIC ACCESS TO INFORMATION. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

* Sec. 4. AS 44 is amended by adding a new chapter to read:

CHAPTER 55. THE ALASKA ENTERPRISE INVESTMENT CORPORATION.

Sec. 44.55.010. CREATION OF CORPORATION; FUNDING. (a) There is created the Alaska Enterprise Investment Corporation. The corporation is a public corporation and government instrumentality in the Department of Revenue but has legal existence independent of and separate from the state. The exercise by the corporation of the powers conferred by this chapter is considered an essential governmental function of the state.

(b) One-sixth of the receipts of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses allocated to the Alaska permanent fund shall be paid by the Alaska Permanent Fund Corporation directly into the Alaska

Enterprise Investment Corporation until a total of $100,000,000 has been paid in. The amount paid into the Alaska Enterprise Investment Corporation under this subsection is the paid-in capital of the corporation.

Sec. 44.55.020. FINDINGS. The legislature finds

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

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

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

Sec. 44.55.030. PURPOSE. The purpose of the corporation is to provide capital at market rates and terms which are not available from other sources on reasonable terms for small and medium scale productive private enterprises and community development projects.

Sec. 44.55.040. ALASKA ENTERPRISE INVESTMENT CORPORATION POLICY BOARD. (a) There is established the Alaska Enterprise Investment Corporation Policy Board consisting of a person employed in the executive branch of state government appointed by the governor and six public members appointed by the governor with due regard for geographical representation and confirmed by a majority of the members of the legislature in joint session. At least two of the public members shall have recognized competency and wide experience in investment and finance. No public member may be appointed to the board who has not been a resident of the state for at least three years. The board shall elect one of the

public members as chairman and other officers they determine desirable.

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

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

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

Sec. 44.55.050. REMOVAL AND VACANCIES ON BOARD. (a) The governor may remove a policy board member from office by and with the consent of a majority of the members of the legislature in joint session. The joint session shall be held within 10 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the member was suspended. If the legislature is not in session, the governor may suspend a member of the policy board for cause. Upon suspension, a vacancy is not created but a board member may not participate in policy board business and may not be counted for purposes of establishing a quorum. If the legislature refuses to consent to his removal, the member shall be reinstated to his position.

(b) A vacancy arising on the policy board shall be promptly filled by appointment by the governor and confirmation by a majority of the members of the legislature in joint session, and an appointee to fill a

vacancy shall hold office for the balance of the term for which his predecessor on the board was appointed. If a vacancy arises on the board while the legislature is not in session, the governor may appoint an interim board member who shall exercise all powers of a permanent board member until such time as the legislature in joint session fails to confirm the interim member's appointment.

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

Sec. 44.55.060. DUTIES OF THE POLICY BOARD. The policy board shall

(1) select and appoint the president and other members of the Investment Committee established in sec. 80 of this chapter;

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

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

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

(5) review, consider and approve policies;

(6) establish an audit committee which shall select independent outside auditors, and receive all audit reports.

Sec. 44.55.070. PRESIDENT. The president of the corporation is appointed by the policy board for a term of four years, may be reappointed, and serves at the pleasure of the policy board. The salary of

the president is set at the discretion of the policy board; but may not be set below that of the highest paid member of the Investment Committee. The president shall

(1) have sole responsibility for presenting investment proposals to the Investment Committee;

(2) be responsible for the ordinary business of the corporation and the organization, appointment, dismissal, and remuneration of the officers and staff;

(3) be responsible for making investments in investment grade securities, subject to review by the Investment Committee;

(4) establish and maintain adequate and appropriate organizational, operating and financial controls.

Sec. 44.55.080. INVESTMENT COMMITTEE. (a) There is established the Investment Committee, consisting of the president and four members appointed by the policy board. No member of the policy board may be a member of the committee. Members of the committee shall be persons of recognized competence and wide experience in investments, finance, and other business management-related fields. No member may be appointed to the committee who has not been a resident of the state for at least three years. A member may be reappointed and continue to serve until his successor is appointed. The president and members shall serve for four-year terms. Terms shall be staggered. Initial terms shall be one member serving for one year, one member serving for two years, one member serving for three years, and one member and the president serving for four years.

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

(c) Members of the committee other than the president receive an annual salary within Range 30 in the salary schedule for state employees

established by AS 39.27.011.

Sec. 44.55.090. DUTIES OF THE COMMITTEE. The committee has sole responsibility to approve all investment proposals regarding productive private enterprises and community development projects in the state, and review all investments in investment grade securities.

Sec. 44.55.100. BUDGET. The corporation operating budget is from the general fund and is subject to the provisions of the Executive Budget Act (AS 37.07).

Sec. 44.55.110. PERSONNEL OF CORPORATION. Policy board members, committee members, and officers and staff of the corporation are in the exempt service under AS 39.25.

Sec. 44.55.120. POWERS OF THE CORPORATION. (a) In carrying out the corporate purposes of the corporation, the policy board has power to

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

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

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

(4) borrow funds, and in that connection furnish such collateral or other security as it determines, except that corporation borrowing may not exceed its paid-in capital;

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

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

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

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

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

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

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

(2) deposit or invest surplus funds through the Alaska Permanent Fund Corporation in such obligations as the committee may determine;

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

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

Sec. 44.55.125. INVESTMENTS. (a) In making investments, the committee and staff shall exercise the judgment and care under the circumstances then prevailing which a person of ordinary prudence, discretion, and intelligence exercises in the management of his own affairs taking into consideration the probable income from the investments as well as probable safety of principal.

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

guarantees.

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

(d) The committee may not invest or guarantee obligations totaling more than five per cent of the assets of the corporation or $5,000,000, whichever is less, in a single project unless the legislature has approved the investment by concurrent resolution.

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

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

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

(h) The committee may seek to revolve the corporation's money by

selling its investments to other investors whenever it can appropriately do so on satisfactory terms.

(i) The committee shall seek to maintain a reasonable diversification in its investments.

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

(k) The committee shall analyze the economic and other effects of an investment decision, including the effects on employment, income distribution, environment, health, social and other factors. The committee shall be sensitive to the views of affected local communities.

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

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

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

Sec. 44.55.140. INITIAL DETERMINATIONS. Before beginning its financing operations, the policy board shall render a detailed report to the legislature which shall

(1) define the sectors which need financing for expansion of

existing projects or the development of new projects;

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

(3) determine specific projects which are feasible for corporation and private financing;

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

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

Sec. 44.55.150. REPORTS AND PUBLICATIONS. The policy board shall publish an annual report in easily understandable language to the governor, legislature and the public. Each report shall include financial statements audited by independent outside auditors, a statement of the amount of money received by the corporation from each source during the period covered, a statement of corporation investments, a description of corporation investment activity during the period covered by the report, an analysis of economic and other effects of investment decisions including, but not limited to, the effects on employment, income distribution, environment, health, social and other factors, and any other information the policy board believes would be of interest to the governor, the legislature and the public. The corporation may also publish such other reports as it considers desirable to carry out its purpose.

Sec. 44.55.160. CONFLICT OF INTEREST. (a) Members of the policy board and the committee are subject to the provisions of AS 39.50.

(b) Members of the policy board and the committee shall disclose their financial interest in an investment proposal and disqualify themselves from voting on any investment proposal in which they have a financial interest.

Sec. 44.55.170. POLITICAL ACTIVITIES. The members of the policy

board and the committee and officers and staff of the corporation may not engage in partisan political activities. The resources of the corporation may not be used to finance any partisan political activities.

Sec. 44.55.180. PUBLIC ACCESS TO INFORMATION. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

Sec. 44.55.190. TAX EXEMPTION. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation, their transfer, and their income are exempt from all taxes and assessments in the state.

Sec. 44.55.200. DEFINITIONS. In this chapter

(1) "board" or "policy board" means the Alaska Enterprise Investment Corporation Policy Board established by sec. 20 of this chapter;

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

(3) "committee" means the Investment Committee established by sec. 60 of this chapter;

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

* Sec. 5. AS 39.25.110 is amended by adding new paragraphs to read:

(21) members of the policy board and Investment Committee, and

the president, officers, and staff of the Alaska Enterprise Investment Corporation;

(22) members of the board of trustees, the executive director, and staff of the Alaska Permanent Fund Corporation.

* Sec. 6. AS 39.50.200(9) is amended by adding new subparagraphs to read:

(NN) Alaska Enterprise Investment Corporation Policy Board and Investment Committee;

(OO) Alaska Permanent Fund Corporation Board of Trustees.

* Sec. 7. TRANSITION. (a) The commissioner of revenue shall transfer all funds of the Alaska permanent fund to the Alaska Permanent Fund Corporation established by this Act within 10 days after request for transfer is made by the corporation board of trustees.

(b) The Alaska Enterprise Investment Corporation may not expend funds for any purpose other than normal operating expenses of the corporation until the paid-in capital of the corporation reaches $50,000,000. Other funds of the corporation including the funds received under AS 44.55.010 in sec. 4 of this Act shall be invested as surplus funds under AS 44.55.120(b)(2) in sec. 4 of this Act until the paid-in capital reaches $50,000,000.

* Sec. 8. AS 37.10.065(c) is repealed.

* Sec. 9. AS 37.10.065(a) and (b) are repealed.

* Sec. 10. Section 9 of this Act takes effect upon transfer of the funds of the Alaska permanent fund to the Alaska Permanent Fund Corporation as provided in sec. 7(a) of this Act. The remainder of this Act takes effect immediately in accordance with AS 01.10.070(c).

Original sponsor: Special Committee on the Alaska Permanent Fund

Offered: 3/21/78
Referred: Rules

IN THE HOUSE BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 596 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to nonrenewable resource revenues; to legislative oversight; and providing for an effective date."

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

* Section 1. AS 24.20 is amended by adding new sections to read:

ARTICLE IV. INVESTMENT OVERSIGHT COMMITTEE.

Sec. 24.20.600. INVESTMENT OVERSIGHT COMMITTEE ESTABLISHED. The Investment Oversight Committee is established as a permanent interim committee of the legislature. The establishment of the committee recognizes the need of the legislature for technical review and oversight of the performance of all agencies of the state which perform lending or investment functions.

Sec. 24.20.610. FINDINGS. The legislature finds that there is a substantial need for oversight of the performance of all agencies of the state which perform lending or investment functions since these functions do not receive the detailed review to which other expenditures of public money are subject, and therefore the knowledge necessary for sound legislation in this area is not readily available. There is a need for legislative oversight which will provide information on the policy and performance of these agencies, the extent to which the agencies conform to statutory intent, and the impact of their performance on the economy and treasury.

Sec. 24.20.620. PURPOSES. The purposes of the committee are to

(1) monitor and report

(A) the performance of the agencies of the state which perform lending or investment functions,

(B) the extent to which the performance of these agencies has contributed to the fiscal, financial, economic and social improvement of the state and its citizens,

(C) the extent to which these agencies and the executive have prepared and coordinated short and long term economic, fiscal, investment and financial planning;

(2) hold these agencies accountable to statutory intent in their performance by recommending, where appropriate, changes in policy to the agencies or changes in legislation to the legislature;

(3) annually review the extent of capitalization of the investment funds of the state and alternative investment policy for the general fund surplus and recommend needed legislation.

Sec. 24.20.630. MEMBERSHIP. The committee is composed of eight members: the president of the senate, the speaker of the house, and three members appointed from each house by the respective presiding officer. The membership from each house shall include at least one member from each of the two major political parties. The committee shall select its own chairman.

Sec. 24.20.640. TERM OF MEMBERSHIP. (a) The committee shall be organized within 15 days after the organization of each legislature. Members serve for the duration of the legislature during which they are appointed. If a member is reelected or his term of office extends into the next succeeding legislature, he continues to serve until reappointed or the appointment of his successor.

(b) When a member of the committee files a declaration of candidacy for an elective office other than that of member of either house of the legislature, and he has not resigned from membership on the com-

mittee, his committee membership terminates on the date of filing.

Sec. 24.20.650. VACANCIES. When a vacancy occurs in the statutory or appointive membership of the committee, the presiding officer of the house incurring the vacancy shall choose a successor. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy from the affected house occurs among the membership of the committee, the remaining committee members from the house incurring the vacancy shall appoint a new member.

Sec. 24.20.660. MEETINGS. The committee may meet during sessions of the legislature and during the interim between sessions at such times and places in the state as the chairman may determine. Members may receive, for the minimum time required to get to and from meetings and for the period while attending meetings, the same travel and per diem allowances provided by law for members of the legislature when attending sessions, except that members of the committee receive no per diem during legislative sessions other than the per diem allowance paid to other members of the legislature.

Sec. 24.20.670. POWERS. The committee has the power to

(1) organize, adopt rules for the conduct of its business, and prescribe procedures for the comprehensive fiscal analysis, budget review and post-audit functions of those agencies of the state which perform lending or investment functions;

(2) hold public hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and production of papers, books, accounts, documents and testimony, and have the deposition of witnesses taken in a manner prescribed by court rule or law for taking depositions in civil actions;

(3) require all state officials and agencies of state government to give full cooperation to the committee or its staff in assem-

bling and furnishing requested information;

(4) hold public hearings relating to the confirmation of the Board of Trustees of the Alaska Permanent Fund Corporation, the Board of Trustees of the Alaska Renewable Resources Corporation, and the Alaska Enterprise Investment Corporation Policy Board;

(5) prepare and distribute reports, memoranda, or other necessary materials;

(6) make recommendations concerning the structure and operating practices of all agencies of the state which perform lending or investment functions;

(7) receive and review reports and post-audit analyses conducted by the Legislative Budget and Audit Committee relating to all agencies of the state which perform lending or investment functions;

(8) enter into and enforce all contracts necessary or desirable for the functions of the committee.

Sec. 24.20.680. STAFF. The legislative audit division and the legislative finance division shall provide audits, reports and analyses requested by the committee. The committee may hire and determine the salary of the staff it considers necessary within the limit of the budget approved by the legislature.

Sec. 24.20.690. DUTIES. The committee shall

(1) report to the legislature its recommendations relating to the confirmation of suggested appointees to the Alaska Permanent Fund Corporation Board of Trustees, the Board of Trustees of the Alaska Renewable Resources Corporation, and the Alaska Enterprise Investment Corporation Policy Board;

(2) annually review the long-range operating plans of all agencies of the state which perform lending or investment functions;

(3) review periodic reports from all agencies of the state

which perform lending or investment functions;

(4) present a complete report of investment programs, plans, performance, and policies of all agencies of the state which perform lending or investment functions to the legislature within 30 days after the convening of each regular session;

(5) present to the legislature within 30 days after the convening of each regular session a review of the report of the governor under AS 37.09.020(b) with recommendations for any needed legislation;

(6) in conjunction with the finance committee of each house recommend annually to the legislature the investment policy for the general fund surplus and the income from the permanent fund;

(7) provide for an annual post audit and annual operational and performance evaluation of the Alaska Permanent Fund Corporation investments and investment programs.

Sec. 24.20.700. RECORDS. The committee shall keep a complete file of all reports presented to it and all reports presented by it to the legislature or any legislative committee.

* Sec. 2. AS 37.07.020 is amended by adding a new subsection to read:

(b) The governor shall annually, before the convening of the legislature, report to the legislature through the Investment Oversight Committee the long-range fiscal and economic consequences of

(1) alternate levels of capitalization of the investment funds of the state; and

(2) alternative investment policy for the general fund surplus.

* Sec. 3. AS 37 is amended by adding a new chapter to read:

CHAPTER 13. ALASKA PERMANENT FUND.

Sec. 37.13.010. ALASKA PERMANENT FUND. Under art IX, sec. 15 of the state constitution, there is established as a separate fund the

Alaska permanent fund. The permanent fund consists of 100 per cent of mineral lease bonuses after deduction of any amounts allocated to the Alaska Native Fund under the Alaska Native Claims Settlement Act and implementing state legislation and any amounts allocated by law to the Alaska renewable resources development fund and 30 per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments received by the state and any other money allocated by law or appropriated to the principal of the fund which shall be paid to the Alaska Permanent Fund Corporation at least once each month. Management of the permanent fund is performed by (1) the Alaska Permanent Fund Corporation established in this chapter to which five-sixths of the receipts from these sources is allocated and (2) the Alaska Enterprise Investment Corporation established in AS 44.55 to which one-sixth of the receipts from these sources is allocated until the amount so allocated reaches the sum of $100,000,000. Thereafter the total receipts from these sources is allocated to the Alaska Permanent Fund Corporation.

Sec. 37.13.020. FINDINGS. The people of the state, by constitutional amendment, have required the placement of at least 25 per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses received by the state into a permanent fund. The legislature finds with respect to the Alaska Permanent Fund Corporation that

(1) the corporation should provide a means of conserving a portion of the state's revenues from mineral resources to the ultimate benefit of future generations of Alaskans;

(2) the corporation's primary goal should be to maximize total return while maintaining safety of principal;

(3) the corporation should be used as a savings device

managed to allow the maximum use of disposable income from the corporation as needed for purposes designated by law.

Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to provide a mechanism for the management and investment of those permanent fund assets allocated to the Alaska Permanent Fund Corporation in a manner consistent with the findings established in sec. 20 of this chapter.

Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is established the Alaska Permanent Fund Corporation. The corporation is a public corporation and government instrumentality in the Department of Revenue managed by a board of trustees but has a legal existence independent of and separate from the state. The purpose of the board is to manage and invest the assets of the corporation in accordance with this chapter.

Sec. 37.13.050. COMPOSITION OF BOARD OF TRUSTEES. (a) The board of trustees consists of three members appointed by the governor and confirmed by a majority of the members of the legislature in joint session.

(b) The board shall annually elect a chairman from among its members.

Sec. 37.13.060. TERM OF OFFICE. The members of the board shall be appointed for terms of four years, and they may be reappointed. Terms shall be staggered. Initial terms shall be one member serving for two years, one member serving for three years, and one member serving for four years.

Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may remove a trustee from office by and with the consent of a majority of the members of the legislature in joint session. A removal by the governor shall be in writing and state the reason for removal. If the

legislature is not in session, the governor may suspend a member of the board. Upon suspension, a vacancy is not created but the trustee may not participate in board business and may not be counted for purposes of establishing a quorum. The joint session shall be held within 30 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the legislature is not in session. If the legislature refuses to consent to his removal, the trustee shall be reinstated to his position.

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

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

Sec. 37.13.080. QUALIFICATIONS OF TRUSTEES. (a) No trustee may be appointed to the board who has not been a resident of the state for at least three years.

(b) No member of the board may hold any other state or federal office, position or employment, either elective or appointive, except as a member of the armed forces of the United States or of this state.

(c) At least one member of the board shall have recognized competence and wide experience in finance, investments, or other busi-

ness management-related field. No two members may be appointed to the board who share substantially similar professional or occupational backgrounds.

Sec. 37.13.090. QUORUM. Two members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board.

Sec. 37.13.100. COMPENSATION OF TRUSTEES. Trustees receive an honorarium of $250 for each meeting day if they attend the meeting and are entitled to per diem and travel allowances as provided by law for members of state boards and commissions.

Sec. 37.13.110. EMPLOYMENT OF PERSONNEL. The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. No employee of the corporation, including the executive director, may be a trustee. The executive director and all other employees of the board are in the exempt service under AS 39.25.

Sec. 37.13.120. CONFLICTS OF INTEREST. (a) Trustees are subject to the provisions of AS 39.50.

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

Sec. 37.13.130. POWERS AND DUTIES. (a) The prudent-man rule is applicable to the board in the management and investment of permanent fund assets. The prudent-man rule as applied to investments of the corporation means that in making investments the board shall exercise the judgment and care under the circumstances then prevailing which an

institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income from them as well as probable safety of capital.

(b) The corporation assets may only be used for income-producing investments.

(c) The board shall seek to maintain a reasonable diversification among corporation investments unless under the circumstances it is clearly prudent not to do so.

(d) The board shall submit long-range and quarterly investment reports to the Investment Oversight Committee.

(e) The corporation may not borrow funds or guarantee from principal of the fund the obligations of others.

(f) The board may enter into and enforce all contracts necessary, convenient or desirable for purposes of the corporation except it may not contract with agencies or departments of the state to recommend or select investments.

(g) Subject to (a) and (b) of this section, the board may invest corporation assets in obligations of, or obligations insured or guaranteed by, the United States or agencies or instrumentalities of the United States; loans secured by first liens on unencumbered realty or leaseholds; corporate securities which under the Securities Act of 1933 are freely marketable; and short-term investments which meet the requirements of (a) and (b) of this section except for the term of the investments.

(l) No portion of the assets of the fund may be used in the purchase of stock of any corporation which is not paying dividends on that stock in cash at the time of purchase; nor in the purchase of bonds

of any corporation, upon which any regular interest payment has been defaulted at any time within five years before purchase, except bonds never in default but which have been outstanding for less than five years.

(2) No portion of the assets of the corporation may be used in the purchase of stock if immediately following the purchase the proportionate market value of all stocks held by the corporation would exceed 30 per cent of the corporation's assets.

(h) The board shall establish and from time to time as necessary modify guidelines for the investment of the corporation's assets. Before adoption of any guidelines the guidelines shall be reported to the Investment Oversight Committee for review and comment.

(i) Nothing in this section may be interpreted to preclude in-state investments that have a risk level and expected yield comparable to alternative investment opportunities.

Sec. 37.13.140. GAINS AND LOSSES. At the end of each fiscal year, the total amount of losses on the sales of securities, not offset by gains on the sales of securities during that year, shall be computed, with a portion of these losses to be deducted each fiscal year from the interest and dividend income and the resulting amount of interest and dividend income added to the principal of the fund. Losses taken on the sales of bonds shall be accumulated over a period equal to the average remaining life of the bonds sold, and losses taken on the sales of stocks shall be accumulated within a period of five years, unless these losses are offset by gains on future sales of securities. In any fiscal year in which the gains on the sales of securities exceed the losses on the sales of securities, the excess shall be added to the principal of the fund.

Sec. 37.13.150. INCOME. The interest and dividends received in a

year are the income of the corporation for that year. The income available for disbursement shall be determined on an averaging basis. For the first five years, income wil be the simple averaging of the annual current return at cost. Subsequently, there will be a moving average current return, in which the latest fiscal year will replace the oldest year. The income available for disbursement will be the lesser of the latest fiscal year's income, or the average annual current income for the past five fiscal years of the fund at cost, and after adjustment for capital losses charged to that fiscal year.

Sec. 37.13.155. MORTGAGE LOSS RESERVE ACCOUNT. The board may establish a mortgage loss reserve account for the purpose of protecting the financial integrity of the fund.

Sec. 37.13.160. BOARD BUDGET. The board's operating budget is from the general fund and is subject to the Executive Budget Act (AS 37.07).

Sec. 37.13.170. AUDITS. The Investment Oversight Committee shall provide for an annual post audit and annual operational and performance evaluations of the corporation's investments and investment programs.

Sec. 37.13.180. REPORTS AND PUBLICATIONS. No later than September 30 of each year, the board shall publish a report to the governor, legislature, and the public in easily understandable language. Each report must include financial statements audited by independent outside auditors, a statement of the amount of money received by the permanent fund from each investment during the period covered, a statement of corporation investments including an appraisal at market value, a description of corporation investment activity during the period covered by the report, a comparison of the corporation performance with the intended goals contained in sec. 20 of this chapter, an examination of the impact of the investment criteria of this chapter on the corporation

portfolio with recommendations of any needed changes and any other information the board believes would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the corporation shall be published in at least one newspaper in each judicial district. The income statement and balance sheet for the two fiscal years preceding the publication of the election pamphlet under AS 15.57 shall be included in that pamphlet. The board may also publish other reports it considers desirable to carry out its purpose.

Sec. 37.13.190. TAX EXEMPTION. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation, their transfer, and their income are exempt from all taxes and assessments in the state.

Sec. 37.13.200. POLITICAL ACTIVITIES. The members of the board of trustees and employees of the corporation may not engage in partisan political activities. The resources of the corporation may not be used to finance any partisan political activities.

Sec. 37.13.210. PUBLIC ACCESS TO INFORMATION. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

* Sec. 4. AS 44 is amended by adding a new chapter to read:

CHAPTER 55. THE ALASKA ENTERPRISE INVESTMENT CORPORATION.

Sec. 44.55.010. CREATION OF CORPORATION; FUNDING. (a) There is created the Alaska Enterprise Investment Corporation. The corporation

is a public corporation and government instrumentality in the Department of Revenue but has legal existence independent of and separate from the state. The exercise by the corporation of the powers conferred by this chapter is considered an essential governmental function of the state.

(b) One-sixth of the receipts of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses allocated to the Alaska permanent fund shall be paid by the Alaska Permanent Fund Corporation directly into the Alaska Enterprise Investment Corporation until a total of $100,000,000 has been paid in. The amount paid into the Alaska Enterprise Investment Corporation under this subsection is the paid-in capital of the corporation.

Sec. 44.55.020. FINDINGS. The legislature finds

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

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

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

Sec. 44.55.030. PURPOSE. The purpose of the corporation is to provide capital at market rates and terms which are not available from other sources on reasonable terms for small and medium scale productive private enterprises and community development projects.

Sec. 44.55.040. ALASKA ENTERPRISE INVESTMENT CORPORATION POLICY BOARD. (a) There is established the Alaska Enterprise Investment

Corporation Policy Board consisting of a person employed in the executive branch of state government appointed by the governor and six public members appointed by the governor with due regard for geographical representation and confirmed by a majority of the members of the legislature in joint session. At least two of the public members shall have recognized competency and wide experience in investment and finance. No public member may be appointed to the board who has not been a resident of the state for at least three years. The board shall elect one of the public members as chairman and other officers they determine desirable.

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

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

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

Sec. 44.55.050. REMOVAL AND VACANCIES ON BOARD. (a) The governor may remove a policy board member from office by and with the consent of a majority of the members of the legislature in joint session. The joint session shall be held within 10 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the member was suspended. If the legislature is not in session, the governor may suspend a member of the

policy board for cause. Upon suspension, a vacancy is not created but a board member may not participate in policy board business and may not be counted for purposes of establishing a quorum. If the legislature refuses to consent to his removal, the member shall be reinstated to his position.

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

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

Sec. 44.55.060. DUTIES OF THE POLICY BOARD. The policy board shall

(1) select and appoint the president and other members of the Investment Committee established in sec. 80 of this chapter;

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

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

(4) review quarterly reports from the Investment Committee concerning investment decisions and investment supervision, but the

board may not impose an investment decision upon, or override an investment decision of, the Investment Committee;

(5) review, consider and approve policies;

(6) establish an audit committee which shall select independent outside auditors, and receive all audit reports.

Sec. 44.55.070. PRESIDENT. The president of the corporation is appointed by the policy board for a term of four years, may be reappointed, and serves at the pleasure of the policy board. The salary of the president is set at the discretion of the policy board; but may not be set below that of the highest paid member of the Investment Committee. The president shall

(1) have sole responsibility for presenting investment proposals to the Investment Committee;

(2) be responsible for the ordinary business of the corporation and the organization, appointment, dismissal, and remuneration of the officers and staff;

(3) be responsible for making investments in investment grade securities, subject to review by the Investment Committee;

(4) establish and maintain adequate and appropriate organizational, operating and financial controls.

Sec. 44.55.080. INVESTMENT COMMITTEE. (a) There is established the Investment Committee, consisting of the president and four members appointed by the policy board. No member of the policy board may be a member of the committee. Members of the committee shall be persons of recognized competence and wide experience in investments, finance, and other business management-related fields. No member may be appointed to the committee who has not been a resident of the state for at least three years. A member may be reappointed and continue to serve until his successor is appointed. The president and members shall serve for

four-year terms. Terms shall be staggered. Initial terms shall be one member serving for one year, one member serving for two years, one member serving for three years, and one member and the president serving for four years.

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

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

Sec. 44.55.090. DUTIES OF THE COMMITTEE. The committee has sole responsibility to approve all investment proposals regarding productive private enterprises and community development projects in the state, and review all investments in investment grade securities.

Sec. 44.55.100. BUDGET. The corporation operating budget is from the general fund and is subject to the provisions of the Executive Budget Act (AS 37.07).

Sec. 44.55.110. PERSONNEL OF CORPORATION. Policy board members, committee members, and officers and staff of the corporation are in the exempt service under AS 39.25.

Sec. 44.55.120. POWERS OF THE CORPORATION. (a) In carrying out the corporate purposes of the corporation, the policy board has power to

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

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

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

(4) borrow funds, and in that connection furnish such collateral or other security as it determines, except that corporation borrowing may not exceed its paid-in capital;

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

(6) enter into agreements necessary or convenient in the

exercise of its powers and functions;

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

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

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

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

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

(2) deposit or invest surplus funds through the Alaska Permanent Fund Corporation in such obligations as the committee may determine;

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

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

Sec. 44.55.125. INVESTMENTS. (a) In making investments, the committee and staff shall exercise the judgment and care under the circumstances then prevailing which a person of ordinary prudence, discretion, and intelligence exercises in the management of his own affairs taking into consideration the probable income from the investments as well as probable safety of principal.

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

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

(d) The committee may not invest or guarantee obligations totaling more than five per cent of the assets of the corporation or $5,000,000, whichever is less, in a single project unless the legislature has approved the investment by concurrent resolution.

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

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

(g) The committee shall only undertake its financing on terms and conditions which it considers appropriate, taking into account the terms

and conditions normally obtained by private investors for similar financing, the requirements of the enterprise or project, the risks being undertaken by the corporation, and the participation of other investors unless the legislature has appropriated funds for subsidizing investments which in the opinion of the corporation are of such high priority that special terms and conditions are appropriate.

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

(i) The committee shall seek to maintain a reasonable diversification in its investments.

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

(k) The committee shall analyze the economic and other effects of an investment decision, including the effects on employment, income distribution, environment, health, social and other factors. The committee shall be sensitive to the views of affected local communities.

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

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

(n) Nothing in this section prevents the committee, in the event of actual or threatened default on any of its investments, actual or threatened insolvency of the enterprise in which the investment has been made, or other situations which, in the opinion of the committee,

threaten to jeopardize the investment, from taking such action and exercising such rights as it may consider necessary for the protection of its interests.

Sec. 44.55.140. INITIAL DETERMINATIONS. Before beginning its financing operations, the policy board shall render a detailed report to the legislature which shall

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

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

(3) determine specific projects which are feasible for corporation and private financing;

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

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

Sec. 44.55.150. REPORTS AND PUBLICATIONS. The policy board shall publish an annual report in easily understandable language to the governor, legislature and the public. Each report shall include financial statements audited by independent outside auditors, a statement of the amount of money received by the corporation from each source during the period covered, a statement of corporation investments, a description of corporation investment activity during the period covered by the report, an analysis of economic and other effects of investment decisions including, but not limited to, the effects on employment, income distribution, environment, health, social and other factors, and any other information the policy board believes would be of interest to the governor, the legislature and the public. The corporation may also publish such other reports as it considers desirable to carry out its purpose.

Sec. 44.55.160. CONFLICT OF INTEREST. (a) Members of the policy board and the committee are subject to the provisions of AS 39.50.

(b) Members of the policy board and the committee shall disclose their financial interest in an investment proposal and disqualify themselves from voting on any investment proposal in which they have a financial interest.

Sec. 44.55.170. POLITICAL ACTIVITIES. The members of the policy board and the committee and officers and staff of the corporation may not engage in partisan political activities. The resources of the corporation may not be used to finance any partisan political activities.

Sec. 44.55.180. PUBLIC ACCESS TO INFORMATION. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

Sec. 44.55.190. TAX EXEMPTION. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation, their transfer, and their income are exempt from all taxes and assessments in the state.

Sec. 44.55.200. DEFINITIONS. In this chapter

(1) "board" or "policy board" means the Alaska Enterprise Investment Corporation Policy Board established by sec. 20 of this chapter;

(2) "business enterprise" means a private corporation, firm,

partnership or sole proprietorship;

(3) "committee" means the Investment Committee established by sec. 60 of this chapter;

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

* Sec. 5. AS 39.25.110 is amended by adding new paragraphs to read:

(21) members of the policy board and Investment Committee, and the president, officers, and staff of the Alaska Enterprise Investment Corporation;

(22) members of the board of trustees, the executive director, and staff of the Alaska Permanent Fund Corporation.

* Sec. 6. AS 39.50.200(9) is amended by adding new subparagraphs to read:

(NN) Alaska Enterprise Investment Corporation Policy Board and Investment Committee;

(OO) Alaska Permanent Fund Corporation Board of Trustees.

* Sec. 7. TRANSITION. (a) The commissioner of revenue shall transfer all funds of the Alaska permanent fund to the Alaska Permanent Fund Corporation established by this Act after request for transfer is made by the corporation board of trustees.

(b) The Alaska Enterprise Investment Corporation may not expend funds for any purpose other than normal operating expenses of the corporation until the paid-in capital of the corporation reaches $50,000,000. Other funds of the corporation including the funds received under AS 44.55.010 in sec. 4 of this Act shall be invested as surplus funds under AS 44.55.120(b)(2) in sec. 4 of this Act until the paid-in capital reaches $50,000,000.

* Sec. 8. AS 37.10.065(c) is repealed.

* Sec. 9. AS 37.10.065(a) and (b) are repealed.

* Sec. 10. Section 9 of this Act takes effect upon transfer of the funds of the Alaska permanent fund to the Alaska Permanent Fund Corporation as

provided in sec. 7(a) of this Act. The remainder of this Act takes effect immediately in accordance with AS 01.10.070(c).

Original sponsor: Special Committee on the Alaska Permanent Fund

Offered: 6/1/78

IN THE HOUSE BY THE RULES COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 596 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska loan programs fund, the Alaska permanent fund, the renewable resources development fund, and other state revenues; and providing for an effective date."

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

* Section 1. AS 45 is amended by adding a new chapter to read:

CHAPTER 96. ALASKA LOAN PROGRAMS FUND.

Sec. 45.96.010. PURPOSE. There exists within state government numerous loan funds serving specific, single purposes. Efficient use of the capital resources of the state will be promoted by creating a single loan fund which will provide a single source from which potential users could acquire a state loan and obtain information about existing federal or private loan programs which will better serve the needs of the user or which will complement a proposed state loan. A single state source of lending will provide strong assurance of repayment of its loans and thereby lower the cost of borrowing to the state. The purpose of the loan programs fund is to provide the lowest possible interest costs to Alaska borrowers consistent with sound financial practices and to make available to all sectors of the Alaska economy loans including long-term financing not presently available from existing Alaska financial institutions. A strong, single loan source, by being available to secure interest rates and terms better than those available to loan funds limited in size for a specific purpose, will make a significant contribution to lowering costs of living for Alaska residents and costs of

operations in the private and public sector.

Sec. 45.96.020. CREATION OF FUND. (a) There is created within the Department of Commerce and Economic Development the Alaska loan programs fund.

(b) There is established within the Department of Commerce and Economic Development the division of Alaska loan programs. The director of the division is in the classified service under AS 39.25 and shall receive an annual salary within range 27 of the salary schedule established in AS 39.27.011 or within one range below that received by the highest paid deputy commissioner in the Department of Commerce and Economic Development if that is higher than Range 27. In order to qualify for the position of director, a person must be graduated from college and have at least eight years of supervisory or administrative experience in loan management.

(c) The division of Alaska loan programs shall manage the loan programs fund in accordance with secs. 10 - 490 of this chapter.

Sec. 45.96.030. REVENUE BONDING AUTHORITY. (a) The state bond committee may issue bonds and bond anticipation notes in order to provide funds to carry out the fund's purposes.

(b) The principal and interest on these bonds or notes are payable from assets of the fund. Bond anticipation notes may be payable from the proceeds of the sale of bonds or from the proceeds of sale of other bond anticipation notes or, if bond or bond anticipation note proceeds are not available, the notes may be paid from other assets of the fund. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal or state government, a corporation, association, institution or person, or a pledge of money, income, or revenues of the fund from any source.

(c) Bonds or bond anticipation notes may be issued as provided by

the state bond committee, in one or more series and shall (1) be dated; (2) bear interest at the prescribed rate per year or within the maximum rate; (3) be in a certain denomination or form, either coupon or registered; (4) carry the conversion or registration provisions; (5) have rank or priority; (6) be executed in a certain manner and form; (7) be payable from the sources in the medium of payment and place or places inside or outside the state; (8) be subject to authentication by a fiscal agent; and (9) be subject to terms of redemption, with or without premium as the resolution of the bond committee may provide. Bond anticipation notes mature at a time determined by the commissioner of revenue. Bonds mature at a time determined by the state bond committee. Before the preparation of definitive bonds or bond anticipation notes, the state bond committee may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when the definitive bonds or bond anticipation notes have been executed and are available for delivery.

(d) Bonds or bond anticipation notes may be sold in the manner, on the terms, and at the price the state bond committee determines.

(e) If an officer whose actual or facsimile signature appears on any bonds or notes or coupons attached to them ceases to be an officer before the delivery of the bond, note or coupon, his signature is valid as if he had remained in office until delivery.

(f) In authorizing or issuing bonds or bond anticipation notes, the state bond committee may, with holders of the bonds or bond anticipation notes, make covenants as may be necessary or desirable, to better secure bonds or notes or which, in the discretion of the committee, will tend to make bonds or notes more marketable and shall, for each issue, create a principal and interest account for repayment of the principal and interest of that issue.

Sec. 45.96.040. VALIDITY OF PLEDGE. The pledge of assets or revenues of the fund to the payment of the principal or interest of obligations of the fund is valid and binding from the time the pledge is made, and assets or revenues pledged are immediately subject to the lien of the pledge without physical delivery or further action. The lien of a pledge is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the fund, regardless of whether those parties have notice of the lien of the pledge. Nothing prohibits the fund from selling assets subject to a pledge, except that a sale may be restricted by the resolution providing for the issuance of the obligations.

Sec. 45.96.050. REMEDIES. A holder of obligations issued under the provisions of this chapter or coupons attached to them if not restricted by the resolution, either at law or in equity, may enforce all rights granted under the coupons or under any other contract executed by the fund under this chapter, and may enforce and compel the performance of all duties required by this chapter to be performed by the fund or by an officer of it.

Sec. 45.96.060. NEGOTIABLE INSTRUMENTS. All obligations and interest coupons attached to the obligations are negotiable instruments under the laws of this state, subject only to applicable registration provisions.

Sec. 45.96.070. OBLIGATIONS ELIGIBLE FOR INVESTMENT. Obligations issued under the provisions of this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These obligations may be

deposited with the state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds, notes or obligations of the state is authorized by law.

Sec. 45.96.080. REFUNDING OBLIGATIONS. (a) The fund may provide for the issuance of refunding obligations for the purpose of refunding obligations then outstanding which have been issued under the provisions of this chapter, or bonds which have been issued by the state, political subdivisions of the state, or agencies or instrumentalities of the state, including the payment of redemption premium on them and interest accrued or to accrue to the date of redemption of the obligations. The issuance of the obligations, the maturities and other details of them, the rights of the holders of them, and the rights, duties and obligations of the fund in respect of them are governed by the provisions of this chapter which relate to the issuance of appropriate obligations.

(b) Refunding obligations may be sold or exchanged for outstanding obligations issued under this chapter. If sold, the proceeds may be applied, in addition to other authorized purposes, to the purchase, redemption or payment of the outstanding obligations. Pending the application of the proceeds of any refunding obligations, with any other available funds, to the payment of the principal (accrued interest and any redemption premium on the obligations being refunded, and if so provided or permitted in the authorization for issuance of the refunding obligations, to the payment of any interest on the refunding obligations and any expenses in connection with the refunding), the proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which mature or which will be subject to redemption, at the option of the holders of them, not later than the respective dates when the proceeds, together with the interest accruing on them,

will be required for the purposes intended.

Sec. 45.96.090. CREDIT OF STATE NOT PLEDGED. Obligations issued under the provisions of this chapter are a debt, liability or obligation of the state but are payable solely from the revenues or assets of the fund. Each obligation issued under this chapter shall contain on its face a statement that the fund is not obligated to pay it nor the interest on it except from the revenues or assets pledged for it and that neither the faith and credit nor the taxing power of the state or of a political subdivision of the state is pledged to the payment of the principal of or interest on the obligation.

Sec. 45.96.100. TAX EXEMPTION. All property of the fund is public property devoted to an essential public and governmental function and purpose and is exempt from all taxes of the state or a political subdivision of the state. All bonds issued under this chapter are issued by a body corporate and public of this state and for an essential public and governmental purpose, and the bond and the interest and income on and from the bonds and all income of the fund are exempt from taxation except for transfer, inheritance and estate taxes.

Sec. 45.96.110. SALE OF BONDS. Before selling an issue or series of bonds, the state bond committee shall give notice inviting sealed bids in such manner as it may prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If the state bond committee determines that the bids received are not satisfactory as to price or responsibility of the bidders, it may reject all bids received.

Sec. 45.96.120. UNALLOCATED RESERVE ACCOUNT. (a) For the purpose of securing obligations of the fund, a special account called the unallocated reserve account is established. The income from the permanent fund shall be paid to the commissioner of revenue for the purposes of

the unallocated reserve account. Other money may be appropriated to the account. The amounts necessary to fund the capital reserve account established under sec. 140 of this chapter, the fire insurance and liability reserve account under sec. 160 of this chapter, and the loss reserve account under sec. 150 of this chapter are allocated to those accounts and the amount certified as necessary for these allocations by the commissioner of revenue is hereby appropriated to these accounts. All other expenditures from this account shall be in accordance with annual appropriations.

(b) There is established within the unallocated reserve account a special sub-account called the general fund contribution account. This sub-account consists of the lesser of (1) all revenue to the general fund from mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the state or (2) any amounts remaining in the general fund at the end of a fiscal year which have not been obligated or for which the appropriation has not lapsed at the end of the fiscal year. The sub-account may be used for any purpose the unallocated reserve account may be used for subject to appropriation by the legislature; however, a separate accounting for the sub-account shall be maintained.

Sec. 45.96.130. DEBT SERVICE RESERVE ACCOUNT. For the purpose of securing each issue of its obligations, the fund shall establish a special account called the debt service reserve account and shall pay into the account from the proceeds of the sale of that issue of its obligations the maximum amount permissible under federal law and regulations for tax exempt obligations which may be invested without limitation as to yield. All money held in a debt service reserve account may be used as required, when money is not available from the principal and interest account or the capital reserve account, solely for (1) the

payment of the principal of obligations, (2) the purchase or redemption of obligations, (3) the payment of interest on obligations, or (4) the payment of any redemption premium required to be paid when those obligations are redeemed before maturity. Any amount remaining in a debt service reserve account when the issue the account secures is fully retired shall be paid to the unallocated reserve account.

Sec. 45.96.140. CAPITAL RESERVE ACCOUNT. For the purpose of securing each issue of its obligations, the fund shall establish a special account called the capital reserve account. The commissioner of revenue shall pay into that account from the unallocated reserve account upon establishment an amount equal to five per cent of the principal amount of the obligations issued and sold and upon subsequent sales, if any, of obligations of the issue secured an additional amount equal to five per cent of the principal amount of the obligations sold. At the end of each fiscal year the commissioner shall withdraw from each capital reserve account and pay to the unallocated reserve account any amount in the account in excess of five per cent of the remaining principal balance of the obligations secured or, if the amount in the account is less than five per cent of the remaining principal balance of the obligations secured, pay into the account from the unallocated reserve account the amount necessary to bring the reserve to five per cent. All money held in a capital reserve account may be used as required, when money is not available from the principal and interest account, solely for (1) the payment of the principal of obligations, (2) the purchase or redemption of obligations, (3) the payment of interest on obligations or (4) the payment of any redemption premium required to be paid when those obligations are redeemed before maturity. Any income or interest earned by a capital reserve account shall be paid to the unallocated reserve account established by sec. 120 of this chapter. Any amount remaining

in a capital reserve account when the issue the account secures is fully retired shall be paid to the unallocated reserve account.

Sec. 45.96.150. LOSS RESERVE ACCOUNT. (a) For the purpose of protecting the financial integrity of the fund, a special account called the loss reserve account is established. The commissioner of revenue shall pay into that account from the unallocated reserve account established by sec. 120 of this chapter an amount equal to five per cent of the estimated total amount of all loans to be made by the fund during the first fiscal year of operation. At the first of the succeeding fiscal year and each fiscal year thereafter, the commissioner shall pay into the fund from the unallocated reserve account the amount necessary to bring the balance of this account to five per cent of the total amount of loans projected to be outstanding during that fiscal year.

