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JOINT COMMITTEE REPORT
PERMANENT FUND MANAGEMENT

In making their decision on the Alaska Permanent Fund, the House Special Committee on the Permanent Fund and the House Finance Committee have focused on the single most important question at this time -- the management of the Fund's principal.

It is to be, as the Governor has urged, "...an inviolate trust..." which, in the words of this bill, conserves "...a portion of the state's revenues from mineral resources to benefit all generations of