(b) If during the fiscal year the total amount of loans outstanding exceeds the amount projected to be outstanding, the commissioner of revenue shall pay into this account from the unallocated reserve account the sum needed to bring the balance of this account to five per cent of the amount of loans outstanding.

(c) The one per cent difference between the rate of interest paid by a borrower and the rate of interest paid by the fund required by sec. 420 of this chapter shall be allocated to the loss reserve account.

(d) Money in the loss reserve account may only be used for losses realized from loans made under this chapter, except when, at the beginning of a fiscal year, the balance of this account exceeds five per cent of the remaining principal balance of the total amount of loans projected to be outstanding during the fiscal year, the amount in excess of five per cent shall be paid to the unallocated reserve account until all amounts paid to the loss reserve account and the capital reserve account have been paid and then to the earned income account of the loan pro-

grams fund.

Sec. 45.96.160. FIRE INSURANCE AND LIABILITY RESERVE ACCOUNT. The fund may issue loans without requiring proof of insurance against fire and liability if an additional charge of six-tenths of one per cent per year is made. The receipts from this shall be deposited in the fire insurance and liability reserve account and may only be used to reimburse the fund for losses which occur on property for which the charge provided by this section was in effect at the time of loss.

Sec. 45.96.170. INVESTMENT OF RESERVE ACCOUNTS. (a) The director of the division of treasury in the Department of Revenue shall invest money in the reserve accounts established by this chapter, other than funds in the debt service reserve account, only in

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

(2) obligations secured by reserves paid in by the United States or agencies or instrumentalities of the United States or obligations of corporations in which the United States is a shareholder or member; or

(3) corporate bonds rated "A" or better by a nationally recognized rating service.

(b) Funds in the debt service reserve account may only be invested in obligations described in (a)(1) or (2) of this section.

(c) In addition to the investments authorized in (a) of this section, the director of the division of treasury may invest money from the general fund contribution account, established in sec. 120(b) of this chapter, in obligations, instrumentalities, loans, or bonds of the loan programs fund.

Sec. 45.96.180. INVESTMENTS. (a) All investments of the fund cash balances and of reserves for specific bond issues or statutorily

required reserves are managed for the fund by the director of the division of treasury in the Department of Revenue. The director shall determine investment policy and manage the investments of the fund under the same criteria applicable to other state investments he manages.

(b) The director of the division of treasury shall provide monthly reports to the Legislative Budget and Audit Committee relating to the investment of funds described in (a) of this section, including

(1) a summary of long-range and short-term investment policy;

(2) a list of investments made during the previous month;

(3) an evaluation of the performance of investments made;

(4) other information requested by the budget and audit committee.

Sec. 45.96.190. BUDGET. The operating budget is from the general fund unless the legislature specifically appropriates from the unallocated reserve and is subject to the Executive Budget Act (AS 37.07).

Sec. 45.96.200. ACCOUNTING. Accounting for the fund shall be provided by the Department of Administration. Reports shall be made by that department to the Department of Revenue, the Department of Commerce and Economic Development, and the Legislative Budget and Audit Committee on at least a monthly basis. These reports shall include an itemization of each loan which has been in default for a period in excess of 30 days and the measures taken for each to insure compliance with terms and conditions of the loan. The Legislative Budget and Audit Committee shall provide quarterly reports to the legislature summarizing the information it receives under this section and under secs. 180(b) and 240(b) of this chapter and including comments and suggestions the committee determines to be of interest to the legislature relating to the administration of the loan program. Other reports shall be made as prescribed by the Department of Commerce and Economic Development.

Sec. 45.96.210. LOAN PROCEDURES. (a) The director of the division of Alaska loan programs shall establish district loan offices in Juneau, Fairbanks, and Anchorage and may establish other loan offices as necessary which shall be headed by district directors. The office shall provide information concerning the loan programs under this chapter, other state loan programs or grant programs, federal loan or grant programs, and, to the extent feasible, private loan information.

(b) For loans not exceeding $350,000 exclusive of interest and charges a district loan committee consisting of the district director of the district loan office and two loan officers other than the loan officer processing the loan may approve the loan.

(c) For loans exceeding $350,000 the loan must be approved by an executive loan committee consisting of the director of the division of Alaska loan programs, the commissioner of commerce and economic development or his designee, and, if the loan is other than a renewable resource loan, the director of the division of economic enterprise of the Department of Commerce and Economic Development or his designee, or, if the loan is a renewable resource loan, the director of the division of renewable resources within the Department of Commerce and Economic Development or his designee.

Sec. 45.96.220. ALASKA LOAN PROGRAMS EVALUATION COMMITTEE. (a) There is established in the Department of Commerce and Economic Development the Alaska Loan Programs Evaluation Committee consisting of the directors, or their designees, of the following divisions: (1) the division of economic enterprises in the Department of Commerce and Economic Development, (2) the division of collections in the Department of Revenue, and (3) the division of Alaska loan programs in the Department of Commerce and Economic Development.

(b) With the exception of borrowers designated in sec. 230 of this

chapter, the committee shall notify recipients of loans under the provisions of this chapter who have been delinquent in their loan repayments for a period in excess of 30 days. Upon notification of delinquency, the borrower may request reevaluation and technical assistance from the committee. If the borrower requests reevaluation, the committee shall consider the terms and conditions of the loan as well as all other pertinent information to determine whether there are feasible alternative terms and conditions which will protect the interest of the state and prevent the default of the loan.

(c) In performing the duties described in (b) of this section, the committee shall have access to all nonconfidential records, data, information, and statistics of all departments, boards, commissions, agencies, and institutions of the state. The committee shall also have access to any records or other information of the borrower which are pertinent to its investigation. Failure on the part of the borrower to provide the records or information shall be grounds for refusal to reevaluate.

(d) If the committee determines that alternative terms and conditions are available which will protect the interest of the state and prevent default of the loan, it may renegotiate the loan in accordance with those terms.

Sec. 45.96.230. RENEWABLE RESOURCES LOANS EVALUATION COMMITTEE. (a) There is established in the Department of Commerce and Economic Development the Renewable Resources Loans Evaluation Committee consisting of the directors, or their designees, of the following divisions: (1) the division of Alaska loan programs in the Department of Commerce and Economic Development, (2) the division of collections in the Department of Revenue, and (3) the division of renewable resources development in the Department of Commerce and Economic Development.

(b) The committee shall notify recipients of renewable resources loans under the provisions of this chapter who have been delinquent in their loan repayments for a period in excess of 30 days. Upon notification of delinquency, the borrower may request reevaluation and technical assistance from the committee.

(c) The committee has the same powers and duties in regard to delinquent renewable resource loan recipients as the loan programs evaluation committee has in regard to other borrowers under the provisions of this chapter.

Sec. 45.96.240. COLLECTIONS; DIVISION OF COLLECTIONS. (a) There is established within the Department of Revenue the division of collections. The director of the division is in the classified service under AS 39.25 and shall receive an annual salary within range 27 of the salary schedule established in AS 39.27.011 or within one range below the highest paid deputy commissioner in the department if that is higher than range 27. In order to qualify for the position of director, a person must be an attorney licensed to practice in this state with at least four years of practice in business law and business practices.

(b) If a borrower who has received notification of delinquency in accordance with sec. 220 or 230 of this chapter does not request reevaluation, or if the appropriate evaluation committee determines that renegotiation of the existing terms and conditions is not feasible or justified, and the loan is not brought current within 30 days after the notification of delinquency is sent, the loan shall be transferred to the loss reserve account and transmitted for collection to the division of collections. A monthly report of the status of the collection effort shall be made to the Legislative Budget and Audit Committee. The total principal and interest due shall be transferred from the loss reserve account, established in sec. 150 of this chapter, to the fund upon

assignment of each loan.

Sec. 45.96.250. LOAN PURPOSES. The fund may make loans for residential housing, commercial purposes, public purposes, and education.

Sec. 45.96.260. RESIDENTIAL HOUSING. In addition to other powers granted in this chapter, the fund may, for the purpose of providing housing for persons who meet the eligibility requirements of sec. 370 of this chapter,

(1) make or participate in the making of construction loans to sponsors, developers, and builders of land development or residential housing;

(2) make or participate in the making of mortgage loans to sponsors, developers, builders, and purchasers of residential housing;

(3) purchase or participate in the purchase of mortgage loans made to sponsors, developers, builders, owners, and purchasers of residential housing;

(4) acquire real property, or any interest in real property, in its own name, by purchase, transfer or foreclosure, when the acquisition is necessary or appropriate to protect any loan in which the fund has an interest; sell, transfer and convey any such property to a buyer; and, if the sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, rent or lease the property to a tenant pending the sale, transfer or conveyance;

(5) sell, at public or private sale, to any purchaser, including the Federal National Mortgage Association, all or any part of a mortgage or other instrument or document securing a construction, land development, mortgage or temporary loan of any type permitted by this section;

(6) purchase, in order to meet the requirements of the sale of its mortgages to the Federal National Mortgage Association, stock of

the Federal National Mortgage Association;

(7) sell all or any part of a mortgage or other instrument or document securing a construction, land development, mortgage or temporary loan of any type permitted by this section to the teachers' retirement system (AS 14.25) if the borrower is a teacher subject to the provisions of AS 14.25 or to the public employees' retirement system (AS 39.35) if the borrower is a public employee included in the system; however, the security instrument shall be fully guaranteed as to payment of principal and interest by the fund.

Sec. 45.96.270. COMMERCIAL LOANS. In addition to other powers granted in this chapter, the fund may make loans to

(1) individual farmers, homesteaders, and partnerships or corporations composed of farmers and homesteaders, for development of farms, storage and processing of farm produce, livestock, machinery and equipment, farm irrigation and working capital for farm operations;

(2) individual commercial fishermen who have had a commercial fishing license for three years for the repair, restoration or upgrading of existing vessels and gear and for the purchase of entry permits and gear and the construction and purchase of vessels; loans made under this paragraph are subject to the provisions of secs. 295 and 297 of this chapter;

(3) holders of hatchery permits under AS 16.10.400 - 16.10.-470, including those holders issued permits before June 24, 1977, for the planning, construction, and operation of hatchery facilities;

(4) regional associations qualified in accordance with AS 16.10.380 which have formed a nonprofit corporation or a local nonprofit corporation approved by a qualified regional association, for preconstruction activities necessary to obtain a permit under AS 16.10.400 - 16.10.470;

(5) local development companies to assist the new financing of industrial and manufacturing plant construction, conversion or expansion, including the acquisition of land, to the extent necessary to secure a loan for a portion of the cost by the Small Business Administration under 15 U.S.C. sec. 696 (Section 502 of the Act of Congress entitled "Small Business Investment Company Act of 1958" as amended);

(6) develop, rehabilitate, and expand business activities in the state;

(7) child care facilities in the state to comply with the appropriate licensing standards for child care facilities or to comply with the requirements for certification by the Department of Education subject to the following conditions:

(A) the applicant shall submit to the fund a plan for the use of the loan funds which is approved by the commissioner of commerce and economic development;

(B) the applicant shall demonstrate that the proposed loan will enable the child care facility to obtain a license from the Department of Health and Social Services or a certificate from the Department of Education;

(C) the applicant shall apply to the Department of Community and Regional Affairs for and receive a certificate of need;

(8) public utilities other than publicly owned or nonprofit, as defined in AS 42.05.701(2)(A) and (C), for the following purposes and under the following conditions:

(A) loans may be used for capital construction projects, for hydroelectric generation and potable water supply including surface storage and groundwater sources and transmission of water from surface storage to the existing distribution system, and

development of hydroelectric generating facilities including transmission of power to the load center; loans may also be used to construct, acquire, finance and operate power production facilities limited to fossil fuel, wind power, tidal, geothermal, or solar energy production and waste energy conservation facilities;

(B) loans may be made to applicants for new or existing projects including expenses incurred in securing necessary permits and licenses, design of the project and construction of capital improvements;

(C) existing hydroelectric and water supply projects may be expanded or rehabilitated with loan funds under this paragraph if the rehabilitation and expansion is a capital improvement project;

(D) loans shall be repaid to the fund by the borrower from revenue derived from the sale of electric power or water;

(E) the utility shall demonstrate in its loan application that the project is economically and technically feasible and, taking into account the low interest on loans under this chapter, is the most economical means of furnishing the proposed service;

(9) small businesses to acquire, finance or refinance or equip businesses;

(10) loggers and forest products manufacturers and processors for logging operations and equipment, forest products manufacturing or processing plants, and for working capital for logging operations and forest products manufacturing or processing;

(11) other businesses for equipment and operations related to harvesting, manufacturing and processing other renewable or nonrenewable resources in the state.

Sec. 45.96.280. CERTIFICATE OF NEED FOR CHILD CARE FACILITIES.

(a) The Department of Community and Regional Affairs shall determine whether to award a certificate of need to child care facilities applying for a loan under sec. 270(7) of this chapter on the basis of the following criteria:

(1) the number of existing slots in licensed child care facilities in the geographic area of the applicant;

(2) the number of children in the geographic area who need child care;

(3) the proposed capacity of the applicant facility;

(4) other factors which are determined to be relevant by the department and are set out in regulations adopted by the Department of Community and Regional Affairs.

(b) The Department of Community and Regional Affairs shall submit its decision and the reasons for it to the applicant within 60 days of receipt of the application.

Sec. 45.96.290. VOLUNTARY ASSESSMENT ON SALE OF SALMON. (a) In place of or in addition to an assessment levied under AS 16.10.530, an association of persons licensed under AS 16.05.540 - 16.05.600, which consists of at least 51 per cent of the persons so licensed and actively participating in a fishery to be benefited by a hatchery program, may levy and collect an assessment from among its members for the purpose of securing and repaying a loan made under sec. 270(3) or (4) of this chapter.

(b) Upon satisfactory demonstration to the director of the division of Alaska loan programs that an assessment levied under this section may reasonably be relied upon to secure and repay a loan to be made under sec. 270(3) or (4) of this chapter, the director may make the loan without requiring an assessment under AS 16.10.530.

(c) If an assessment made under this section fails to satisfy the

payments required on the principal and interest due on the loan, the director may negotiate with the regional association to levy an assessment under AS 16.10.530.

Sec. 45.96.295. LOANS MADE TO COMMERCIAL FISHERMEN. A loan under sec. 270(2) of this chapter may not run longer than 15 years or bear interest exceeding five per cent, and it shall be secured by a first lien and appropriate security agreements, except that a lien in favor of the state is not required for loans guaranteed fully by the federal government under the Federal Ship Financing Act of 1972 (46 U.S.C. secs. 1271 - 1279b; 86 Stat. 909), as amended. In the case of a security agreement given to secure a loan made under sec. 270(2) of this chapter and covering a vessel documented under the laws of the United States and so long as the Ship Mortgage Act of 1920 (46 U.S.C. secs. 911 - 984; 41 Stat. 1000), as amended, and the Shipping Act of 1916 (46 U.S.C. secs. 801 - 842; 39 Stat. 728), as amended, remain ambiguous with respect to whether or not a state or state agency qualifies as a citizen of the United States for purposes of those Acts, the first lien requirement of this section may be satisfied by the recordation and endorsement of a first preferred ship mortgage under the Ship Mortgage Act of 1920, and by perfection of a security interest under the Uniform Commercial Code - Secured Transactions (AS 45.05.690 - 45.05.794), if the approval of the Secretary of Commerce is obtained under 46 U.S.C. sec. 839 for the transfer to the department of the interest in a vessel documented under the laws of the United States. In the case of a security agreement given to secure a loan made under sec. 270(2) of this chapter and covering a vessel documented under the laws of the United States, the first lien requirement of this section may also be satisfied by use of a trust deed and bond issue under it, if the trustee is a citizen of the United States and obtains a first preferred ship mortgage on the vessel

under the Ship Mortgage Act of 1920, and the approval of the Secretary of Commerce is obtained under 46 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds to the department if the trustee is not a trustee approved by the Secretary of Commerce under 46 U.S.C. secs. 808, 835 and 961. Loans may not exceed 90 per cent of the appraised value of the collateral used to secure the loan.

Sec. 45.96.297. LOANS FOR PURCHASE OF ALASKA LIMITED ENTRY PERMITS. (a) Loans under sec. 270(2) of this chapter for the purchase of a limited entry permit may be made only upon certification by the Alaska Commercial Fisheries Entry Commission (AS 16.43.020) that the fisherman is a person who qualifies as a transferee for the permit under AS 16.43 and the regulations adopted by the commission.

(b) Upon approval by the director of the division of Alaska loan programs, the permit to be purchased may be pledged as security for a loan under (a) of this section, if

(1) the certificate for the pledged permit lists the director as the legal owner of the permit;

(2) the certificate for the pledged permit lists the debtor as the equitable owner of the permit;

(3) all annual permit cards issued under the pledged permit list the name of the debtor;

(4) all obligations and responsibilities of a permit owner are assumed by the debtor;

(5) co-signers or other sureties for performance under the note are not vested with any rights in the pledged permit and their obligation is limited to satisfaction of the note and payment of costs directly incurred by the division in administering the loan.

(c) The director is not liable for any act or omission resulting from permit ownership nor will that act or omission affect his title to

the permit or his rights under it.

(d) Upon satisfaction of the note by the debtor, the director shall certify to the commission that the note has been satisfied.

(e) Upon certification as provided in (d) of this section, the commission shall amend the permit certificate to list the debtor as the legal owner.

(f) Notwithstanding the provisions of sec. 295 of this chapter, loans under sec. 270(2) of this chapter for the purchase of limited entry permits may not exceed 90 per cent of the appraised value of the collateral used to secure the loan.

Sec. 45.96.300. PUBLIC PURPOSES. (a) The director of the division of Alaska loan programs shall lend money to municipalities with populations of less than 5,000 according to the most recent survey conducted by the United States Census Bureau and to those corporations eligible under (d) of this section. Loans to municipalities shall be made through the purchase by the fund of municipal bonds. Loans to nonprofit corporations shall be made through revenue bonds issued on behalf of the corporation by the municipality in which the project is constructed. If the construction takes place outside a municipality, the revenue bonds shall be issued by the state bond committee on behalf of the nonprofit corporation. The cost of a loan made under this section shall be the same as the cost of borrowing to the fund. Loans made under this subsection are subject to the following conditions:

(1) When the amount of the issuance is $5,000,000 or less, the loan shall be made through the purchase of general obligation or revenue bonds.

(2) The borough or city attorney shall certify that all legal requirements relating to required elections, if necessary, and issuance have been met, or if the bonds are issued outside a municipality, cer-

tification shall be made by the Department of Law.

(3) The bonds shall be prepared by the municipality's attorney, approved by the attorney general and need not be in definitive form.

(4) The bonds shall be for a term commensurate with purpose, but in no event for more than 30 years average life.

(b) The director of the division of Alaska loan programs shall submit a bid for all general obligation bonds offered on a competitive basis by a home rule borough or city or general law borough or city of any class incorporated under the laws of the state if the borough or city provides its bid form to the director at least 10 days before the opening of the bid. The request for bids and the bid proposal shall provide for issuing all or a portion of the bonds based upon the best combination of bids. The bid shall be determined on the basis of the Daily Bond Buyer 20 bond average as follows:

(1) For general obligation bonds with a rating of "A" or higher, the bid shall be

(A) 100 points under the average for the first five years maturity;

(B) 75 Points under the average for the next five years maturity;

(C) 50 points under the average for the next five years maturity;

(D) 25 points under the average for the next five years maturity;

(E) 0 points under the average for the next five years maturity;

(F) 25 points above the average for the next five years maturity.

(2) For general obligation bonds with a rating of "Baa" or lower or which are unrated, the bid shall be

(A) 50 points under the average for the first five years maturity;

(B) 25 points under the average for the next five years maturity;

(C) 0 points under the average for the next five years maturity;

(D) 25 points above the average for the next five years maturity;

(E) 50 points above the average for the next five years maturity;

(F) 75 points above the average for the next five years maturity.

(3) If there are no bids, the director shall purchase the bonds at a six per cent interest rate for all maturities.

(c) The director of the division of Alaska loan programs shall submit a bid for all revenue bonds offered on a competitive basis by a home rule borough or city or general law borough or city of any class incorporated under the laws of the state or on behalf of a nonprofit corporation performing any of the functions described in AS 29.48 for which revenue sharing is received directly or indirectly by the corporation or on behalf of those nonprofit corporations described in (d) of this section if the borough, city, or nonprofit corporation provides its bid form to the director at least 10 days before the opening of the bid. The request for bids and the bid proposal shall provide for issuing all or a portion of the bonds based upon the best combination of bids. The bid shall be determined on the basis of the Daily Bond Buyer 20 bond average as follows:

(1) 50 points under the average for the first five years maturity;

(2) 25 points under the average for the next five years maturity;

(3) 0 points under the average for the next five years maturity;

(4) 25 points above the average for the next five years maturity;

(5) 50 points above the average for the next five years maturity;

(6) 75 points above the average for the next five years maturity;

(d) A nonprofit corporation is eligible for a loan under this section if

(1) it is designated as tax exempt under sec. 501(c)(3) and (4) of the Internal Revenue Code of 1954;

(2) it is a public corporation or other municipal instrumentality under AS 29.59.010; or

(3) it is statutorily created and performs a state function.

(e) The major part of the proceeds of any bond issue shall be used for purposes which are tax exempt under federal law and regulation in effect at the time the bonds are issued.

Sec. 45.96.310. DEFAULT ON MUNICIPAL BONDS. (a) Notwithstanding any provision of law, to the extent that any department or agency of the state is the custodian of money payable to a municipality, at any time after written notice to the department or agency head from the commissioner of revenue that the municipality is in default on the payment of principal or interest on municipal bonds of the municipality then held or owned by the fund, the department or agency shall withhold the pay-

ment of that money from that municipality and pay over the money to the fund for the purpose of paying principal of and interest on bonds of the fund.

(b) If money is not available to make any payment of principal and interest when due on a bond issue, the chief executive officer of the municipality which issued the bonds shall notify the commissioner of revenue at least 20 days in advance of the pending default that a default is pending. Failure to give the notice of pending default is grounds for removal of the chief executive officer from office and, if default occurs, the office is forfeited and is filled as provided by law for filling vacancies.

Sec. 45.96.320. MUNICIPAL BOND CAPITAL RESERVE ACCOUNT. For the purpose of securing each tax exempt bond issue of municipalities of the state and those bonds on behalf of nonprofit corporations guaranteed or issued under this chapter there is established a special account called the municipal bond capital reserve account. The commissioner of revenue shall pay into that account from the unallocated reserve account upon establishment an amount equal to five per cent of the obligations issued and sold after July 1, 1978 and upon subsequent sales, if any, of obligations of the issue secured an additional amount equal to five per cent of the obligations sold. At the end of each fiscal year the commissioner shall withdraw from the municipal bond capital reserve account and pay to the unallocated reserve account any amount in the account in excess of five per cent of the obligations secured or, if the amount in the account is less than five per cent of the obligations secured, pay into the account from the unallocated reserve account the amount necessary to bring the reserve to five per cent. All money held in a municipal bond capital reserve account shall be used as required, when money is not available from the principal and interest account, solely for (1)

the payment of the principal of obligations, (2) the purchase or redemption of obligations, (3) the payment of interest on obligations, or (4) the payment of any redemption premium required to be paid when those obligations are redeemed before maturity. Any income or interest earned by the account shall be paid to the unallocated reserve account. Any amount remaining in a municipal bond capital reserve account when the issue the account secures is fully retired shall be paid to the unallocated reserve account.

Sec. 45.96.330. INDUSTRIAL DEVELOPMENT LOANS. (a) The director of the division of Alaska loan programs may lend money to businesses conducting exempt activities under sec. 103(b)(4) and (5) of the Internal Revenue Code of 1954 for those activities either directly or through purchase by the fund of industrial development bonds issued on behalf of the business by the state bond committee.

(b) A loan may be made under this section only if upon payment of the loan the project shall be the property of

(1) the municipality in which the activity is conducted, unless the municipality has provided otherwise by a resolution adopted before approval of the loan; or

(2) the state if the activity is not conducted within a municipality.

(c) Any corporation, partnership, or firm doing business in the state is eligible for a loan under this section if

(1) the governing body of the municipality in which the activity is performed has been given notice of the project and the application for loan or purchase and has approved the project and application, or has not within 60 days of receipt of notice notified the director in writing that it disapproves the loan; or

(2) when the activity is not performed within a municipality,

the commissioner of community and regional affairs approves the project.

(d) A corporation, partnership, or firm which requests a loan of greater than $5,000,000 for a project under this section may request a special series of bonds for its project. The director of the division of Alaska loan programs may request the state bond committee to issue the special series of bonds on behalf of the corporation, partnership, or firm in place of making a direct loan. A corporation, partnership, or firm is eligible for a special bond series for its project if it has a credit rating of "A" or better.

(e) A special series of bonds which may not exceed $1,250,000,000 may be issued for the purpose of purchasing or otherwise acquiring any obligation which is issued in respect to financing a gas pipeline not to exceed $1,000,000,000 and for other purposes as to the remainder if the obligations are fixed and certain as to terms of repayment and if the legislature approves issuance of the bonds by concurrent resolution. The amount and purpose of the bonds shall be as established by the concurrent resolution.

Sec. 45.96.340. PROJECT COSTS ELIGIBLE FOR BONDING. In addition to costs directly related to a project, the sum total of all costs of financing and carrying out a project are eligible for bonding under secs. 300 - 330 of this chapter. These include, but are not limited to, the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property and the acquisition of machinery and equipment as may be necessary in connection with a project; an allocable portion of the administrative and operating expenses of the issuer; the cost of financing the project, including interest on bonds issued to finance the project; and the cost of other items, in-

cluding any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositaries, financial advisors, and paying agents for the bonds issued as the issuer considers necessary.

Sec. 45.96.350. EDUCATION. (a) In addition to other powers granted in this chapter, the fund may be used to make scholarship loans to students selected under (b) - (g) of this section.

(b) Proceeds from scholarship loans may only be used for transportation, books, tuition and required fees, and for room and board. The loans may only be used to attend a career education program approved by the Alaska Commission on Postsecondary Education or a college or university accredited by the accreditation association for the region in which the college or university is located.

(c) To maintain a loan the student must continue to be enrolled as a full-time student in good standing in a work study program approved by the Department of Education, in a career education program, or in a college or university designated under (b) of this section.

(d) Loans are noninterest bearing while a student is enrolled under (c) of this section or is receiving a deferment of payments under (g) of this section if appropriated funds are available for payment to the fund of the interest.

(e) The repayment period for student loans is 10 years. Unless a deferment of payments has been granted under (g) of this section, repayment shall commence when the student terminates his studies. In case of hardship, the Alaska Loan Programs Evaluation Committee may extend repayment of a loan for an additional period of up to five years.

(f) If, upon completion of the course of study for which the loan was granted, the borrower repays 60 per cent of the principal amount of the loan with interest with no delinquency, the remaining 40 per cent

owing shall be forgiven if appropriated funds are available for payment to the fund of the amount forgiven.

(g) The Alaska Loan Programs Evaluation Committee shall defer repayment of a loan during any of the following:

(1) the first year after a student terminates his studies;

(2) return by the student to student status as provided in (c) of this section;

(3) performance by the student of military or required alternative service; or

(4) 50 per cent or greater disability of the student, as certified by competent medical authority.

Sec. 45.96.360. TOURISM, HISTORICAL AND OPEN SPACE LOANS. (a) In addition to other powers granted in this chapter, the fund may make loans to a business directly involved in the tourist industry.

(b) Upon endorsement and plan approval by a local historical district commission established under AS 29.48.108 and the recommendation of a majority of the members of the Historic Sites Advisory Committee, the fund may make loans to a person, firm, business or municipality subject to applicable laws for the restoration, improvement, rehabilitation, or maintenance of a structure which is

(1) within the boundaries of an historical district established under AS 29.48.110;

(2) identified as important in state or national history as provided for in AS 29.48.110(b); or

(3) another building or structure within an historical district, and suitable for superficial modification so that it can conform to the period or motif of the surrounding buildings or structures that are the reason for the area's designation as an historical district.

Sec. 45.96.370. ELIGIBILITY. In order to be eligible for a loan

under this chapter a person must have been a resident of the state for at least five years on the date of application for the loan and must be 18 years of age or older. Except for loans made under sec. 330 of this chapter, a corporation is eligible for a loan if more than 60 per cent of its shareholders have been residents of the state for at least five years on the date of the application for the loan, the chief executive officer and all members of the governing board of the corporation have been residents of the state for at least five years on the date of application for the loan, and the chief executive officer and members of the governing board assume full individual liability for repayment of the loan. A loan to a corporation is immediately due and payable if it ceases to meet these eligibility criteria. An individual is ineligible if

(1) he is 60 days or more delinquent on a loan from the state or an agency of the state outstanding on the effective date of this Act or on a loan made under this chapter, but if the delinquency is cured eligibility is restored after expiration of 10 years from curing the delinquency; or

(2) a loan from the state or an agency of the state has been discharged in bankruptcy unless the loan is repaid in full and 10 years from the date of full payment has expired.

Sec. 45.96.380. MAXIMUM LOAN AMOUNTS. (a) Loans made under the authority of sec. 260 of this chapter for the purchase or construction of residential housing may not exceed the following limitations: (1) $90,000 for a single family dwelling; (2) $130,000 for a duplex; (3) $170,000 for a triplex; (4) $210,000 for a fourplex. Any loan made for the purchase or construction of residential facilities in excess of four units shall be treated as a commercial buildings loan subject to the limitations placed on such loans in (b)(1) of this section.

(b) Commercial loans made under the authority of sec. 270 of this chapter may not exceed the following limitations:

(1) $500,000 per individual for business activities; farm development; agricultural irrigation systems; purchase, construction, renovation, or repair of commercial buildings; fish manufacturing and processing; fishing vessels and gear; logging operations and equipment; timber manufacturing and processing; nonrenewable resource extraction; or any other activity not otherwise specifically provided for in this section;

(2) $350,000 per individual for farm chattel other than for irrigation systems;

(3) 10 per cent of the farm's gross receipts for the previous fiscal year up to a maximum of $250,000 for farm working capital;

(4) 10 per cent of the fisherman's gross receipts for the previous fiscal year up to a maximum of $250,000 for working capital for fishing.

(c) Loans for a single project under (b)(1) and (2) of this section may be made in excess of the maximum limits but not to exceed $5,000,000 for loans under (b)(1) or $1,100,000 for loans under (b)(2) if

(1) the loan is made to more than one but not more than 10 individuals participating in the project and the loan to each individual does not exceed the applicable maximum limit; or

(2) the loan is made to a corporation and no more than 10 individuals owning stock in that corporation assume personal liability for the loan in an amount which as to each individual does not exceed the applicable maximum limit.

(d) Educational loans made under the authority of sec. 350 of this chapter may not exceed the following limitations:

(1) $4,000 per individual per year for undergraduate studies;

(2) $8,000 per individual per year for graduate studies;

(3) $4,000 per individual per year for vocational studies;

(4) $4,000 per individual per year for work studies;

(5) $16,000 maximum outstanding loan balance per individual.

(e) No more than three loans may be made to any person for other than educational purposes under this chapter. A loan to an associate of the borrower is considered to be a loan to the borrower. For the purposes of this section, "associate of the borrower" means

(1) a corporation or other organization of which the borrower is an officer, director or partner, or is, directly or indirectly, the beneficial owner of 10 per cent or more of any class of equity securities;

(2) a person who is, directly or indirectly, the beneficial owner of 10 per cent or more of any class of equity securities of the borrower;

(3) a trust or other estate in which the borrower has a substantial beneficial interest or as to which the borrower serves as trustee or in a similar fiduciary capacity;

(4) a relative or spouse of the borrower or a relative of the spouse, who has the same home as the borrower;

(5) a person directly or indirectly controlling, controlled by, or under common control with, the borrower.

(f) The maximum loan amounts established in (a) - (d) of this section shall increase in proportion to increases in the consumer price index for Anchorage. The consumer price index for Anchorage for July 1, 1978 shall be the basis for determining percentage increases in the maximum loan amounts.

Sec. 45.96.390. AREA COST DIFFERENTIAL. (a) The maximum loan

amounts established in sec. 380(a) and (b) of this chapter shall be increased by the area cost differential as determined by the formula LCC/BCC x LCOL/ BCOL where

(1) LCC is the cost of construction in the area in which the facility is located;

(2) BCC is the cost of construction in the city or borough having the lowest cost of construction in the state;

(3) LCOL is the cost of living in the area in which the facility is located;

(4) BCOL is the cost of living in the city or borough having the lowest cost of living in the state.

(b) For purposes of this section the Department of Transportation and Public Facilities shall annually determine the cost of construction and the cost of living in each area of the state under regulations promulgated by the department establishing standards for the determination.

Sec. 45.96.400. ADDITIONAL LOAN LIMITATIONS. The maximum loan amounts established in secs. 380(b) and 390 of this chapter shall be further limited, based upon the actual technical and managerial experience of the borrower relating to the project or activity for which the loan is made, as follows:

(1) if the borrower's experience is less than two years, he may receive up to 50 per cent of the maximum amount;

(2) if the borrower's experience is two to three years, he may receive up to 70 per cent of the maximum amount;

(3) if the borrower's experience is three to four years, he may receive up to 80 per cent of the maximum amount;

(4) if the borrower's experience is four to five years, he may receive up to 90 per cent of the maximum amount;

(5) if the borrower's experience is five years or more, he may receive 100 per cent of the maximum amount.

Sec. 45.96.410. VALUE LIMITATION. The provisions of secs. 380 - 400 of this chapter notwithstanding, no loan made under this chapter, unless it is a loan made under the provisions of sec. 330 of this chapter, may exceed

(1) 90 per cent of the appraised value of real property pledged as security for the loan;

(2) 95 per cent of the appraised value of real property pledged as security for the loan if the loan is for residential housing and is made in an area where Federal Housing Administration mortgage insurance is not available; or

(3) 80 per cent of tangible personal property pledged as security for the loan.

Sec. 45.96.420. MAXIMUM TERMS OF LOANS. The term of a loan made under this chapter may not exceed the useful life of the property pledged as security for the loan nor

(1) 30 years on a loan secured by real property;

(2) 15 years or the life of the equipment on a loan secured by equipment used for production of income;

(3) seven years on a loan secured by tangible personal property;

(4) one year on a loan for working capital.

Sec. 45.96.430. RATE OF INTEREST. (a) The rate of interest charged to borrowers under this chapter shall be the amount determined by the commissioner of revenue to be sufficient to cover anticipated cost of money to the fund and, for borrowers other than municipalities, one per cent over the anticipated cost for the loss reserve account plus the amount required for any necessary insurance, but the rate of in-

terest charged may be lower if necessary to prevent bonds issued under this Act from being arbitrage bonds under the provisions of and regulations under section 103(c) of the Internal Revenue Code of 1954, as amended. The determination of the anticipated cost by the commissioner is conclusive. Rates of interest less than that, except as provided in (b) of this section, may be charged if the renewable resource development fund or another state fund agrees to pay the difference between cost and the interest rate to be charged or if appropriation for the purpose of paying the difference has been made.

(b) The rate of interest determined in accordance with (a) of this section shall be reduced by one per cent if the loan is made to a veteran or is made for agricultural purposes. If the loan is made to a veteran, the World War II veterans' revolving fund, created in AS 26.-15.090, shall pay the difference between the rate determined in (a) of this section and the rate charged to the borrower. If the loan is made for agricultural purposes, the agricultural revolving loan fund, created in AS 03.10.040, shall pay the the difference between the rate determined in (a) of this section and the rate charged to the borrower. If the loan is made to a veteran and for agricultural purposes, the rate of interest shall be reduced by two per cent and each fund shall pay one-half the difference.

(c) When the World War II veterans' revolving fund's assets become depleted so that it can no longer pay the difference, the provisions of (b) of this section relating to loans made to veterans apply only if appropriation is made for the purpose of paying the difference. When the agricultural revolving loan fund's assets become depleted so that it can no longer pay the difference, the renewable resources development fund shall pay a portion of the interest determined by the division of renewable resources to be appropriate.

Sec. 45.96.440. ELIGIBILITY FOR VETERANS' INCENTIVE. (a) The following persons are eligible for special interest rates for veterans established in sec. 430(b) of this chapter:

(1) any person who served in the armed forces of the United States for 90 days or more, or whose service was for less than 90 days because of injury or disability incurred in the line of duty, between April 6, 1917 and November 11, 1918, and beginning September 16, 1940 to six months after termination of hostilities involving United States forces in Indo-China, or in a combat zone during any period of armed conflict, who was separated from the armed forces with a discharge other than dishonorable, and

(A) who at the time of induction into the service was a resident of the territory, who had been a resident for not less than one year immediately before his induction, and who returned to the territory or state after discharge as a resident with the intention of remaining in the territory or state; or

(B) who, not being a bona fide resident of the territory before his entry into the service, has been a resident of the territory or state for five or more years;

(2) any person who was dependent on a member of the armed forces or a veteran of World War II at the time of the member's or veteran's death if

(A) the member or veteran was a resident of the territory for one year before induction into the service;

(B) he served in the armed forces for at least 90 days between September 16, 1940, and July 25, 1947, but no benefits for loans accrue to dependents of an enlistee or reenlistee for time served after November 1, 1945, regardless of whether the enlistment or reenlistment was before or after November 1, 1945;

(C) he died before the official date of the termination of that war; and

(D) his discharge was not dishonorable;

(3) any person who has served in the Alaska Army National Guard, the Alaska Air National Guard, or the Alaska Naval Militia for not less than six years and who has not received a discharge other than honorable.

(b) The provisions of sec. 430(b) of this chapter are extended to persons who served other than dishonorably on active duty between June 25, 1950, and January 31, 1955, who served other than dishonorably or active duty between August 4, 1964, and six months after termination of hostilities involving forces of the United States, and to dependents of those persons, subject to the following provisions and eligibility qualifications:

(1) a discharge other than dishonorable from the armed forces of the United States or release to a reserve component;

(2) at the time of entry into the service residency in the territory or state for not less than one year before entry into the service, and return to the territory or state within a reasonable length of time after discharge or separation with the intention of remaining in the territory or state; or lacking residency before entry into the service, residency in the territory or state for at least five years following release from active military service; and

(3) service in the armed forces of the United States for 90 days or more, or service for a lesser period because of injury or disability incurred in line of duty, between June 25, 1950, and January 31, 1955, or service in the armed forces of the United States for 90 days or more or service for a lesser period because of injury or disability incurred in line of duty, between August 4, 1964, and July 1,

1977.

(c) A person who is eligible under more than one of the qualification provisions of (a) and (b) of this section shall have the rate of interest on his loan reduced by one and one-half per cent.

Sec. 45.96.450. EMPLOYMENT PRACTICES. (a) In the performance of contracts let by a recipient of a loan under this chapter for construction, repair, preliminary surveys, engineering studies, consulting, maintenance work or any other retention of services necessary to complete any project for which the loan was made, 95 per cent residents shall be employed where they are available and qualified. If 10 or fewer persons are employed under the contract, then 90 per cent residents shall be employed where they are available and qualified.

(b) The commissioner of commerce and economic development shall incorporate into all lending instruments issued under this chapter the provisions of (a) of this section and a provision calling for immediate foreclosure of the loan for violation of the provisions of (a) of this section.

(c) In addition to immediate foreclosure of his loan, as provided in (b) of this section, a borrower who violates the provisions of (a) of this section is ineligible for any loan under this chapter for 10 years following the violation.

(d) Municipalities and state agencies and departments when contracting for services concerning any aspects of administration and financing of the fund shall comply with AS 36.10.

Sec. 45.96.460. COOPERATION WITH OTHER AGENCIES. All departments, agencies and public corporations of the state shall provide information, services and facilities to the fund on its request. The fund shall reimburse the department, agency or corporation for expenses reasonably incurred on the fund's behalf.

Sec. 45.96.470. BANK PARTICIPATION. (a) Loans made under the authority of this chapter may be made in participation with financial institutions. The participating financial institution may act as agent for the division of Alaska loan programs in the initial processing of applications for loans. Fees for such services shall be mutually agreed upon.

(b) If a financial institution participates in a loan, the fund and the participating institution shall share the same ratable interest in the collateral securing the loan. Loan payments made by the borrower shall be distributed between the financial institution and the fund on a pro rata basis.

(c) The participating financial institution shall fix the rate of interest charged by it but may not exceed the legal contract rate of interest prescribed by law.

(d) The maximum service fee for administering a loan which may be charged by a participating financial institution is one-eighth of one per cent.

Sec. 45.96.480. ASSURANCE REQUIRED. In each loan made from the fund the loan agreement shall contain a contractual assurance by the borrower that no person who provides services to the borrower in preliminary phases of a project, including all studies made in connection with the project, may participate in the implementation stages of that project or may represent more than one interest in connection with the project. A list of all persons performing preliminary services shall be furnished to the division of Alaska loan programs as part of the loan application, and a list of all persons with whom the borrower has contractual relations in respect to the project after the application for loan shall be submitted to the division at intervals the division requires.

Sec. 45.96.490. DEFINITIONS. For purposes of this chapter, "the fund" and "the loan programs fund" mean the Alaska loans program fund created in sec. 20 of this chapter.

* Sec. 2. AS 37 is amended by adding a new chapter to read:

CHAPTER 13. ALASKA PERMANENT FUND.

Sec. 37.13.010. ALASKA PERMANENT FUND. Under art. IX, sec. 15 of the state constitution there is established within the Department of Revenue as a separate fund the Alaska Permanent Fund. The permanent fund consists of 25 per cent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the state. The commissioner of revenue shall deposit in the permanent fund 25 per cent of the receipts from these sources at least once each month.

Sec. 37.13.020. INVESTMENT OF THE PERMANENT FUND. (a) The Alaska Permanent Fund may be invested only in any of the following:

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

(2) obligations secured by reserves paid in by the United States or agencies or instrumentalities of the United States or obligations of corporations in which the United States is a shareholder or member;

(3) notes issued by the Farmers Home Administration;

(4) bank certificates of deposit which are secured as to the payment of principal and interest in accordance with Alaska law;

(5) corporate obligations rated "A" or better by a nationally recognized rating service or of equivalent quality;

(6) other securities, including corporate securities;

(7) Federal Housing Administration mortgages;

(8) Federal Veterans Administration mortgages;

(9) conventional residential mortgages if the offering financial institution retains at least 25 per cent of the mortgage;

(10) other secured loans, if the offering financial institution retains at least 33 1/3 per cent of the mortgage;

(11) bankers acceptances drawn on and accepted by banks with a combined capital and surplus aggregating at least $200,000,000.

(b) To qualify as a mortgage or secured loan which may be purchased by the state under (a)(9) or (10) of this section, the mortgage or secured loan shall

(1) be secured by real estate in the state or other collateral allowed under (a)(10) of this section;

(2) have as a mortgagor an Alaskan resident or a corporation in which at least 60 per cent of the stock is owned by Alaska residents;

(3) be certified by the originating financial institution that the loan being sold has been made in compliance with law and that liens supporting the loan have been perfected;

(4) have no initial closing fees or service fees which exceed one-half of one per cent, excluding closing costs.

(c) When more than one-half of one per cent of the aggregate of all loans purchased from a financial institution becomes delinquent for a period of 60 days or more, the state shall discontinue purchasing loans from that financial institution until the delinquency is reduced to less than one-half per cent.

(d) The permanent fund may purchase loans provided for in (a)(9) or (10) of this section only from financial institutions which are operating under the national banking laws, federal savings and loan laws, or under the provisions of AS 06.05, 06.15, 06.25 and 06.30.

(e) The permanent fund may purchase loans provided for in (a)(7), (8), (9), or (10), if the security for the loan is located in the state,

only with the approval of each purchase by the division of Alaska loan programs of the Department of Commerce and Economic Development.

(f) Investment policy shall be formulated by the director of the division of treasury of the Department of Revenue subject to the approval of the commissioner of revenue. In formulating investment policy the director shall consider maximum income and safety as governed by the prudent-man rule. The investment policy shall be proposed to the legislature during the first 10 days of any regular session and only becomes effective 60 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

(g) The commissioner of revenue may enter into contracts for services providing investment advice, custody of securities, and execution of transactions, in or outside the state.

(h) In this section

(1) "closing costs" means appraisal costs, legal costs, title insurance, and any other out-of-pocket expenses approved by the commissioner of revenue;

(2) "mortgage" means a pledge or security of particular property for the payment of a debt or the performance of some other obligation, whatever form the transaction may take;

(3) "resident" means a person domiciled in the state;

(4) "securities" means bonds, notes, debentures and all other forms of indebtedness but does not include common stock, preferred stock, and all other forms of equity capital.

* Sec. 3. AS 37.11 is amended by adding new sections to read:

Sec. 37.11.085. MANAGEMENT AND INVESTMENT POLICY. The management and investment policy of the renewable resources development fund and renewable resources permanent fund shall be formulated by the director

of the division of treasury of the Department of Revenue subject to the approval of the commissioner of revenue. In formulating investment policy the director of the division of treasury shall consider maximum income and safety as governed by the prudent-man rule. The investment policy shall be proposed to the legislature during the first 10 days of any regular session and only becomes effective 60 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

ARTICLE 4. ALASKA RENEWABLE RESOURCES DEVELOPMENT FINANCIAL ASSISTANCE PROGRAM.

Sec. 37.11.110. DECLARATION OF POLICY. (a) It is the policy of the state in the development of its renewable resources to seek to accomplish the development of its human resources by providing maximum opportunities for employment and a higher standard of living for its residents in conjunction with renewable resource management.

(b) It is the policy of the state to utilize the resources of the renewable resources funds to further the development of self-sustaining renewable resource industries to contribute to a stable state economy, employment opportunities, and life-style choices of its citizenry; and to further the most appropriate uses of the state's renewable resources for commercial, subsistence, and common use.

Sec. 37.11.120. FINDINGS. (a) The legislature finds that the state has vast quantities of unutilized, underutilized, or inefficiently utilized renewable resources and that great opportunities for expanding the wealth of the state and its residents rests in the expanded use of these resources. Many problems which confront the state today, including the lack of full employment opportunities and the lack of self-sustaining renewable resource industry sectors, could be mitigated by

development of private renewable resource industries.

(b) It is further found that several key factors have influenced the slow development of renewable resources. Contributing factors include the recent sharp reduction nationally and internationally in research and development financing, and lack of new venture capital, the lack of opportunity for Alaskan entrepreneurs to develop concepts or ideas or to achieve adequate financing, the general lack of knowledge within the financial community about conditions and factors extant to renewable resource development, the often severe lack of information about the state's renewable resources necessary to evaluate development opportunities, and resource management problems which have discouraged investment and the development of appropriate technologies to economically utilize Alaska's renewable resources in a unique and often harsh environment.

(c) It is further found that the state policy of assisting the development of viable industries is best accomplished by providing assistance to private industry and to aid private industry, in whatever ways necessary and feasible, to most efficiently identify and develop new industries which will make the most appropriate commercial use of the state's renewable resources.

(d) It is further found to be a valid public purpose for public expenditures and investments to promote the prosperity and general welfare of citizens of the state and to expand economic and employment opportunities and tax revenue in the state by providing financial and technical assistance to renewable resource product, market and technological research and development.

(e) It is further found that some of the state's resources will be most appropriately utilized by reserving their use to noncommercial activities for purposes of sustaining lifestyles such as subsistence

lifestyles and for environmental protection, both of which are historically and culturally important to the people of the state, and for recreational or other noncommercial purposes.

Sec. 37.11.130. DIVISION OF RENEWABLE RESOURCES CREATED. There is created the division of renewable resources within the Department of Commerce and Economic Development to carry out the purposes of this chapter.

Sec. 37.11.140. PURPOSES. The purposes of the division are to facilitate the long-range rehabilitation, enhancement, and development of Alaska's renewable resources so as to further the creation of a self-sustaining Alaskan economy based on renewable resources.

(1) Within the purview of rehabilitation and enhancement the resources of the division shall be used to demonstrate technologies and innovations for rehabilitation and enhancement or maintenance of resource systems in order to achieve and sustain their most appropriate uses for the benefit of present and future generations of Alaskans.

(2) Within the purview of development the division shall, through financial assistance and participation, (A) identify products, markets, and technologies for renewable resource industries in Alaska; (B) stimulate the research and development of the products, markets, and technologies; and (C) assist in the demonstration in the application and economic viability of the products, markets, and technologies.

(3) The division shall disseminate information on the activities, products, and ventures of the division so as to assist all interested Alaskans in renewable resource use, research, and development.

Sec. 37.11.150. APPROPRIATION. The receipts of the renewable resources development fund (AS 37.11.020) shall be appropriated to the division for the purposes of this chapter.

Sec. 37.11.160. DIRECTOR, DIVISION OF RENEWABLE RESOURCES. In order to qualify for the position of director of the division a person must

(1) be graduated from an accredited college with a major in business administration, economics, or a related field; and

(2) have eight years of administrative or management experience in resource planning or development, industrial engineering, management consultation, economic planning, commercial sales, promotion activity involving contact with major management and governmental officials, or related fields.

Sec. 37.11.170. COMPENSATION OF DIRECTOR. The director is in the classified service under AS 39.25 and shall receive an annual salary within range 27 in the salary schedule for state employees established in AS 39.27.011 or within one range below that received by the highest paid deputy commissioner in the Department of Commerce and Economic Development if that is higher than range 27.

Sec. 37.11.180. CONFLICTS OF INTEREST. No employee of the division may acquire an interest, direct or indirect, in a corporation, association, project, or other business enterprise to which the division is providing financial assistance in any form. If an employee owns or controls an interest, he shall immediately disclose the interest in writing to the director and refrain from participating in any manner in any division activity relating to that interest.

Sec. 37.11.190. POWERS AND DUTIES OF DIRECTOR. (a) The director

(1) may hire the staff necessary to carry out the purposes of this chapter;

(2) shall seek to optimize

(A) the number of residents of the state who benefit from a renewable resource through compatible or complementary use;

(B) the number of different interests which benefit from a renewable resource through compatible or complementary use;

(C) the proportion of the total income derivable from a renewable resource which accrues to the state and its citizens;

(D) the preservation of future options for renewable resource use;

(3) shall consider investment proposals only after an applicant for an investment has submitted a detailed proposal to the division's staff and the staff has prepared a written report recommending the investment and after an analysis of the short-term and long-term effects of the proposal and the extent of the Alaska loan programs fund financing;

(4) may approve applications for financial assistance only if they meet established criteria for financial assistance;

(5) shall establish and periodically review and revise criteria relating to the suitability of projects for financial assistance under this chapter;

(6) shall consider regional and local preferences or priorities in fund allocation decisions;

(7) shall monitor and provide for operational and performance evaluations of projects for which the division provides financial assistance;

(8) shall identify potential opportunities for rehabilitation, enhancement, and development of renewable resources;

(9) shall adopt regulations to implement this chapter in accordance with the Administrative Procedure Act (AS 44.62);

(10) shall advise the director of the division of Alaska loan programs of the Department of Commerce and Economic Development regarding the most appropriate financial mechanisms for projects involving

renewable resources.

(b) The division may not assume responsibility for managing any enterprise or project in which it has invested, but it may exercise voting rights for any purpose affecting the repayment of financial assistance provided under the Alaska loan programs fund or this chapter.

(c) Nothing in this section prevents the division from taking such action and exercising such rights as it may consider necessary for the protection of its interests in the event of actual or threatened default on any of its investments, actual or threatened insolvency of the enterprise or project in which the investment has been made or other situations which, in the opinion of the director, threaten to jeopardize the investment.

Sec. 37.11.200. ELIGIBILITY. (a) No financial assistance may be made unless the division finds that

(1) the project, if successful, will further the purposes of this chapter;

(2) the project, if successful, is likely to be technologically and economically feasible;

(3) the applicant for financial assistance has entered into an agreement that any new renewable resource activity shall be primarily established and remain in the state for a minimum period of time established by the division;

(4) the applicant for financial assistance meets the eligibility requirements for the Alaska loan programs fund;

(5) the corporate officers, directors, and equity holders have agreed to a reasonable salary and benefit scale which reflects current business standards.

(b) The division may not invest in a combination of equity purchases and interest incentives of more than five per cent of the annual

receipts of the renewable resources development fund or $1,500,000, whichever is less, in a single project unless the legislature has approved the investment by concurrent resolution.

(c) The renewable resources development fund may not be used for direct grants made to the private sector or for loans which contain a forgiveness of indebtedness provision.

(d) No loan may be guaranteed or participated in with the Alaska loan programs fund for a period in excess of 30 years unless the legislature has approved the loan by concurrent resolution.

Sec. 37.11.210. FINANCIAL ASSISTANCE. (a) In carrying out the purposes of this chapter the director may approve financial assistance only to projects for the rehabilitation, enhancement, and development of the state's renewable resources and which have been approved by the division of Alaska loan programs.

(b) The division's financial assistance to projects is limited to

(1) investment in not more than 50 per cent of the capital stock or other ownership interest in a project; no investment under this paragraph is permitted until the applicant has borrowed the maximum amount allowable from the Alaska loan programs fund (AS 45.96);

(2) interest incentives under which the division pays part or all of the interest on the loans made from the Alaska loan programs fund to the project when the project involves a high financial risk, has significant employment opportunity potential, or has potentially broad application to the public; interest incentives are only in addition to investments made under (1) of this subsection; payments of interest assumed by the division under this paragraph shall be made to the division of Alaska loan programs when the loans to the project are closed and shall consist of the total amount of interest due on the affected loans;

(3) grants for public purposes as defined in AS 45.96.300 only when the amount of the grant has been included in the general budget of the state for the next fiscal year.

(c) All financial assistance provided by the division shall be paid from the renewable resources development fund. All repayments of financial assistance provided by the division shall be deposited into the renewable resources development fund.

(d) Before a project is approved for financial assistance, the division shall perform a study to determine its economic and technical feasibility. If the project is subsequently approved for financial assistance, the division shall provide such technical assistance as is considered necessary and desirable by the director. The cost of the study and assistance provided under this subsection shall be borne by the division.

(e) Processing and closing of all financial assistance provided under this section shall be conducted by the division of Alaska loan programs at the same time as that division processes and closes the financial assistance that it is providing to the applicant.

Sec. 37.11.220. LOAN GUARANTEES. (a) The division shall guarantee all loans made to a renewable resources project from the Alaska loan programs fund.

(b) If payment of a loan guarantee becomes necessary, that payment shall be made from the loss reserve account established in sec. 240 of this chapter.

Sec. 37.11.230. REPAYMENT OF INTEREST INCENTIVES. (a) An applicant for whose project the director has approved an interest incentive shall repay the amount of the incentive without interest.

(b) Repayment shall begin at the end of the year following the first year that the project shows a net profit and shall be by annual

remittance to the division of a percentage of the project's annual net profit after taxes for the preceding year. The percentage of the project's net profit to be the basis of repayment shall be negotiated between the director and the recipient of the interest incentive before approving the interest incentive. For purposes of this subsection "net profit" means adjusted gross income as defined in sec. 62 of the Internal Revenue Code of 1954, as amended. The director may reduce the net profit of a project in order to allow for extraordinary items including, but not limited to, changes in inventory valuation, changes in accounting methods, or gains or losses on the sale of depreciated property.

(c) The director may investigate the management of a project receiving an interest incentive or the business enterprise responsible for the project, including, but not limited to, staffing patterns, wage and salary scales and agreements, investment policies and practices, purchasing, and payment arrangements with affiliated interests for the purpose of determining unreasonable practices which adversely affect the project's net profit. If the director finds unreasonable management practices which adversely affect the project's net profit, he shall order the cessation of those practices. If the unreasonable practices are not halted within a reasonable period of time, the director may declare the project in default under sec. 190(c) of this chapter.

(d) As a condition to receiving an interest incentive under this chapter, an applicant shall agree to submit to the director copies of his annual state and federal income tax returns that cover the project.

Sec. 37.11.240. LOSS RESERVE ACCOUNT. (a) For the purpose of protecting the financial integrity of the Alaska loan programs fund when used to make loans to renewable resources projects, a special account called the loss reserve account of the renewable resources development fund is established. The commissioner of revenue shall pay into the

account from the development fund an amount equal to 10 per cent of the estimated total amount of all loans guaranteed by the development fund during the first fiscal year of operation. At the first of the succeeding fiscal year and each fiscal year thereafter, the commissioner shall pay into the account from the development fund the amount necessary to bring the balance of this account to 10 per cent of the total amount of loans projected to be outstanding during that fiscal year.

(b) If during the fiscal year the total amount of loans outstanding exceeds the amount projected to be outstanding, the commissioner of revenue shall pay into the account from the development fund the sum needed to bring the balance of this account to 10 per cent of the amount of loans outstanding.

(c) Money in the loss reserve account may only be used for losses realized from loan guarantees made under sec. 220 of this chapter, except when, at the beginning of a fiscal year, the balance of this account exceeds 10 per cent of the total amount of loans projected to be outstanding during the fiscal year, the amount in excess of 10 per cent shall be paid to the development fund.

Sec. 37.11.250. INVESTMENTS. (a) Investment of the loss reserve account and the renewable resources development fund established under sec. 20 of this chapter is managed by the director of the division of treasury in the Department of Revenue. The director of the division of treasury shall determine investment policy and manage the investments of the fund under the same criteria applicable to other state investments he manages.

(b) The director of the division of treasury shall provide monthly reports to the Legislative Budget and Audit Committee relating to the investment of funds described in (a) of this section, including

(1) a summary of long-range and short-term investment policy;

(2) a list of investments made during the previous month;

(3) an evaluation of the performance of investments made;

(4) other information requested by the budget and audit committee.

Sec. 37.11.260. ACCOUNTING. Accounting for the renewable resources development fund shall be provided by the Department of Administration. Reports shall be made by that department to the Department of Revenue, the Department of Commerce and Economic Development, and the Legislative Budget and Audit Committee on at least a monthly basis. These reports shall include an itemization of each loan which has been in default for a period in excess of 30 days and the measures taken for each to insure compliance with terms and conditions of the loan. The Legislative Budget and Audit Committee shall provide quarterly reports to the legislature summarizing the information it receives under this section, under sec. 250 of this chapter and under AS 45.96.240(b) and including comments and suggestions the committee determines to be of interest to the legislature relating to the administration of the development fund. Other reports shall be made as prescribed by the Department of Commerce and Economic Development.

Sec. 37.11.270. BUDGET. The division is subject to the provisions of the Executive Budget Act (AS 37.07) for all funds, whether received through allocations by this chapter or otherwise. The operational budget shall be a separate budget category from the remainder of the budget.

Sec. 37.11.280. DEFINITIONS. In this chapter

(1) "director" means the director of the division of renewable resources;

(2) "division" means the division of renewable resources in the Department of Commerce and Economic Development;

(3) "rehabilitation, enhancement, and development" means any activity or program which improves the health and well-being of a renewable resource or renewable resource population leading to an increase in the quality or productivity of this resource and to an increase in the benefits derivable from this resource accruing to the state and its citizens;

(4) "renewable resource" means non-human living organisms; natural components of the environment, including the air, land, and water; and energy systems which are naturally recurring or replenished.

* Sec. 4. AS 37.11.060 is amended to read:

Sec. 37.11.060. FUND PRINCIPAL. Unappropriated or otherwise unencumbered balances remaining in the Alaska renewable resources development fund at the close of each fiscal year shall be deposited in the Alaska renewable resources fund. These deposits shall be considered fund principal and shall be invested in perpetuity in accordance with AS 37.13.020 (investment of Alaska permanent fund) [AS 37.10.070 (INVESTMENT OF SURPLUS STATE FUNDS)].

* Sec. 5. AS 03.10.050 is repealed and re-enacted to read:

Sec. 03.10.050. ADMINISTRATION OF FUND. The commissioner shall administer the loan fund.

* Sec. 6. AS 14.40.751(a) is amended to read:

(a) There is created a scholarship revolving loan fund. [THE FUND SHALL BE USED TO MAKE SCHOLARSHIP LOANS TO STUDENTS SELECTED UNDER SECS. 751 - 806 OF THIS CHAPTER. ALL REPAYMENTS OF PRINCIPAL AND INTEREST ON SCHOLARSHIP LOANS SHALL BE PAID INTO THE SCHOLARSHIP REVOLVING LOAN FUND AND SHALL BE USED TO MAKE NEW SCHOLARSHIP LOANS. IF ESTIMATED FUNDS AVAILABLE FROM SCHOLARSHIP LOAN REPAYMENTS ARE INADEQUATE TO FULLY FUND ESTIMATED SCHOLARSHIP LOANS FOR ANY FISCAL YEAR, ADDITIONAL FUNDING FROM THE GENERAL FUND MAY BE REQUESTED AND APPROPRIATED FOR THAT YEAR.]

* Sec. 7. AS 14.40.755(b) is amended to read:

(b) A person whose [LOAN OR] grant application is not recommended or presented to the committee by the executive secretary may appeal to the committee through the chairman of the committee and the committee shall consider the application.

* Sec. 8. AS 18.56.090 is repealed and re-enacted to read:

Sec. 18.56.090. GENERAL POWERS. The corporation may

(1) collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments and other evidences of indebtedness;

(2) sell, at public or private sale, to any purchaser, including the Federal National Mortgage Association, all or any part of a mortgage or other instrument or document securing a construction, land development, mortgage or temporary loan of any type in the possession of the corporation.

* Sec. 9. AS 18.100.050 is amended to read:

Sec. 18.100.050. ELIGIBILITY FOR GRANTS [LOANS]. Only public or nonprofit private corporations are eligible for grants [LOANS] under this chapter. The nonprofit corporations must be designated as tax exempt under sec. 501(c)(3) and (4) [501(e)(3) AND (4)] of the Internal Revenue Code of 1954.

* Sec. 10. AS 18.100.070(a) is amended to read:

(a) There is created within the Department of Community and Regional Affairs a senior citizens housing development fund. Subject to direct appropriation [OR THROUGH PROCEEDS OF A BONDING ISSUE] the department shall make grants [OR LOANS] to municipalities or to corporations designated as tax exempt under sec. 501(c)(3) and (4) of the Internal Revenue Code of 1954 [ELIGIBLE FOR LOANS UNDER SEC. 50 OF THIS CHAPTER] for the purpose of developing senior citizen housing. [A GRANT

FROM THE PROCEEDS OF A BOND ISSUE MAY BE MADE ONLY TO MUNICIPALITIES.]

* Sec. 11. AS 18.100.070(b) is amended to read:

(b) Application for a grant [OR LOAN] under (a) of this section shall be in the form prescribed by the department. The application shall demonstrate the need for senior citizen housing in the area to be served, the feasibility of the proposed project, and an adequate management plan which shall demonstrate the ability of the eligible recipient to sustain the proposed project.

* Sec. 12. AS 29.13.100 is amended by adding a new paragraph to read:

(38) AS 29.58.290 (industrial development bonds)

* Sec. 13. AS 29.58 is amended by adding a new section to read:

Sec. 29.58.290. INDUSTRIAL DEVELOPMENT BONDS. No municipality, whether home rule or otherwise, may issue any revenue bond which is an industrial development bond under the provisions of the Internal Revenue Code of 1954 (26 U.S.C. 103).

* Sec. 14. AS 37.10.050 is amended to read:

Sec. 37.10.050. ACCOUNTING FOR STATE MONEY AND PAYMENT TO <u>DIVISION OF TREASURY</u> [DEPARTMENT OF REVENUE] FOR DEPOSIT IN PROPER FUND. (a) Each office, board, commission, or bureau authorized to collect or receive fees, licenses, taxes or other money belonging to the state shall account for and pay the fees, licenses, taxes or other money, less fees to which he is entitled by law to the <u>division of treasury of the</u> Department of Revenue at least once each month.

(b) Money collected for the state shall be deposited by the collector in the nearest bank to the account of the <u>division</u> [DEPARTMENT OF REVENUE] when the <u>division</u> [DEPARTMENT OF REVENUE] directs this to be done.

(c) The <u>division</u> [DEPARTMENT OF REVENUE] in June and December of each year shall publish in at least one newspaper of general circulation

in each of the four judicial districts a detailed report in display advertising form of the amount of state money deposited in each named bank or other financial institution. A copy of the semiannual report on bank deposits shall also be sent to the Legislative Affairs Agency for distribution of copies to the members of the legislature. The terms of the deposit may be obtained upon a written request.

* Sec. 15. AS 37.10.070(a) is amended to read:

(a) When the commissioner of revenue determines that there is in the state treasury a surplus above an amount sufficient to meet current cash expenditure needs, he shall direct the director of the division of treasury to invest the surplus. The director may invest the surplus [THE SURPLUS SHALL BE INVESTED] in any of the following:

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

(2) obligations secured by reserves paid in by the United States or agencies or instrumentalities of the United States or obligations of corporations in which the United States is a shareholder or member;

(3) notes issued by Farmer's Home Administration;

(4) bank certificates of deposit which are secured as to the payment of principal and interest in accordance with Alaska law;

(5) corporate obligations of prime or equivalent quality, as rated by a nationally recognized rating organization;

(6) other securities, including corporate securities;

(7) Federal Housing Administration mortgages;

(8) Federal Veterans Administration mortgages;

(9) loans made under the provisions of the Alaska loan programs fund (AS 45.96) [AS 03.10 AND AS 26.15];

(10) conventional residential mortgages if the offering fin-

ancial institution retains at least 25 per cent of the mortgage;

(11) other secured loans, if the offering financial institution retains at least 33 1/3 per cent of the mortgage;

(12) mortgages of the Alaska Rural Rehabilitation Corporation which secure agricultural loans, agricultural business loans and agricultural processing loans;

(13) bankers acceptances drawn on and accepted by banks with a combined capital and surplus aggregating at least $200,000,000;

(14) repurchase agreements, reverse repurchase agreements, or any trading practice or instrumentalities that may evolve in investment management.

* Sec. 16. AS 37.10.070(f) is repealed and re-enacted to read:

(f) Investment policy shall be formulated by the director of the division of treasury of the Department of Revenue subject to the approval of the commissioner of revenue. In formulating investment policy the director shall consider maximum income and safety as governed by the prudent-man rule. The investment policy shall be proposed to the legislature during the first ten days of any regular session and only becomes effective 60 days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

* Sec. 17. AS 37.10.070(g) is amended to read:

(g) The director of the division of treasury [COMMISSIONER OF REVENUE, WITH THE CONSENT OF THE COMMITTEE,] may enter into contracts for services providing investment advice, custody of securities, and execution of transactions, in or out of Alaska.

* Sec. 18. AS 37.10.070(i) is amended to read:

(i) The director [COMMISSIONER] shall purchase notes and mortgages under (a) of this section at a rate conducive to develop and benefit

Alaska and Alaska residents and this rate may be less than the market rate.

* Sec. 19. AS 37.10.070 is amended by adding a new subsection to read:

(k) In making investments under (a) of this section, the director may pool the surplus assets of the state funds but shall maintain separate accounts for each fund.

* Sec. 20. AS 37.10.075(a) is amended to read:

(a) When the commissioner of revenue determines that there are funds in the state treasury which are not being used for the purposes provided for in sec. 70 of this chapter, he may direct the director of the division of treasury to deposit the funds [THEY MAY BE DEPOSITED] in financial institutions in the state which offer the highest bid for the state funds. Collateral may be required by the commissioner to secure state deposits provided for under this section.

* Sec. 21. AS 39.25.120(2) is amended to read:

(2) the directors, division of personnel, division of public health, division of medical assistance, and those other directors of the major divisions of the principal departments of the executive branch as are specifically designated by the governor, except the directors of the divisions of Alaska loan programs, renewable resources development, treasury and collections are in the classified service and may not be designated as partially exempt;

* Sec. 22. AS 41.22.020(a) is amended to read:

(a) In addition to uses of fund money authorized in sec. 10 of this chapter, money of the fund shall be utilized to make grants to municipalities, of up to one-half the nonfederal share of costs of projects described in sec. 10 of this chapter which are initiated by a municipality [, AND LOANS OF AMOUNTS NECESSARY TO ENABLE MUNICIPALITIES TO MAKE OPTION PAYMENTS ON PARKS AND OPEN SPACE LAND FOR THE ACQUISITION

OF WHICH FEDERAL FUNDS ARE ANTICIPATED].

* Sec. 23. AS 41.35.180(5) is repealed and re-enacted to read:

(5) consult with local historical district commissions regarding the establishment of historical districts under AS 29.48.108 - 29.48.110 and recommend, if appropriate, the formulation of additional criteria for the designation of historical districts under AS 29.48.-110(b).

* Sec. 24. AS 44.21.020 is amended by adding new paragraphs to read:

(13) provide accounting services for the permanent fund (AS 37.13.010), the Alaska loan programs fund (AS 45.96), the renewable resources development fund (AS 37.11), and all other state funds;

(14) provide detailed accounting of state loans outstanding and securities held by the state.

* Sec. 25. AS 44.25 is amended by adding a new section to read:

Sec. 44.25.025. DIVISION OF TREASURY. (a) There is established within the Department of Revenue the division of treasury. The director of the division is in the classified service under AS 39.25 and shall receive an annual salary within range 27 of the salary schedule established in AS 39.27.011 or within one range below that received by the highest paid deputy commissioner in the Department of Revenue if that is higher than range 27.

(b) In order to qualify for the position of director, a person must

(1) be graduated from an accredited college with major course work in business administration, accounting, finance, banking, economics, or another closely related field;

(2) have 10 years of experience in banking or investment management involving review, analysis, purchase and sell recommendations, and responsibility for performance with at least four of these

years in a managerial capacity.

(c) The director of the division of treasury shall collect, account for, have custody of, invest, and manage all state funds and all revenues of the state except revenues incidental to a program of licensing and regulation carried on by another state department, except that the division shall issue fish and game licenses, collect fish and game license revenues, and do all other acts incidental to the performance of these functions.

* Sec. 26. AS 44.33.020 is amended by adding a new paragraph to read:

(22) administer the Alaska loan programs fund (AS 45.96) and the renewable resources development fund (AS 37.11).

* Sec. 27. The following laws are repealed: AS 03.10.010; 03.10.020(1), (4), and (5); 03.10.030; 03.10.054; AS 14.40.751(c), 14.40.759 - 14.40.771; AS 16.10.300; 16.10.310(a)(1), (4), (5); 16.10.320; 16.10.500; 16.10.510(1), (2), (5), (6), (9); 16.10.520; 16.10.540; AS 18.56.010, 18.56.085, 18.56.092 - 18.56.095, 18.56.100(b) - (k), 18.56.115 - 18.56.210; AS 18.100.030(1), 18.100.040 - 18.100.060; AS 26.15.010(b) - (d), 26.15.040 - 26.15.060, 26.15.110 - 26.15.160; AS 37.10.065, 37.10.075(b) - (d), 37.10.079; AS 37.11.030; AS 41.22.020(b) - (c); AS 41.30.010 - 41.30.080; AS 44.25.020(2); AS 44.33.020(5), 44.33.245(a)(1), 44.33.245(b), 44.33.250 - 44.33.265; AS 44.58.005 - 44.58.010, 44.58.080(6) - (20), 44.58.090, 44.58.130 - 44.58.220, 44.58.240 - 44.58.260, 44.58.270(c), (f), 44.58.300, 44.58.390; AS 44.59.140(7) - (14), 44.59.170, 44.59.190 - 44.59.410, 44.59.430; AS 44.60.010, 44.60.130(7) - (13), 44.60.160 - 44.60.260, 44.60.310 - 44.60.320; AS 44.61.010 - 44.61.220; AS 45.86.010 - 45.86.030, 45.86.040(b) - (c), 45.86.050 - 45.86.060; AS 45.88.010 - 45.88.040; AS 45.90.020(a)(1), (4), 45.90.030; AS 45.95.020 -45.95.030, 45.95.070; AS 45.98.020 - 45.98.040, 45.98.060.

* Sec. 28. Sec. 45.96.120(b) in sec. 1 of this Act is retroactive to June 30, 1977. For the fiscal year ending June 30, 1978, the amount transferred

is the amount remaining in the general fund at the end of the fiscal year.

* Sec. 29. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Original sponsor: Ferguson

Offered: 6/7/78
Referred: Rules

IN THE SENATE BY THE RULES COMMITTEE

HOUSE CS FOR SENATE BILL NO. 338 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to nonrenewable resource revenues; to legislative oversight; and providing for an effective date."

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

* Section 1. AS 24.20 is amended by adding new sections to read:

ARTICLE IV. INVESTMENT OVERSIGHT COMMITTEE.

Sec. 24.20.600. INVESTMENT OVERSIGHT COMMITTEE ESTABLISHED. The Investment Oversight Committee is established as a permanent interim committee of the legislature. The establishment of the committee recognizes the need of the legislature for technical review and oversight of the performance of all agencies of the state which perform lending or investment functions.

Sec. 24.20.610. FINDINGS. The legislature finds that there is a substantial need for oversight of the performance of all agencies of the state which perform lending or investment functions since these functions do not receive the detailed review to which other expenditures of public money are subject, and therefore the knowledge necessary for sound legislation in this area is not readily available. There is a need for legislative oversight which will provide information on the policy and performance of these agencies, the extent to which the agencies conform to statutory intent, and the impact of their performance on the economy and treasury.

Sec. 24.20.620. PURPOSES. The purposes of the committee are to

(1) monitor and report

(A) the performance of the agencies of the state which perform lending or investment functions,

(B) the extent to which the performance of these agencies has contributed to the fiscal, financial, economic and social improvement of the state and its citizens,

(C) the extent to which these agencies and the executive have prepared and coordinated short and long term economic, fiscal, investment and financial planning;

(2) hold these agencies accountable to statutory intent in their performance by recommending, where appropriate, changes in policy to the agencies or changes in legislation to the legislature;

(3) annually review the extent of capitalization of the investment funds of the state and alternative investment policy for the general fund surplus and recommend needed legislation.

Sec. 24.20.630. MEMBERSHIP. The committee is composed of eight members: the president of the senate, the speaker of the house, and three members appointed from each house by the respective presiding officer. The membership from each house shall include at least one member from each of the two major political parties. The committee shall select its own chairman.

Sec. 24.20.640. TERM OF MEMBERSHIP. (a) The committee shall be organized within 15 days after the organization of each legislature. Members serve for the duration of the legislature during which they are appointed. If a member is reelected or his term of office extends into the next succeeding legislature, he continues to serve until reappointed or the appointment of his successor.

(b) When a member of the committee files a declaration of candidacy for an elective office other than that of member of either house of the legislature, and he has not resigned from membership on the com-

mittee, his committee membership terminates on the date of filing.

Sec. 24.20.650. VACANCIES. When a vacancy occurs in the statutory or appointive membership of the committee, the presiding officer of the house incurring the vacancy shall choose a successor. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy from the affected house occurs among the membership of the committee, the remaining committee members from the house incurring the vacancy shall appoint a new member.

Sec. 24.20.660. MEETINGS. The committee may meet during sessions of the legislature and during the interim between sessions at such times and places in the state as the chairman may determine. Members may receive, for the minimum time required to get to and from meetings and for the period while attending meetings, the same travel and per diem allowances provided by law for members of the legislature when attending sessions, except that members of the committee receive no per diem during legislative sessions other than the per diem allowance paid to other members of the legislature.

Sec. 24.20.670. POWERS. The committee has the power to

(1) organize, adopt rules for the conduct of its business, and prescribe procedures for the comprehensive fiscal analysis, budget review and post-audit functions of those agencies of the state which perform lending or investment functions;

(2) hold public hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and production of papers, books, accounts, documents and testimony, and have the deposition of witnesses taken in a manner prescribed by court rule or law for taking depositions in civil actions;

(3) require all state officials and agencies of state government to give full cooperation to the committee or its staff in assem-

bling and furnishing requested information;

(4) hold public hearings relating to the confirmation of the Board of Trustees of the Alaska Permanent Fund Corporation, the Board of Trustees of the Alaska Renewable Resources Corporation, and the Alaska Enterprise Investment Corporation Policy Board;

(5) prepare and distribute reports, memoranda, or other necessary materials;

(6) make recommendations concerning the structure and operating practices of all agencies of the state which perform lending or investment functions;

(7) receive and review reports and post-audit analyses conducted by the Legislative Budget and Audit Committee relating to all agencies of the state which perform lending or investment functions;

(8) enter into and enforce all contracts necessary or desirable for the functions of the committee.

Sec. 24.20.680. STAFF. The legislative audit division and the legislative finance division shall provide audits, reports and analyses requested by the committee. The committee may hire and determine the salary of the staff it considers necessary within the limit of the budget approved by the legislature.

Sec. 24.20.690. DUTIES. The committee shall

(1) report to the legislature its recommendations relating to the confirmation of suggested appointees to the Alaska Permanent Fund Corporation Board of Trustees, the Board of Trustees of the Alaska Renewable Resources Corporation, and the Alaska Enterprise Investment Corporation Policy Board;

(2) annually review the long-range operating plans of all agencies of the state which perform lending or investment functions;

(3) review periodic reports from all agencies of the state

whi h perform lending or investment functions;

(4) present a complete report of investment programs, plans, performance, and policies of all agencies of the state which perform lending or investment functions to the legislature within 30 days after the convening of each regular session;

(5) present to the legislature within 30 days after the convening of each regular session a review of the report of the governor under AS 37.09.020(b) with recommendations for any needed legislation;

(6) in conjunction with the finance committee of each house recommend annually to the legislature the investment policy for the general fund surplus and the income from the permanent fund;

(7) provide for an annual post audit and annual operational and performance evaluation of the Alaska Permanent Fund Corporation investments and investment programs.

Sec. 24.20.700. RECORDS. The committee shall keep a complete file of all reports presented to it and all reports presented by it to the legislature or any legislative committee.

* Sec. 2. AS 37.07.020 is amended by adding a new subsection to read:

(b) The governor shall annually, before the convening of the legislature, report to the legislature through the Investment Oversight Committee the long-range fiscal and economic consequences of

(1) alternate levels of capitalization of the investment funds of the state; and

(2) alternative investment policy for the general fund surplus.

* Sec. 3. AS 37 is amended by adding a new chapter to read:

CHAPTER 13. ALASKA PERMANENT FUND.

Sec. 37.13.010. ALASKA PERMANENT FUND. Under art IX, sec. 15 of the state constitution, there is established as a separate fund the

Alaska permanent fund. The permanent fund consists of 100 per cent of mineral lease bonuses after deduction of any amounts allocated to the Alaska Native Fund under the Alaska Native Claims Settlement Act and implementing state legislation and any amounts allocated by law to the Alaska renewable resources development fund and 30 per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments received by the state and any other money allocated by law or appropriated to the principal of the fund which shall be paid to the Alaska Permanent Fund Corporation at least once each month. Management of the permanent fund is performed by (1) the Alaska Permanent Fund Corporation established in this chapter to which five-sixths of the receipts from these sources is allocated and (2) the Alaska Enterprise Investment Corporation established in AS 44.55 to which one-sixth of the receipts from these sources is allocated until the amount so allocated reaches the sum of $100,000,000. Thereafter the total receipts from these sources is allocated to the Alaska Permanent Fund Corporation.

Sec. 37.13.020. FINDINGS. The people of the state, by constitutional amendment, have required the placement of at least 25 per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses received by the state into a permanent fund. The legislature finds with respect to the Alaska Permanent Fund Corporation that

(1) the corporation should provide a means of conserving a portion of the state's revenues from mineral resources to the ultimate benefit of future generations of Alaskans;

(2) the corporation's primary goal should be to maximize total return while maintaining safety of principal;

(3) the corporation should be used as a savings device

managed to allow the maximum use of disposable income from the corporation as needed for purposes designated by law.

Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to provide a mechanism for the management and investment of those permanent fund assets allocated to the Alaska Permanent Fund Corporation in a manner consistent with the findings established in sec. 20 of this chapter.

Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is established the Alaska Permanent Fund Corporation. The corporation is a public corporation and government instrumentality in the Department of Revenue managed by a board of trustees but has a legal existence independent of and separate from the state. The purpose of the board is to manage and invest the assets of the corporation in accordance with this chapter.

Sec. 37.13.050. COMPOSITION OF BOARD OF TRUSTEES. (a) The board of trustees consists of three members appointed by the governor and confirmed by a majority of the members of the legislature in joint session.

(b) The board shall annually elect a chairman from among its members.

Sec. 37.13.060. TERM OF OFFICE. The members of the board shall be appointed for terms of four years, and they may be reappointed. Terms shall be staggered. Initial terms shall be one member serving for two years, one member serving for three years, and one member serving for four years.

Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may remove a trustee from office by and with the consent of a majority of the members of the legislature in joint session. A removal by the governor shall be in writing and state the reason for removal. If the

legislature is not in session, the governor may suspend a member of the board. Upon suspension, a vacancy is not created but the trustee may not participate in board business and may not be counted for purposes of establishing a quorum. The joint session shall be held within 30 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the legislature is not in session. If the legislature refuses to consent to his removal, the trustee shall be reinstated to his position.

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

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

Sec. 37.13.080. QUALIFICATIONS OF TRUSTEES. (a) No trustee may be appointed to the board who has not been a resident of the state for at least three years.

(b) No member of the board may hold any other state or federal office, position or employment, either elective or appointive, except as a member of the armed forces of the United States or of this state.

(c) At least one member of the board shall have recognized competence and wide experience in finance, investments, or other business management-related field. No two members may be appointed to the board

who share substantially similar professional or occupational backgrounds.

Sec. 37.13.090. QUORUM. Two members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board.

Sec. 37.13.100. COMPENSATION OF TRUSTEES. Trustees receive an honorarium of $250 for each meeting day if they attend the meeting and are entitled to per diem and travel allowances as provided by law for members of state boards and commissions.

Sec. 37.13.110. EMPLOYMENT OF PERSONNEL. The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. No employee of the corporation, including the executive director, may be a trustee. The executive director and all other employees of the board are in the exempt service under AS 39.25.

Sec. 37.13.120. CONFLICTS OF INTEREST. (a) Trustees are subject to the provisions of AS 39.50.

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

Sec. 37.13.130. POWERS AND DUTIES. (a) The prudent-man rule is applicable to the board in the management and investment of permanent fund assets. The prudent-man rule as applied to investments of the corporation means that in making investments the board shall exercise the judgment and care under the circumstances then prevailing which an institutional investor of ordinary prudence, discretion, and intel-

lige e exercises in the management of large investments entrusted to it not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income from them as well as probable safety of capital.

(b) The corporation assets may only be used for income-producing investments.

(c) The board shall seek to maintain a reasonable diversification among corporation investments unless under the circumstances it is clearly prudent not to do so.

(d) The board shall submit long-range and quarterly investment reports to the Investment Oversight Committee.

(e) The corporation may not borrow funds or guarantee from principal of the fund the obligations of others.

(f) The board may enter into and enforce all contracts necessary, convenient or desirable for purposes of the corporation except it may not contract with agencies or departments of the state to recommend or select investments.

(g) Subject to (a) and (b) of this section, the board may invest corporation assets in obligations of, or obligations insured or guaranteed by, the United States or agencies or instrumentalities of the United States; loans secured by first liens on unencumbered realty or leaseholds; corporate securities which under the Securities Act of 1933 are freely marketable; and short-term investments which meet the requirements of (a) and (b) of this section except for the term of the investments.

(1) No portion of the assets of the fund may be used in the purchase of stock of any corporation which is not paying dividends on that stock in cash at the time of purchase; nor in the purchase of bonds of any corporation, upon which any regular interest payment has been

defaulted at any time within five years before purchase, except bonds never in default but which have been outstanding for less than five years.

(2) No portion of the assets of the corporation may be used in the purchase of stock if immediately following the purchase the proportionate market value of all stocks held by the corporation would exceed 30 per cent of the corporation's assets.

(h) The board shall establish and from time to time as necessary modify guidelines for the investment of the corporation's assets. Before adoption of any guidelines the guidelines shall be reported to the Investment Oversight Committee for review and comment.

(i) Nothing in this section may be interpreted to preclude in-state investments that have a risk level and expected yield comparable to alternative investment opportunities.

Sec. 37.13.140. GAINS AND LOSSES. At the end of each fiscal year, the total amount of losses on the sales of securities, not offset by gains on the sales of securities during that year, shall be computed, with a portion of these losses to be deducted each fiscal year from the interest and dividend income and the resulting amount of interest and dividend income added to the principal of the fund. Losses taken on the sales of bonds shall be accumulated over a period equal to the average remaining life of the bonds sold, and losses taken on the sales of stocks shall be accumulated within a period of five years, unless these losses are offset by gains on future sales of securities. In any fiscal year in which the gains on the sales of securities exceed the losses on the sales of securities, the excess shall be added to the principal of the fund.

Sec. 37.13.150. INCOME. The interest and dividends received in a year are the income of the corporation for that year. The income avail-

able for disbursement shall be determined on an averaging basis. For the first five years, income will be the simple averaging of the annual current return at cost. Subsequently, there will be a moving average current return, in which the latest fiscal year will replace the oldest year. The income available for disbursement will be the lesser of the latest fiscal year's income, or the average annual current income for the past five fiscal years of the fund at cost, and after adjustment for capital losses charged to that fiscal year.

Sec. 37.13.155. MORTGAGE LOSS RESERVE ACCOUNT. The board may establish a mortgage loss reserve account for the purpose of protecting the financial integrity of the fund.

Sec. 37.13.160. BOARD BUDGET. The board's operating budget is from the general fund and is subject to the Executive Budget Act (AS 37.07).

Sec. 37.13.170. AUDITS. The Investment Oversight Committee shall provide for an annual post audit and annual operational and performance evaluations of the corporation's investments and investment programs.

Sec. 37.13.180. REPORTS AND PUBLICATIONS. No later than September 30 of each year, the board shall publish a report to the governor, legislature, and the public in easily understandable language. Each report must include financial statements audited by independent outside auditors, a statement of the amount of money received by the permanent fund from each investment during the period covered, a statement of corporation investments including an appraisal at market value, a description of corporation investment activity during the period covered by the report, a comparison of the corporation performance with the intended goals contained in sec. 20 of this chapter, an examination of the impact of the investment criteria of this chapter on the corporation portfolio with recommendations of any needed changes and any other

information the board believes would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the corporation shall be published in at least one newspaper in each judicial district. The income statement and balance sheet for the two fiscal years preceding the publication of the election pamphlet under AS 15.57 shall be included in that pamphlet. The board may also publish other reports it considers desirable to carry out its purpose.

Sec. 37.13.190. TAX EXEMPTION. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation, their transfer, and their income are exempt from all taxes and assessments in the state.

Sec. 37.13.200. POLITICAL ACTIVITIES. The members of the board of trustees and employees of the corporation may not engage in partisan political activities. The resources of the corporation may not be used to finance any partisan political activities.

Sec. 37.13.210. PUBLIC ACCESS TO INFORMATION. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

* Sec. 4. AS 44 is amended by adding a new chapter to read:

CHAPTER 55. THE ALASKA ENTERPRISE INVESTMENT CORPORATION.

Sec. 44.55.010. CREATION OF CORPORATION; FUNDING. (a) There is created the Alaska Enterprise Investment Corporation. The corporation is a public corporation and government instrumentality in the Department

of Revenue but has legal existence independent of and separate from the state. The exercise by the corporation of the powers conferred by this chapter is considered an essential governmental function of the state.

(b) One-sixth of the receipts of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses allocated to the Alaska permanent fund shall be paid by the Alaska Permanent Fund Corporation directly into the Alaska Enterprise Investment Corporation until a total of $100,000,000 has been paid in. The amount paid into the Alaska Enterprise Investment Corporation under this subsection is the paid-in capital of the corporation.

Sec. 44.55.020. FINDINGS. The legislature finds

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

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

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

Sec. 44.55.030. PURPOSE. The purpose of the corporation is to provide capital at market rates and terms which are not available from other sources on reasonable terms for small and medium scale productive private enterprises and community development projects.

Sec. 44.55.040. ALASKA ENTERPRISE INVESTMENT CORPORATION POLICY BOARD. (a) There is established the Alaska Enterprise Investment Corporation Policy Board consisting of a person employed in the execu-

tive branch of state government appointed by the governor and six public members appointed by the governor with due regard for geographical representation and confirmed by a majority of the members of the legislature in joint session. At least two of the public members shall have recognized competency and wide experience in investment and finance. No public member may be appointed to the board who has not been a resident of the state for at least three years. The board shall elect one of the public members as chairman and other officers they determine desirable.

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

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

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

Sec. 44.55.050. REMOVAL AND VACANCIES ON BOARD. (a) The governor may remove a policy board member from office by and with the consent of a majority of the members of the legislature in joint session. The joint session shall be held within 10 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the member was suspended. If the legislature is not in session, the governor may suspend a member of the policy board for cause. Upon suspension, a vacancy is not created but a

board member may not participate in policy board business and may not be counted for purposes of establishing a quorum. If the legislature refuses to consent to his removal, the member shall be reinstated to his position.

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

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

Sec. 44.55.060. DUTIES OF THE POLICY BOARD. The policy board shall

(1) select and appoint the president and other members of the Investment Committee established in sec. 80 of this chapter;

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

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

(4) review quarterly reports from the Investment Committee concerning investment decisions and investment supervision, but the

board may not impose an investment decision upon, or override an investment decision of, the Investment Committee;

(5) review, consider and approve policies;

(6) establish an audit committee which shall select independent outside auditors, and receive all audit reports.

Sec. 44.55.070. PRESIDENT. The president of the corporation is appointed by the policy board for a term of four years, may be reappointed, and serves at the pleasure of the policy board. The salary of the president is set at the discretion of the policy board; but may not be set below that of the highest paid member of the Investment Committee. The president shall

(1) have sole responsibility for presenting investment proposals to the Investment Committee;

(2) be responsible for the ordinary business of the corporation and the organization, appointment, dismissal, and remuneration of the officers and staff;

(3) be responsible for making investments in investment grade securities, subject to review by the Investment Committee;

(4) establish and maintain adequate and appropriate organizational, operating and financial controls.

Sec. 44.55.080. INVESTMENT COMMITTEE. (a) There is established the Investment Committee, consisting of the president and four members appointed by the policy board. No member of the policy board may be a member of the committee. Members of the committee shall be persons of recognized competence and wide experience in investments, finance, and other business management-related fields. No member may be appointed to the committee who has not been a resident of the state for at least three years. A member may be reappointed and continue to serve until his successor is appointed. The president and members shall serve for

four-year terms. Terms shall be staggered. Initial terms shall be one member serving for one year, one member serving for two years, one member serving for three years, and one member and the president serving for four years.

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

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

Sec. 44.55.090. DUTIES OF THE COMMITTEE. The committee has sole responsibility to approve all investment proposals regarding productive private enterprises and community development projects in the state, and review all investments in investment grade securities.

Sec. 44.55.100. BUDGET. The corporation operating budget is from the general fund and is subject to the provisions of the Executive Budget Act (AS 37.07).

Sec. 44.55.110. PERSONNEL OF CORPORATION. Policy board members, committee members, and officers and staff of the corporation are in the exempt service under AS 39.25.

Sec. 44.55.120. POWERS OF THE CORPORATION. (a) In carrying out the corporate purposes of the corporation, the policy board has power to

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

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

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

(4) borrow funds, and in that connection furnish such collateral or other security as it determines, except that corporation borrowing may not exceed its paid-in capital;

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

(6) enter into agreements necessary or convenient in the

exercise of its powers and functions;

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

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

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

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

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

(2) deposit or invest surplus funds through the Alaska Permanent Fund Corporation in such obligations as the committee may determine;

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

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

Sec. 44.55.125. INVESTMENTS. (a) In making investments, the committee and staff shall exercise the judgment and care under the circumstances then prevailing which a person of ordinary prudence, discretion, and intelligence exercises in the management of his own affairs taking into consideration the probable income from the invest-

ments as well as probable safety of principal.

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

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

(d) The committee may not invest or guarantee obligations totaling more than five per cent of the assets of the corporation or $5,000,000, whichever is less, in a single project unless the legislature has approved the investment by concurrent resolution.

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

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

(g) The committee shall only undertake its financing on terms and

conditions which it considers appropriate, taking into account the terms and conditions normally obtained by private investors for similar financing, the requirements of the enterprise or project, the risks being undertaken by the corporation, and the participation of other investors unless the legislature has appropriated funds for subsidizing investments which in the opinion of the corporation are of such high priority that special terms and conditions are appropriate.

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

(i) The committee shall seek to maintain a reasonable diversification in its investments.

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

(k) The committee shall analyze the economic and other effects of an investment decision, including the effects on employment, income distribution, environment, health, social and other factors. The committee shall be sensitive to the views of affected local communities.

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

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

(n) Nothing in this section prevents the committee, in the event of actual or threatened default on any of its investments, actual or threatened insolvency of the enterprise in which the investment has been

made, or other situations which, in the opinion of the committee, threaten to jeopardize the investment, from taking such action and exercising such rights as it may consider necessary for the protection of its interests.

Sec. 44.55.140. INITIAL DETERMINATIONS. Before beginning its financing operations, the policy board shall render a detailed report to the legislature which shall

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

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

(3) determine specific projects which are feasible for corporation and private financing;

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

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

Sec. 44.55.150. REPORTS AND PUBLICATIONS. The policy board shall publish an annual report in easily understandable language to the governor, legislature and the public. Each report shall include financial statements audited by independent outside auditors, a statement of the amount of money received by the corporation from each source during the period covered, a statement of corporation investments, a description of corporation investment activity during the period covered by the report, an analysis of economic and other effects of investment decisions including, but not limited to, the effects on employment, income distribution, environment, health, social and other factors, and any other information the policy board believes would be of interest to the governor, the legislature and the public. The corporation may also publish

such other reports as it considers desirable to carry out its purpose.

Sec. 44.55.160. CONFLICT OF INTEREST. (a) Members of the policy board and the committee are subject to the provisions of AS 39.50.

(b) Members of the policy board and the committee shall disclose their financial interest in an investment proposal and disqualify themselves from voting on any investment proposal in which they have a financial interest.

Sec. 44.55.170. POLITICAL ACTIVITIES. The members of the policy board and the committee and officers and staff of the corporation may not engage in partisan political activities. The resources of the corporation may not be used to finance any partisan political activities.

Sec. 44.55.180. PUBLIC ACCESS TO INFORMATION. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

Sec. 44.55.190. TAX EXEMPTION. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation, their transfer, and their income are exempt from all taxes and assessments in the state.

Sec. 44.55.200. DEFINITIONS. In this chapter

(1) "board" or "policy board" means the Alaska Enterprise Investment Corporation Policy Board established by sec. 20 of this chapter;

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

(3) "committee" means the Investment Committee established by sec. 60 of this chapter;

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

* Sec. 5. AS 39.25.110 is amended by adding new paragraphs to read:

(21) members of the policy board and Investment Committee, and the president, officers, and staff of the Alaska Enterprise Investment Corporation;

(22) members of the board of trustees, the executive director, and staff of the Alaska Permanent Fund Corporation.

* Sec. 6. AS 39.50.200(9) is amended by adding new subparagraphs to read:

(NN) Alaska Enterprise Investment Corporation Policy Board and Investment Committee;

(OO) Alaska Permanent Fund Corporation Board of Trustees.

* Sec. 7. TRANSITION. (a) The commissioner of revenue shall transfer all funds of the Alaska permanent fund to the Alaska Permanent Fund Corporation established by this Act after request for transfer is made by the corporation board of trustees.

(b) The Alaska Enterprise Investment Corporation may not expend funds for any purpose other than normal operating expenses of the corporation until the paid-in capital of the corporation reaches $50,000,000. Other funds of the corporation including the funds received under AS 44.55.010 in sec. 4 of this Act shall be invested as surplus funds under AS 44.55.120(b)(2) in sec. 4 of this Act until the paid-in capital reaches $50,000,000.

* Sec. 8. AS 37.10.065(c) is repealed.

* Sec. 9. AS 37.10.065(a) and (b) are repealed.

* Sec. 10. Section 9 of this Act takes effect upon transfer of the funds

of the Alaska permanent fund to the Alaska Permanent Fund Corporation as provided in sec. 7(a) of this Act. The remainder of this Act takes effect immediately in accordance with AS 01.10.070(c).

Original sponsor: Special Committee on the Alaska Permanent Fund

IN THE HOUSE

BY THE SPECIAL COMMITTEE ON THE ALASKA PERMANENT FUND

CS FOR HOUSE BILL NO. 596

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to nonrenewable resource revenues; to legislative oversight; and providing for an effective date."

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

* Section 1. AS 24.20 is amended by adding new sections to read:

ARTICLE IV. INVESTMENT OVERSIGHT COMMITTEE.

Sec. 24.20.600. INVESTMENT OVERSIGHT COMMITTEE ESTABLISHED. The Investment Oversight Committee is established as a permanent interim committee of the legislature. The establishment of the committee recognizes the need of the legislature for technical review and oversight of the performance of all agencies of the state which perform lending or investment functions.

Sec. 24.20.610. FINDINGS. The legislature finds that there is a substantial need for oversight of the performance of all agencies of the state which perform lending or investment functions since these functions do not receive the detailed review to which other expenditures of public money are subject, and therefore the knowledge necessary for sound legislation in this area is not readily available. There is a need for legislative oversight which will provide information on the policy and performance of these agencies, the extent to which the agencies conform to statutory intent, and the impact of their performance on the economy and treasury.

Sec. 24.20.620. PURPOSES. The purposes of the committee are to

(1) monitor and report

(A) the performance of the agencies of the state which perform lending or investment functions,

(B) the extent to which the performance of these agencies has contributed to the fiscal, financial, economic and social improvement of the state and its citizens,

(C) the extent to which these agencies and the executive have prepared and coordinated short and long term economic, fiscal, investment and financial planning;

(2) hold these agencies accountable to statutory intent in their performance by recommending, where appropriate, changes in policy to the agencies or changes in legislation to the legislature;

(3) annually review the extent of capitalization of the investment funds of the state and alternative investment policy for the general fund surplus and recommend needed legislation.

Sec. 24.20.630. MEMBERSHIP. The committee is composed of eight members: the president of the senate, the speaker of the house, and three members appointed from each house by the respective presiding officer. The membership from each house shall include at least one member from each of the two major political parties. The committee shall select its own chairman.

Sec. 24.20.640. TERM OF MEMBERSHIP. (a) The committee shall be organized within 15 days after the organization of each legislature. Members serve for the duration of the legislature during which they are appointed. If a member is reelected or his term of office extends into the next succeeding legislature, he continues to serve until reappointed or the appointment of his successor.

(b) When a member of the committee files a declaration of candidacy for an elective office other than that of member of either house of the legislature, and he has not resigned from membership on the com-

mittee, his committee membership terminates on the date of filing.

Sec. 24.20.650. VACANCIES. When a vacancy occurs in the statutory or appointive membership of the committee, the presiding officer of the house incurring the vacancy shall choose a successor. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy from the affected house occurs among the membership of the committee, the remaining committee members from the house incurring the vacancy shall appoint a new member.

Sec. 24.20.660. MEETINGS. The committee may meet during sessions of the legislature and during the interim between sessions at such times and places in the state as the chairman may determine. Members may receive, for the minimum time required to get to and from meetings and for the period while attending meetings, the same travel and per diem allowances provided by law for members of the legislature when attending sessions, except that members of the committee receive no per diem during legislative sessions other than the per diem allowance paid to other members of the legislature.

Sec. 24.20.670. POWERS. The committee has the power to

(1) organize, adopt rules for the conduct of its business, and prescribe procedures for the comprehensive fiscal analysis, budget review and post-audit functions of those agencies of the state which perform lending or investment functions;

(2) hold public hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and production of papers, books, accounts, documents and testimony, and have the deposition of witnesses taken in a manner prescribed by court rule or law for taking depositions in civil actions;

(3) require all state officials and agencies of state government to give full cooperation to the committee or its staff in assem-

bling and furnishing requested information;

(4) hold public hearings relating to the confirmation of the Board of Trustees of the Alaska Permanent Fund Corporation, the Board of Trustees of the Alaska Renewable Resources Corporation, and the Alaska Enterprise Investment Corporation Policy Board;

(5) prepare and distribute reports, memoranda, or other necessary material ;

(6) make recommendations concerning the structure and operating practices of all agencies of the state which perform lending or investment functions;

(7) receive and review reports and post-audit analyses conducted by the Legislative Budget and Audit Committee relating to all agencies of the state which perform lending or investment functions;

(8) enter into and enforce all contracts necessary or desirable for the functions of the committee.

Sec. 24.20.680. STAFF. The legislative audit division and the legislative finance division shall provide audits, reports and analyses requested by the committee. The committee may hire and determine the salary of the staff it considers necessary within the limit of the budget approved by the legislature.

Sec. 24.20.690. DUTIES. The committee shall

(1) report to the legislature its recommendations relating to the confirmation of suggested appointees to the Alaska Permanent Fund Corporation Board of Trustees, the Board of Trustees of the Alaska Renewable Resources Corporation, and the Alaska Enterprise Investment Corporation Policy Board;

(2) annually review the long-range operating plans of all agencies of the state which perform lending or investment functions;

(3) review periodic reports from all agencies of the state

which perform lending or investment functions;

(4) present a complete report of investment programs, plans, performance, and policies of all agencies of the state which perform lending or investment functions to the legislature within 30 days after the convening of each regular session;

(5) present to the legislature within 30 days after the convening of each regular session a review of the report of the governor under AS 37.09.020(b) with recommendations for any needed legislation;

(6) in conjunction with the finance committee of each house recommend annually to the legislature the investment policy for the general fund surplus and the income from the permanent fund.

Sec. 24.20.700. RECORDS. The committee shall keep a complete file of all reports presented to it and all reports presented by it to the legislature or any legislative committee.

* Sec. 2. AS 37.07.020 is amended by adding a new subsection to read:

(b) The governor shall annually, before the convening of the legislature, report to the legislature through the Investment Oversight Committee the long-range fiscal and economic consequences of

(1) alternate levels of capitalization of the investment funds of the state; and

(2) alternative investment policy for the general fund surplus.

* Sec. 3. AS 37 is amended by adding a new chapter to read:

CHAPTER 13. ALASKA PERMANENT FUND.

Sec. 37.13.010. ALASKA PERMANENT FUND. Under art IX, sec. 15 of the state constitution, there is established as a separate fund the Alaska permanent fund. The permanent fund consists of 100 per cent of mineral lease bonuses after deduction of any amounts allocated to the Alaska Native Fund under the Alaska Native Claims Settlement Act and

implementing state legislation and any amounts allocated by law to the Alaska renewable resources development fund and 30 per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments received by the state and any other money allocated by law or appropriated to the principal of the fund which shall be paid to the Alaska Permanent Fund Corporation at least once each month. Management of the permanent fund is performed by (1) the Alaska Permanent Fund Corporation established in this chapter to which five-sixths of the receipts from these sources is allocated and (2) the Alaska Enterprise Investment Corporation established in AS 44.55 to which one-sixth of the receipts from these sources is allocated until the amount so allocated reaches the sum of $100,000,000. Thereafter the total receipts from these sources is allocated to the Alaska Permanent Fund Corporation.

Sec. 37.13.020. FINDINGS. The people of the state, by constitutional amendment, have required the placement of at least 25 per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses received by the state into a permanent fund. The legislature finds with respect to the Alaska Permanent Fund Corporation that

(1) the corporation should provide a means of conserving a portion of the state's revenues from mineral resources to the ultimate benefit of future generations of Alaskans;

(2) the corporation's primary goal should be to maximize total return while maintaining safety of principal;

(3) the corporation should be used as a savings device managed to allow the maximum use of disposable income from the corporation as needed for purposes designated by law.

Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to

provide a mechanism for the management and investment of those permanent fund assets allocated to the Alaska Permanent Fund Corporation in a manner consistent with the findings established in sec. 20 of this chapter.

Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is established the Alaska Permanent Fund Corporation. The corporation is a public corporation and government instrumentality in the Department of Revenue managed by a board of trustees but has a legal existence independent of and separate from the state. The purpose of the board is to manage and invest the assets of the corporation in accordance with this chapter.

Sec. 37.13.050. COMPOSITION OF BOARD OF TRUSTEES. (a) The board of trustees consists of three members appointed by the governor and confirmed by a majority of the members of the legislature in joint session.

(b) The board shall annually elect a chairman from among its members.

Sec. 37.13.060. TERM OF OFFICE. The members of the board shall be appointed for terms of four years, and they may be reappointed. Terms shall be staggered. Initial terms shall be one member serving for two years, one member serving for three years, and one member serving for four years.

Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may remove a trustee from office by and with the consent of a majority of the members of the legislature in joint session. A removal by the governor shall be in writing and state the reason for removal. If the legislature is not in session, the governor may suspend a member of the board. Upon suspension, a vacancy is not created but the trustee may not participate in board business and may not be counted for purposes

of establishing a quorum. The joint session shall be held within 30 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the legislature is not in session. If the legislature refuses to consent to his removal, the trustee shall be reinstated to his position.

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

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

Sec. 37.13.080. QUALIFICATIONS OF TRUSTEES. (a) No trustee may be appointed to the board who has not been a resident of the state for at least three years.

(b) No member of the board may hold any other state or federal office, position or employment, either elective or appointive, except as a member of the armed forces of the United States or of this state.

(c) At least one member of the board shall have recognized competence and wide experience in finance, investments, or other business management-related field. No two members may be appointed to the board who share substantially similar professional or occupational backgrounds.

Sec. 37.13.090. QUORUM. Two members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board.

Sec. 37.13.100. COMPENSATION OF TRUSTEES. Trustees receive an honorarium of $250 for each meeting day if they attend the meeting and are entitled to per diem and travel allowances as provided by law for members of state boards and commissions.

Sec. 37.13.110. EMPLOYMENT OF PERSONNEL. The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. No employee of the corporation, including the executive director, may be a trustee. The executive director and all other employees of the board are in the exempt service under AS 39.25.

Sec. 37.13.120. CONFLICTS OF INTEREST. (a) Trustees are subject to the provisions of AS 39.50.

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

Sec. 37.13.130. POWERS AND DUTIES. (a) The prudent-man rule is applicable to the board in its management and investment of permanent fund assets. The prudent-man rule as applied to investments of the corporation means that in making investments the board shall exercise the judgment and care under the circumstances then prevailing which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it not in regard to speculation but in regard to the permanent disposition

of funds, considering the probable income from them as well as probable safety of capital.

(b) The corporation assets may only be used for income-producing investments.

(c) The board shall seek to maintain a reasonable diversification among corporation investments unless under the circumstances it is clearly prudent not to do so.

(d) The board shall submit long-range and quarterly investment reports to the Investment Oversight Committee.

(e) The corporation may not borrow funds or guarantee from principal of the fund the obligations of others.

(f) The board may enter into and enforce all contracts necessary, convenient or desirable for purposes of the corporation except it may not contract with agencies or departments of the state to recommend or select investments.

(g) Subject to (a) and (b) of this section the board may invest corporation assets in obligations of the United States or obligations for which the full faith and credit of the United States are pledged for payment of principal and interest; loans secured by first liens on unencumbered realty or leaseholds; and corporate securities which under the Securities Act of 1933 are freely marketable.

(1) No portion of the assets of the fund may be used in the purchase of stock of any corporation which is not paying dividends on that stock in cash at the time of purchase; nor in the purchase of bonds of any corporation, upon which any regular interest payment has been defaulted at any time within five years before purchase, except bonds never in default but which have been outstanding for less than five years.

(2) No portion of the assets of the corporation may be used

in the purchase of stock if immediately following the purchase the proportionate market value of all stocks held by the corporation would exceed 30 per cent of the corporation's assets.

(h) The board shall establish and from time to time as necessary modify guidelines for the investment of the corporation's assets. Before adoption of any guidelines the guidelines shall be reported to the Investment Oversight Committee for review and comment.

(i) Nothing in this section may be interpreted to preclude in-state investments that have a risk level and expected yield comparable to alternative investment opportunities.

Sec. 37.13.140. GAINS AND LOSSES. At the end of each fiscal year, the total amount of losses on the sales of securities, not offset by gains on the sales of securities during that year, shall be computed, with a portion of these losses to be deducted each fiscal year from the interest and dividend income and the resulting amount of interest and dividend income added to the principal of the fund. Losses taken on the sales of bonds shall be accumulated over a period equal to the average remaining life of the bonds sold, and losses taken on the sales of stocks shall be accumulated within a period of five years, unless these losses are offset by gains on future sales of securities. In any fiscal year in which the gains on the sales of securities exceed the losses on the sales of securities, the excess shall be added to the principal of the fund.

Sec. 37.13.150. INCOME. The interest and dividends received in a year are the income of the corporation for that year. The income available for disbursement shall be determined on an averaging basis. For the first five years, income will be the simple averaging of the annual current return at cost. Subsequently, there will be a moving average current return, in which the latest fiscal year will replace the oldest

year. The income available for disbursement will be the lesser of the latest fiscal year's income, or the average annual current income for the past five fiscal years of the fund at cost, and after adjustment for capital losses charged to that fiscal year.

Sec. 37.13.160. BOARD BUDGET. The board's operating budget is from the general fund and is subject to the Executive Budget Act (AS 37.07).

Sec. 37.13.170. AUDITS. The Investment Oversight Committee shall provide for an annual post audit and annual operational and performance evaluations of the corporation's investments and investment programs.

Sec. 37.13.180. REPORTS AND PUBLICATIONS. No later than September 30 of each year, the board shall publish a report to the governor, legislature, and the public in easily understandable language. Each report must include financial statements audited by independent outside auditors, a statement of the amount of money received by the permanent fund from each investment during the period covered, a statement of corporation investments, a description of corporation investment activity during the period covered by the report, a comparison of the corporation performance with the intended goals contained in sec. 20 of this chapter, an examination of the impact of the investment criteria of this chapter on the corporation portfolio with recommendations of any needed changes and any other information the board believes would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the corporation shall be published in at least one newspaper in each judicial district. The income statement and balance sheet for the two fiscal years preceding the publication of the election pamphlet under AS 15.57 shall be included in that pamphlet. The board may also publish other reports it considers desirable to carry out its purpose.

Sec. 37.13.190. TAX EXEMPTION. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation, their transfer, and their income are exempt from all taxes and assessments in the state.

Sec. 37.13.200. POLITICAL ACTIVITIES. The members of the board of trustees and employees of the corporation may not engage in partisan political activities. The resources of the corporation may not be used to finance any partisan political activities.

Sec. 37.13.210. PUBLIC ACCESS TO INFORMATION. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

* Sec. 4. AS 44 is amended by adding a new chapter to read:

CHAPTER 55. THE ALASKA ENTERPRISE INVESTMENT CORPORATION.

Sec. 44.55.010. CREATION OF CORPORATION; FUNDING. (a) There is created the Alaska Enterprise Investment Corporation. The corporation is a public corporation and government instrumentality in the Department of Revenue but has legal existence independent of and separate from the state. The exercise by the corporation of the powers conferred by this chapter is considered an essential governmental function of the state.

(b) One-sixth of the receipts of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses allocated to the Alaska permanent fund shall be paid by the Alaska Permanent Fund Corporation directly into the Alaska

Enterprise Investment Corporation until a total of $100,000,000 has been paid in. The amount paid into the Alaska Enterprise Investment Corporation under this subsection is the paid-in capital of the corporation.

Sec. 44.55.020. FINDINGS. The legislature finds

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

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

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

Sec. 44.55.030. PURPOSE. The purpose of the corporation is to provide capital at market rates and terms which are not available from other sources on reasonable terms for small and medium scale productive private enterprises and community development projects.

Sec. 44.55.040. ALASKA ENTERPRISE INVESTMENT CORPORATION POLICY BOARD. (a) There is established the Alaska Enterprise Investment Corporation Policy Board consisting of a person employed in the executive branch of state government appointed by the governor and six public members appointed by the governor with due regard for geographical representation and confirmed by a majority of the members of the legislature in joint session. At least two of the public members shall have recognized competency and wide experience in investment and finance. No public member may be appointed to the board who has not been a resident of the state for at least three years. The board shall elect one of the

public members as chairman and other officers they determine desirable.

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

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

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

Sec. 44.55.050. REMOVAL AND VACANCIES ON BOARD. (a) The governor may remove a policy board member from office by and with the consent of a majority of the members of the legislature in joint session. The joint session shall be held within 10 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the member was suspended. If the legislature is not in session, the governor may suspend a member of the policy board for cause. Upon suspension, a vacancy is not created but a board member may not participate in policy board business and may not be counted for purposes of establishing a quorum. If the legislature refuses to consent to his removal, the member shall be reinstated to his position.

(b) A vacancy arising on the policy board shall be promptly filled by appointment by the governor and confirmation by a majority of the members of the legislature in joint session, and an appointee to fill a

vacancy shall hold office for the balance of the term for which his predecessor on the board was appointed. If a vacancy arises on the board while the legislature is not in session, the governor may appoint an interim board member who shall exercise all powers of a permanent board member until such time as the legislature in joint session fails to confirm the interim member's appointment.

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

Sec. 44.55.060. DUTIES OF THE POLICY BOARD. The policy board shall

(1) select and appoint the president and other members of the Investment Committee established in sec. 80 of this chapter;

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

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

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

(5) review, consider and approve policies;

(6) establish an audit committee which shall select independent outside auditors, and receive all audit reports.

Sec. 44.55.070. PRESIDENT. The president of the corporation is appointed by the policy board for a term of four years, may be reappointed, and serves at the pleasure of the policy board. The salary of

the president is set at the discretion of the policy board; but may not be set below that of the highest paid member of the Investment Committee. The president shall

(1) have sole responsibility for presenting investment proposals to the Investment Committee;

(2) be responsible for the ordinary business of the corporation and the organization, appointment, dismissal, and remuneration of the officers and staff;

(3) be responsible for making investments in investment grade securities, subject to review by the Investment Committee;

(4) establish and maintain adequate and appropriate organizational, operating and financial controls.

Sec. 44.55.080. INVESTMENT COMMITTEE. (a) There is established the Investment Committee, consisting of the president and four members appointed by the policy board. No member of the policy board may be a member of the committee. Members of the committee shall be persons of recognized competence and wide experience in investments, finance, and other business management-related fields. No member may be appointed to the committee who has not been a resident of the state for at least three years. A member may be reappointed and continue to serve until his successor is appointed. The president and members shall serve for four-year terms. Terms shall be staggered. Initial terms shall be one member serving for one year, one member serving for two years, one member serving for three years, and one member and the president serving for four years.

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

(c) Members of the committee other than the president receive an annual salary within Range 30 in the salary schedule for state employees

established by AS 39.27.011.

Sec. 44.55.090. DUTIES OF THE COMMITTEE. The committee has sole responsibility to approve all investment proposals regarding productive private enterprises and community development projects in the state, and review all investments in investment grade securities.

Sec. 44.55.100. BUDGET. The corporation operating budget is from the general fund and is subject to the provisions of the Executive Budget Act (AS 37.07).

Sec. 44.55.110. PERSONNEL OF CORPORATION. Policy board members, committee members, and officers and staff of the corporation are in the exempt service under AS 39.25.

Sec. 44.55.120. POWERS OF THE CORPORATION. (a) In carrying out the corporate purposes of the corporation, the policy board has power to

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

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

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

(4) borrow funds, and in that connection furnish such collateral or other security as it determines, except that corporation borrowing may not exceed its paid-in capital;

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

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

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

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

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

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

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

(2) deposit or invest surplus funds through the Alaska Permanent Fund Corporation in such obligations as the committee may determine;

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

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

Sec. 44.55.125. INVESTMENTS. (a) In making investments, the committee and staff shall exercise the judgment and care under the circumstances then prevailing which a person of ordinary prudence, discretion, and intelligence exercises in the management of his own affairs taking into consideration the probable income from the investments as well as probable safety of principal.

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

guarantees.

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

(d) The committee may not invest or guarantee obligations totaling more than five per cent of the assets of the corporation or $5,000,000, whichever is less, in a single project unless the legislature has approved the investment by concurrent resolution.

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

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

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

(h) The committee may seek to revolve the corporation's money by

selling its investments to other investors whenever it can appropriately do so on satisfactory terms.

(i) The committee shall seek to maintain a reasonable diversification in its investments.

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

(k) The committee shall analyze the economic and other effects of an investment decision, including the effects on employment, income distribution, environment, health, social and other factors. The committee shall be sensitive to the views of affected local communities.

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

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

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

Sec. 44.55.140. INITIAL DETERMINATIONS. Before beginning its financing operations, the policy board shall render a detailed report to the legislature which shall

(1) define the sectors which need financing for expansion of

existing projects or the development of new projects;

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

(3) determine specific projects which are feasible for corporation and private financing;

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

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

Sec. 44.55.150. REPORTS AND PUBLICATIONS. The policy board shall publish an annual report in easily understandable language to the governor, legislature and the public. Each report shall include financial statements audited by independent outside auditors, a statement of the amount of money received by the corporation from each source during the period covered, a statement of corporation investments, a description of corporation investment activity during the period covered by the report, an analysis of economic and other effects of investment decisions including, but not limited to, the effects on employment, income distribution, environment, health, social and other factors, and any other information the policy board believes would be of interest to the governor, the legislature and the public. The corporation may also publish such other reports as it considers desirable to carry out its purpose.

Sec. 44.55.160. CONFLICT OF INTEREST. (a) Members of the policy board and the committee are subject to the provisions of AS 39.50.

(b) Members of the policy board and the committee shall disclose their financial interest in an investment proposal and disqualify themselves from voting on any investment proposal in which they have a financial interest.

Sec. 44.55.170. POLITICAL ACTIVITIES. The members of the policy

board and the committee and officers and staff of the corporation may not engage in partisan political activities. The resources of the corporation may not be used to finance any partisan political activities.

Sec. 44.55.180. PUBLIC ACCESS TO INFORMATION. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

Sec. 44.55.190. TAX EXEMPTION. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation, their transfer, and their income are exempt from all taxes and assessments in the state.

Sec. 44.55.200. DEFINITIONS. In this chapter

(1) "board" or "policy board" means the Alaska Enterprise Investment Corporation Policy Board established by sec. 20 of this chapter;

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

(3) "committee" means the Investment Committee established by sec. 60 of this chapter;

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

* Sec. 5. AS 39.25.110 is amended by adding new paragraphs to read:

(21) members of the policy board and Investment Committee, and

the president, officers, and staff of the Alaska Enterprise Investment Corporation;

(22) members of the board of trustees, the executive director, and staff of the Alaska Permanent Fund Corporation.

* Sec. 6. AS 39.50.200(9) is amended by adding new subparagraphs to read:

(NN) Alaska Enterprise Investment Corporation Policy Board and Investment Committee;

(OO) Alaska Permanent Fund Corporation Board of Trustees.

* Sec. 7. TRANSITION. (a) The commissioner of revenue shall transfer all funds of the Alaska permanent fund to the Alaska Permanent Fund Corporation established by this Act within 10 days after request for transfer is made by the corporation board of trustees.

(b) The Alaska Enterprise Investment Corporation may not expend funds for any purpose other than normal operating expenses of the corporation until the paid-in capital of the corporation reaches $50,000,000. Other funds of the corporation including the funds received under AS 44.55.010 in sec. 4 of this Act shall be invested as surplus funds under AS 44.55.120(b)(2) in sec. 4 of this Act until the paid-in capital reaches $50,000,000.

* Sec. 8. AS 37.10.065(c) is repealed.

* Sec. 9. AS 37.10.065(a) and (b) are repealed.

* Sec. 10. Section 9 of this Act takes effect upon transfer of the funds of the Alaska permanent fund to the Alaska Permanent Fund Corporation as provided in sec. 7(a) of this Act. The remainder of this Act takes effect immediately in accordance with AS 01.10.070(c).

w.o. 4350
12/9/77

IN THE HOUSE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to nonrenewable resource revenues; and providing for an effective date."

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

* Section 1. AS 24.20 is amended by adding new sections to read:

ARTICLE IV. STATE INVESTMENT OVERSIGHT COMMITTEE.

Sec. 24.20.600. STATE INVESTMENT OVERSIGHT COMMITTEE ESTABLISHED. The State Investment Oversight Committee is established as a permanent interim committee of the legislature. The establishment of the committee recognizes the need of the legislature for technical review and oversight of the performance of all agencies of the state which perform lending, borrowing or investment functions.

Sec. 24.20.610. MEMBERSHIP. The committee is composed of eight members: the president of the senate, the speaker of the house, and three members appointed from each house by the respective presiding officer. The membership from each house shall include at least one member from each of the two major political parties. The committee shall select its own chairman.

Sec. 24.20.620. TERM OF MEMBERSHIP. (a) The committee shall be organized within 15 days after the organization of each legislature. Members serve for the duration of the legislature during which they are appointed. If a member is reelected or his term of office extends into the next succeeding legislature, he continues to serve until reappointed or the appointment of his successor.

(b) When a member of the committee files a declaration of candi-

dacy for an elective office other than that of member of either house of the legislature, and he has not resigned from membership on the committee, his committee membership terminates on the date of filing.

Sec. 24.20.630. VACANCIES. When a vacancy occurs in the statutory or appointive membership of the committee, the presiding officer of the house incurring the vacancy shall choose a successor. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy from the affected house occurs among the membership of the committee, the remaining committee members from the house incurring the vacancy shall appoint a new member.

Sec. 24.20.640. MEETINGS. The committee may meet during sessions of the legislature and during the interim between sessions at such times and places in the state as the chairman may determine. Members may receive, for the minimum time required to get to and from meetings and for the period while attending meetings, the same travel and per diem allowances provided by law for members of the legislature when attending sessions, except that members of the committee receive no per diem during legislative sessions other than the per diem allowance paid to other members of the legislature.

Sec. 24.20.650. POWERS. The committee has the power to

(1) organize, adopt rules for the conduct of its business, and prescribe procedures for the comprehensive fiscal analysis, budget review and post-audit functions over those agencies of the state which perform lending, borrowing or investment functions;

(2) hold public hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and production of papers, books, accounts, documents and testimony, and have the deposition of witnesses taken in a manner prescribed by court rule or law for taking depositions in civil actions;

(3) require all state officials and agencies of state government to give full cooperation to the committee or its staff in assembling and furnishing requested information;

(4) hold public hearings relating to the confirmation of members of the Alaska Permanent Fund Board of Trustees, the Board of Trustees of the Alaska Renewable Resources Corporation, and the Alaska Enterprise Investment Fund Policy Board;

(5) prepare and distribute reports, memoranda, or other necessary materials;

(6) make recommendations concerning the structure and operating practices of all agencies of the state which perform lending, borrowing or investment functions;

(7) receive and review reports and post-audit analyses conducted by the Legislative Budget and Audit Committee relating to all agencies of the state which perform lending, borrowing or investment functions.

Sec. 24.20.660. STAFF. The legislative audit division shall provide staff reasonably necessary for the conduct of the committee duties. The committee may hire and determine the salary of the administrative support staff it considers necessary within the limit of the budget approved by the legislature.

Sec. 24.20.670. DUTIES. The committee shall

(1) report to the legislature its recommendations relating to the confirmation of suggested appointees to the Alaska Permanent Fund Board of Trustees, the Board of Trustees of the Alaska Renewable Resources Corporation, and the Alaska Enterprise Investment Fund Policy Board;

(2) annually review the long-range operating plans of all agencies of the state which perform lending, borrowing or investment

functions;

(3) review quarterly reports from the Alaska Permanent Fund Board of Trustees, the Board of Trustees of the Alaska Renewable Resources Corporation, and the Alaska Enterprise Investment Fund Policy Board;

(4) present a complete report of investment programs, plans, performance, and policies of the Alaska Permanent Fund Board of Trustees, the Board of Trustees of the Alaska Renewable Resources Corporation, and the Alaska Enterprise Investment Fund Policy Board to the legislature within 30 days after the convening of each regular session.

Sec. 24.20.680. RECORDS. The committee shall keep a complete file of all reports presented to it and all reports presented by it to the legislature or any legislative committee.

* Sec. 2. AS 37 is amended by adding a new chapter to read:

CHAPTER 13. ALASKA PERMANENT FUND.

Sec. 37.13.010. ALASKA PERMANENT FUND. Under art IX, sec. 15 of the state constitution, there is established as a separate fund the Alaska Permanent Fund. The permanent fund consists of 100 per cent of mineral lease bonuses after deduction of any amounts allocated to the Alaska Native Fund under the Alaska Native Claims Settlement Act and implementing state legislation and any amounts allocated by law to the Alaska Renewable Resources Development Fund and 30 per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments received by the state and any other money allocated by law or appropriated to the principal of the fund. The permanent fund consists of (1) the fund established in this chapter to which five-sixths of the receipts from these sources is allocated and (2) the Alaska Enterprise Investment Fund established in AS 44.55 to which one-sixth of the receipts from these sources is allocated until

the amount so allocated reaches the sum of $100,000,000. Thereafter the total receipts from these sources is allocated to the fund established in this chapter.

Sec. 37.13.020. FINDINGS. The people of the state, by constitutional amendment, have required the placement of at least 25 per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses received by the state into a permanent fund. The legislature finds that

(1) the permanent fund should provide a means of conserving a portion of the state's revenues from mineral resources to the ultimate benefit of future generations of Alaskans;

(2) the primary goal of the fund should be to maximize total return while maintaining safety of principal;

(3) the permanent fund should be used as a savings device until the future time when disposable income from the fund will be needed to replace depleting mineral resource revenues.

Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to provide a mechanism for the management and investment of permanent fund assets in a manner consistent with the findings established in sec. 20 of this chapter.

Sec. 37.13.040. ALASKA PERMANENT FUND BOARD OF TRUSTEES. There is established the Alaska Permanent Fund Board of Trustees. The permanent fund board of trustees is a public corporation and government instrumentality in the Department of Revenue but has a legal existence independent of and separate from the state. The purpose of the board is to manage and invest the assets of the permanent fund in accordance with the guidelines established in this chapter.

Sec. 37.13.050. COMPOSITION OF BOARD OF TRUSTEES. (a) The board of trustees consists of three members appointed by the governor and con-

firmed by a majority of the members of the legislature in joint session.

(b) The board shall annually elect a chairman from among its members.

Sec. 37.13.060. TERM OF OFFICE. The members of the board shall be appointed for terms of three years, and they may be reappointed. Terms shall be staggered. Initial terms shall be one member serving for one year, one member serving for two years, and one member serving for three years.

Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may remove a trustee from office by and with the consent of a majority of the members of the legislature in joint session. A removal by the governor shall be in writing and state the reason for removal. If the legislature is not in session, the governor may suspend a member of the board. Upon suspension, a trustee may not participate in board business and may not be counted for purposes of establishing a quorum. A suspended member shall continue to receive his salary as a trustee until the legislature in joint session consents to his removal. The joint session shall be held within 30 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the legislature is not in session. If the legislature refuses to consent to his removal, the trustee shall be reinstated to his position.

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

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

Sec. 37.13.080. QUALIFICATIONS OF TRUSTEES. (a) No trustee may be appointed to the board who has not been a resident of the state for at least three years.

(b) No member of the board may hold any other state or federal office, position or employment, either elective or appointive, except as a member of the armed forces of the United States or of this state.

(c) At least one member of the board shall be knowledgeable and experienced in finance, investments, or other business management-related field. No two members may be appointed to the board who share substantially similar professional or occupational backgrounds.

Sec. 37.13.090. QUORUM. Two members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board.

Sec. 37.13.100. COMPENSATION OF TRUSTEES. Trustees serve without compensation except that each member may be reimbursed by the fund for travel and per diem expenses at the rate set by law for members of boards and commissions.

Sec. 37.13.110. EMPLOYMENT OF PERSONNEL. The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. The executive director may not be a trustee. The executive director and all employees of the board are in the exempt service under AS 39.25.

Sec. 37.13.120. CONFLICTS OF INTEREST. (a) Trustees are subject to the provisions of AS 39.50.

(b) No member or employee of the board shall acquire an interest,

direct or indirect, in a corporation, company, association, or project owned, controlled, or invested in by the permanent fund. If a member or employee owns or controls an interest, he shall immediately disclose the interest in writing to the board and refrain from participating in any manner in any board activity relating to that interest.

Sec. 37.13.130. POWERS AND DUTIES. (a) The prudent-person rule is applicable to the board in its management and investment of permanent fund assets. In making investments, the board shall exercise the judgment and care under the circumstances then prevailing which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income from them as well as probable safety of capital.

(b) The board shall seek to maintain a reasonable diversification of type and maturity of investments in its investments.

(c) The board shall submit long-range and quarterly investment reports to the State Investment Oversight Committee.

(d) The board may not borrow funds or guarantee loans made by any other program or association.

(e) The board may, except as provided by (f) of this section enter into and enforce all contracts necessary, convenient or desirable for purposes of the fund.

(f) The permanent fund shall be used only for income-producing investments. The board may contract only with private persons or organizations to recommend or select investments for the permanent fund. Investments shall be selected in accordance with (g) of this section.

(g) Subject to (a) of this section the board may invest its assets in obligations of the United States or obligations for which the faith

and credit of the United States are pledged for payment of principal and interest; loans secured by first liens on unencumbered realty or leasehold; and corporate stock and corporate obligations which under the Securities Act of 1933 are freely tradeable.

(1) No portion of the assets of the fund may be used in the purchase of stocks of any company whose primary business is the exploration or development of oil or gas; nor in the purchase of stock of any corporation which is not paying dividends on that stock in cash at the time of purchase; nor in the purchase of bonds of any corporation, upon which any regular interest payment has been defaulted at any time within five years before purchase, except bonds never in default but which have been outstanding for less than five years.

(2) No portion of the assets of the fund may be used in the purchase of stocks of an issuer if immediately following the purchase

(A) the proportionate market value of all stocks of the issuer held by the fund would exceed the greater of 2 per cent of the fund's equity assets or 125 per cent of the proportionate value which the securities of the issuer represent in the Standard & Poors 550 stock index;

(B) the aggregate market value of all stock of the issuer held by the fund would exceed 3 per cent of the aggregate market value of the issuer's outstanding equity security; or

(C) the proportionate market value of all stocks then held by the fund in the issuer's industry would exceed the greater of 6 per cent of the fund's equity assets or 250 per cent of the proportionate value which the securities of that industry represent to the Standard & Poors 550 Stock Index.

(3) No portion of the assets of the fund may be used in the purchase of corporate obligations of an issuer if immediately following

the purchase the aggregate value of all obligations of that issuer would exceed the lesser of 2 per cent of the total corporate obligations held by the fund or 3 per cent of the aggregate market value of the issuer's outstanding obligations.

Sec. 37.13.140. GAINS AND LOSSES. At the end of each fiscal year, the total amount of losses on the sales of securities, not offset by gains on the sales of securities during that year, shall be computed, with a portion of these losses to be deducted each fiscal year from the interest and dividend income and the resulting amount of interest and dividend income added to the principal of the fund. Losses taken on the sales of bonds shall be accumulated over a period equal to the average remaining life of the bonds sold, and losses taken on the sales of stocks shall be accumulated within a period of five years, unless these losses are offset by gains on future sales of securities. In any fiscal year in which the gains on the sales of securities exceed the losses on the sales of securities, the excess shall be added to the principal of the fund.

Sec. 37.13.150. BOARD BUDGET. The board's operating budget is from the general fund and is subject to the Executive Budget Act (AS 37.07).

Sec. 37.13.160. AUDITS. The Legislative Budget and Audit Committee shall conduct annual operational and performance evaluations (post-audits) of the board's investments and investment programs and report the results to the State Investment Oversight Committee.

Sec. 37.13.170. REPORTS AND PUBLICATIONS. No later than the 20th day of the legislative session, the board shall publish a report to the governor, legislature, and the public in easily understandable language. Each report must include financial statements audited by the Legislative Budget and Audit Committee, a statement of the amount of money received

by the permanent fund from each investment during the period covered, a statement of permanent fund investments, a description of permanent fund investment activity during the period covered by the report, a comparison of the fund performance with the intended goals contained in sec. 20 of this chapter, an examination of the impact of the investment criteria of this chapter on the fund portfolio with recommendations of any needed changes and any other information the board believes would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the permanent fund shall be published in at least one newspaper in each judicial district. The board may also publish other reports it considers desirable to carry out its purpose.

* Sec. 3. AS 44 is amended by adding a new chapter to read:

CHAPTER 55. THE ALASKA ENTERPRISE INVESTMENT FUND.

Sec. 44.55.010. CREATION OF INVESTMENT FUND: FUNDING. (a) There is created the Alaska Enterprise Investment Fund. The investment fund is a public corporation and government instrumentality in the Department of Revenue but has legal existence independent of and separate from the state. The exercise by the investment fund of the powers conferred by this chapter is considered an essential governmental function of the state.

(b) One-sixth of the receipts of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses allocated to the permanent fund shall be paid directly into the investment fund until a total of $100,000,000 has been paid in.

Sec. 44.55.020. ALASKA ENTERPRISE INVESTMENT FUND POLICY BOARD. (a) There is established the Alaska Enterprise Fund Policy Board consisting of a person employed in the executive branch of state government appointed by the governor and six public members appointed by the

governor with due regard for geographical representation and confirmed by a majority of the members of the legislature in joint session. At least two of the public members shall have broad experience in investment finance. The board shall elect one of the public members as chairman and other officers they determine desirable.

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

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

(d) Members of the policy board receive $_____ per meeting day if they attend the meeting and are entitled to per diem and travel allowances as are provided by law for members of state boards and commissions.

Sec. 44.55.030. REMOVAL AND VACANCIES ON BOARD. (a) The governor may remove a policy board member from office by and with the consent of a majority of the members of the legislature in joint session. The joint session shall be held within 10 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the member was suspended. If the legislature is not in session, the governor may suspend a member of the policy board for cause. Upon suspension, a board member may not participate in policy board business and may not be counted for purposes of establishing a quorum. A suspended member shall continue to receive his salary as a board member until the legislature in joint session consents to his removal. If the legislature refuses to consent to his removal,

the member shall be reinstated to his position.

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

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

Sec. 44.55.040. DUTIES OF THE POLICY BOARD. The policy board shall

(1) select and appoint the president and other members of the Alaska Enterprise Investment Fund Investment Committee established in sec. 50 of this chapter;

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

(3) have responsibility on behalf of the bank for relations with the general public, legislature, executive branch, local communities, and interest groups concerning all things excepting only those matters that are the responsibility of the investment committee;

(4) review quarterly reports from the investment committee concerning investment decisions and investment supervision, but the board may not impose an investment decision upon, or override an investment decision of, the investment committee;

duty of Pol. Bd. is audit comm. picked by Comm. Office? Why not themselves?

(5) review, consider and approve policies;

(6) establish an audit committee, consisting of the commissioner of revenue and other members of the policy board to be designated by the commissioner, which shall select independent outside auditors, and receive all audit reports,

Sec. 44.55.050. ALASKA ENTERPRISE INVESTMENT FUND INVESTMENT COMMITTEE. (a) There is established the Alaska Enterprise Investment Fund Investment Committee, consisting of a president and four members appointed by the policy board. No member of the policy board may be a member of the investment committee. Members of the investment committee shall be persons of recognized competence and wide experience in investments, finance, and other business management-related fields. A member may be reappointed and continue to serve until his successor is appointed. The president and members shall serve for four-year terms. Terms shall be staggered. Initial terms shall be one member serving for one year, one member serving for two years, one member serving for three years, and one member and the president serving for four years.

(b) Four members of the investment committee constitute a quorum. Decisions of the committee shall be taken by majority vote.

(c) Members of the investment committee are in the exempt service under AS 39.25 and receive an annual salary within Range 30 in the salary schedule for state employees established by AS 39.27.011.

Sec. 44.55.060. DUTIES OF THE INVESTMENT COMMITTEE. The investment committee has sole responsibility to approve all investment proposals.

Sec. 44.55.070. BUDGET. The investment fund operating budget is from the general fund and is subject to the provisions of the Executive Budget Act (AS 37.07).

Sec. 44.55.080. PERSONNEL OF INVESTMENT FUND. Policy board

members, investment committee members, and officers and staff of the investment fund are in the exempt service under AS 39.25.

Sec. 44.55.090. FINDINGS. The legislature finds

(1) that investment in financially sound small and medium scale productive private enterprises and community development projects in the state, particularly in rural areas, is of benefit to the citizens of the state;

(2) there is a shortage of investment capital for financially sound small and medium scale productive private enterprises, and community development projects particularly in rural areas of the state;

(3) that the investment fund working with private financial institutions to supplement but not supplant their services can help to alleviate this shortage.

Sec. 44.55.100. PURPOSE. The purpose of the investment fund is to provide capital at market rates and terms for small and medium scale productive private enterprises, and community development projects particularly in rural areas of the state.

Sec. 44.55.110. POWERS OF THE INVESTMENT FUND. (a) In carrying out the corporate purposes of the investment fund, the policy board has power to

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

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

(3) sue and be sued in the name of the investment fund;

(4) borrow funds, and in that connection furnish such collateral or other security as it determines, except that investment fund borrowing may not exceed one-half of its paid-in capital;

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

(6) enter into agreements necessary or convenient in the

exercise of its powers and functions;

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

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

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

(b) In carrying out the corporate purposes of the investment fund, the investment committee has the power to

(1) invest, in such form and such amounts as it considers appropriate, by purchasing the capital stock of, or lending money to, projects, except that any investment in the capital stock of or other ownership interest in a project may not exceed 49 per cent of the capital stock of, or other ownership interest in, the project, and no loan or other investment in the project by the investment fund may exceed 90 per cent of the cost of the project unless, in the judgment of the committee, additional amounts must be loaned to protect the interests of the investment fund;

(2) deposit funds, or invest funds through the permanent fund in such obligations as it may determine;

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

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

Sec. 44.55.120. INVESTMENTS. (a) In making investments, the investment committee and staff shall exercise the judgment and care under the circumstances then prevailing which a person of ordinary prudence, discretion, and intelligence exercises in the management of his own affairs taking into consideration the probable income from the

investments as well as probable safety of principal.

(b) An amount equal to at least 150 per cent of all guarantees by the investment fund shall be invested in investment-grade securities.

(c) The investment committee may invest not more than 50 per cent of the resources of the investment fund to provide a reasonable proportion of longer-term investment capital for financing the establishment, improvement, and expansion of productive private enterprises which will benefit Alaskans, and for which sufficient capital is not available from other sources on reasonable terms. These investments may take the form of equity, debt, or debt guarantees.

(d) The committee may invest no more than 50 per cent of the resources of the investment fund in financing a reasonable proportion of the longer-term investment capital needs for community development projects of municipalities and public corporate entities and private dwellings in the state for which sufficient financing is not available from other sources on reasonable terms. These investments may take the form of debt or debt guarantees.

very low - why all these people needed - loan rates go higher w/o

(e) The committee may not invest or guarantee obligations totaling more than five per cent of the resources of the bank or $1,500,000, whichever is less, in a single project unless the legislature has approved the investment by concurrent resolution.

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

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

(h) The committee shall only undertake its financing on terms and

? up to Fund or legis to decide subsidy, legis can initiate

conditions which it considers appropriate, taking into account the terms and conditions normally obtained by private investors for similar financing, the requirements of the enterprise or project, the risks being undertaken by the investment fund, and the participation of other investors unless the legislature has appropriated funds for subsidizing investments which in the opinion of the investment fund are of such high priority that special terms and conditions are appropriate.

(i) The committee may seek to revolve the investment fund's money by selling its investments to other investors whenever it can appropriately do so on satisfactory terms.

(j) The committee shall seek to maintain a reasonable diversification in its investments.

(k) The committee shall only consider investment proposals after the applicant for an investment has submitted a detailed proposal to the committee's staff and the staff has prepared a written report recommending the investment after a study of its merits.

(l) The committee shall analyze the economic and other effects of an investment decision, including the effects on employment, income distribution, environment, health, social and other factors. The committee shall be sensitive to the views of affected local communities and shall include an analysis of those views in proposals for large investments.

(m) The committee may guarantee qualifying loans made by financial intermediaries in order to facilitate investment by the intermediaries in specific enterprises or projects whose individual financing requirements are not, in the opinion of the committee, large enough to warrant its direct supervision.

(n) The committee shall provide for operational and performance evaluations (post-audits) of its investments and investment programs and

report the results to the policy board.

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

Sec. 44.55.130. INITIAL DETERMINATIONS. Before beginning its financing operations, the policy board shall render a detailed report to the legislature which shall

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

(2) define the size and nature of projects which are feasible for investment fund financing;

(3) determine specific projects which are feasible for investment fund and private financing;

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

(5) forecast the capital requirements of the investment fund for the first three years of its operations.

Sec. 44.55.140. REPORTS AND PUBLICATIONS. The policy board shall publish an annual report to the governor, legislature and the public. Each report shall include financial statements audited by independent outside auditors, a statement of the amount of money received by the investment fund from each source during the period covered, a statement of investment fund investments, a description of investment fund investment activity during the period covered by the report, an analysis of economic and other effects of investment decisions including, but not

limited to, the effects on employment, income distribution, environment, health, social and other factors, and any other information the policy board believes would be of interest to the governor, the legislature and the public. The investment fund may also publish such other reports as it considers desirable to carry out its purpose.

Sec. 44.55.150. CONFLICT OF INTEREST. (a) Members of the policy board and investment committee are subject to the provisions of AS 39.50.

(b) Members of the investment committee shall disclose their financial interest in an investment proposal and disqualify themselves from voting on any investment proposal in which they have a financial interest. The committee may not make an investment in any project or enterprise in which officers of the bank have a financial interest. Members of the policy board are prohibited from all attempts to influence the investment committee, its president or staff in the discharge of their ordinary operating duties. All officers of the investment fund in the discharge of their offices owe their duty entirely to the investment fund and no other authority.

Sec. 44.55.160. POLITICAL ACTIVITIES. The members of the policy board, members of the investment committee, and officers and staff of the investment fund may not engage in partisan political activities. The resources of the investment fund may not be used to finance any partisan political activities.

Sec. 44.55.170. PUBLIC ACCESS TO INFORMATION. Information in the possession of the investment fund is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the

publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

Sec. 44.55.180. TAX EXEMPTION. The investment fund is exempt from all taxes and assessments in the state. All security instruments issued by the investment fund, their transfer, and their income are exempt from all taxes and assessments in the state.

Sec. 44.55.190. DEFINITIONS. In this chapter

(1) "board" or "policy board" means the Alaska Enterprise Investment Policy Board established by sec. 20 of this chapter;

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

(3) "committee" or "investment committee" means the Alaska Enterprise Investment Fund Investment Committee established by sec. 50 of this chapter;

(4) "fund" or "investment fund" means the Alaska Enterprise Investment Fund.

* Sec. 4. AS 39.25.110 is amended by adding new paragraphs to read:

(21) members of the policy board and investment committee, and the president, officers, and staff of the Alaska Enterprise Investment Fund;

(22) members of the board of trustees, the executive director, and staff of the Alaska Permanent Fund Board of Trustees.

* Sec. 5. AS 39.50.200(9) is amended by adding new subparagraphs to read:

(NN) Alaska Enterprise Investment Fund Policy Board and Alaska Enterprise Investment Fund Investment Committee;

(OO) Alaska Permanent Fund Board of Trustees.

* Sec. 6. This Act takes effect immediately in accordance with AS 01.10.-070(c).

PF 6:11

MEMO

DATE: January 27, 1977

TO: Hugh Malone
Sterling Gallagher

From: James Love

SUBJECT: SIAC Permanent Fund Proposed Legislation

NOTES ON THE PERMANENT FUND BILL

page 2. Section 37.13.017 (5) limits the permanent fund from making investments in areas where private capital is available. Naturally, those areas which attract private capital are the best, offering the highest rates of returns at the lowest risks. The effect of this limitation is to force the fund into soft loan areas. The fund should be able to compete in these areas.

page 3. In Sec. 37.13.030 (b), the president of the fund, who is really its executive director, is made the chairman of the policy board. In my opinion, this makes the staff person too powerful, and diminishes the power of the board itself. I feel very strongly that the chairman of the policy board should be chosen by members of the board, from their own ranks, if they are meant to be a strong group.

page 5. Sec. 37.13.070 states that the president shall have the sole responsibility for bringing investment proposals to the investment committee for a vote. I feel strongly that any individual or business should have the right to demand that their proposal is taken before the committee. The president should not totally control the flow of proposals to the committee, although she should have the ability to recommend against proposals sent to the committee against her recommendation.

page 5. Sec. 37.13.080. There is no reason to exempt the permanent fund from the Executive Budget Act, except to remove it from normal review of government programs. If there is a concern that the Budget Act does not allow for sensable budgeting of reserves, then it should be amended.

page 5. Sec. 37.13.080. Only top officers should be in the exempt service. One of the problems with ASHA was that it was exempt from normal civil service guidelines. It became a haven for patronage jobs. On a federal level, agencies such as the SEC give employees civil service protections. Yet, they are fully able to attract qualified and motivated staff. The permanent fund needs this protection to keep from being subject to political manipulations.

page 6. Sec. 37.13.090. This should read: "The Permanent Fund shall..."

page 6. Sec. 37.13.100. (2). This is another example of language to keep the fund from making loans attractive to the private sector. It should be stricken.

page 6. Sec 37.13.100. (3) I don't feel that this paragraph should be in the bill. Perhaps there could be a statement that the fund should not manage projects, but I feel that it should reserve the right to exercise its stock voting rights.

page 7. 37.13.100. (8). The last sentence in this paragraph. "The permanent Fund shall be sensitive to the views of affected local communities and shall include an analysis of those views in proposals for large investments.", is a step in the right direction, but it should be worked on more. First of all, consideration should be given to giving local government units actual veto power over proposals of a certain size, which primarily affected their community. This was an area of much dispute in the SIAC, since many of the committee members felt the fund should be able to finance projects in communities regardless of the local feelings toward the project. These committee members felt that development projects would be hamstrung if local communities were given a chance to approve or disapprove projects. Frankly, this line of thinking bothers me, and I am sure that it does not fit in with the thinking of the Governor. You could easily have another Kachemak Bay on your hands. A section should be written which requires that local communities be deeply involved in large development proposals which significantly affect their areas. At a minimum, such projects should require the endorsement of local government units. If the projects have any merit at all, this should present no problem.

Also, the bill should require the managers of the permanent fund to work with the local governments to evaluate the permanent fund programs, and to set priorities. Perhaps wording like: "The Permanent Fund shall consult on a regular basis with local government units to determine the funds' goals and priorities." I believe that provisions like this should be built into the bill. It really lacks accountability to the public. Nine people are just given the entire responsibility to make too many important decisions.

page 7. 37.13.100. (9). It seems that there should be a limit on this paragraph. What is a financial intermediary, and how large of loans can they manage without the approval by the permanent fund loan committee.

page 7. 37.13.110. There has been much talk about using the permanent fund as security for loan guarantees and other type of leveraging. The legislation might consider some initial limits on this. Say, to only a portion of the fund or its earnings. Also, the legislation might consider some limitations on the risk of projects that it extends guarantees on.

page 8. 37.13.150. We are working on other, more detailed conflict of interest and bribery measures, which I will forward later. One small point, during the ASHA investigation, Attorney General Gross, determined that the State's bribery statutes did not extend to anyone but Executive Officials of state government. Obviously, key people working with the Permanent Fund should be covered.

page 9. 37.13.170. This section is much too vague. In the process of protecting confidential financial information, public access to records involving loans of public funds, are limited to: "Publication of statistics presented in a manner that prevents the identification of particular reports, items, persons or enterprises...", Much broader disclosure of loan records should be available. For example, recommendations by the staff to approve or dissapprove loans. Interest rates, security for loans, repayment scheduals, and other terms. Delinquency should also probably be subject to disclosure. Confidentiality should be limited as much as possible, and maximum public scrutiny should be the policy. The language in this paragraph definitely needs work.

The bill does not state whether or not it is bound to adopt its operating policies by regulation, via the administrative procedures act. The SIAC rejected this. Surely this should be required by the bill. It requires the agency to go through a public process when adopting its regulations. The regulations then have the force of law. The entire experience with ASHA should teach us something. There, the agency was totally unaccountable because it had no regulations which had legal standing. Also, under the administrative procedures act, citizens may propose regulations for the agency. This will help, by preserving the public's right to formally petition the Permanent Fund to adopt certain policies or procedures. Again, it builds more accountability into the system.

These suggestions are addressed at the bill in its present form. I will have more comments later. Specifically, a code of ethics, and some work to require sophisticated economic planning, including a proposal that the fund adhere to state policies for growth of the Alaskan Economy. I will be studying alternative structures, and point out areas which I feel have not yet received enought study and which need to be addressed before the state decides on the funds' structure and goals.

JAMES LOVE:nj

2/8/77

Jerry Rhode Room 413

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

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

CHAPTER 13. ALASKA PERMANENT FUND.

Sec. 37.13.010. ALASKA PERMANENT FUND. Under art. IX, sec. 15, of the Alaska Constitution, there is established as a separate fund, in the Department of Revenue, the Alaska Permanent Fund.

Sec. 37.13.015. There is created the Alaska Permanent Fund, a Public corporation of the state. The corporation is an instrumentality of the state within the Department of Revenue but has a legal existence independent of and separate from the state and has continuing succession until its existence is terminated by law. The exercise by the corporation of the powers conferred by this chapter is considered an essential governmental function of the state. The corporation shall manage and invest the principal of the Alaska Permanent Fund and will distribute the income earned from the Alaska Permanent Fund in accordance with the provisions of this chapter.

Sec. 37.13.017. PURPOSE OF THE PERMANENT FUND. The purpose of the Alaska Permanent Fund is to provide a means of conserving a portion of the state's revenues from mineral resources to the ultimate benefit of present and future generations of Alaskans. The revenues so conserved shall be invested in income-producing investments which will provide further benefits to present and future generations of Alaskans.

Further benefits may be derived through use of the Permanent Fund to:

(1) assist the diversification of the economy of Alaska by making sound investments in Alaska's renewable and non-renewable resources.

(2) seek to smooth the cyclical pattern of growth of the Alaska economy.

(3) encourage and assist the participation of private capital, from both within and without Alaska, in private enterprises of benefit to Alaskans.

(4) promote the investment of public and private capital for community development purposes.

(5) supplement private investment when sufficient private capital is not available on reasonable terms and conditions.

(6) also seek to preserve the Permanent Fund capital for future generations through sound investments in investment grade securities.

The Permanent Fund shall be guided in all its decisions by the purpose set forth above.

Sec. 37.13.020. COMPOSITION OF THE PERMENANT FUND. The Alaska Permanent Fund consists of fifty per cent (50%) of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and one hundred per cent (100%) of all bonuses received by the state. The commissioner of revenue shall deposit in the Permanent Fund fifty per cent (50%) of the receipts from all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and one hundred per cent (100%) of all bonuses at least once each month. Income from investment of the Permanent Fund does not become a part of the Permanent Fund and shall be deposited in the general fund annually, except that income in the following amounts shall be retained in the Alaska Permanent Fund:

(1) the amount needed to pay the operating and administrative expenses of the Alaska Permanent Fund;

(2) any amount allocated to a reserve account established under Sec. 37.13.090 of this chapter.

Sec. 37.13.025. INVESTMENT OF THE PERMANENT FUND. The Permanent Fund shall be used only for income-producing investments.

(a) At least forty per cent (40%) of the resources of the Permanent Fund shall be invested in investment grade securities.

(b) The Permanent Fund may invest not more than thirty per cent (30%) of its resources to provide a reasonable proportion of longer-term investment capital for financing the establishment, improvement, and expansion of productive private enterprises which will benefit Alaskans, and for which sufficient capital is not available from other sources on reasonable terms. These investments may take the form of equity, debt or debt guarantees.

(c) The Permanent Fund may invest not more than thirty per cent (30%) of its resources in financing a reasonable proportion of the longer-term investment capital needs for community development projects of municipalities and public corporate entities and private dwellings in Alaska for which sufficient financing is not available from other sources on reasonable terms. These investments may take the form of debt or debt guarantees.

Sec. 37.13.030. PERMANENT FUND POLICY BOARD. (a) There is establishe the Alaska Permanent Fund Policy Board, consisting of the Commissioner of Commerce and Economic Development, the Commissioner of Revenue, and seven members to be appointed by the Governor. The seven appointed members must have been residents of Alaska for at least 3 years and may not be employees of the state. Their term of office is four years, and they may be reappointed. Terms shall be staggered. Initial terms shall be one member serving one year, two members two years, two members three years, and two members four years. Members may be removed for cause. Members will continue to serve until their successors are appointed.

(b) The president of the Alaska Permanent Fund shall serve as the chairman of the Policy Board, but shall not be a voting member.

(c) A quorum for the transaction of Board business shall consist of at least two-thirds of the members. Decisions of the Board shall be taken by a majority vote, including not less than a majority of the appointed members. The Board shall hold at least one public meeting each year.

(d) Members of the Policy Board shall receive $250 per meeting day and are entitled to per diem and travel allowances as provided by law for members of state boards and commissions.

Sec. 37.13.040. DUTIES OF THE POLICY BOARD.
The Policy Board shall:

(1) select and appoint the President and other members of the Investment Committee (as established in Sec. 37.13.050).

(2) annually review and approve long-range operating plans, to include an investment program based on sectoral analysis of the Alaska economy; the budget for the forthcoming year; and the financial plan for the following years.

(3) have sole responsibility for relations with the general public, legislature, executive branch, local communities, and interest groups concerning all matters other than specific investments of the Permanent Fund.

(4) review quarterly reports from the Investment Committee concerning investment decisions and investment supervision.

(5) review, consider and approve policies.

(6) review and publish an annual report including financial statements audited by independent outside auditors.

(7) establish an Audit Committee, consisting of the Commissioner of Revenue and other members of the Policy Board to be designated, which shall select the independent outside auditors, and receive all audit reports.

(8) decide appeals from interpretations of this chapter.

(9) determine the remuneration and terms of service of the President and other members of the Investment Committee (as established in Sec. 37.13.050).

(10) present a complete report of investment programs, plans, performance and policies to a joint meeting of the Senate and House Finance Committees of the Alaska Legislature within thirty (30) days after the beginning of each session.

Sec. 37.13.050. PERMANENT FUND INVESTMENT COMMITTEE. (a) There is established the Alaska Permanent Fund Investment Committee, consisting of the President of the Permanent Fund, who shall serve as chairman, and four members appointed by the Policy Board. No member of the Policy Board may be a member of the Investment Committee. All members must have been residents of Alaska for at least 3 years, may not be state employees and shall be persons of recognized competence and wide experience in investments, finance, and other business management related fields. Members may be reappointed or will continue to serve until their successors are appointed.

(b) A quorum shall consist of four (4) members of the Investment Committee. All decisions will be taken by majority vote.

Sec. 37.13.060. DUTIES OF THE INVESTMENT COMMITTEE.

The Investment Committee shall have sole responsibility to approve all investment proposals, and review all investments in investment grade securities.

Sec. 37.13.070. PERMANENT FUND PRESIDENT. The President of the Permanent Fund shall be appointed by the Policy Board for a term of five years, may be reappointed and shall serve at the pleasure of the Policy Board.

The President shall:

(1) have sole responsibility for presenting investment proposals to the Investment Committee.

(2) be responsible for the ordinary business of the Permanent Fund and the organization, appointment, dismissal, and remuneration of the officers and staff.

(3) be responsible for making investments in investment grade securities, subject to review by the Investment Committee.

(4) establish and maintain adequate and appropriate organizational, operating and financial controls.

Sec. 37.13.080. STATUS OF THE PERMANENT FUND. The Permanent Fund shall be excluded from the provisions of the Executive Budget Act. The President, officers, and staff of the Permanent Fund are in the exempt service.

The Alaska Permanent Fund has all powers necessary to carry out the purposes of this chapter including but not limited to the following:

(1) sue and be sued;

(2) adopt a seal;

(3) have perpetual succession;

(4) adopt and amend policies and operational procedures when not inconsistent with this chapter;

(5) make and execute contracts and other instruments;

(6) in its own name, own, exchange, transfer, lease, rent, convey, acquire or dispose by other means real and personal property.

Sec. 37.13.090. RESERVES. The Permanent Fund shall establish, from income derived from its investments, reserve accounts to preserve the principal of the Permanent Fund, consistent with sound financial practices.

Sec. 37.13.100. OPERATIONAL PRINCIPLES. The operations of the Permanent Fund shall be conducted in accordance with the following principles:

(1) prudent person rule of investments; in making investments, the investment committee and staff shall exercise the judgment and care under the circumstances then prevailing which a person of ordinary prudence discretion, and intelligence exercises in the management of his or her own affairs not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income from them as well as probable safety of principal.

(2) the Permanent Fund shall not undertake any financing for which, in its opinion, sufficient private capital could be obtained on reasonable terms.

(3) the Permanent Fund shall not assume responsibility for managing any enterprise or project in which it has invested and shall not exercise voting rights for such purpose or for any other purpose which, in its opinion, properly is within the scope of managerial control.

(4) the Permanent Fund shall only undertake its financing on terms and conditions which it considers appropriate, taking into account the terms and conditions normally obtained by private investors for similar financing, the requirements of the enterprise or projects, the risks being undertaken by the Permanent Fund, and the participation of other investors; unless the legislature has appropriated funds for subsidizing investments which, in the opinion of the Permanent Fund, are of such high priority that special terms and conditions are appropriate.

(5) the Permanent Fund may seek to revolve its funds by selling its investments to other investors whenever it can appropriately do so on satisfactory terms.

(6) the Permanent Fund shall seek to maintain a reasonable diversification in its investments.

(7) the Permanent Fund shall only consider investment proposals after the applicant for an investment shall have submitted a detailed proposal to the Permanent Fund staff and the staff of the Permanent Fund shall have prepared a written report recommending the investment after a study of its merits.

(8) the Permanent Fund shall analyze the economic and other effects of an investment decision, including the effects on employment, income distribution, environment, health, social and other factors. The Permanent Fund shall be sensitive to the views of affected local communities and shall include an analysis of those views in proposals for large investments.

(9) the Permanent Fund may make investments in financial intermediaries in order to facilitate investment by the intermediaries in specific enterprises or projects whose individual financing requirements are not, in the opinion of the Permanent Fund, large enough to warrant its direct supervision.

(10) the Permanent Fund shall provide for operational and performance evaluations (post-audits) of its investments and investment programs and report the results to the Policy Board Audit Committee.

(11) nothing in this Section shall prevent the Permanent Fund, in the event of actual or threatened default on any of its investments, actual or threatened insolvency of the enterprise in which such investment shall have been made, or other situations which, in the opinion of the Permanent Fund, threaten to jeopardize such investment, from taking such action and exercising such rights as it may deem necessary for the protection of its interests.

Sec. 37.13.110. BORROWING POWERS. The Permanent Fund shall have the power to borrow funds, and in that connection to furnish such collateral or other security therefor as it shall determine necessary.

Sec. 37.13.120. REPORTS AND PUBLICATIONS. The Policy Board shall publish an annual report to the Governor, Legislature and the public. Each report shall include financial statements audited by independent outside auditors, a statement of the amount of money received by the Permanent Fund from each source during the period covered, a statement of Permanent Fund investments, a description of Permanent Fund investment activity during the period covered by the report, and any other information the Policy Board believes would be of interest to the Governor, the Legislature and the public. The annual income statement and balance sheet of the Permanent Fund shall be published in at least one newspaper in each judicial district. The Policy Board of the Permanent Fund is prohibited from any campaign or general advertising expenditures to either promote or defend its policies and operations.

The Permanent Fund may also publish such other reports as it deems desirable to carry out its purpose.

Sec. 37.13.140. TECHNICAL ASSISTANCE. The Permanent Fund may provide financing for pre-investment activities including feasibility studies, when, in the opinion of the Permanent Fund, the proposed investment is of high priority and the financing is not available from other sources on reasonable terms and conditions. Amounts so advanced may form a part of a later investment, if the enterprise or project is financed by the Permanent Fund.

The Permanent Fund may provide for technical and management advice and assistance to proposed and actual investments as it considers necessary in the circumstances.

Sec. 37.13.150. CONFLICT OF INTEREST POLICIES. Members of the Investment Committee shall disclose their financial interest in an investment proposal and disqualify themselves from voting on any investment proposal in which they have a financial interest. The Permanent Fund shall not make an investment in any project or enterprise in which the President or officers of the Permanent Fund have a financial interest. Members of the Policy Board are prohibited from all attempts to influence the Investment Committee, President, officers and staff in the discharge of their ordinary operating duties. The President, officers and staff of the Permanent Fund, in the discharge of their offices, owe their duty entirely to the Permanent Fund and no other authority.

Sec. 37.13.160. POLITICAL ACTIVITY. The members of the Policy Board, members of the Investment Committee, and officers and staff of the Permanent Fund shall not engage in partisan political activities which involve the Permanent Fund, and resources of the Permanent Fund shall not be used to finance any partisan political activities.

Sec. 37.13.170. PUBLIC ACCESS INFORMATION. Information in the possession of the Permanent Fund is a public record except information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

Sec. 37.13.180. TAX EXEMPTION. The Alaska Permanent Fund is a public corporation and is exempt from all taxes and assessments in the state. All security instruments issued by the Permanent Fund, their transfer and their income are exempt from all taxes and assessments in the state.

Sec. 37.13.200. DEFINITIONS. In this chapter, unless the context indicates otherwise

(1) "board" means the Alaska Permanent Fund policy board created by sec. 37.13.030 of this chapter;

(2) "committee" means the Alaska Permanent Fund investment committee created by sec. 37.13.050 of this chapter;

(3) "investments" includes equity, debt and debt guarantees.

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

(21) The Policy Board, Investment Committee, President, officers and staff of the Alaska Permanent Fund.

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

(MM) Alaska Permanent Fund Policy Board and Investment Committee.

* Sec. 4. Investments outstanding as of the effective date of this Act, made from money in the Alaska Permanent Fund, shall be transferred to the corporation established in sec. 37.13.015 of this Act.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.070(c).

HOUSE JOURNAL

ALASKA STATE LEGISLATURE

TENTH LEGISLATURE - SECOND SESSION

JUNEAU, ALASKA | Thursday | March 23, 1978

Seventy-fourth Day

Pursuant to adjournment, the House was called to order by Speaker Malone at 10:13 a.m.

Roll call showed all members present.

The prayer was offered by the Chaplain, Lt. Floyd Bacon of the Salvation Army Church.

Mr. Miller moved and asked unanimous consent that the journal for the 73rd day be approved as certified. There being no objection, it was so ordered.

MESSAGES FROM THE SENATE

A message dated March 22, 1978 was read stating the Senate has approved the following citation and it is transmitted for consideration:

Honoring Senator John Butrovich,
by all members of the Senate.

The Citation was referred to the Rules Committee.

A message dated March 22, 1978 was read stating the Senate has passed COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 440 and it is transmitted for consideration:

FIRST READING AND REFERENCE OF SENATE BILLS

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 440 by the Finance Committee, entitled:

CSSB 440

"An Act making a special appropriation to the University of Alaska, Arctic Environmental Information and Data Center, for disbursement to the Alaska Eskimo Whaling Commission to assist voluntary efforts to ensure whale stock viability; and providing for an effective date."

CSSB 440 was read the first time and referred to the Finance Committee.

COMMUNICATIONS

Quarterly update of Revenue Sources for fiscal year 1977-79 was received and distributed to all members.

REPORTS OF STANDING COMMITTEES

HB 644 The Finance Committee has had HOUSE BILL NO. 644 (making supplemental appropriations to the Department of Health and Social Services, Medicaid miscellaneous, general relief medical, and handicapped children; effective date) under consideration and a majority of the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 644 (same title) and that it do pass. Concurring: Cowper (Chairman), Freeman, Haugen, Guy, Schaeffer, Swanson and Buchholdt.

HB 644 was referred to the Rules Committee for placement on the calendar.

HB 785 The Health, Education and Social Services Committee has had HOUSE BILL NO. 785 (making a special appropriation to the Department of Community and Regional Affairs for capital improvements to the Kenai Care Center; effective date) under consideration and a majority of the committee recommends it do pass. Concurring: Parr (Chairman), Bennett, Nakak, Chatterton, Ose, Cotten, Phillips, Buchholdt and Beirne.

HB 785 was referred to the Finance Committee.

HB 805 The Health, Education and Social Services Committee has had HOUSE BILL NO. 805 (making a special appropriation to the Department of Health and Social Services for the prevention and treatment of otitis media; effective date) under consideration and a majority of the committee recommends it do pass. Concurring: Parr (Chairman), Bennett, Chatterton, Cotten, Phillips and Buchholdt.

HB 805 was referred to the Finance Committee.

CITATIONS

Legislative Citation Commending Dick Mackey, by all members of the House, was read and referred to the Rules Committee for placement on the calendar.

INTRODUCTION, FIRST READING AND REFERENCE OF HOUSE RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 116 by the Commerce Committee: HCR 116

Relating to air traffic safety and service.

was introduced, read the first time and referred to the Commerce Committee.

CONSIDERATION OF THE DAILY CALENDAR

SECOND READING OF HOUSE BILLS

HOUSE BILL NO. 596 (nonrenewable resource revenues; effective date) was read the second time with the Special Committee on the Alaska Permanent Fund's report (page 393 of the journal) and the Finance Committee report (page 617 of the journal). HB 596

Mr. Miller moved and asked unanimous consent that COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 596 (Finance) (nonrenewable resource revenues; to legislative oversight; effective date) be adopted in lieu of HB 596. There being no objection, it was so ordered. CSHB 596 (Fin)

Amendment No. 1 by Dankworth, Carpenter and Lethin:

Page 4, line 3: Following "Corporation," insert "and"

Page 4, lines 4 and 5: Following "Corporation" delete ", and the Alaska Enterprise Investment Corporation Policy Board;"

Page 4, line 24: Following "Trustees," insert "and"

Page 4, lines 25 and 26: Following "Corporation," delete "and the Alaska Enterprise Investment Corporation Policy Board;"

Page 6, line 10: Delete "(1)"

Page 6, lines 11 through 17: Following "chapter" insert a period and delete the remainder of the material.

Page 13, line 26 though page 24, line 5: Delete all material

Page 24, line 6: Change "*Sec. 5." to "*Sec. 4."

CSHB 596 (Fin)

Delete "new paragraphs" and insert "a new paragraph"

Page 24, lines 7 through 9: Delete all material.

Page 24, line 10: Delete "(22)" and insert "(21)"

Page 24, line 12: Change "*Sec. 6." to "*Sec. 5." Delete "new subparagraphs" and insert "a new subparagraph"

Page 24, lines 13 and 14: Delete all material.

Page 24, line 15: Delete "(OO)" and insert "(NN)"

Page 24, line 16: Change "*Sec. 7." to "*Sec. 6." delete "(a)"

Page 24, lines 20 through 25: Delete all material.

Page 24, line 26: Change "*Sec. 8." to "*Sec. 7."

Page 24, line 27: Change "*Sec. 9." to "*Sec. 8."

Page 24, line 28: Change "*Sec. 10." to "*Sec. 9." following the word "Section" delete "9" and insert "8"

Page 25, line 1: Delete "7(a)" and insert "6"

Mr. Dankworth moved and asked unanimous consent that amendment No. 1 be adopted.

Mr. Gruening objected.

The question being: "Shall amendment No. 1 be adopted?" The roll was taken with the following result:

Yeas: 8 Beirne, Bennett, Carpenter, Dankworth, Hayes, Kelly, Lethin, Rhode.

Nays: 32 Akers, Anderson, Bradley, Brown, Buchholdt, Chatterton, Cotten, Cowper, Duncan, Eliason, Freeman, Gardiner, Gruening, Guy, Haugen, Lovseth, McKinnon, Malone, Meekins, Miles, Miller, Nakak, Ose, Osterback, Parr, Phillips, Rudd, Schaeffer, Smith, Snider, Swanson, Urion.

And so, amendment No. 1 was not adopted.

Amendment No. 2 by Lethin:

Page 6, line 5: Delete "30" and insert "50".

Mr. Lethin moved and asked unanimous consent that amendment No. 2 be adopted. CSHB 596 (Fin)

Mr. Gruening objected.

The question being: "Shall amendment No. 2 be adopted?" The roll was taken with the following result:

Yeas:	9	Beirne, Bennett, Dankworth, Hayes, Kelly, Lethin, Phillips, Rhode, Urion.
Nays:	31	Akers, Anderson, Bradley, Brown, Buchholdt, Carpenter, Chatterton, Cotten, Cowper, Duncan, Eliason, Freeman, Gardiner, Gruening, Guy, Haugen, Lovseth, McKinnon, Malone, Meekins, Miles, Miller, Nakak, Ose, Osterback, Parr, Rudd, Schaeffer, Smith, Snider, Swanson.

And so, amendment No. 2 was not adopted.

Mr. Miller moved and asked unanimous consent that CSHB 596 (Finance) be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 596 (Finance) was read the third time.

The question being: "Shall CSHB 596 (Finance) pass the House?" The roll was taken with the following result:

Yeas:	34	Akers, Anderson, Beirne, Bradley, Brown, Buchholdt, Chatterton, Cotten, Cowper, Duncan, Eliason, Freeman, Gardiner, Gruening, Guy, Haugen, Kelly, Lovseth, McKinnon, Malone, Meekins, Miles, Miller, Nakak, Ose, Osterback, Parr, Phillips, Rudd, Schaeffer, Smith, Snider, Swanson, Urion.
Nays:	6	Bennett, Carpenter, Dankworth, Hayes, Lethin, Rhode.

And so, CSHB 596 (Finance) passed the House.

Mr. Miller moved and asked unanimous consent that the roll call on the passage of CSHB 596 (Finance) be considered the roll call on the effective date clause. There being no objection, it was so ordered.

CSHB 596 (Finance) was referred to the Chief Clerk for engrossment.

Mr. Miller moved and asked unanimous consent that the House recess for five minutes. There being no objection, the House recessed at 11:45 a.m.

AFTER RECESS

The House was called to order at 11:59 a.m.

SECOND READING OF HOUSE RESOLUTIONS

HJR 31 HOUSE JOINT RESOLUTION NO. 31 (Proposing an amendment to the Constitution of the State of Alaska relating to legislative confirmation authority) was read the second time with the Special Committee on the Alaska Permanent Fund's report (page 521 of the journal) and the Judiciary Committee report (page 627 of the journal).

Mr. Miller moved and asked unanimous consent that COMMITTEE SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 31 (same title) be adopted in lieu of HJR 31. There being no objection, it was so ordered.

CSHJR 31

Mr. Miller moved and asked unanimous consent that CSHJR 31 be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHJR 31 was read the third time.

The question being: "Shall CSHJR 31 pass the House?" The roll was taken with the following result:

Yeas:	39	Akers, Anderson, Beirne, Bennett, Bradley, Brown, Buchholdt, Carpenter, Chatterton, Cotten, Cowper, Dankworth, Duncan, Eliason, Freeman, Gardiner, Gruening, Guy, Haugen, Hayes, Kelly, Lethin, Lovseth, McKinnon, Malone, Meekins, Miles, Miller, Nakak, Ose, Osterback, Parr, Phillips, Rhode, Rudd, Schaeffer, Smith, Snider, Urion.
Nays:	0	
Excused:	1	Swanson.

And so, CSHJR 31 passed the House and was referred to the Chief Clerk for engrossment.

CITATIONS

Legislative Citation Commending Senator Henry Jackson, by Representative Bradley, which had been held over until today's calendar (page 631 of the journal) was before the House at this time.

Mr. Bradley moved and asked unanimous consent that the Citation be returned to the Rules Committee. There being no objection, it was so ordered.

Mr. Freeman moved and asked unanimous consent that Legislative Citation Commending Governor Jay Hammond, by Senator Ziegler, be approved.

Mr. Urion objected and moved that the Citation be returned to the Rules Committee.

Mr. Freeman objected and withdrew his objection.

There being no further objection, it was so ordered.

UNFINISHED BUSINESS

Mr. Cowper stated that the Finance Committee has finished the operating budget and the caucuses on the budget will begin on Monday, March 27.

Mr. Miller moved and asked unanimous consent that HOUSE BILL NO. 99 (liability for expense of hospitalization of mentally ill individuals; effective date) be taken from the Rules Committee and returned to the Health, Education and Social Services Committee. There being no objection, it was so ordered. HB 99

Fiscal notes on HOUSE BILLS 904 (Alaska land policy) and 905 (disposal of state land; effective date) appear in House Supplement No. 24. HB 904, 905

ENGROSSMENT

The following were engrossed, signed by the Speaker and Chief Clerk and transmitted to the Senate for consideration:

CSHJR 31 CSHJR 31

CSHB 596 (Finance) CSHB 596 (Fin)

ANNOUNCEMENTS

Finance HB 783,884	Capitol 411	1:30 p.m., 3/23
HB 682		8:30 a.m., 3/24
Resources HB 054,878, SSHB 830	Capitol 118	1:30 p.m., 3/23
State Affairs Joint w/Senate Review of legislation by Berkowitz (of Ely, Guess & Rudd)	Governor's Conference Room	1:30 p.m., 3/23
HESS w/Regent Kito on U of A organization bills; HB 472	Capitol 110	3:00 p.m., 2/23
Judiciary HB 392,803	Capitol 124	3:00 p.m., 3/23
Criminal Code is completed -- Being typed & will be available next week along with section commentary		
Special Committee on Subsistence HJR 48, HB 772,718, HCR 93, Barter definition; Briefing on d-2 subsistence language; Briefing on teleconference hearing in April	Assembly 207	3:00 p.m., 3/23
FCC on HB 611	S.Finance Room	4:30 p.m., 3/23
Special Committee on Sale of Royalty Oil and Gas ALPETCO contract w/Dept. of Natural Resources	Capitol 124	7:30 p.m., 3/23
Commerce HB 729,732,827	Court 628	8:00 a.m., 3/24
C&RA HB 202,677,707, SSHB 760, HJR 58, CSSB 388	Court 647	9:00 a.m., 3/24

Select Committee on Telecommunications Proposed CSHB 545, & other draft legislation	Assembly 207	7:00 p.m., 3/27
Republican Luncheon Commissioner Allen, Speaker	Sally's Kitchen	Noon, 3/23
Capital Site Planning Commission No Host Reception -- Viewing of Detailed Development Plan	Gold Room	5:00 p.m., 3/23

ADJOURNMENT

Mr. Miller moved and asked unanimous consent that the House adjourn until 10:00 a.m., March 24, 1978. There being no objection, the House adjourned at 12:24 p.m.

Irene Cashen
Chief Clerk

#160

WHITE, WELD & CO.
INCORPORATED
ONE LIBERTY PLAZA
(21 LIBERTY STREET, NEW YORK, N.Y. 10006

TELEPHONE 212/225-2000

CABLE ADDRESS-"WHITEWELD"

Feb. 27, 1978

Mr. James B. Rhode
Special Committee on the
Alaska Permanent Fund
Pouch V
Juneau, Alaska 99811

Dear Jim;

I asked Henry Zeigler of Shearman and Sterling New York and Eric Worhlforth of Worhlforth and Flint, Anchorage, Alaska for help on the question that you asked.

The question that I posed to them was "Does the Alaska Permanent Fund have a different prudent man consideration because it calls itself a trust fund and its trustees will be divorced from day to day activities of the State government?"

The answer they gave was that the prudent man rule would be the same for a state fund or a permanent trust fund. Either fund would be subject to the laws of the State of Alaska and general practice engaged by similar funds acting in an unencumbered manner involving free and willing purchases or sellers. The legislation establishing the Permanent Fund procedures would supercede the prudent man rule of the state.

If you have additional questions, please do not hesitate to call.

Respectfully yours,

Bob

Robert E. Greeley
First Vice President

cc: Michael Muldoon
Theodore P. Swick

#160

SUMMARY - HOUSE BILL 596

House Bill 596 contains the contribution rate (30% of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and 100% of bonuses received by the State) and the management structure for the Alaska Permanent Fund. Together with House Bills 595 (use of earnings) and 682 (renewable resources development fund). House Bill 596 is part of an overall concept for handling a portion of the state's non-renewable resource revenues.

House Bill 596 creates three things: a legislative Investment Oversight Committee (AS 24), the Alaska Permanent Fund Corporation (AS 37) and the Alaska Enterprise Investment Corporation (AS 44).

INVESTMENT OVERSIGHT COMMITTEE

The Investment Oversight Committee (IOC) is a legislative committee established to monitor but not to manage the activities of the Alaska Permanent Fund Corporation (APFC), the Alaska Enterprise Investment Corporation (AEIC) and all other state agencies which perform lending or investment functions (this includes the Renewable Resources Development Fund and the existing state loan programs among others).

ALASKA PERMANENT FUND CORPORATION

The Alaska Permanent Fund Corporation (APFC) is established to manage the permanent fund as a trust fund. It receives five-sixths of the permanent fund money until the second corporation (the Alaska Enterprise Investment Corporation) receives its $100 million; then APFC receives all permanent fund money.

The APFC is managed by a Board of Trustees: three persons appointed by the governor and confirmed by the legislature for four-year terms. They receive no salary, but do get expenses, per diem and $250 for each meeting day. The trustees are empowered to manage and invest the corporation's assets within the limitations imposed by the bill.

The trustees' powers include hiring an executive director and approving staff, as well as contracting for services with private firms.

Limitations on the trustees are: they must manage and invest prudently and maintain a reasonable diversification of investments; they may not borrow money or provide loan guarantees from the corporation's principal; their investments must be income producing and are limited to government insured or guaranteed bonds, first mortgages, corporate stocks and bonds or obligations, certificates of deposit and secure, short-term money market instruments; and no more than

30% of the corporation's money can be invested in stocks. The corporation is subject to public reporting requirements and external audit.

THE ALASKA ENTERPRISE INVESTMENT CORPORATION (AEIC)

The Alaska Enterprise Investment Corporation (AEIC) is essentially a development bank. It receives one-sixth of the permanent fund money up to $100 million.

The AEIC is an independent, non-taxable public corporation managed by a seven-member policy board. One member of the board is appointed by the governor from the executive branch. The other six are appointed by the governor and confirmed by the legislature from the general public. The public members are unsalaried, part-time and serve four-year terms.

The Policy Board is empowered to appoint a corporation president and members of the Investment Committee, set policy for the AEIC within the limitations of the bill and monitor the corporation's plans and performance.

The President is empowered to hire and fire staff and serve as a member of the Investment Committee. He is responsible to the Policy Board for the corporation's performance.

The other four members of the Investment Committee are full time, salaried and serve four-year terms. The Investment Committee has sole authority to approve investment proposals.

The corporation's purpose is to provide money to financially sound small and medium scale productive private enterprises and community development projects (any project over $5 million requires legislative approval). In doing so, it may borrow up to $100 million, provide various types of financial assistance, including guarantees, loans and purchase of up to 25 percent of a project. Up to 50% of its money may be used for private enterprises; up to 50% may be used for community development projects.

The Corporation is subject to public reporting requirements and external audit.

The House Special Committee's bill establishes the permanent fund as a trust to preserve the fund's principal and produce earnings from secure investments. One hundred million dollars plus additional leveraged money is specified to fill capital gaps on an income producing basis.

Both corporations are insulated from politics in their day-to-day operations but are subject to long-range policy decisions made by the public through the legislative and executive branches of state government.

--ooOoo--

04-D3LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / POUCH S – JUNEAU 99811

February 25, 1978

The Honorable Clark Gruening
Chairman
House Special Committee on the
Alaska Permanent Fund
Alaska State Legislature
State Capitol Building - Room 121
Juneau, Alaska

Re: House Bill No. 596

Dear Mr. Gruening:

House Bill No. 596, an Act relating to nonrenewable resource revenues, was introduced in the House on January 11, 1978 and was referred to the House Special Committee on the Alaska Permanent Fund and the House Finance Committee.

For the consideration of the House Special Committee on the Alaska Permanent Fund, I am enclosing a copy of a Fiscal Note prepared by Mr. Jim Edenso, Deputy Commissioner, Department of Revenue concerning the proposed legislation.

This office today received a copy of CS for House Bill No. 596, an Act relating to nonrenewable resource revenues and to legislative oversight. A new Fiscal Note on the Committee Substitute will be prepared by Mr. Edenso and will be transmitted in the near future.

Very truly yours,

R. D. Stevenson
Special Assistant

Enclosure

cc: The Honorable Steve Cowper
Chairman
House Finance Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska

Jim Edenso, Deputy Commissioner
Department of Revenue

John Messenger, Deputy Commissioner
Department of Revenue

arrive 2-27
cc Clark - mail
596
fax

Alaska State Legislature

SPECIAL COMMITTEE ON
THE ALASKA PERMANENT FUND
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ANCHORAGE, AK. 99501
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MEMBERS
REP. CLARK GRUENING, CHMN.
REP. TERRY GARDINER, V. CHMN.
REP. E. J. HAUGEN
REP. RUSS MEEKINS
REP. BILL MILES
REP. LEO SCHAEFFER
~~REP. XXXXXX~~
Rep. Joe Hayes

House of Representatives

February 28, 1978

Mr. R. D. Stevenson
Special Assistant
Office of the Commissioner
Department of Revenue
Pouch S
Juneau, Alaska 99811

Dear Mr. Stevenson:

Thank you for the Fiscal Notes on HB 595, HB 596 and HB 682 prepared by Deputy Commissioner Edenso and recently received by the Committee.

CSHB 596 will be before the Finance Committee March 6, 1978 at 1:15 PM and it would be helpful to note the differences, if any, in your calculations for the Committee Substitute at that time.

It would also be helpful if you would provide a more detailed back up on the calculations for CSHB 596 so that it will be possible to see what assumptions were made and how the figures were arrived at.

I will also be forwarding a Committee Substitute for HB 682 for your review and subsequent Fiscal Note in the near future.

Again, thank you for your time and effort and feel free to contact me if I can be of further assistance.

Cordially,

Representative Clark Gruening

cc: Deputy Commissioner Edenso

CG/jl

#160

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 22, 1978

The Honorable Clark Gruening
Chairman
House Permanent Fund Committee
Alaska State Legislature
Juneau, Alaska 99811

Dear Representative Gruening:

Enclosed are the amendments to HB 596 that Governor Hammond recommends be incorporated in the bill.

Governor Hammond has expressed appreciation for the cooperative method in which you have approached the development of this legislation. Members of the executive branch will be available to testify in behalf of the amendments.

Sincerely,

Keith W. Specking

Keith W. Specking
Legislative Assistant
to the Governor

enclosure

Suggested Amendments to House Bill 596

The following amendments should be considered:

1. page 6, line 7
Following the words "Alaska Permanent Fund Corporation" insert "and the Alaska Enterprise Investment Corporation".

2. page 6, line 10
Substitute "50 percent" for "five-sixths".

3. page 6, line 12
Substitute "50 percent" for "one-sixth"; place a period after "allocated"; and delete the remainder of this section.

4. page 6, line 23-4
delete "of future generations".

5. page 7, line 15
Following "session." insert the following: "The commissioner of revenue is a non-voting member of the board of trustees."

6. page 8, line 28
Substitute "Three" for "Two".

7. page 9, line 6
Delete Sec. 37.13.110 and replace it with the following: "Sec. 37.13.110. PERSONNEL. The commissioner of revenue or designee shall serve as the executive director of the corporation and staff will be provided by the department of revenue. All staff members responsible for corporation investments are in the partially exempt service as under AS 39.25."

8. page 9, line 21
Substitute "in the" for "to the board in its".

9. page 10, line 4
Put a period after "investments" and delete the remainder of the sentence.

10. page 10, line 11
Put a period after "fund" and delete the remainder of the sentence.

11. page 11, line 6
Delete Sec. 37.13.140 and replace with the following:
"Sec. 37.13.140. RESERVES. The corporation may establish, from income derived from its investments a loss reserve account to preserve the principal of the permanent fund, consistent with sound financial practices."

12 page 11, line 19
Delete Sec. 37.13.150.

13. page 12, line 25
Delete Sec. 37.13.190.

14. page 13, line 5
Following "trustees" delete "and officers and staff of the corporation may not engage in partisan political activities" and substitute "are subject to AS 39.25.160."

15. page 13, line 26
Substitute "Fifty percent" for "One-sixth".

16. page 13, line 28
Following "paid" delete "by the Alaska Permanent Fund Corporation directly".

17. page 14, line 1
Following "Corporation" insert "as specified in Sec. 37.13.010." and delete the remainder of the sentence.

18. page 14, line 24
Substitute "the commissioners of the departments of revenue and commerce and economic development" in place of "a person employed in the executive branch of state government appointed by the governor".

19. page 14, line 25
Substitute "five" in place of "six".

20 page 14, line 29
Following the period, insert the following sentence: "The President of the Alaska Enterprise Investment Corporation, appointed under Sec. 44.55.070 of this chapter, shall serve as the chairman of the Policy Board, but is not a voting member."

21. page 15, line 1
Delete the following words: "one of the public members as chairman and".

22. page 15, line 3
Substitute "five" in place of "six".

23. page 15, line 5
Substitute "one member serving for two years," in place of "two members serving for two years".

24. page 15, line 10
Following the word "vote" and before the period, insert: ", including not less than a majority of appointed members."

25. page 18, line 3
Delete this section and replace it with the following: "Sec. 44.55.100 BUDGET. The corporation may retain income in the amount needed to pay the operating and administrative expenses of the corporation. The corporation is exempt from the provision of the Executive Budget Act (AS 37.07), except if these operating and administrative expenses shall exceed one-half of one percent of the corporation's paid-in capital, that budget of the corporation is subject to the Executive Budget Act."

26. page 18, line 29
Delete "not to exceed $100,000,000, as it considers appropriate,".

27. page 19, line 22

Delete section (b) and substitute the following: (b) All guarantees shall be presented to the Alaska State Legislature by the policy board for approval by law. A reserve for guarantees shall be established in accordance with Sec. 44.55.130(b) of this chapter."

28. page 20, line 11

Substitute "one percent of the resources of the corporation" in place of "five percent of the resources of the bank or $2,500,000, whichever is less,".

29. page 21, line 27

Insert a new section as follows: "(p) the corporation may not make additional investments in participation with any other corporation or investment institution which is currently participating with the corporation in other investments if two percent of those investments are delinquent."

30. page 21, line 28

Delete this section and substitute the following: "Sec. 44.55.130. RESERVES. (a) The corporation may establish from income derived from its investments, reserve accounts to preserve the principal of the permanent fund, consistent with sound financial practices.

(b) The corporation may establish from income from its investments, a reserve account for the purpose of paying loss on guaranteed debts. The amount credited to this reserve shall be a percentage of the total guaranteed debts as determined by the policy board, consistent with sound financial practices."

31. page 22, line 16

Substitute "prepare a detailed report of Alaskan investments which shall" in place of "render a detailed report to the legislature which shall".

32. page 23, line 13

Substitute "investment committee" in place of "board of trustees".

33. page 23, line 15
Substitute "investment committee" in place of "board of trustees".

34. page 23, line 18
Substitute "committee" in place of "board".

35. page 23, line 22
Substitute "investment committee" in place of "board of trustees".

36. page 23, line 23
Following the word "corporation" insert "are subject to AS 39.25.160" and delete the remainder of this sentence.

37. page 25, line 3
Following "tion" insert "and the Alaska Enterprise Investment Fund".

38. page 25, line 3
Substitute "30" in place of "10".

39. page 25, line 9
Substitute "AS 37.13.130(g)" in place of "AS 44.55.120(b)(3) in Section 4 of this Act".

40. page 25, line 11
Following "repealed" insert "at the time Sec. 7. Transition is completed."

It is further suggested that "small and medium scale" should be c early defined in the bill, for example defining that concept in terms of a 1 percent investment limitation.

#160

M E M O R A N D U M

TO: Rep. Clark Gruening, Chairman
House Special Committee on the Alaska Permanent Fund

FROM: Mike Doogan

DATE: February 13, 1978

SUBJECT: White, Weld suggestions on HB 596 II

At your direction I have prepared this memorandum on the technical and grammatical changes in HB 596 suggested by committee consultants from White, Weld in their communication of January 30, 1978.

1. Page 1, line 16: add comma after "borrowing".

2. Page 1, line 19: add comma after "borrowing".

3. Page 2, line 1: add comma after "borrowing".

4. Page 2, line 7: add comma after "investment".

5. Page 2, lines 24-25: delete "reappointed or".

6. Page 3, line 20: replace "functions over" with "of".

7. Page 3, line 21: add comma after "borrowing".

8. Page 3, line 24: add comma after "documents".

9. Page 4, lines 1-2: change to read: "hold public hearings relating to the confirmation of the Alaska Permanent Fund Board of Trustees..."

10. Page 4, line 17: add comma after "reports".

11. Page 4, line 19: change "limit" to "limits".

12. Page 4, lines 22-24: change to read: "report to the legislature its recomendations relating to the confirmation of suggested appointees to the Alaska Permanent Fund Corporation Board of Trustees."

13. Page 4, line 28: add comma after "borrowing".

14. Page 5, line 2: add comma after "borrowing".

15. Page 5, line 5: add comma after "borrowing".

16. Page 5, lines 10-12: change to read "in conjunction with the finance committee of each house recommend annually to the legislature an investment policy for the general surplus and an application for the dispersible income from the Alaska permanent fund."

17. Page 8, line 12: change to read: "who shall exercise all powers and receive the honoraria and per diem and travel allowances of a permanent trustee.."

18. Page 8, lines 25-26: change to read: "in finance, investments or other business/management related fields. No two persons...".

19. Page 8, line 27: add period at end of sentence.

20. Page 9, lines 9-11: change to read: "The executive director and all other employees of the corporation are in the exempt service under AS 39.25".

21. Page 9, line 16: change to read: "... he shall immediately disclose such interest...".

22. Page 10, lines 3-4: change to read: "The board shall seek to maintain a reasonable diversification among corporation investments...".

23. Page 10, line 11: change "fund" to "corporation".

24. Page 10, line 14: change "its" to "corporation".

25. Page 10, line 18: change "stock and corporate obligations" to "securities".

26. Page 10, lines 20-24: change to read: "No portion of the assets of the corporation may be used in the purchase of stock of any corporation which is not paying cash dividends on such stock at the time of purchase or in the purchase of interest bearing securities of any corporation which has been in default on any interest bearing security at any time within five years before such purchase."

27. Page 10, line 28: change "stocks" to "stock".

28. Page 10, line 28: change "the purchase" to "such purchase".

29. Page 10, line 29: delete "market".

30. Rewrite of page 11 (attachment 1).

31. Page 12, line 5: change to read: "evaluations of the corporation and its investment programs".

32. Page 12, line 7: change "board" to "corporation".

33. Page 12, lines 10-11: change "permanent fund" to "corporation".

34. Page 12, line 12: change "permanent fund" to "corporation" twice.

35. Page 12, lines 13-14: change "the fund" to "corporation".

36. Page 12, line 16: change "fund portfolio" to "corporation's security portfolio".

37. Page 12, line 19: change "permanent fund" to "corporation".

38. Page 12, line 23: change to read: "The corporation may also publish other reports the board considers desirable...".

39. Page 13, line 6: change "officers and staff" to "employees".

40. Page 13, line 23: change "has legal existence" to "has a legal existence".

41. Page 13, line 28: change "permenent fund" to Alaska permanent fund".

42. Page 14, lines 4-16: see attachment 2.

43. Page 14, line 19: delete comma following "enterprises".

44. Page 14, line 25: change "branch of state government appointed by" to "branch of state government and appointed by".

45. Page 14, line 29: change to read: "recognized competence and wide experience in investment and finance."

46. Page 14, lines 1-2: change "and other officers" to "and other such officers".

47. Page 15, line 3: change "appointed" to "public".

48. Page 15, line 12: change "Members" to "appointed members".

49. Page 16, line 25: add comma after "consider".

50. Page 16, line 26: add comma after "committee".

51. Page 17, line 15: change "members" to "other persons".

52. Page 17, line 19: change to read "and other business/management related fields".

53. Page 17, line 21: change "members" to "other members".

54. Page 18, line 22: add comma after "personal".

55. Page 18, line 23: add comma after "federal".

56. Page 18, line 23: add comma after "convenient".

57. Page 19, lines 9-11: change to read "deposit surplus funds with the Alaska Permanent Fund Corporation for investment in such obligations as it may determine;".

58. Page 19, line 28: delete comma after "Alaskans".

59. Page 21, line 11: add comma after "social".

60. Page 23, line 8: add comma after "social".

61. Page 23, line 10: add comma after "legislature".

62. Page 23, line 11: change "it" to "the board".

63. Page 23, line 15: change "board of trustees" to "investment committee".

64. Page 23, line 19: change "officers" to "employees".

65. Page 23, lines 22-23: change to read: "The members of the policy board, members of the investment committee and other employees of the corporation...".

66. Page 24, line 15: add comma after "partnership".

ATTACHMENT 1

Page 11, change to:

exceed 30 per cent of [the] corporation['s] assets at cost.

(h) The board shall establish and from time to time as necessary modify guidelines for the investment of [the] corporation['s] assets. [Before] Upon the adoption or modification of any guidelines, such guidelines or modifications shall be reported to the Investment Oversight Committee for review and comment.

Sec. 37.13.140. GAINS AND LOSSES. At the end of each fiscal year, the total amount of losses on the sales of securities[,] not offset by gains on the sales of securities during that year[,] shall be computed; [with] a portion of such net losses is to be deducted each fiscal year from [the] interest and dividend income and the resulting amount of interest and dividend income added to the permanent assets of the [fund] corporation . Losses taken on the sales of [bonds] interest bearing securities shall be [accumulated] recovered over a period equal to the average remaining life of the [bonds] interest bearing securities sold, and losses taken on the sales of stocks shall be [accumulated] recovered within a period of five years, unless these losses are offset by gains on future sales of securities. In any fiscal year in which the gains on the sales of securities exceed the losses on the sales of securities, the excess shall be added to the [principal] permanent assets of the [fund] corporation.

Sec. 37.13.150. INCOME. The interest and dividends received in a year are the income of the [fund] corporation for that year. [The] Dispersable income [available for disbursement] shall be determined on an averaging basis. For the first five years, income will be the simple averaging of the annual current return at cost. Subsequently, there will be a moving average current

return, in which the latest fiscal year will replace the oldest year. [The] Dispersible income [available for dispersment] will be the lesser of the latest fiscal year's income, or the average annual current income for the past five fiscal years of the [fund] corporation at cost, and after adjustment for any capital losses charged to that fiscal year as required in Sec. 140 of this chapter.

Sec. 37.13.160. BOARD BUDGET. The [board's] corporation's operating budget is

ATTACHMENT 2

Page 14 line 4, change to:

Sec. 44.55.020. FINDINGS. The legislature finds that

(1) there is a shortage of capital available on reasonable terms for financially sound, small and medium scale (A) productive private enterprises and (B) community development projects in the state;

(2) the corporation working with private financial institutions to supplement but not supplant their services can help to alleviate this shortage;

(3) investment in financially sound, small and medium scale (A) productive private enterprises and (B) community development projects in the state, for which sufficient capital is not available from other sources on reasonable terms, is of benefit to the citizens of the state.

#160

FINAL DRAFT VERSION

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

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

CHAPTER 13. ALASKA PERMANENT FUND.

Sec. 37.13.010. ALASKA PERMANENT FUND. Under art. IX, sec. 15, of the Alaska Constitution, there is established as a separate fund, in the Department of Revenue, the Alaska Permanent Fund.

Sec. 37.13.015. There is created the Alaska Permanent Fund, a Public corporation of the state. The corporation is an instrumentality of the state within the Department of Revenue but has a legal existence independent of and separate from the state and has continuing succession until its existence is terminated by law. The exercise by the corporation of the powers conferred by this chapter is considered an essential governmental function of the state. The corporation shall manage and invest the principal of the Alaska Permanent Fund and will distribute the income earned from the Alaska Permanent Fund in accordance with the provisions of this chapter.

Sec. 37.13.017. PURPOSE OF THE PERMANENT FUND. The purpose of the Alaska Permanent Fund is to provide a means of conserving a portion of the state's revenues from mineral resources to the ultimate benefit of present and future generations of Alaskans. The revenues so conserved shall be invested in income-producing investments which will provide further benefits to present and future generations of Alaskans.

Further benefits may be derived through use of the Permanent Fund to:

(1) assist the diversification of the economy of Alaska by making sound investments in Alaska's renewable and non-renewable resources.

(2) seek to smooth the cyclical pattern of growth of the Alaska economy.

(3) encourage and assist the participation of private capital, from both within and without Alaska, in private enterprises of benefit to Alaskans.

(4) promote the investment of public and private capital for community development purposes.

(5) supplement private investment when sufficient private capital is not available on reasonable terms and conditions.

(6) also seek to preserve the Permanent Fund capital for future generations through sound investments in investment grade securities.

The Permanent Fund shall be guided in all its decisions by the purpose set forth above.

Sec. 37.13.020. COMPOSITION OF THE PERMENANT FUND. The Alaska Permanent Fund consists of fifty per cent (50%) of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and one hundred per cent (100%) of all bonuses received by the state. The commissioner of revenue shall deposit in the Permanent Fund fifty per cent (50%) of the receipts from all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and one hundred per cent (100%) of all bonuses at least once each month. Income from investment of the Permanent Fund does not become a part of the Permanent Fund and shall be deposited in the general fund annually, except that income in the following amounts shall be retained in the Alaska Permanent Fund:

(1) the amount needed to pay the operating and administrative expenses of the Alaska Permanent Fund;

(2) any amount allocated to a reserve account established under Sec. 37.13.090 of this chapter.

Sec. 37.13.025. INVESTMENT OF THE PERMANENT FUND. The Permanent Fund shall be used only for income-producing investments.

(a) At least forty per cent (40%) of the resources of the Permanent Fund shall be invested in investment grade securities.

(b) The Permanent Fund may invest not more than thirty per cent (30%) of its resources to provide a reasonable proportion of longer-term investment capital for financing the establishment, improvement, and expansion of productive private enterprises which will benefit Alaskans, and for which sufficient capital is not available from other sources on reasonable terms. These investments may take the form of equity, debt or debt guarantees.

(c) The Permanent Fund may invest not more than thirty per cent (30%) of its resources in financing a reasonable proportion of the longer-term investment capital needs for community development projects of municipalities and public corporate entities and private dwellings in Alaska for which sufficient financing is not available from other sources on reasonable terms. These investments may take the form of debt or debt guarantees.

Sec. 37.13.030. PERMANENT FUND POLICY BOARD. (a) There is established the Alaska Permanent Fund Policy Board, consisting of the Commissioner of Commerce and Economic Development, the Commissioner of Revenue, and seven members to be appointed by the Governor and confirmed by the legislature in joint session assembled. The seven appointed members must have been residents of Alaska for at least 3 years and may not be employees of the state. Their term of office is four years, and they may be reappointed. Terms shall be staggered. Initial terms shall be one member serving one year, two members two years, two members three years, and two members four years. Members may be removed for cause. Members will continue to serve until their successors are appointed.

(b) The president of the Alaska Permanent Fund shall serve as the chairman of the Policy Board, but shall not be a voting member.

(c) A quorum for the transaction of Board business shall consist of at least two-thirds of the members. Decisions of the Board shall be taken by a majority vote, including not less than a majority of the appointed members. The Board shall hold at least one public meeting each year.

(d) Members of the Policy Board shall receive $250 per meeting day and are entitled to per diem and travel allowances as provided by law for members of state boards and commissions.

Sec. 37.13.040. DUTIES OF THE POLICY BOARD.
The Policy Board shall:

(1) select and appoint the President and other members of the Investment Committee (as established in Sec. 37.13.050).

(2) annually review and approve long-range operating plans, to include an investment program based on sectoral analysis of the Alaska economy; the budget for the forthcoming year; and the financial plan for the following years.

(3) have sole responsibility for relations with the general public, legislature, executive branch, local communities, and interest groups concerning all matters other than specific investments of the Permanent Fund.

(4) review quarterly reports from the Investment Committee concerning investment decisions and investment supervision.

(5) review, consider and approve policies.

(6) review and publish an annual report including financial statements audited by independent outside auditors.

(7) establish an Audit Committee, consisting of the Commissioner of Revenue and other members of the Policy Board to be designated, which shall select the independent outside auditors, and receive all audit reports.

(8) decide appeals from interpretations of this chapter.

(9) determine the remuneration and terms of service of the President and other members of the Investment Committee (as established in Sec. 37.13.050).

(10) present a complete report of investment programs, plans, performance and policies to a joint meeting of the Senate and House Finance Committees of the Alaska Legislature within thirty (30) days after the beginning of each session.

Sec. 37.13.050. PERMANENT FUND INVESTMENT COMMITTEE. (a) There is established the Alaska Permanent Fund Investment Committee, consisting of the President of the Permanent Fund, who shall serve as chairman, and four members appointed by the Policy Board. No member of the Policy Board may be a member of the Investment Committee. All members must have been residents of Alaska for at least 3 years, may not be state employees and shall be persons of recognized competence and wide experience in investments, finance, and other business management related fields. Members may be reappointed or will continue to serve until their successors are appointed.

(b) A quorum shall consist of four (4) members of the Investment Committee. All decisions will be taken by majority vote.

Sec. 37.13.060. DUTIES OF THE INVESTMENT COMMITTEE.

The Investment Committee shall have sole responsibility to approve all investment proposals, and review all investments in investment grade securities.

Sec. 37.13.070. PERMANENT FUND PRESIDENT. The President of the Permanent Fund shall be appointed by the Policy Board for a term of five years, may be reappointed and shall serve at the pleasure of the Policy Board.

The President shall:

(1) have sole responsibility for presenting investment proposals to the Investment Committee.

(2) be responsible for the ordinary business of the Permanent Fund and the organization, appointment, dismissal, and remuneration of the officers and staff.

(3) be responsible for making investments in investment grade securities, subject to review by the Investment Committee.

(4) establish and maintain adequate and appropriate organizational, operating and financial controls.

Sec. 37.13.080. STATUS OF THE PERMANENT FUND. The Permanent Fund shall be excluded from the provisions of the Executive Budget Act. The President, officers, and staff of the Permanent Fund are in the exempt service.

The Alaska Permanent Fund has all powers necessary to carry out the purposes of this chapter including but not limited to the following:

(1) sue and be sued;

(2) adopt a seal;

(3) have perpetual succession;

(4) adopt and amend policies and operational procedures when not inconsistent with this chapter;

(5) make and execute contracts and other instruments;

(6) in its own name, own, exchange, transfer, lease, rent, convey, acquire or dispose by other means real and personal property.

Sec. 37.13.090. RESERVES. The Permanent Fund shall establish, from income derived from its investments, reserve accounts to preserve the principal of the Permanent Fund, consistent with sound financial practices.

Sec. 37.13.100. OPERATIONAL PRINCIPLES. The operations of the Permanent Fund shall be conducted in accordance with the following principles:

(1) prudent person rule of investments; in making investments, the investment committee and staff shall exercise the judgment and care under the circumstances then prevailing which a person of ordinary prudence, discretion, and intelligence exercises in the management of his or her own affairs not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income from them as well as probable safety of principal.

(2) the Permanent Fund shall not undertake any financing for which, in its opinion, sufficient private capital could be obtained on reasonable terms.

(3) the Permanent Fund shall not assume responsibility for managing any enterprise or project in which it has invested and shall not exercise voting rights for such purpose or for any other purpose which, in its opinion, properly is within the scope of managerial control.

(4) the Permanent Fund shall only undertake its financing on terms and conditions which it considers appropriate, taking into account the terms and conditions normally obtained by private investors for similar financing, the requirements of the enterprise or projects, the risks being undertaken by the Permanent Fund, and the participation of other investors; unless the legislature has appropriated funds for subsidizing investments which, in the opinion of the Permanent Fund, are of such high priority that special terms and conditions are appropriate.

(5) the Permanent Fund may seek to revolve its funds by selling its investments to other investors whenever it can appropriately do so on satisfactory terms.

(6) the Permanent Fund shall seek to maintain a reasonable diversification in its investments;

(7) the Permanent Fund shall only consider investment proposals after the applicant for an investment shall have submitted a detailed proposal to the Permanent Fund staff and the staff of the Permanent Fund shall have prepared a written report recommending the investment after a study of its merits.

(8) the Permanent Fund shall analyze the economic and other effects of an investment decision, including the effects on employment, income distribution, environment, health, social and other factors. The Permanent Fund shall be sensitive to the views of affected local communities and shall include an analysis of those views in proposals for large investments.

(9) the Permanent Fund may make investments in financial intermediaries in order to facilitate investment by the intermediaries in specific enterprises or projects whose individual financing requirements are not, in the opinion of the Permanent Fund, large enough to warrant its direct supervision.

(10) the Permanent Fund shall provide for operational and performance evaluations (post-audits) of its investments and investment programs and report the results to the Policy Board Audit Committee.

(11) nothing in this Section shall prevent the Permanent Fund, in the event of actual or threatened default on any of its investments, actual or threatened insolvency of the enterprise in which such investment shall have been made, or other situations which, in the opinion of the Permanent Fund, threaten to jeopardize such investment, from taking such action and exercising such rights as it may deem necessary for the protection of its interests.

Sec. 37.13.110. BORROWING POWERS. The Permanent Fund shall have the power to borrow funds, and in that connection to furnish such collateral or other security therefor as it shall determine necessary.

Sec. 37.13.120. REPORTS AND PUBLICATIONS. The Policy Board shall publish an annual report to the Governor, Legislature and the public. Each report shall include financial statements audited by independent outside auditors, a statement of the amount of money received by the Permanent Fund from each source during the period covered, a statement of Permanent Fund investments, a description of Permanent Fund investment activity during the period covered by the report, and any other information the Policy Board believes would be of interest to the Governor, the Legislature and the public. The annual income statement and balance sheet of the Permanent Fund shall be published in at least one newspaper in each judicial district. The Policy Board of the Permanent Fund is prohibited from any campaign or general advertising expenditures to either promote or defend its policies and operations.

The Permanent Fund may also publish such other reports as it deems desirable to carry out its purpose.

Sec. 37.13.140. TECHNICAL ASSISTANCE. The Permanent Fund may provide financing for pre-investment activities including feasibility studies, when, in the opinion of the Permanent Fund, the proposed investment is of high priority and the financing is not available from other sources on reasonable terms and conditions. Amounts so advanced may form a part of a later investment, if the enterprise or project is financed by the Permanent Fund.

The Permanent Fund may provide for technical and management advice and assistance to proposed and actual investments as it considers necessary in the circumstances.

Sec. 37.13.150. CONFLICT OF INTEREST POLICIES. Members of the Investment Committee shall disclose their financial interest in an investment proposal and disqualify themselves from voting on any investment proposal in which they have a financial interest. The Permanent Fund shall not make an investment in any project or enterprise in which the President or officers of the Permanent Fund have a financial interest. Members of the Policy Board are prohibited from all attempts to influence the Investment Committee, President, officers and staff in the discharge of their ordinary operating duties. The President, officers and staff of the Permanent Fund, in the discharge of their offices, owe their duty entirely to the Permanent Fund and no other authority.

Sec. 37.13.160. POLITICAL ACTIVITY. The members of the Policy Board, members of the Investment Committee, and officers and staff of the Permanent Fund shall not engage in partisan political activities which involve the Permanent Fund, and resources of the Permanent Fund shall not be used to finance any partisan political activities.

Sec. 37.13.170. PUBLIC ACCESS INFORMATION. Information in the possession of the Permanent Fund is a public record except information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

Sec. 37.13.180. TAX EXEMPTION. The Alaska Permanent Fund is a public corporation and is exempt from all taxes and assessments in the state. All security instruments issued by the Permanent Fund, their transfer and their income are exempt from all taxes and assessments in the state.

Sec. 37.13.200. DEFINITIONS. In this chapter, unless the context indicates otherwise

(1) "board" means the Alaska Permanent Fund policy board created by sec. 37.13.030 of this chapter;

(2) "committee" means the Alaska Permanent Fund investment committee created by sec. 37.13.050 of this chapter;

(3) "investments" includes equity, debt and debt guarantees.

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

(21) The Policy Board, Investment Committee, President, officers and staff of the Alaska Permanent Fund.

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

(MM) Alaska Permanent Fund Policy Board and Investment Committee.

* Sec. 4. Investments outstanding as of the effective date of this Act, made from money in the Alaska Permanent Fund, shall be transferred to the corporation established in sec. 37.13.015 of this Act.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.070(c).

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

1-11-78

Date: 2-22-78

Mr. Speaker:

The Committee on SPECIAL COMMITTEE ON THE AK. PERMANENT FUND has had HB 596 "An Act relating to nonrenewable resource revenues; e.d."

under consideration and (a majority of the committee) (the committee reports it back as follows)

(X) recommends it do pass ( ) recommends it do not pass

( ) recommends it do pass with attached amendment(s)

(X) recommends it be replaced with CS for House Bill 596

and _____ (X) new title ( ) same title

( ) AND attaches a Letter of Intent ( ) New Fiscal Note

( ) reports it back without recommendation

( ) and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

Russ Meekins

Kavanaugh

Jerry Gardiner

Mark Hanson

OTHER RECOMMENDATIONS:

Chairman

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

31-Q1LH

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU 99801

March 15, 1978

M E M O R A N D U M

TO: Rep. Clark Gruening, Chairman
House Permanent Fund Committee

FROM: Milton B. Barker, Fiscal Analyst MB
Legislative Finance Division

SUBJECT: HB 596 Fiscal Note

At your request, I have reviewed the fiscal note for HB 596, comparing it to the fiscal note for HB 298 and also to similar items of expenditure contained in the FY 79 budget submissions for the Alaska Power Authority and Treasury Management. I would note the following:

1. The note for HB 298 contains $150,000 for contracts and $50,000 for miscellaneous contracts while HB 596 contains $100,000 for Permanent Fund consulting and $250,000 for Enterprise Corp. consulting.

2. Office rent is budgeted in HB 596 at $60,000 apiece for the Permanent Fund and Enterprise Corp., both with staff of five. The same size staff, five, of the Alaska Power Authority has budgeted $30,000 for rent and janitorial for FY 79. The HB 298 fiscal note had $54,000 for rent for six, based on 3,000 sq. ft. @$1.50/month.

3. HB 596 calls for at least one meeting per year of the Enterprise Corp. policy board and no apparent minimum for the Permanent Fund board of trustees. The fiscal note for HB 596 assumes 12 meetings in-state and 3 meetings out-of-state per year for both the trustees and policy board. In-state meetings last 2 days, out-of-state 4 days. HB 298 anticipated only the 12 in-state meetings for its board. Full attendance is assumed at all meetings. Travel and per diem is apparently included in the fiscal note for the one state official on the Enterprise Corp. policy board.

Other costs seem to be appropriate given a total staff of 10 for HB 596, twice that of HB 298, due to the organizational bifurcation. The 18 part-time positions shown on the fiscal note summary appears to be a misprint given the personal service amount shown.

MBB:pw

Attachments

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 596
Title An Act relating to Nonrenewable Resource Revenues
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Legislative Finance
Program Category Affected General Government
Budget Request Unit(s) Affected Legislative Finance

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES			65.4			
200 TRAVEL			22.5			
300 CONTRACTUAL			23.0			
400 COMMODITIES			.9			
500 EQUIPMENT			1.5			
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL			113.3			

FUNDING (Thousands of Dollars)

GENERAL FUND			113.3			
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME			1			
PART TIME			2			
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

PERSONAL SERVICES:

1 Adm. Asst., Range 18A, 6 mos. seasonal position (salary & benefits $11,898+$1,254)	$13,152
1 Secretary, Range 14A, 6 mos. seasonal position, (salary & benefits $8,862+936)	9,798
1 Staff Assistant, Range 22C, full-time position (salary & benefits $37,404+8,064)	42,468

- CONTINUED ON ATTACHED PAGE -

IV. DATE _____ PREPARED BY _____
AGENCY _____
PHONE _____

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

ATTACHMENT - Fiscal Note for HB 596

TRAVEL

5 interim two-day meetings, 8 members @175 airfare and $50 per diem for 4 days which includes two days for travel = $ 18,000

Staff travel - 4,500

CONTRACTUAL

Consultant work 20,000
Memory Typewriter rental for 6 mos. during session @$180/mo. = 1,080
Phone and Other 2,000

NOTE: It is assumed legislative office space will be assigned by the Rules Committee chairmen of each House.

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SJR 298
Title Alaska Permanent Fund
Requested by Department of Revenue, Treasury Date

II. FISCAL DETAIL
Agency Affected
Program Category Affected Development
Budget Request Unit(s) Affected

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		260.5				
200 TRAVEL		75.6				
300 CONTRACTUAL		414.7				
400 COMMODITIES		6.5				
500 EQUIPMENT		40.8				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		798.1				

FUNDING (Thousands of Dollars)

GENERAL FUND		798.1				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		6				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
This fiscal note enumerates expenses to provide for personal services and operating expenses for one year of operation for the Alaska Permanent Fund.

Personal Services, Equipment and Commodities expenses are for a President, Comptroller, 2 Investment Officers, and 2 Secretaries. Travel and Per Diem expenses are for 7 Board members, 4 Investment Committee members and for the President. Contractual services expenses are for normal office operating expenses, fire and bond insurance, safekeeping and management fees, and $150,000 for various professional consulting services.

It is anticipated that this fiscal note will be for one year only as the Alaska Permanent Fund will prepare its own budget effective FY 79. In the event that there is no formal enabling legislation for the Permanent Fund the Department of Revenue will prepare the necessary budget for the interim management.

IV. DATE March 1, 1977 PREPARED BY Jim Eleanor
AGENCY Department of Revenue
PHONE 465-2350

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Permanent Fund Fiscal Note

	Salary (100)	Travel & Per Diem (200)	Contractual Services (300)	Commodities (400)	Equipme (500)
7 Board Members:					
12 Meetings per year x 2 days x $250 per day	$	$ 42,000	$	$	$
12 Meetings per year x 2 days Travel x $50		1,200			
12 Meetings x 7 x 2 Anchorage x 4		1,600			
2 Fairbanks x 5		3,000			
2 Juneau x 5		3,000			
President:	50,000				
Benefits	12,500				
Travel & Per Diem @ $75 per day:					
12 Meetings x 4 (Per Diem)		3,600			
(Travel)		1,500			
6 In-State Meetings (Per Diem)		600			
(Travel)		1,500			
6 Out-of-State Meetings (Per Diem)		1,000			
(Travel)		3,500			
Ex. Desk, Ex. Chair, Credenza, 2 Bookcases, 4 side chairs					6,000
Conference Room:					
Table, 10 Chairs, 8 Side Chairs, Side Table					6,000
Visual Aids - Chalk Board, Cork Board					300
Investment Committee:					
$500 each x 4 x 12	24,000				
Benefits	6,000				
12 Meetings x 40 x $75 (Per Diem)		3,600			
(Travel)		6,000			
Staff Support:					
Comptroller	35,256				
Benefits - 24A @ $2,938	8,814				
Ex. Desk, Ex. Chair, Credenza, 2 side chairs					3,00
Calculator, Dictaphone, Bookcase					1,50

	Salary (100)	Travel & Per Diem (200)	Contractual Services (300)	Commodities (400)	Equipment (500)
vestment Officer III - (2):					
24A @ $2,938 x 2 x 12	$ 70,512	$	$	$	$
Benefits	17,628				
2 Ex. Desks, 2 Ex. Chairs, 4 side chairs					6,000
2 Calculators, 2 Bookcases					2,500
ecretary to Comptroller & Investment Officer:					
Secretary II 11A @ 1,156 x 12	13,872				
Benefits	3,468				
Steno Desk, Chair, Credenza, Memory Typewriter, Distaphone unit					5,000
ecretary to President:					
Secretary III 12A @ 1,231 x 12	14,772				
Benefits	3,693				
Steno Desk, chair, credenza, Memory Typewriter, Dictaphone unit					5,000
ffice Supplies and Facilities:					
Office Rent - Conference Room			54,000		
2 Executive offices - Staff area for 6 3,000 sq.ft. @ $1.50 x 12 including janitorial, lights, heat, water, garbage					
310: Postage			2,500		
Telephone - LD & SC & Inst.			30,000		
Telex - LD use - month			5,700		
320: Printing - Office Stationary, advertising			7,500		
360: Equipment rental - Xerox, etc.			10,000		
370: Fire & Bond Insurance			55,000		
380: Contracts			150,000		
Safekeeping & Management		1,500	50,000		
Miscellaneous contracts for Fund		2,000	50,000		

Permanent Fund Fiscal Note

	Salary (100)	Travel & Per Diem (200)	Contractual Services (300)	Commodities (400)	Equipment (500)
Commodities:					
470: Publications, Tec. books & Manuals	$	$	$	$ 2,000	$
480: General Office Supplies				2,500	
Envelopes & Stationery				2,000	
Equipment:					
Supply Storage Cabinet (2)					300
Bookcases (4)					500
File Cabinets 4 Broadside					1,200
2 Fireproof					1,000
General Office Furniture					2,500
Totals	$260,515	$ 75,600	$414,700	$ 6,500	$40,800

Total = $798,115

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 596 - "An Act relating to nonrenewable resource revenues;
Title and providing for an effective date."
Requested by Special Committee on the Alaska Permanent Fund Date 1/11/78

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected General Government
Budget Request Unit(s) Affected Treasury Management

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES		338.6				
200 TRAVEL		155.4				
300 CONTRACTUAL		578.0				
400 COMMODITIES		10.0				
500 EQUIPMENT		30.0				
600 LAND & STRUCTURES		120.0				
700 GRANTS, CLAIMS, ETC.						
TOTAL		1,232.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		1,232.0				
FEDERAL FUNDS						
OTHER (specify)						

POSITIONS

FULL TIME		10				
PART TIME		18				
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This note enumerates a portion of the fiscal impact of HB 596 upon Treasury Management. Costs of the following administrative structures are included above:

Investment Oversight Committee - 8 members
Board of Trustees - 3 members
Policy Board - 7 members
Alaska Permanent Fund - 1 Executive Director and staff
Alaska Enterprise Investment Corporation - 1 President and staff

Fiscal years subsequent to FY 79 would properly be estimated by the emergent administrative body.

IV. DATE February 23, 1978 PREPARED BY Jim Edenso
AGENCY Department of Revenue
PHONE 465-2350

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Notes on HB 596

HB 596 - Investment Oversight Committee

8 Member Committee of Legislature:	
4 Trips per year	$ 5,000
2 Days Per Diem per trip	1,000
Alaska Permanent Fund	
3 Member Board of Trustees:	
12 Trips per year (Alaska)	5,400
3 trips per year (out of State)	5,400
24 meeting days (Alaska)	
12 meeting days (out of State)	
36 meeting days at $250/meeting days	27,000
1 Executive Director - Range 30	60,000
24 trips per year (Alaska)	3,600
6 trips per year (out of State)	3,600
90 days total travel plus per diem	4,500
1 Secretary II - Range 11	18,210
1 Clerk III - Range 8	15,075
1 Accountant IV - Range 18	29,745
1 Investment Officer - Range 24	46,275
Office Space	60,000
Office Equipment	15,000
Contractual:	
Safekeeping	50,000
Consulting	100,000
Telephone	20,000
Postage	3,000
Printing/Advertising	10,000
Auditing	20,000
Equipment Rental	8,000
Miscellaneous	3,000
Commodities	5,000

Alaska Enterprise Investment Corporation

Policy Board - 6 Public Members 1 State Administrator 7 Member Policy Board	
12 Trips per year (Alaska)	$12,600
3 Trips per year (out of State)	12,600
24 Meeting days (Alaska) 12 Meeting days (out of State) 36 Meeting Days at $250/meeting day	63,000
1 President - Range 30	60,000
24 Trips per year (Alaska)	3,600
6 Trips per year (out of State)	3,600
90 days total Travel plus Per Diem	4,500
1 Secretary II - Range 11	18,210
1 Clerk III - Range 8	15,075
1 Accountant IV - Range 18	29,745
1 Investment Officer - Range 24	46,275
Office Space	60,000
Office Equipment	15,000
Contractual:	
Safekeeping	50,000
Consulting	250,000
Telephone	20,000
Postage	3,000
Printing/Advertising	10,000
Auditing	20,000
Equipment Rental	8,000
Miscellaneous	3,000
Commodities	5,000

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 596
Title An Act relating to Nonrenewable Resource Revenues
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Legislative Finance
Program Category Affected General Government
Budget Request Unit(s) Affected Legislative Finance

EXPENDITURES (Thousands of Dollars)

		FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100	PERSONAL SERVICES			65.4			
200	TRAVEL			22.5			
300	CONTRACTUAL			23.0			
400	COMMODITIES			.9			
500	EQUIPMENT			1.5			
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL			113.3			

FUNDING (Thousands of Dollars)

GENERAL FUND			113.3			
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME			1			
PART TIME			2			
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

PERSONAL SERVICES:

1 Adm. Asst., Range 18A, 6 mos. seasonal position (salary & benefits $11,898+$1,254)	$13,152
1 Secretary, Range 14A, 6 mos. seasonal position, (salary & benefits $8,862+936)	9,798
1 Staff Assistant, Range 22C, full-time position (salary & benefits $34,404+8,064)	42,468

- CONTINUED ON ATTACHED PAGE -

IV. DATE _____ PREPARED BY _____
AGENCY _____
PHONE _____

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

ATTACHMENT - Fiscal Note for HB 596

TRAVEL

6 interim two-day meetings, 8 members @175 airfare and $50 per diem for 4 days which includes two days for travel =	$ 18,000
Staff travel -	4,500

CONTRACTUAL

Consultant work	20,000
Memory Typewriter rental for 6 mos. during session @$180/mo. =	1,080
Phone and Other	2,000

NOTE: It is assumed legislative office space will be assigned by the Rules Committee chairmen of each House.

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SJR 298
Title Alaska Permanent Fund
Requested by Department of Revenue, Treasury Date

II. FISCAL DETAIL
Agency Affected
Program Category Affected Development
Budget Request Unit(s) Affected

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		260.5				
200 TRAVEL		75.6				
300 CONTRACTUAL		414.7				
400 COMMODITIES		6.5				
500 EQUIPMENT		40.8				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		798.1				

FUNDING (Thousands of Dollars)

GENERAL FUND		798.1				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		6				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
This fiscal note enumerates expenses to provide for personal services and operating expenses for one year of operation for the Alaska Permanent Fund.

Personal Services, Equipment and Commodities expenses are for a President, Comptroller, 2 Investment Officers, and 2 Secretaries. Travel and Per Diem expenses are for 7 Board members, 4 Investment Committee members and for the President. Contractual services expenses are for normal office operating expenses, fire and bond insurance, safekeeping and management fees, and $150,000 for various professional consulting services.

It is anticipated that this fiscal note will be for one year only as the Alaska Permanent Fund will prepare its own budget effective FY 79. In the event that there is no formal enabling legislation for the Permanent Fund the Department of Revenue will prepare the necessary budget for the interim management.

IV. DATE March 1, 1977 PREPARED BY Ann Eldenso
AGENCY Department of Revenue
PHONE 465-2350

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Permanent Fund Fiscal Note

	Salary (100)	Travel & Per Diem (200)	Contractual Services (300)	Commodities (400)	Equipme (500)
7 Board Members:					
12 Meetings per year x 2 days x $250 per day	$	$ 42,000	$	$	$
12 Meetings per year x 2 days Travel x $50		1,200			
12 Meetings x 7 x 2 Anchorage x 4		1,600			
2 Fairbanks x 5		3,000			
2 Juneau x 5		3,000			
President:	50,000				
Benefits	12,500				
Travel & Per Diem @ $75 per day:					
12 Meetings x 4 (Per Diem)		3,600			
(Travel)		1,500			
6 In-State Meetings (Per Diem)		600			
(Travel)		1,500			
6 Out-of-State Meetings (Per Diem)		1,000			
(Travel)		3,500			
Ex. Desk, Ex. Chair, Credenza,					
2 Bookcases, 4 side chairs					6,000
Conference Room:					
Table, 10 Chairs, 8 Side Chairs, Side Table					6,000
Visual Aids - Chalk Board, Cork Board					300
Investment Committee:					
$500 each x 4 x 12	24,000				
Benefits	6,000				
12 Meetings x 40 x $75 (Per Diem)		3,600			
(Travel)		6,000			
Staff Support:					
Comptroller	35,256				
Benefits - 24A @ $2,938	8,814				
Ex. Desk, Ex. Chair, Credenza, 2 side chairs					3,000
Calculator, Dictaphone, Bookcase					1,500

Permanent Fund Fiscal Note

	Salary (100)	Travel & Per Diem (200)	Contractual Services (300)	Commodities (400)	Equipment (500)
Investment Officer III - (2):					
24A @ $2,938 x 2 x 12	$ 70,512	$	$	$	$
Benefits	17,628				
2 Ex. Desks, 2 Ex. Chairs, 4 side chairs					6,000
2 Calculators, 2 Bookcases					2,500
Secretary to Comptroller & Investment Officer:					
Secretary II 11A @ 1,156 x 12	13,872				
Benefits	3,468				
Steno Desk, Chair, Credenza, Memory Typewriter, Distaphone unit					5,000
Secretary to President:					
Secretary III 12A @ 1,231 x 12	14,772				
Benefits	3,693				
Steno Desk, chair, credenza, Memory Typewriter, Dictaphone unit					5,000
Office Supplies and Facilities:					
Office Rent - Conference Room			54,000		
2 Executive offices - Staff area for 6 3,000 sq.ft. @ $1.50 x 12 including janitorial, lights, heat, water, garbage					
310: Postage			2,500		
Telephone - LD & SC & Inst.			30,000		
Telex - LD use - month			5,700		
320: Printing - Office Stationary, advertising			7,500		
360: Equipment rental - Xerox, etc.			10,000		
370: Fire & Bond Insurance			55,000		
380: Contracts			150,000		
Safekeeping & Management		1,500	50,000		
Miscellaneous contracts for Fund		2,000	50,000		

	Salary (100)	Travel & Per Diem (200)	Contractual Services (300)	Commodities (400)	Equipment (500)
Commodities:					
470: Publications, Tec. books & Manuals	$	$	$	$ 2,000	$
480: General Office Supplies				2,500	
Envelopes & Stationery				2,000	
Equipment:					
Supply Storage Cabinet (2)					300
Bookcases (4)					500
File Cabinets 4 Broadside					1,200
2 Fireproof					1,000
General Office Furniture					2,500
Totals	$260,515	$ 75,600	$414,700	$ 6,500	$40,800

Total = $798,115

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS for HB 596 providing for an effective date.
Title An Act relating to nonrenewable resource revenues; to legislative oversight; and /
Requested by Special Committee on the Alaska Permanent Fund Date 2/24/78

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected General Government
Budget Request Unit(s) Affected Treasury Management

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES		338.6				
200 TRAVEL		155.4				
300 CONTRACTUAL		578.0				
400 COMMODITIES		10.0				
500 EQUIPMENT		30.0				
600 LAND & STRUCTURES		120.00				
700 GRANTS, CLAIMS, ETC.						
TOTAL		1,232.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		1,232.0				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		10				
PART TIME		18				
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This note enumerates a portion of the fiscal impact of CSHB 596 upon Treasury Management. Costs of the following administrative structures are included above:

Investment Oversight Committee - 8 members
Board of Trustees - 3 members
Policy Board - 7 members
Alaska Permanent Fund - 1 Executive Director and staff
Alaska Enterprise Investment Corporation - 1 President and staff

Fiscal years subsequent to FY 79 would properly be estimated by the emergent administrative body.

IV. DATE March 15, 1978 PREPARED BY Jim Edenso
AGENCY Department of Revenue
PHONE 465-2350

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/77)

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

MASTER FILE ONLY

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 596
Title An Act relating to Nonrenewable Resource Revenues
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Legislative Finance
Program Category Affected General Government
Budget Request Unit(s) Affected Legislative Finance

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES			65.4			
200 TRAVEL			22.5			
300 CONTRACTUAL			23.0			
400 COMMODITIES			.9			
500 EQUIPMENT			1.5			
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL			113.3			

FUNDING (Thousands of Dollars)

GENERAL FUND			113.3			
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME			1			
PART TIME			2			
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

PERSONAL SERVICES:

1 Adm. Asst., Range 18A, 6 mos. seasonal position
(salary & benefits $11,898+$1,254) $13,152

1 Secretary, Range 14A, 6 mos. seasonal position,
(salary & benefits $8,862+936) 9,798

1 Staff Assistant, Range 22C, full-time position
(salary & benefits $34,404+8,064) 42,468

- CONTINUED ON ATTACHED PAGE -

IV. DATE _____ PREPARED BY _____
AGENCY _____
PHONE _____

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 10/76)

ATTACHMENT - Fiscal Note for HB 596

TRAVEL

6 interim two-day meetings, 8 members @175 airfare and $50 per diem for 4 days which includes two days for travel =	$ 18,000
Staff travel -	4,500

CONTRACTUAL

Consultant work	20,000
Memory Typewriter rental for 6 mos. during session @$180/mo. =	1,080
Phone and Other	2,000

NOTE: It is assumed legislative office space will be assigned by the Rules Committee chairmen of each House.

Notes on HB 596

HB 596 - Investment Oversight Committee

8 Member Committee of Legislature:	
4 Trips per year	$ 5,000
2 Days Per Diem per trip	1,000
Alaska Permanent Fund	
3 Member Board of Trustees:	
12 Trips per year (Alaska)	5,400
3 trips per year (out of State)	5,400
24 meeting days (Alaska)	
12 meeting days (out of State)	
36 meeting days at $250/meeting days	27,000
1 Executive Director - Range 30	60,000
24 trips per year (Alaska)	3,600
6 trips per year (out of State)	3,600
90 days total travel plus per diem	4,500
1 Secretary II - Range 11	18,210
1 Clerk III - Range 8	15,075
1 Accountant IV - Range 18	29,745
1 Investment Officer - Range 24	46,275
Office Space	60,000
Office Equipment	15,000
Contractual:	
Safekeeping	50,000
Consulting	100,000
Telephone	20,000
Postage	3,000
Printing/Advertising	10,000
Auditing	20,000
Equipment Rental	8,000
Miscellaneous	3,000
Commodities	5,000

Alaska Enterprise Investment Corporation

Policy Board - 6 Public Members
1 State Administrator
7 Member Policy Board

12 Trips per year (Alaska)	$12,600
3 Trips per year (out of State)	12,600
24 Meeting days (Alaska)	
12 Meeting days (out of State)	
36 Meeting Days at $250/meeting day	63,000
1 President - Range 30	60,000
24 Trips per year (Alaska)	3,600
6 Trips per year (out of State)	3,600
90 days total Travel plus Per Diem	4,500
1 Secretary II - Range 11	18,210
1 Clerk III - Range 8	15,075
1 Accountant IV - Range 18	29,745
1 Investment Officer - Range 24	46,275
Office Space	60,000
Office Equipment	15,000
Contractual:	
Safekeeping	50,000
Consulting	250,000
Telephone	20,000
Postage	3,000
Printing/Advertising	10,000
Auditing	20,000
Equipment Rental	8,000
Miscellaneous	3,000
Commodities	5,000

M E M O R A N D U M

TO: Representative Clark Gruening

FROM: Tom Singer, AA

RE: Senate Permanent Fund Package:
Sectional Analysis of SCS for CSHB 596,
SCS for CSHB 365, SCS for HB 222, and SB 539.

DATE: 5/23/78

SCS HB 596

I. SCS for CS for HB 596

Chapter 96. Alaska Loan Programs Fund

Sec.45.96.010. PURPOSE: This section states that a single loan fund would: 1) use the capital resources of Alaska more efficiently; 2) provide information on other capital sources; 3) provide strong assurance of repayment; and 4) lower the cost of borrowing to the state. The Fund's purpose is to provide funds at the lowest interest costs to Alaskans and to provide long-term financing not currently available.

Sec.45.96.020. CREATION OF FUND: This section creates, within the Dept. of Commerce and Economic Development, the Alaska Loan Programs Fund and the division of Alaska loan programs to manage it.

This approach to Permanent Fund management utilizes executive line agencies and civil service personnel, as opposed to the House-selected separate corporation approach.

Sec.45.96.030. REVENUE BONDING AUTHORITY: The state bond committee is empowered to issue bonds and bond anticipation notes to carry out the Fund's purposes.

Sec.45.96.030(d). leaves bond sale details to the determination of the state bond committee, while Sec.45.96.110 provides for competitive bidding on bond issues. This seems to be inconsistent.

Sec.45.96.040. VALIDITY OF PLEDGE: This section pledges the assets of the Fund to the repayment of its obligations.

Sec.45.96.050. REMEDIES: Holders of obligations are given the power to enforce all rights.

Sec.45.96.060. NEGOTIABLE INSTRUMENTS: All obligations are negotiable instruments under state law.

Sec.45.96.070. OBLIGATIONS ELIGIBLE FOR INVESTMENT: Obligations issued under this chapter are legal investments.

Sec.45.96.080. REFUNDING OBLIGATIONS: The fund may refund outstanding obligations.

Sec.45.96.090 CREDIT OF STATE NOT PLEDGED: Obligations are a debt of the state but are payable soley from revenues or assets of the fund.

While the full faith and credit of the state is not extended to these bonds, the state may face a "moral obligation" to back them.

Sec.45.96.100. TAX EXEMPTION: Fund property and bonds are exempt from all taxes of the state or its political subdivisions.

Sec.45.96.110. SALE OF BONDS: Bond issues are to be sold to the highest bidder in competitive bidding. See comment on Sec.45.96.030

Sec.45.96.120. UNALLOCATED RESERVE ACCOUNT: This section creates a special account to secure obligations of the fund, consisting of the income from the Permanent Fund or appropriations. Subparagraph (b) of this section establishes a subaccount, called the "general fund contribution account", which consists of the lesser of all revenue from the general fund from mineral lease rentals, royalty, etc., or any amounts remaining in the general fund which have not been obligated or for which the appropriation has not lapsed at the end of the fiscal year. The subaccount could be used for any purpose for which the unallocated reserve account may be used subject to legislative appropriation.

Sec.45.96.130. DEBT SERVICE RESERVE ACCOUNT: This section mandates that the fund capitalize in each bond issue the maximum permitted reserve fund to secure payment of the obligations being issued. This fund is to be used to repay obligations when other money is not otherwise available.

The statuatory requirement to capitalize the maximum reserve allowable leaves no flexibility and may be inappropriate given the details of the bond issues.

Sec.45.96.140. CAPITAL RESERVE ACCOUNT: This is an additional account for securing fund obligations equal to 5% of the outstanding obligations and paid from the unallocated reserve. It is to be used for the same purposes as the debt service reserve account.

Again, the 5% fixed in law may not reflect actual market conditions or requirements.

Sec.45.96.150. LOSS RESERVE ACCOUNT: This is an account for securing fund loans equal to 5% of all loans outstanding and paid from the one percent spread between the rate of interest paid by a borrower and the rate of interest paid by the fund and, when necessary, from the unallocated reserve. It is to be used for losses realized from loans made under this chapter and creates a direct call on Permanent Fund income

to make up losses from loan defaults. Again the 5% may not always be appropriate.

Sec.45.96.160. FIRE INSURANCE AND LIABILITY RESERVE ACCOUNT: This account provides that the Fund may insure loans without requiring proof of insurance against fire and liability if an additional charge of 6/10 of one percent per year is made.

A charge of 6/10 of 1% may bear no relation to the potential cost of the liability being assumed by the fund.

Sec.45.96.170. INVESTMENT OF RESERVE ACCOUNTS: This section provides for investment of the reserve accounts by the Director of the Div. of Treasury in certain securities, and also permits investment of the general fund contribution account directly in obligations and loans of the Loan Programs Fund.

Sec.45.96.180. INVESTMENTS: The Director of the Div. of Treasury shall determine investment policy and manage investment of cash balances and reserves. He shall provide monthly status reports to the Legislative Budget and Audit Committee.

Sec.45.96.190. BUDGET: The operating budget is from the general fund and subject to the Executive Budget Act.

Sec.45.96.200. ACCOUNTING: This section provides for accounting by the Dept. of Administration and quarterly reporting by the Legislative Budget and Audit Committee to the Legislature.

Overall management of the various parts of the Senate plan, which cuts across at least three departments, creates a formidable coordination and communication task among agencies.

Sec.45.96.210. LOAN PROCEDURES: This section states that the division of Alaska Loan Programs must establish offices in Juneau, Fairbanks, and Anchorage, and provides for approval of loans under $350,000 by the District Director with a committee of two loan officers, while loans over $350,000 must be approved by a state-level committee.

Sec.45.96.220. ALASKA LOAN PROGRAMS EVALUATION COMMITTEE:
Sec.45.96.230. RENEWABLE RESOURCES LOANS EVALUATIONS COMMITTEE: These sections set up committees charged with the responsibility for evaluating loans delinquent for a period in excess of 30 days with a view toward renegotiating the loans with alternative terms and conditions where possible, while at the same time protecting the state's interest. The Director of the Division of Collections in the Dept. of Revenue and the Director of the Alaska Loan Programs Division sit on both

committees, the Director of the Div. of Economic Enterprise in the Dept. of Commerce and Ecomonic Development is on the Alaska Loan Programs Evaluation Committee; while the Director of the Div. of Renewable Resources Development in the Dept. of Commerce and Economic Development sits on the Renewable Resources Loans Evaluation Committee.

The potential for political pressure is created here because the borrower initiates reevaluation and refinancing of loans, not the state, yet no guidelines or criteria for this process are established.

Sec.45.96.240. COLLECTIONS: DIVISION OF COLLECTIONS: This section sets up a division within the Dept. of Revenue headed by a classified employee, Range 27, who must be an attorney licensed to practice in Alaska with at least four years of experience in business law and business practices. Upon finding that a delinquent loan should not be renegotiatied, and the loan is not brought current within 30 days, the loan is transferred to the loss reserve account and transmitted to the Division of Collections for collection.

Sec.45.96.250, LOAN PURPOSES: The fund may make loans for residential housing, commercial purposes, public purposes, and education.

Sec.45.96.260. RESIDENTIAL HOUSING: Loan purposes include construction loans, mortgage loans, purchase of mortgage loans, and the acquisition and resale of real property.

This section seems to be a substitute for the Alaska Housing Finance Corporation.

Sec.45.96.270. COMMERCIAL LOANS: Loan purposes include farm development, commercial fishing vessels, gear and permits, hatchery facilities, non-profit corporation hatchery facilities, industrial amd manufacturing plant construction and land acquisition, general business expansion, child care facilities, public utilities, capital improvements for hydropower and water supply, small business loans, forestry development, and other renewable resource harvesting, manufacturing, or processing activities.

Sec.45.96.280. CERTIFICATE OF NEED FOR CHILD CARE FACILITIES: The Dept. of Community and Regional Affairs must determine the need for such facilities before they are eligible for loans.

Sec.45.96.290. VOLUNTARY ASSESSMENT ON THE SALE OF SALMON: This section establishes that an assessment levied under AS 16.05.540-.600 may be used to secure hatchery loans.

Sec.45.96.300. PUBLIC PURPOSES: This section provides that the Director of the Division of Alaska Loan Programs shall lend money to municipalities with populations of less than 5,000 and to corporations eligible under subparagraph (d) of this section. These are non-profit corporations either designated as tax exempt under 501(c)(3) and (4) of the Internal Revenue Code or a public corporation or other municipal instrumentality created under AS 29.59.010. This section provides that loans to municipalities should be made through the purchase by the fund of municipal bonds and that loans to non-profit corporations shall be made through revenue bonds issued on behalf of the corporation by the municipality in which the project is constructed. Under this section, loans to municipalities of 5,000 or less population could be made if certified to their legality by the borough or city attorney or if made outside the municipality by the Department of Law and that the loans be payable within 30 years on an even annual debt service basis. This section further provides that the Director of the Division of Alaska Loan Programs submit a bid for all general obligation bonds offered on a competitive basis by any municipality if the municipality provides its bid form to the Director at least 10 days before opening a bid. This section goes on to provide that the bid be determined on the basis of the Daily Bond Buyer 20-bond average with provisions for various maturities above or below the average depending on the rating of bonds. Bids for revenue bonds under subsection (c) issued on behalf of a non-profit corporation are also required to be submitted by the Director of the Division of Alaska Loan Programs again on a bid basis determined by the Daily Bond Buyer average.

This section is apparently designed to replace the Alaska Municipal Bond Bank Authority. It is objectionable in its design to internalize borrowing by municipalities instead of encouraging borrowing on the ordinary tax exempt market and because there is no apparent rationale for the bid scheme set forth in the statute particularly for revenue bonds. Revenue bonds vary substantially in quality according to the project being financed and no generally applicable bid scheme can be arbitrarily set as is attempted in this section.

Sec.45.96.310. DEFAULT ON MUNICIPAL BONDS: This section provides for a default provision for payment of state monies owing to municipalities directly to the fund similar to that contained in the existing Alaska Municipal Bond Bank Authority Act.

Sec.45.96.320. MUNICIPAL BOND CAPITAL RESERVE ACCOUNT: This section creates a special account to secure municipal and non-profit corporation bonds equal to 5% of the outstanding obligations and paid from the unallocated reserve.

Again, the percentage necessary to secure each obligation should be based on current market conditions.

Sec.45.96.330. INDUSTRIAL DEVELOPMENT BONDS: Under this section the fund is to make loans to businesses conducting exempt activities under Section 103(b)(4) and (5) of the Internal Revenue Code either directly or through purchase by the fund of industrial development bonds issued by the State Bond Committee. Such loans are conditional subject to certain local government requirements.

This section is apparently intended to replace the Alaska Industrial Development Authority.

Sec.45.96.340. PROJECT COSTS ELIGIBLE FOR BONDING: This section defines all indirect project costs which are bondable under Secs. 300-330 of this chapter.

Sec.45.96.350. EDUCATION: This section allows the fund to make scholarship loans to eligible students, based on a set of criteria and conditions. If the student repays the first 60% of his loan with no delinquency, the remaining 40% is forgiven.

This section replaces the existing Alaska Scholarship Loan Program except for grants. The eligibility criteria would be stricter and the forgiveness provision more permissive than with the existing program.

Sec.45.96.360. TOURISM, HISTORICAL AND OPEN SPACE LOANS: This section provides, in addition to Section 270, loans to businesses involved in the tourist industry. It also provides loans under certain conditions for historical structures.

The section fails to mention anything about open space loans.

Sec.45.96.370. ELIGIBILITY: Eligibility criteria include:

1) five year residency
2) minimum age of 18 years
3) except for Industrial Development Loans, corporations must meet the following: a) more than 60% of the shareholders must be five-year residents; b) the chief executive officer and all board members must be five year residents; and c) the chief executive officer and board members must assume individual liability for the loan.

There are also several conditions establishing ineligibility:

1) 60 days or more delinquent on a state loan
2) a loan in bankruptcy

(Eligibility is restored after 10 years of correction of the violation.)

Sec.45.96.380. MAXIMUM LOAN AMOUNTS: This section sets up various loan limits for residential commercial and educational purposes. Individuals are limited to a total of three loans

from the program (other than education loans). Loan amount limits are scaled to increases in the consumer price index for Anchorage.

The limit of three loans per individual may lead to a situation where corporate borrowers are limited to three loans among them while individuals can have three separate loans.

Sec.45.96.390. AREA COST DIFFERENTIAL: This section establishes a formula based upon both the cost of living and the cost of construction as determined annually by the Dept. of Transportation and Public Facilities to increase the loan amount limits in Sec. 380.

Sec.45.96.400. ADDITIONAL LOAN LIMITATIONS: This section provides for the limits in Sec.380 to be decreased gradually by as much as 50% as the business experience of the applicant decreases below 5 years.

This criteria does not necessarily correlate with probability of success, and there is no provision for exceptions.

Sec.45.96.410. VALUE LIMITATION: Loans may not exceed 90% of the real property pledged or 80% of the equipment pledged as security.

Sec.45.96.420. MAXIMUM TERMS OF LOANS: Terms may not exceed the life of the property pledged as security or 30 years when secured by real property, 15 years when secured by equipment, or 7 years when secured by chattel. Working capital loans are for one year.

Sec.45.96.430. RATE OF INTEREST: The rate of interest charged to borrowers is set at one percent over the anticipated cost of money to the fund plus the amount required for insurance. Veterans and agricultural loans can receive a one percent reduction in interest cost.

In addition to violating the principles of economics and business and guaranteeing distortions in the in-state allocation of capital, a flat low interest rate regardless of risk or term may severely disrupt the state's banking industry.

Sec.45.96.440. ELIGIBILITY FOR VETERAN'S INCENTIVE: This section sets out the criteria for the special interest rates allowed veterans under Sec. 430(b).

Sec.45.96.450. EMPLOYMENT PRACTICES: This section provides that in the case of any contracts let by a recipient of a loan from the fund, the employees on those contracts be 95% residents where they are available and qualified. Also included are penalties for violation.

Sec.45.96.460. COOPERATION WITH OTHER AGENCIES: This requires that other state agencies provide information, services, and facilities to the fund on request (with reimbursement).

Sec.45.96.470. BANK PARTICIPATION: Provision is made here for participation in a loan with a financial institution and for the financial institution to act as an agent for the loan program in the initial processing of applications.

The maximum service fee, set at 1/8 of 1%, may be below the cost of service and would render this provision meaningless.

Sec.45.96.480. ASSURANCE REQUIRED: Borrowers must assure in contract that persons involved in preliminary phases of a project may not participate in their implementation.

This provision sacrifices expertise and efficiency to avoid conflict of interest.

Sec.45.96.490. DEFINITIONS

Chapter 13. ALASKA PERMANENT FUND

Sec.37.13.010. ALASKA PERMANENT FUND: This section repeats the provisions of the constitutional amendment establishing the permanent fund.

Sec.37.13.020. INVESTMENT OF THE PERMANENT FUND: The permanent fund may be invested according to this section in obligations of the U. S. or those insured or guaranteed by the U. S.; obligations secured by reserves paid in by the U. S. Farmer's Home Administration notes; certificates of deposit secured according to Alaska law; corporate obligations rated "A" or better; other securities, FHA mortgages, FVA mortgages, conventional mortgages; other secured loans; and banker's acceptances. Additional criteria on mortgages and secured loans are given. Investment policy is to be formulated by the Director of the Division of Treasury and approved by the Legislature. The commissioner of Revenue may contract for investment advice and other matters.

Sec.37.13.085. MANAGEMENT AND INVESTMENT POLICY: Management and investment policy for the renewable resources development fund is placed with the Director of the Division of Treasury, subject to legislative approval.

Article 4. ALASKA RENEWABLE RESOURCES DEVELOPMENT FINANCIAL ASSISTANCE PROGRAM

Sec.37.11.110. DECLARATION OF POLICY: This section contains a general policy statement that the state seeks to benefit residents through the development of self-sustaining renewable resources industries. It is also state policy to further

the most appropriate uses of the state's renewable resources for commercial, subsistence, and common use.

Sec.37.11.120. FINDINGS: This section contains a series of findings which underlie the purposes and provisions of the chapter.

Sec.37.11.130. DIVISION OF RENEWABLE RESOURCES CREATED: A division of renewable resources is created in the Dept. of Commerce and Economic Development to carry out the purposes of this chapter.

Sec.37.11.140. PURPOSES: The purposes of the division are to facilitate the long-range rehabilitation, enhancement, and development of the state's renewable resources. For rehabilitation and enhancement, the division is to demonstrate technologies and innovations; for development, the division is to identify products, markets, and technologies, stimulate their research and development and assist in their demonstration. The division is also to disseminate information.

Sec.37.11.150. APPROPRIATION: This section appropriates the receipts of the renewable resources development fund to the division.

Sec.37.11.160. DIRECTOR, DIVISION OF RENEWABLE RESOURCES: This section contains qualifications and criteria for the position of director.

Sec.37.11.170. COMPENSATION OF DIRECTOR: This section puts the director in the classified service at a Range 27.

Sec.37.11.180. CONFLICT OF INTEREST: This section provides for conflict of interest disclosure.

Sec.37.11.190. POWERS AND DUTIES OF DIRECTOR: The director may hire staff and shall seek to optimize a set of subgoals, consider investment proposals, establish criteria, monitor performance, make plans, and adopt regulations, among other duties.

Sec.37.11.200. ELIGIBILITY: Projects may be funded only if they further the purposes of the chapter, are technologically and economically feasible, the resultant businesses remain in the state, the applicant meets the eligibility criteria for the Alaska loan program's fund, and the applicant agrees to a salary and benefit scale reflecting current business standards. Grants to the private sector or loan forgiveness is prohibited.

Sec.37.11.210. FINANCIAL ASSISTANCE: This section lays out the types of financial assistance for use by the division, including 1) capital stock purchases of up to 50% only after the maximum loan amount has been borrowed from the loan program's fund; 2) interest incentives whereby the division services debt for an applicant until the applicant's business profits are sufficient to service the debt; and grants for public purposes. All assistance is paid from the Renewable Resources Development Fund.

Sec.37.11.220. LOAN GUARANTEES: This section instructs the division to guarantee all renewable resource-related loans from the Alaska loan program's fund.

Sec.37.11.230. REPAYMENT OF INTEREST INCENTIVES: This section establishes a profit sharing system for applicants to repay outstanding obligations. It also empowers the director to investigate all aspects of a business receiving interest incentives to insure a fair profit picture and therefore, repayment.

Sec.37.11.240. LOSS RESERVE ACCOUNT: This section establishes a loss reserve account to secure Alaska loan program's fund loans to renewable resources projects. It consists of payments from the Renewable Resources Development Fund equal to 10% of the loans outstanding which are guaranteed by the division.

Sec.37.11.250. INVESTMENTS: The Renewable Resources Development Fund and the loss reserve account are to be managed and invested by the director of the Division of Treasury, who shall provide status reports to the Legislative Budget and Audit Committee.

Sec.37.11.260. ACCOUNTING: This section provides for accounting for this program by the Dept. of Administration, including reporting to several departments and the Legislative Budget and Audit Committee.

Sec.37.11.270. BUDGET: The division is subject to the Executive Bubget Act.

Sec.37.11.280. DEFINITIONS: The terms "rehabilitation, enhancement, and development" and "renewable resources" are defined.

The remainder of the SCS for CS for HB 596 contains 22 sections which, for the most part, amend or repeal all state loan programs and financial entities such as the Bond Bank and ASHA. Most of these changes eliminate existing policy statements and the lending powers of the programs (which are transferred to the Alaska loan program's fund).

SCS for CS for HB 365 (SB511)

II. SENATE CS FOR CS FOR HB 365 (SB 511) "An Act creating the division of energy and power development, and providing for an effective date".

Sec.44.53.030. DIVISION OF ENERGY AND POWER DEVELOPMENT IN DEPT. OF COMMERCE AND ECONOMIC DEVELOPMENT: This section provides statutory authority for the existing Division in Commerce and Economic Development created by executive order in 1976. The division's purpose is to conserve, develop and use the water and other electric power resources of the state and to supply power to Alaskans at the lowest possible rates.

Sec.44.33.035. POWERS: This section is based on repeal of the Alaska Power Authority, placing the Authority's powers within the Division of Energy and Power Development. It's powers include:

1) providing a means of constructing, acquiring, financing and operating hydroelectric and fossil fuel generating projects;
2) entering into contracts, etc., for accepting grants, for constructing, acquiring, operating or maintaining power projects, or for sale or transmission of power;
3) performing feasibility studies; and
4) a general "all things necessary" power.

The Division shall wholesale power from its projects to municipal electric, rural electric, cooperative electric, or private electric utilities and regional electric authorities for distribution to retail customers. The section establishes several provisions for power contracts to insure payment of the project.

The bill ends with a repealer which repeals the Alaska Power Authority Act.

SCS for HB 222 (SB510)

III. SENATE CS FOR HB 222 (SB 510) "An Act relating to public scrutiny of the budget formulation process, to the state budget, and to state bonding".

Chapter 07 Executive Budget Act

Sec.37.07.010(6). STATEMENT OF POLICY: This subsection amends the existing section and encourages public participation in the budget formulation process.

Sec.37.07.020. RESPONSIBILITIES OF THE GOVERNOR: This section replaces the existing section and directs the governor to prepare a budget based on expected revenues and expenditures, and to prepare a capital improvements program and financial plan covering a six year period.

Sec.37.07.030. RESPONSIBILITIES OF THE LEGISLATURE: This section amends the existing section and instructs the legislature to 1) review the budget, 2) analyze the operating and capital improvements programs and financial plans, 3) authorize implementing legislation, 4) provide post-audit functions, and 5) balance expenditures with revenues.

Sec.37.07.040(3),(4) and (7). DIVISION OF BUDGET AND MANAGEMENT: This section amends the existing section by instructing the division to disseminate budget information for public review and comment, and makes all budget-related documents public information.

Sec.37.07.050(g). AGENCY PROGRAM AND FINANCIAL PLANS: This section adds a new subsection to make all budget materials submitted to the division by state agencies under this section public information.

Sec.37.07.060. GOVERNOR'S RECOMMENDATION: This section replaces the existing section and instructs the governor to formulate operating and capital improvement plans including goals and policies, implementation plans, an operating program for the succeeding fiscal year, a capital improvements program for the succeeding six fiscal years, and revenue measures needed to support the programs. The section instructs the governor to present these plans to the legislature, and includes a detailed list of what the report shall contain. The six year capital improvements program must include project by project detail along with timing and financing considerations for each project and for the state's capital improvements program as a whole.

Sec.37.07.062. CAPITAL BUDGET: This new section establishes a separate section in the general appropriations bill for capital outlays and defines its format. The section must list, for each project, the 1) project identification number, 2) project title, 3) source of funding, 4) amount expended during previous fiscal year and amount authorized for the current fiscal year, and the proposed expenditure for the succeeding fiscal year, 5) estimated start for construction, and 6) schedule of bond elections. The section also establishes what financial information shall appear on the balance sheet for each capital projects fund.

Sec.37.07.070. LEGISLATIVE REVIEW: This technical amendment brings the existing section into conformance with the changes made in the previous sections.

37.05 FISCAL PROCEDURES ACT

Sec.37.05.157. GENERAL FUND; "RESERVE FOR CAPITAL OUTLAY" ACCOUNT: This new section creates a "reserve for capital outlay" account to consist of 30% of the receipts paid the state from mineral lease bonuses, rentals for state land and royalties from state minerals (same source as the permanent fund). These proceeds are subject to appropriation.

37.15 STATE BONDING ACT

Sec.37.15.215. OFFICIAL STATEMENTS: This new section states that documentation issued in connection with state or local government securities offerings should comply with guidelines of the Municipal Finance Officers Association or other nationally recognized guidelines.

44.42 DEPT. OF TRANSPORATION

Sec.44.42.020(a). POWERS AND DUTIES: This section amends the existing subsection and instructs DOT to inventory all state facilities and the facilities of municipalities under 12,000 people to cooperate with inventories of larger municipalities, and to recommend to the governor projects needed in communities according to the following catagories:

i) sewage transmission and treatment systems
ii) water transmission and treatment systems
iii) electrical generation and distribution systems
iv) health care facilities
v) school facilities
vi) transportation facilities
vii) community development projects providing employment
viii) public safety and justice facilities

This section also provides for prioritization of projects according to the following criteria:

i) date of incorporation of the municipality
ii) absence of basic facilities
iii) projected needs of community to meet anticipated growth

Sec.44.42.080. CAPITAL PROJECTS FUNDS: This new section creates eight capital projects funds in DOT. They are:

1) educational, cultural, and related facilities
2) transportation and related facilities
3) public institutions and related facilities
4) public safety, justice and related facilities

5) health and related facilities
6) natural resource development facilities
7) new capital site and related facilities
8) general purpose facilities

SB 539 IV. SENATE BILL 539 "An Act relating to eligible costs for state grants for capital improvement projects, and providing for an effective date".

02.15 ALASKA AERONAUTICS ACT OF 1949

Sec.02.15.120. ASSISTANCE TO CONSTRUCT, ENLARGE, OR IMPROVE AIR NAVIGATION FACILITIES: This section amends the existing section to include the term project costs.

Sec.02.15.140. STATE FINANCIAL ASSISTANCE : This section amends the existing section to include the term projects costs.

Sec.02.15.155. DEFINITIONS: This is a new section which defines "project costs" as both direct project costs and indirect financing and implementation costs (such as design, feasibility and site acquisition and preparation costs).

03.20 AGRICULTURAL AND INDUSTRIAL FAIRS

Sec.03.20.010. STATE AID: This amendment adds the term "project costs" to the existing section.

Sec.03.20.080. DEFINITIONS: This section repeats the definition of "project costs" established in Sec.02.15.155. above.

18.55 HOUSING, URBAN RENEWAL AND PLANNING ASSISTANCE

Sec.18.55.934. STATE AID FOR AN URBAN REDEVELOPMENT OR URBAN RENEWAL PROJECT IN A DISASTER AREA: This section repeats the definition of "project costs" established in Sec.02.15.155 above.

19.30 ACCESS ROADS

Sec.19.30.030 COMMISSIONER TO APPROVE APPLICATION: This section repeats the definition of "project costs" established in Sec.02.15.155 above.

43.18 STATE AID TO LOCAL GOVERNMENTS

Sec.43.18.010. STATE AID TO LOCAL GOVERNEMNTS: This section repeats the definition of "project costs" established in Sec.02.15.150. above.

Sec.43.18.100(g)(2). STATE AID FOR RETIREMENT OF SCHOOL CONSTRUCTION DEBT: This section changes the existing definition of "costs of school construction" to conform to the definition of "project costs" established in Sec.02.15.155. above.

Sec.43.18.300(h)(3). CIVIC, CONVENTION AND COMMUNITY RECREATION CENTERS: This new section adds a definition of "costs of construction" similar to the definition of "project costs" established in Sec.02.15.155. above (feasibility studies are excluded).

44.33 DEPT. OF COMMERCE AND ECONOMIC DEVELOPMENT

Sec.44.33.150. QUALIFYING FOR MATCHING MONEY: This section amends the existing section to add the term cost of construction, improvement, or operation.

Sec.44.33.150(b). QUALIFYING FOR MATCHING MONEY: This new sub-section adds definition of "cost of construction" identical to the definition of "project costs" established in Sec. 02.15.155. above.

46.03 ENVIRONMENTAL CONSERVATION

Sec.46.03.030(b) and (d) GRANTS AND LOANS FOR WATER SUPPLY AND SEWAGE SYSTEMS: This section adds the words in accordance with (d) of this section and adds a section (d) which defines "eligible costs" as "project costs" is defined in Sec.02.15.155 above.

46.07 VILLAGE SAFE WATER ACT

Sec.46.07.040. CONSTRUCTION OF FACILITIES: This new section defines "cost of the construction of a facility" as "project costs" is defined in Sec.02.15.155. above.

47.30 MENTALLY ILL AND INSANE PERSONS

Sec.47.30.475(c) and .500. GRANT-IN-AID PROGRAM: These sections add the term costs in Sec.475(c) and define "costs of improvement, renovation or new construction of facilities" in Sec.400 as "project costs" is defined in Sec.02.15.155. above.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

#160

TO: Rep. Cowper, Chairman
House Finance Committee

DATE: 8 March 1978

FROM: James B. Rhode, AA

SUBJECT: Economic Premises of HB 596 (Alaska Permanent Fund) and Related Bills

You have asked for a brief comment on the economic premises that emerge in HB 596 and related bills. They are grouped below under three broad headings: (1) public savings, (2) closing the "capital gap", and (3) subsidies.

(1) The trust in HB 596 is a "nest egg" or public savings account for the future. This serves a number of compatible purposes:

- to support the budget as oil revenues decline
- to check the use of revenues for lower state priorities
- to hold revenues that are not immediately needed (but otherwise might not be collected)
- to give time for the state to better assess its priorities

These purposes are met by the historic trust rule of maximum return consistent with safety of principle.

(2) The Enterprise Fund is to close the "capital gap" in Alaska, private and public. This gap is measured by economists as the amount of capital that would normally be provided by private markets but is not because of "institutional barriers" in the financial community as a whole. Such barriers include lack of information, lack of experience with particular kinds of investment, and racial and other bias. Local regulatory practice can be a barrier, but the effects are probably not great due to the relatively free flow of capital within and even between countries.

A capital gap is not a sheer absence of funds. Money can usually be obtained at some price. Rather, the usual reason that funds are not forthcoming is that other areas, offering better returns and lesser risks, can pay more for capital and enjoy more investor confidence.

The full scale of this gap in Alaska is not documented. However, the evidence is that the shortfall is in the millions, not billions, of dollars and is focused in rural Alaska, mainly in small and medium ventures. Elsewhere, there is no proof that large, attractive loans are being missed or rejected by the private capital markets (banks and their lines of credit, bond and money markets, insurance companies).

(3) Many appropriations are made to further economic goals that are not met, or met as well, by the growth of the private economy. We concentrate here on spending meant to spur development, including

capital items (whether from bond proceeds or the general fund), loan programs, technical assistance programs, job training, and, soon, the renewable resources fund. The economic goals of these efforts include reducing the seasonal and cyclical nature of the Alaskan economy, stable employment, improving resident and minority hire, raising personal incomes, lowering the cost of living, and the like. For the most part, the money spent on these goals represent a subsidy, direct or indirect. They provide a good or service for which people are unable to pay or, at times, unwilling to pay.

HB 596, in turning away from subsidies, is not opposing them as such. Indeed, they are permitted for the Enterprise Fund under special conditions. Yet most subsidies are expected to be made in the state budget process. And that forum is to receive more scrutiny as the result of a new legislative committee for investment oversight. The premise of this approach is simply that more intelligent subsidies will be made if they are openly voted---if the public can see what money is at stake, who gets it, and who wanted them to have it.

cc: Rep. Gruening, Chairman
House Special Committee on the Alaska Permanent Fund

#160

Transcript of testimony by Speaker Hugh Malone on the Alaska Permanent Fund (HB 596) before the House Finance Committee, March 17, 1978:

Without going deeply into the history of the enabling legislation of the Alaska Permanent Fund, I think the Permanent Fund was voted on and established by the people of Alaska as a savings account approach to reserve some of the wealth or income that's coming into the State from production of a high-value resource for a relatively short time for the future. I think that that theme should appear in any final enabling legislation that the Legislature passes or, failing that, that any Legislature should adopt. I think that the basic 25% of the revenues accruing from the ownership interest in mineral development within the State was considered by the people of Alaska to be a bottom-line savings account; and I think that any legislation adopted should reflect that. I think than anything less than that is inconsistent with public purposes and the adoption of the constitutional amendment.

One of the points that impressed me very early on in consideration of what should be done with the enabling legislation of the Alaska Permanent Fund springs from a discussion with some of the people from Alberta on how they are managing the Alberta Heritage Trust and some of the points that they consider important there. One specific thing that I recall, and I think it's very important to keep in mind in the enabling legislation, is that a very large portion or percentage of the money for investments of the fund should be in a highly liquid form of investment. The reason for that is this. Right now, we do not know what the future holds. It would be very easy, of course, to commit the Permanent Fund and all of the other revenues that the State has to purposes that we can identify right now. But if we do that, we are foreclosing the opportunity in the future to perhaps place those investments in returns which would be much more important in the State. I think the only way to preserve that option is to keep a significant portion of the fund in highly liquid form of investment. For instance, right now, in comparison with the general fund, we have a relatively high proportion of non-liquid investment in the general fund. We can, if we had to, I suppose, dispose of those investments at a discount to produce "free money" so that we can spend it; but I don't think the Alaska Permanent Fund should face that sort of trade-off. I think there should always be a high percentage of money in highly liquid investments--investments that can be sold quickly and at rates near the face or original value of the investment. That means, I suppose, that a good portion of the fund needs to be biased toward what people would call blue-chip investments; and the reason for that is to prevent too much of bias in the fund itself and to prevent foreclosing of the opportunity, in the future, of making investments that might be more important than any we see today.

When the original concept was under discussion in the last Legislature, there were a lot of times that I had reservations about the bill in 1975--which was finally vetoed--and the constitutional amendment itself, because if we do create public corporation in the State of Alaska, with cash assets on the order of several billions of dollars, we might also be creating an economic and political monster in the State. I think the next most important point in the development of the enabling legislation, to me at least, is accountability. I don't think that the fund, in being composed of public money and serving a public purpose, should be beyond the control of the public. I think that accountability is important if we don't want the corporation, or whatever form this finally takes, dictating political or economic policy to the people of the State of Alaska. I think you can point to minor instances right now where some other operations have run into those sort of difficulties--difficulties in accountability to the public for public operation. After a great deal of consideration over the last three years, I have come to the conclusion that to preserve the accountability to the public, at a minimum, the operating budget of the Alaska Permanent Fund should be subject to the same budget review and processes as the rest of our State government budgets; that is,

that the fund has to be accountable through the Executive Budget Act or accountable through a system of review that provides at least the same degree of public input through elected representatives of the people of the State of Alaska, including the Governor and the Legislature.

I guess everyone who talked about the fund, whether office holders or members of the public that have commented on the fund in a consulting capacity, have different ideas of what the Alaska Permanent Fund should accomplish, and naturally it is not going to accomplish all these ideas. We would need 10 or 20 permanent funds to do that. But an argument that was made for the fund, at the time of its adoption by the people, was that it held the potential, at least, for economic diversification in the State, and I think that that is a rational goal. I think it is one of the things that the fund could possibly accomplish if handled properly. I think that, in order to allow that opportunity to be there, we have to go back again to the question of the liquidity of the fund and also the question of if the fund being involved in merely replacing existing sources of capital or capital funding and whether those capital funds come through the private sector or through the State or federal government budgets. I would say, generally, we ought to look for opportunities for investment of the fund that do not simply replace existing capital sources. I think that that is where the greatest potential for the fund is--in new opportunities. You can make a somewhat rational political decision that we would rather have money that is owned by Alaska--Alaska Permanent Fund--in a given industry or a given capital area over money that comes from the East Coast or money that comes from Japan or some other place. But I am not sure that they provide for economic diversification in the State. I think, on the contrary, that what it does is provide for more of the same things that we have right now. In some cases that is probably good, but it won't lead to economic diversification. I think that we need to look for the areas that, because of lack of information in the past and because of political or other institutional barriers, capital is not available now--areas that represent real economic potential. Those areas are probably fairly small in terms of the total capital required right now, but I think those are the areas that the fund should focus on if economic diversification is to be a goal of the fund. Personally, I think it should be one of the goals of the fund.

The last thing I want to say is that the effect of the investment of the Alaska Permanent Fund is something that is not going to occur today, of course. It is going to occur down the road--three years, five years, longer than that--as amounts in the fund grow to significant proportions. Because of that, I think it is unwise to bias the investment policy of the fund, either through the legislation itself dealing with the corpus of the savings account or trust, whichever way you want to describe it, or through the use of the revenues of the fund. I think what we might to by taking that sort of approach is to eliminate, in the future, potential for economic diversification and potentials that otherwise might never be developed. So I would caution the Committee and the Legislature that any specific dedications or biases might be necessary in the political process to adopt this legislation or because existing needs seem to be so pressing should be looked at very carefully and by keeping as small as realistically possible. As far as the use of the fund income, for instance, I think it would be a major mistake to bias the investment policy of the fund and the opportunities to which it can be put in the future by an immediate dedication of the income from the Alaska Permanent Fund, and there is no doubt in my mind that it would do that, if we allocate now all the income from the fund or even a very large percentage of it for specific programs and purposes that are identified today. What will naturally happen is constituency groups will grow up around those purposes. It will be very unlikely that those things will be changed. I think that by doing that, we may have foreclosed an opportunity to areas five years, 10 years, 15 years into the future. I realize some of those things might be necessary--some compromises might be necessary--along those lines. There are substantial needs that exist in the State--very pressing ones that people on this Committee are very familiar with. I would

urge the Committee to keep those sort of dedications, or biases is what they are, as far as investment policy of the fund in the future to a minimum because I think that what we would do by building in those biases at the outset is: one, through the creation of the constituent group outside the fund and the public to make it politically very difficult to meet a high purpose when that came along; and secondly, and maybe just as importantly, is that you can create a constituent group within the fund itself that was directed toward those specific purposes and don't have the vision or breadth of vision to look at what else was happening or could happen in the economy in the State of Alaska.

Those are my basic concerns on the Alaska Permanent Fund. I think, consistent with the idea that this money was going to be a savings account when the people voted on it--I think that was their main argument, up until at least this year it has been the main argument for the Alaska Permanent Fund--is that within the context of keeping that fund accountable and the necessary review by the people through the elected officials of the State that every step of it to be taken to keep the fund from falling prey to the buracracy that inevitably grows in government. By that, I mean to say that I don't think it should be located within the executive department. I think the history pretty well shows that in those cases either one or two things happens; buracracy would become the captive of the project or, more likely, visa-versa, and I don't think that's in the interest of the people of the State of Alaska either.

If the importance and the need for the immediate dedication of revenues exceeds what might be available from the revenues that fall from a 25% Alaska Permanent Fund, immediate investments might be available from other places. I suggest that the Committee and the Legislature consider increasing the dedication--I realize that is at the expense of the general fund revenues--by the 25% constitutional minimum to meet those purposes so that in the end, the 25% that was approved by the people of the State of Alaska in 1976 remains intact.

I think that pretty well sums up the major concerns that I have with the fund, except that beyond the actual investment policy and the things that happen as a result of the fund investment policy, I think the Alaska Permanent Fund exists in a context of what the philosophy of the State and the people is. I think, to a large or important extent, what happens with the Alaska Permanent Fund will be not only a reflection of existing philosophy in terms of what the people of Alaska want to see happen, but to some extent will condition or dictate the philosophy of the future. I think it's very important in its symbolism, and I think that this is something that has to be kept in mind when we are dealing with the subject. That is a personal observation.

HFC 78-51 #0748 - #1083

Rec'd March 13

#160

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ROBERT E. OREELEY
FIRST VICE PRESIDENT
212/[illegible]

CABLE ADDRESS "WHITEWELD"

March 13 1978

Mr. Clark S. Gruening, Chairman
Special House Committee on the Alaska Permanent Fund
Mr. Steve C. Cowper, Chairman
House Finance Committee
Pouch V
Juneau, Alaska 99811

Gentlemen:

We would like to offer the following comments on CS for House Bill 596 (2-24-78):

Sec. 37.13.130 Powers and Duties (g)

While United States Agency issues are considered to be slightly lower quality than direct obligations of the Unites States Treasury, the quality of these securities are such that they should be considered as alternative investments for the Fund. By adding "and its Agencies" after Page 10, line 18 "may invest corporation assets in obligations of the United States (and its Agencies) or obligations etc.", the investment criteria can be expanded clearly to include United States Agency obligations.

It may be desirable to add at the end of (g) Page 10 line 21, "the Securities Act of 1933 are freely marketable.", the following, "and other investments that meet the requirements of (a) and (b), but not to exceed 2% of assets." This would allow the Trustees of the Fund, and the investment manager some leeway to invest in new classes of securities that may not be clearly outlined in other sections of (g). We would prefer this to expanding the list in order to include every conceivable type of approved investment.

Sec. 37.13.140 Gains and Losses

This method of calculating gains and losses is used to protect the principal of the Fund. Attractive exchanges of bonds and stocks would not be penalized immediately under this system, even though they might result in a current loss. The intent of this system is to allow the Fund to admit mistakes and match them against success whenever possible.

(continued.....)

Sec. 37.13.150 Income

This section compliments the prior one (140), and uses a five year averaging program for payout of income. The principle objective of this system is to provide an orderly payout of income, that does not result in an unusually large payout in any one year, followed by a lower payout in a following year. The five year averaging would lessen some of the cyclical factors in dispensing income. The Fund under this system would always have more income than it was currently disbursing.

Sec. 37.13.170 Audits

It might be wise to include on Page 12, after line 10 (by an outside auditor) following "investment programs". While use of an outside auditor is stated later on in Sec. 180, line 14, it is not clear whether the Investment Oversight Committee will have an outside audit available to them.

Sec. 37.13.180 Reports and Publications

It should be noted in this section that the Fund should be valued at current market value or worth. Seeing the changes in market value that have occurred since the investments have been made, will be an important part of my review. Therefore, an analysis of the condition of the Fund, as if it were converted into current value, will be helpful in determing the relative success of the Fund's investment program.

We will be pleased to discuss the above in greater detail at your convenience.

Respectfully yours,

Bob Greeley

Robert E. Greeley,
First Vice President

REG/km

#160

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

TREASURY DIVISION

ELEVENTH FLOOR
STATE OFFICE BUILDING
POUCH SB
JUNEAU, ALASKA 99811

March 8, 1978

The Honorable Steve Cowper
Chairman, House Finance Committee
State Capital
Juneau, Alaska 99811

Dear Representative Cowper:

The attached amendments were submitted to the Special Committee on the Permanent Fund in the House in an effort to maximize the cooperation between the administration and the Special Committee in the House in drafting the enabling legislation for the Alaska Permanent Fund. Beginning in 1976 the Department of Revenue, the State Investment Advisory Committee, and the Governor's Office have made every effort to cooperate with the House of Representatives in a continuing process of investigations on the enabling legislation. Initially, the administration submitted a bill, HB 298, and had hoped that that bill would be considered by the legislature. It now appears that Committee Substitute for House Bill 596 is the bill which this committee will consider as the enabling legislation on the Permanent Fund.

To continue the cooperative efforts between the administration and the House these amendments reflect the concerns of the administration for the proposed bill.

Amendment #1 amends Section 010. This amendment includes the Alaska Enterprise Investment Corporation as the recipient of a portion of the principal to be allocated to the Permanent Fund. It should be considered in conjunction with amendments 2 and 3. Amendment 2 decreases the amount of principal to be contributed into the Alaska Permanent Fund Corporation to 50 per cent of the receipts and increases the amount contributed to the Alaska Enterprise Investment Corporation to 50 per cent of the receipts.

The first three amendments reflect in a positive manner the administration's concern first that the savings account concept be adopted (the trust fund) and, secondly, that there be a greater amount of funds available for investment through the Enterprise Investment Corporation in Alaska than the $100 million limitation.

The fourth amendment under section 020 merely removes the limitation that only future generations of Alaskans benefit from the Permanent Fund. This administration has made it clear that the Permanent Fund should benefit present generations of Alaskans as well as future generations.

The fifth amendment under section 040 includes the Commissioner of Revenue as a non-voting member of the Board of Trustees. The Commissioner of Revenue is responsible for all of the State's funds and therefore should be included as a member of the Board of Trustees.

Amendment #6 under section 090 increases from two members to three members the Board of Trustees for quorum purposes.

Amendment #7 deals with a policy issue which requires that the Department of Revenue provide the management and staff for the trust fund corporation. It includes a provision that the Commissioner of Revenue or his designee shall serve as the executive director of the corporation.

Amendment #8 is a minor technical amendment in section 130, POWERS AND DUTIES, paragraph (a) which clarifies the wording for the prudent-man rule for investment.

Amendment #9 section 130 clarifies the reasonable diversification clause found in paragraph (c).

Amendment #10 section 130, paragraph (f) deals with prohibition of the corporation on working with existing State agencies or departments. The administration clearly thinks that it is desirable for the Permanent Fund to cooperate and coordinate with existing State programs.

Amendment #11 is two-fold and it deletes the section entitled GAINS AND LOSSES and replaces it with a new section entitled RESERVES. The establishment of reserve accounts for losses on investments is desirable as these accounts would help to preserve the principal of the Permanent Fund.

Amendment #12 deletes section 150 entitled INCOME. The moving average income current return is confusing and unnecessary as current accounting practices clearly allow for the identification of income through investments.

Amendment #13 excludes the officers and staff from the State's Hatch Act but includes the Board of Trustees in the Hatch Act.

Amendment #14 section 44.55.010(b) is amended to increase the amount of contributions to the Enterprise Investment Corporation from 1/6 to 50 per cent. This amendment is in keeping with the administration's desire to provide a greater amount of principal for investments in Alaska.

Amendments # 15 and 16 should be considered together and are intended to allow the payment of principal directly into the Enterprise Investment Corporation.

Amendment #17 changes the composition of the proposed Policy Board to include the Commissioners of Commerce and Economic Development and Revenue and five public members.

Amendment #18 is in conjunction with Amendment #17.

Amendment #19 is self-explanatory but includes the president of the Enterprise Investment Corporation as the Chairman of the Policy Board but a non-voting member.

Amendments 20, 21, 22, and 23 are in conjunction with the recomposition of the Policy Board.

Amendment #24 amends the sentence to include a majority of appointed members.

Amendment #25 deletes section 44.55.100 entitled BUDGET and replaces it. The new wording for this section allows the Enterprise Investment Corporation to retain income for administrative operating expenses of up to 1/2 of 1 percent of the corporation's paid-in capital and requires that expenditures in excess of 1/2 of 1 percent of paid-in capital be approved by the legislature.

Amendment #26 re-states the diversification rule to limit investments to 1 percent of the resources of the corporation from the 5 percent limit found in the bill. It does not change the $5 million limitation.

Amendment #27 and Amendment #29 allow the corporation to make guarantees but require approval by the legislature and establishes reserves.

Amendment #28 prohibits the corporation from investing in participation with other entities when current participating investments are 2 per cent or greater in delinquencies.

Amendment # 30 is clarifying language.

Amendment # 31 section 44.55.170 entitled POLITICAL ACTIVITIES includes the Policy Board and Investment Committee in the Hatch Act for the State (AS 39.25.160) and deletes the language including the officers and staff of the corporation in the Hatch Act.

Amendment #32 is in conjunction with the administration's desire to put 50 percent of the principal paid to the trust corporation and 50 per cent to the Enterprise Investment Fund.

Amendment #33 section 7 TRANSITION. It is necessary to have 30 days to transfer all funds to the trust fund corporation and the enterprise investment fund corporation in order to comply with the existing contracts the Department of Revenue has for safekeeping the Alaska Permanent Fund portfolio securities.

Amendments 34, 35, and 36 all in the Transition section tie together the activities in the repealers of existing interim management legislation.

It is my hope that the House Finance Committee will thoroughly review, evaluate, and sincerely consider these proposed amendments. Thank you for the opportunity to appear here today.

Sincerely,

Sterling Gallagher
Commissioner

SG:JE:ge

COMMENTS ON PERMANENT FUND AMENDMENTS

In the presentation of its proposed amendments to CS for HB596, the department has made five points to which I would like to respond.

The points raised by the amendments themselves are:

1. That the size of the Alaska Enterprise Investment Corporation should be increased. The House Special Committee limited the size of the AEIC to insure that it would have to establish a track record of sound investments before returning to the legislature for more money.

2. That the executive branch should have a hand in managing the permanent fund. The committee decided to create management structures independent of the executive and legislative branches on the basis of public testimony and consultant advice. The public expressed repeatedly its preference for a permanent fund free from any taint of political pressure in its investment decisions. The committee's consultants gave similar advice, pointing to worldwide examples of investment funds that failed due to political pressure. To inject into the management of the permanent fund employees of the executive would be to fly in the face of both public wishes and sound management principles.

3. That the legislature should have less oversight of the permanent fund. The committee decided that legislative oversight, along with executive and public oversight also in the bill, was essential. Although the bill is consistent on the matter of insulating the permanent fund managers from politics, it does not seek to insulate them from policy. As elected representatives directly responsible to Alaskans, legislators must have the ability to effectively oversee the performance of permanent fund managers.

In addition to these three points, the department has made two others during testimony here.

1. That the trust portion of the permanent fund cannot make investments in Alaska. In response I can only point to professional opinion, offered by one of the nation's leading financial management firms after consultation with the nation's largest trust law firm and one of the state's leading bond attorneys. Unless the department can offer testimony of similar weight to support their opinion, I can only conclude that the Alaska Permanent Fund Corporation can make investments in Alaska.

2. That a capital gap of such proportions exists in Alaska that the assets of the permanent fund are needed to fill it. Now, a capital gap is not just an absence of loan money. A capital gap is best defined as a lack of money for loans the private market would make if not for institutional barriers, such as lack of knowledge about Alaska, competition from loans closer to home and so on. The committee, during

its deliberations, was unable to get a firm estimate of the size of such a gap. In order to believe the commissioner's estimates of that size, we would first have to believe that there are no banks but Alaska banks and [redacted] that the bond market has ceased to [redacted] exist. If the commissioner's point is that the state needs money for loans that, because of risk or low return, cannot attract private capital, I can only assume that ~~we~~ (he wants to) employ the permanent fund as a tool for making social or political policy rather than sound investment policy. Even if such a social or [redacted] political loan gap exists, I question the wisdom of using the permanent fund, meant to [redacted] be a savings account for Alaskans, to fill it.

add "social lovers" tap

CLARK: The following is a suggested summary/response on Revenue's amendments to HB596 for your consideration.

The department's ammendments do two things: (]) Expand greatly the size of the Alaska Enterprise Investment Fund; (2) Give the opportunity for effective control of both corporations to the administration, especially the Department of Revenue.

The committee's reason for limiting the size of the AEIC was to force it to establish a track record of sound invetments. In addition, consultant advice and public testimony were unable to offer proof of - "capital gap" of any great size. Likewise, the department has been unable to offer such proof, unless we are to assume from the commisiioner's presentation that (]) there are no banks but Alaska banks willing to lend in Alaska; (2) the bond market has ceased to exist.

The committee"s reason for removing both corporations from the executive branch was the public's frequently expressed conviction that the management of the permanent fund ought to be insulated from politics.

If the department is prepared to argue that its amendments do not offer the opportunity of control, let me state the obvious. The adoption of the amendments would make the commissioner (]) the executive director of the APFC. The commissioner, as we all know, is responsible to the governor, in who's hands the commissioner's job resides. It would take a very strong commissioner to obey

the board of trustees in the face of conflicting direction by the governor. (2) possibly the chairman of the AEIC policy board. As such, a full time commissioner would have at his disposal the staff and information necessary to overwhelm a part time policy board. And, again, a commissioner serving at the pleasure of the governor would be powerfully attracted to making the AEIC policy conform to that of the governor.

Finally, on the point of a trust fund being able to make in-state loans. The committee's record of intent is clear. The committee's position is backed by the considered opinion of one of the nation's most prestigious financial consulting firms, prepared in consultation with the nation's largest trust law firm and the state's own bond counsel. Clearly, the APFC can make in-state loans.

CLARK:

The proposed amendments to HB596 signed by Mr. Specking have two major policy changes.

First, the amendments would split the permanent fund contribution 50-50, thereby substantially enlarging the Alaska Enterprise Investment Fund.

Second, the amendments would place the ~~AEIC~~ APFC directly in the department of revenue by making the commissioner of revenue or his designee the ~~AEIC~~ APFC's executive director.

With these two policy changes in mind, the amendments shake out as ~~follows~~:

1. This removes the "flow through" funding mechanism in the bill (recommended by Billy Berrier as a constitutional matter) and puts the AEIC on an equal footing to receive funds directly from the department of revenue on a monthly basis.

2. Self explanatory

3. Ditto

4. The deletion would eliminate the foundation for the trust structure from the findings.

5. The addition of the commissioner of revenue is at variance from consultant advice (particularly Price Waterhouse) and has been rejected by the committee previously.

6. Making all three trustees necessary for a quorum is contrary to the general rule of thumb for making quorums and would create insurmountable problems in the case of a suspension.

7. Self explanatory

8. The effect of this amendment would seem to be to release the board from its direct responsibility under the prudent man rule defined in this section.

9. The language that this amendment would delete was inserted on the advice of Bob Greeley and Bob Blixt.

10. This amendment would allow using the executive to manage APFC assets. The language it deletes was added specifically by the committee to prevent using the executive.

11. The language deleted by this amendment was contributed by White, Weld.

12. Ditto

13. This has been done in the CS

14. The effect of this amendment is unclear, although it seems to weaken the prohibition against partisan political activity.

15. Self explanatory

16. See #1 above

17. See #2 above

18. This amendment would (a) limit the governor's discretion and (b) add an additional administration member.

19. This amendment would reduce the public members of the policy board from six to five.

20. This amendment was rejected by the committee previously.

21. This amendment would allow an administration member to be chairman of the policy board.

22. See #19 above

23. This amendment would make the duration of terms jibe with the reduction in public members.

24. 44.55.040(c) as written seems to make this amendment unnecessary.

25. This amendment would take the AEIC out of the Executive Budget Act.

26. See #2 above

27. Deleted in CS

28. This amendment would eliminate the dollar figure, allowing the loan limit to grow as the resources of corporation grow.

29. This has not been previously addressed to the best of my knowledge.

30. Deleted in CS

31. The necessity for and effect of this amendment is unclear.

32. This amendment would apply the conflict of interest requirements to the investment committee rather than the board of trustees.

33. Ditto

34. Ditto

35. Ditto

36. See #14 above

37. This amendment is inconsistent with the transition provisions of Sec. 7 (b).

38. This would lengthen the time between the call for the money and its delivery.

39. This amendment would seem to limit the 'short term' investments that could be made until the AEIC gets going.

adopted 40. This would allow the interim amangement statute to continue until such time as the APFC gets going.

ALASKA HOUSE OF REPRESENTATIVES

SECOND SESSION

ROLL CALL

TENTH LEGISLATURE

CSHB 596 (Fin)

YEA	N-V	NAY	YEA	N-V	NAY	YEA	N-V	NAY	YEA	N-V	NAY
Akers			Cowper			Kelly			Osterback		
Anderson			Dankworth		●	Lethin		●	Parr		
Beirne			Duncan			Lovseth			Phillips		
Bennett		●	Eliason			McKinnon			Rhode		●
Bradley			Freeman			Malone			Rudd		
Brown			Gardiner			Meekins			Schaeffer		
Buchholdt			Gruening			Miles			Smith		
Carpenter		●	Guy			Miller			Snider		
Chatterton			Haugen			Nakak			Swanson		
Cotten			Hayes		●	Ose			Urion		

34-6

Speaker

PROCEDURAL MOTIONS

Amended	Special
Amended Senate	Effective Date
Amended House	

TITLES

Free Conf Comm Sub	Comm Sub
House Comm Sub	Sponsor Sub
Senate Comm Sub	

TOTALS

YEAS		N-V		NAYS	
0	0	0	0 ●	0	0
1	1	1	1	1	1
2	2	2	2	2	2
● 3	3	3	3	3	3
4	4 ●	4	4	4	4
5	5	5	5	5	5
6	6	6	6	6	6 ●
7	7	7	7	7	7
8	8	8	8	8	8
9	9	9	9	9	9

BILL NUMBER

HOUSE ● SENATE		● BILL RESO.	
1000	100	10	1
2000	200	20	2
3000	300	30	3
4000	400	40	4
J't.	● 500	50	5
Conc.	600	60	6 ●
Quo.	700	70	7
Mot.	800	80	8
2nd R	900	● 90	9
● 3rd R	000	00	0

DATE

Jan.	1
Feb.	2 ●
● Mar.	3
Apr.	1
May	2
June	3 ●
July	1
Aug.	5
Sept.	6
Oct.	7
Nov.	8
Dec.	9

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ALASKA HOUSE OF REPRESENTATIVES

SECOND SESSION

ROLL CALL

TENTH LEGISLATURE

YEA	N-V	NAY	YEA	N-V	NAY	YEA	N-V	NAY	YEA	N-V	NAY
Akers		●	Cowper		●	Kelly			Osterback		●
Anderson		●	Dankworth			Lethin			Parr		●
Beirne			Duncan		●	Lovseth		●	Phillips		●
Bennett			Eliason		●	McKinnon		●	Rhode		
Bradley		●	Freeman		●	Malone		●	Rudd		●
Brown		●	Gardiner		●	Meekins		●	Schaeffer		●
Buchholdt		●	Gruening		●	Miles		●	Smith		●
Carpenter			Guy		●	Miller		●	Snider		●
Chatterton		●	Haugen		●	Nakak		●	Swanson		●
Cotten		●	Hayes			Ose		●	Urion		●

Speaker

PROCEDURAL MOTIONS

Amended	Special	
Amended Senate	Effective Date	
Amended House		

TITLES

Free Conf Comm Sub		Comm Sub
House Comm Sub		Sponsor Sub
Senate Comm Sub		

TOTALS

YEAS	N-V	NAYS
0 0	0 0 ●	0 0
1 1	1 1	1 1
2 2	2 2	2 2 ●
3 3	3 3	3 3
4 4	4 4	4 4
5 5	5 5	5 5
6 6	6 6	6 6
7 7	7 7	7 7
8 8 ●	8 8	8 8
9 9	9 9	9 9

BILL NUMBER

HOUSE ●		BILL	
SENATE		RESO.	
1000	100	10	1
2000	200	20	2
3000	300	30	3
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J't.	500	50	5
Conc.	600	60	6 ●
Quo.	700	70	7
Mot.	800	80	8
2nd R	900	90	9
3rd R	000	00	0

DATE

Jan.	1
Feb.	2 ●
Mar.	3
Apr.	1
May	2
June	3 ●
July	4
Aug.	5
Sept.	6
Oct.	7
Nov.	8
Dec.	9

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ALASKA HOUSE OF REPRESENTATIVES

SECOND SESSION

ROLL CALL

am 2 csh 596 (fin)

TENTH LEGISLATURE

	YEA	N-V	NAY
Akers			●
Anderson			●
Beirne			
Bennett			
Bradley			●
Brown			●
Buchholdt			●
Carpenter			●
Chatterton			●
Cotten			●
Cowper			●
Dankworth			
Duncan			●
Eliason			●
Freeman			●
Gardiner			●
Gruening			●
Guy			●
Haugen			●
Hayes			
Kelly			
Lethin			
Lovseth			●
McKinnon			●
Malone			●
Meekins			●
Miles			●
Miller			●
Nakak			●
Ose			●
Osterback			●
Parr			●
Phillips			
Rhode			
Rudd			●
Schaeffer			●
Smith			●
Snider			●
Swanson			●
Urion			

Speaker

PROCEDURAL MOTIONS

- Amended
- Amended Senate
- Amended House
- Special
- Effective Date

TITLES

- Free Conf Comm Sub
- House Comm Sub
- Senate Comm Sub
- ● Comm Sub
- Sponsor Sub

TOTALS

YEAS	N-V	NAYS
0 0	0 0 ●	0 0
1 1	1 1	1 1 ●
2 2	2 2	2 2
3 3	3 3	● 3 3
4 4	4 4	4 4
5 5	5 5	5 5
6 6	6 6	6 6
7 7	7 7	7 7
8 8	8 8	8 8
9 9 ●	9 9	9 9

BILL NUMBER

HOUSE ●
SENATE

		BILL RESO.	
1000	100	10	1
2000	200	20	2
3000	300	30	3
4000	400	40	4
J't.	● 500	50	5
Conc.	600	60	6 ●
Quo.	700	70	7
● Mot.	800	80	8
2nd R	900	● 90	9
3rd R	000	00	0

DATE

Jan.	1
Feb.	2 ●
● Mar.	3
Apr.	1
May	2
June	3 ●
July	4
Aug.	5
Sept.	6
Oct.	7
Nov.	8
Dec.	9

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→ Rep. Clark Grievance

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April 20, 1978

Mr. Nels A. Anderson, Jr.
Representative of the
State of Alaska
Route 6
Box 6283
Juneau, Alaska 99803

Dear Nels:

I have set forth below summary opinions of Senate Bill 429, House Bill 596 and House Bill 682. As you can appreciate, my expertise is in the field of conventional investments which is a different world than rural economic development.

Senate Bill 429: If I have interpreted this bill correctly, the basic premise is for the Alaska Loan Programs Fund to issue tax-exempt bonds of its own and then invest the proceeds in taxable government and corporate obligations. Presumably, as money is needed from the Permanent Fund, Capital Improvements Reserve, Renewable Resources Development Fund, etc., the government and corporate obligations would be liquidated. If this is the intent of the bill, it is illegal under current Internal Revenue Code statutes. You cannot create a tax-exempt entity such as the Alaska Loan Programs Fund and raise proceeds that are invested in higher yielding obligations. This is called arbitraging and would disqualify the entity as tax-exempt. Furthermore, it is my understanding that when an entity issues tax-exempt bonds it must have a stated purpose in mind and the proceeds must be expended over a short period of time. Consequently, you could not sell tax-exempt bonds without a specific project such as road repair or a loan for a renewable resource development.

House Bill 596: It may be desirable to consolidate the lending and investment functions of the State but House Bill 596 is not an efficient means of doing so, in my opinion. Establishment of an Investment Oversight Committee plus 3 members of the permanent Fund plus 7 members of the Alaska Enterprise Investment Corporation has the potential for creating bureaucratic inefficiency.

The major legislative purpose of stimulating rural economic development is to provide a mechanism for channeling capital into areas not serviced by existing State or private lending institutions. In my opinion, House Bill 596 does not accomplish this goal. Most of the text of the bill deals with the selection of committee members, terms of memberships, filling of vacancies, meetings, duties, etc. There is not enough substance of how the Alaska Enterprise Investment Corporation would function, which would seem to be the most important issue in rural economic development. House Bill 682 is a better bill in my opinion.

House Bill 682: This bill focuses on the problem of Alaska's renewable resources and provides a means for channeling capital in those areas where it is badly needed. The critical factor is the selection of the three trustees. Needless to say it is imperative that the three individuals possess the highest integrity in order to resist the inevitable political pressures that will develop.

As you know, capital is not scarce in Alaska if the project is economically feasible. Witness the expansion of BBNC through the utilization of private capital. However, there is a scarcity of private venture capital and thus the creation of a Renewable Resource Corporation should be a top priority item.

The specifics of how much money should be allocated to the Renewable Resource Corporation, lending limitation, interest rates to be charged, etc., are details that can be worked out in committee. The three bills you asked me to review are not sharply different in these respects. One important point I would make is that the investment responsibility of the Renewable Resource Corporation funds should reside with the Treasury Division. They have the knowledge and experience to carry out whatever investment objectives are established by the Trustees (and it should be the Trustees who set investment objectives).

I hope you find these comments helpful.

Sincerely,

Cary N. Coburn

GNC:ros

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 596 - "An Act relating to nonrenewable resource revenues;
Title and providing for an effective date."
Requested by Special Committee on the Alaska Permanent Fund Date 1/11/78

II. FISCAL DETAIL

Agency Affected Department of Revenue
Program Category Affected General Government
Budget Request Unit(s) Affected Treasury Management

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES		338.6				
200 TRAVEL		155.4				
300 CONTRACTUAL		578.0				
400 COMMODITIES		10.0				
500 EQUIPMENT		30.0				
600 LAND & STRUCTURES		120.0				
700 GRANTS, CLAIMS, ETC.						
TOTAL		1,232.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		1,232.0				
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		10				
PART TIME		18				
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This note enumerates a portion of the fiscal impact of HB 596 upon Treasury Management. Costs of the following administrative structures are included above:

Investment Oversight Committee - 8 members
Board of Trustees - 3 members
Policy Board - 7 members
Alaska Permanent Fund - 1 Executive Director and staff
Alaska Enterprise Investment Corporation - 1 President and staff

Fiscal years subsequent to FY 79 would properly be estimated by the emergent administrative body.

IV. DATE February 23, 1978 PREPARED BY Jim Edenso
AGENCY Department of Revenue
PHONE 465-2350

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/77)

Introduced: 1/11/78
Referred: The Special Committee on the Alaska Permanent Fund and Finance

IN THE HOUSE

BY THE SPECIAL COMMITTEE ON THE ALASKA PERMANENT FUND

HOUSE BILL NO. 596

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to nonrenewable resource revenues; and providing for an effective date."

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

* Section 1. AS 24.20 is amended by adding new sections to read:

ARTICLE IV. INVESTMENT OVERSIGHT COMMITTEE.

Sec. 24.20.600. INVESTMENT OVERSIGHT COMMITTEE ESTABLISHED. The Investment Oversight Committee is established as a permanent interim committee of the legislature. The establishment of the committee recognizes the need of the legislature for technical review and oversight of the performance of all agencies of the state which perform lending, borrowing or investment functions.

Sec. 24.20.610. FINDINGS. The legislature finds that there is a substantial need for oversight of the performance of all agencies of the state which perform lending, borrowing or investment functions since these functions do not receive the detailed review to which other expenditures of public money are subject, and therefore the knowledge necessary for sound legislation in this area is not readily available. There is a need for legislative oversight which will provide information on the policy and performance of these agencies, the extent to which the agencies conform to statutory intent, and the impact of their performance on the economy and treasury.

Sec. 24.20.620. PURPOSES. The purposes of the committee are to

(1) monitor and report

(A) the performance of the agencies of the state which

perform lending, borrowing or investment functions,

(B) the extent to which the performance of these agencies has contributed to the fiscal, financial, economic and social improvement of the state and its citizens,

(C) the extent to which these agencies and the executive have prepared and coordinated short and long term economic, fiscal, investment and financial planning;

(2) hold these agencies accountable to statutory intent in their performance by recommending, where appropriate, changes in policy to the agencies or changes in legislation to the legislature;

(3) annually review the extent of capitalization of the investment funds of the state and alternative investment policy for the general fund surplus and recommend needed legislation.

Sec. 24.20.630. MEMBERSHIP. The committee is composed of eight members: the president of the senate, the speaker of the house, and three members appointed from each house by the respective presiding officer. The membership from each house shall include at least one member from each of the two major political parties. The committee shall select its own chairman.

Sec. 24.20.640. TERM OF MEMBERSHIP. (a) The committee shall be organized within 15 days after the organization of each legislature. Members serve for the duration of the legislature during which they are appointed. If a member is reelected or his term of office extends into the next succeeding legislature, he continues to serve until reappointed or the appointment of his successor.

(b) When a member of the committee files a declaration of candidacy for an elective office other than that of member of either house of the legislature, and he has not resigned from membership on the committee, his committee membership terminates on the date of filing.

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

1-11-78

Date: 1-13

Mr. Speaker:

The Committee on SPECIAL COMMITTEE ON THE AK. PERMANENT FUND has had HB 596 "An Act relating to nonrenewable resource revenues; e.d."

under consideration and (a majority of the committee) (the committee reports it back as follows)

(X) recommends it do pass ( ) recommends it do not pass

( ) recommends it do pass with attached amendment(s)

(X) recommends it be replaced with CS for House Bill 596

and _____ (X) new title ( ) same title

( ) AND attaches a Letter of Intent ( ) New Fiscal Note

( ) reports it back without recommendation

( ) and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

Clem McKeen

Hayes

Terry Gardiner

Ole Kvasnikoff

Carl Moerlein

OTHER RECOMMENDATIONS:

_____

Chairman

H 60 (rev. 6/77)

Joanne – Please file this someplace safe in case Clark loses his copy.

Mike

chairman's letter on CS HB596 -- draft

The amendment to Section 15, Article IX of the Alaska Constitution, approved by the voters in November 1976, creates the Alaska permanent fund "...the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments."

CS HB596 was passed by the House Special Committee on the Permanent Fund to designate such investments and create appropriate management structures for making them.

CS HB596, ~~varies slightly from HB 596, described in the committee's final report, A Proposal for the Alaska Permanent Fund,~~ creates an Investment Oversight Committee of the legislature (AS 24.11), the Alaska Permanent Fund Corporation (AS 37.11) and the Alaska Enterprise Investment Corporation (AS 44.55).

The committee's intent in creating the Investment Oversight Committee is to provide the legislature with technical review and oversight of the performance of all agencies of the state which perform lending or investment functions.

The committee's intent in creating both the Alaska Permanent Fund Corporation (APFC) and the Alaska Enterprise Investment Corporation (AEIC) is to insure that permanent fund investments are made solely on their financial merits.

In creating a board of trustees to manage the APFC independent from the existing governmental structure the committee intends that the

In creating a board of trustees to manage the APFC and a policy board to manage the AEIC, both independent from the existing governmenta;l

The committee's intent in creating the Alaska Permanent Fund Corporation (APFC) and the Alaska Enterprise Investment Corporation (AEIC) is to insure that the permanent fund maintains a separate and distinct identity. It is further the committee's intent that the management structures of both corporations be independent of the existing governmental structure so that their investment policies and decisions are: (a) non-partisan; (b) prudent; (c) based solely on sound financial criteria.

In allocating the sizeable majority of the permanent fund dedication to the APFC, the committee intends that the funds be managed according to ~~the~~ a highest standard of trust responsibility and prudence.

The capitalization of the AEIC is evidence of the committee's intent that the corporation be required to establish a record of sound financial practice before being funded to any greater extent. It also reflects what the committee found to be a lack of supportable evidence as to the amount of money that can be invested prudently in financially sound small and medium scale productive private enterprise and community development projects.

The committee clearly intends that investments by both corporations be income producing.

The committee's intent in separating the policy and investment functions of the AEIC is to prevent those who make policy from influencing in any manner the corporation's decision on specific investments. This was done to prevent any possibility

that those decisions be influenced by political considerations.

In placing a single administration member on the AEIC policy board, the committee intends that the member will be able to provide the board with information on activities of governmental agencies that might be useful in setting corporation policy. In addition, the administration member is to provide, if the policy board so desires, coordination between the corporation and governmental agencies.

With this single exception, there are no representatives of existing governmental agencies in the management of either corporation. This reflects the committee's intent to prevent any influence that might politicize or otherwise compromise the policy or investment decisions of the corporations.

Insert 1

CS HB596 contains some additions to and deletions from HB 596.

In the "Removal and Vacancies" sections (AS 37.13.070 and AS 44.55.050) the committee added the words "Upon suspension, a vacancy is not created..." to clarify the legally allowable procedure when the legislature is not in session.

In "Powers and Duties" (AS 37.13.030(e)) the committee added the words "...from the principal of the fund..." to allow guarantees to be made from permanent fund earnings if an when legislation granting such discretion is signed into law.

AS 37.13.030(i) was added to clarify any possible misunderstanding with regard to the APFC's authority to make in-state investments. It was not the committee's intent to require such investments; rather, the committee intended the language as a clarification of discretion

already implicit. insert 2

AS 44.55.125(b) and AS 44.55.130 of HB596 were deleted from CS HB596 to reflect the committee's intent that financial arrangements made between the corporation and its creditors be left to their mutual agreement rather than to statutory provisions that might prove to be ~~unreasonable~~ impractical at some future date.

chairman's report -- draft

insert 1

CS HB596 varies slightly from HB596 as described in the committee's final interim report, A Proposal for the Alaska Permanent Fund. In addition to the public hearings and committee meetings held while drafting HB596 (minutes and transcripts of these are to be found in the Appendices to the final interim report), the committee held four public hearings and three work sessions which led to CS HB596.

insert 2

The addition was made simply to clarify the fact that there is nothing inherent in a trust that would prevent in-state investment.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 14, 1978

SUBJECT: Residency qualifications - Alaska Enterprise Investment Corporation - HB 596

TO: Special Committee on the Alaska Permanent Fund

FROM: Billy G. Berrier
Director
Division of Legal Services

You have requested amendments to make the three-year residency requirement which under the bill applies to members of the Board of Trustees of the Alaska Permanent Fund also apply to members of the Alaska Enterprise Investment Corporation Policy Board and Investment Committee. I have assumed this requirement should not apply to the appointee from the executive branch. The following suggested amendments would accomplish that.

1. Page 14, line 29, following "finance." add: "No public member may be appointed to the board who has not been a resident of the state for at least three years." (POLICY BOARD - Sec. 44.55.040)

2. Page 17, line 19, following "fields." add: "No member may be appointed to the committee who has not been a resident of the state for at least three years." (INVESTMENT COMMITTEE - Sec. 45.55.080)

BGB:jpd

TO: Rep. Clark Gruening, Chairman
House Special Committee on the Alaska Permanent Fund

FROM: Mike Doogan

DATE: February 13, 1978

SUBJECT: White, Weld suggestions on HB596 and other matters

At your direction I have prepared this memorandum on the policy changes in HB596 suggested by committee consultants from White, Weld in their communication of January 30, 1978.

1. Page 6, lines 27-29: Amend to read: "it should be used as a savings vehicle with the dispersible income of the corporation managed to allow for its use as needed for purposes designated by law." It also is suggested that this finding be omitted. The effect of this change would be to make this finding apply to the earnings rather than the principal of the fund.

2. Page 7, lines 1-4: Amend to read: "It is the purpose of this chapter to provide a mechanism for the management and investment of those permanent fund assets Allocated to the Alaska Permanent Fund Corporation in a manner consistent with the findings established in sec. 20 of this chapter." The effect of this amendment would be to make the purpose clause apply strictly to the Alaska Permanent Fund Corporation. As it is currently written, it is unclear, at least to this writer, if this purpose section applies solely to the APFC or to the permanent fund as a whole (that is, including the Alaska Enterprise Investment Fund).

3. A note on Sec. 37.13.070 (Page 7, line 23 to Page 8, line 17) reads: "It should be made possible for an interim trustee to be named to fill a 'vacancy' caused by the 'suspension' of a trustee to insure the possibility of a quorum at all times." This raises the question of whether a suspension does cause a vacancy, or if a vacancy is caused only by a removal or some voluntary action of a trustee. It also relates to the question of whether the committee wants the legislature to concur in all removals or to just disapprove the ones it doesn't agree with.

4. Page 9, lines 9-11: Amend to read: "Employees of the corporation, including the executive director, may not be trustees." This change would prevent other corporation employees from sitting on the board of trustees.

5. Page 9, lines 20-29: Amend to read: "In making investments the board shall exercise the judgement and care under the circumstances then prevailing which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it." (This deletes all other language in Sec. 37.13.130(a).) The effect of this change is to remove the trustees from all other "prudent man" restrictions not specified in Sec. 37.13.130 and from the restrictions found on Page 9, lines 27-29.

6. Page 10, line 14: Amend to read: "Subject to (a) and (b) of this section..." This change requires the trustees to consult subsection (b) which reads: "The corporation assets may only be used for income-producing investments."

7. Page 12, line 25 to Page 13, line 4: Delete. This would eliminate a repetition of the bill's conflict of interest provisions, also found on Page 9, lines 12-19.

8. Page 18, lines 1-2: Amend to read: "The committee has sole responsibility to approve all investment proposals regarding productive private enterprises and community development projects in the state, and review all investments in investment grade securities." The effect of this change would be to clarify the AEIC investment committee's authority over "surplus cash management" which, under Page 17, lines 10-11 is left to the corporation president and under Page 19, lines 9-11 may be handled by the APFC. This "surplus cash management" does seem to this writer to need clarification, especially if it is the committee's intent that "surplus cash management" must be done by the APFC. However, I must point out that the effect of the suggested amendment may be to make the investment committee the first agency of review for proposals made to other agencies and not to the AEIC.

9. Page 19, lines 16-18: Amend to read: "In making investments, the committee and staff shall exercise the judgment and care under the circumstances then prevailling which an institutional investor of ordinary prudence..." The effect of this change is to remove the "prudent person" rule and replace it with a "prudent investor" for the AEIC.

10. Page 21, line 28 to Page 22, line 14: Delete. This would eliminate the capital reserve account held by the AEIC as security for the money it borrows. Consultants argue that the amount and terms of such security will vary and that those the AEIC borrows from are likely to require much more stringent security arrangements than those contained in this section.

11. A note on Sec. 44.55.140 (Page 22, lines 15-27) reads: "Should corporation pursue projects or analyze applications for financing?" The question applies to several subsections of this section, which seem to make the AEIC an active rather than a passive entity.

This ends the White, Weld suggestions. Following are two other matters:

12. There is no residency requirement for members of the AEIC policy board or investment committee.

13. (Page 10, lines 8-9) To eliminate conflict with HB 595, this section must be amended.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

February 2, 1978

SUBJECT: HB 596 Permanent Fund

TO: Representative Clark Gruening
Chairman
Special Committee on the Permanent Fund

FROM: Billy G. Berrier
Director
Division of Legal Services

We have found certain technical corrections that we feel should be made to HB 596. These changes reflect changes correlative to decisions made by the interim committee but not picked up in the final re-draft.

SUGGESTED CHANGES

1. Page 1, lines 6 and 7, following the word "revenues" on line 6, add "and to legislative oversight." (With broadening of the legislative oversight committee responsibility to include all agencies involved in lending, borrowing or investing, there is a question as to compliance of the title with the requirement of the Constitution that the subject of the bill shall be expressed in the title.)

2. Page 12, line 25 through page 13, line 4, delete all material. (Because of the wide nature of publicly held stocks the permanent fund corporation will invest in, the conlfict of interest was changed from prohibitory to disclosure. The later section now appears as Sec. 37.13.120 on page 9. This Sec. 37.13.190 should have been deleted when it was replaced by the rewritten section.)

3. Page 12, line 25, add:

Sec. 37.13.190. TAX EXEMPTION. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation,

596

their transfer, and their income are exempt from all taxes and assessments in the state.

(The tax exemption section in Sec. 44.55.190 on page 24 should apply to the Permanent Fund Corporation and the Alaska Enterprise Fund Corporation. Because of the organization of the bill, this requires specific sections for each.)

4. Page 14, lines 10 - 13, delete all material and substitute:

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

Page 14, lines 17 - 21 delete all material and substitute:

Sec. 44.55.030. PURPOSE. The purpose of the corporation is to provide capital at market rates and terms which are not available from other sources on reasonable terms for small and medium scale productive private enterprises and community development projects.

(Under the existing language, the application of the modifer "for which sufficient capital is not available from other sources on reasonable terms" is unclear. It was intended that this apply to both types of projects as in the suggested change.)

5. Page 15, line 12, following "(d)" insert the word "Public". (The member of the executive branch who is on the policy board would be on a full-time pay status. This was not picked up when the section was changed to coincide with the change in trustees in Sec. 37.13.100.)

6. Page 19, line 10, delete the word "it" and substitute "the investment committee". (The referent of the word "it" in the existing language is the investment committee but that referent is somewhat unclear in the existing language.)

7. Page 19, line 27, following the word "of" add:

"financially sound small and medium scale"

(This addition is for consistency since these modifiers are otherwise used uniformly.)

8. Page 20, line 11, delete the word "bank" and substitute "corporation". (Terminology change not picked up when name changed.)

9. Page 23, lines 13 and 14, following the word "members" delete "of the board of trustees" and substitute "of the policy board and investment committee".

Page 23, line 15, following the word "members" delete "of the board of trustees" and substitute "of the policy board and investment committee".

Page 23, lines 22 and 23, following the word "member" delete "of the board of trustees" and substitute " of the policy board and investment committee". (Each reflect name changes for which the necessary correlative changes these sections were not made.)

BGB:jpd

Page 11, line 5

(F) Nothing in this section shall be interpreted to preclude in-state investments that have a risk level and expected yield which are comparable to alternative investment opportunities.

Amendment to HB596

Sec. 37.13.130(e) The corporation may not borrow funds or guarantee, from the principal of the fund, the obligations of others.

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.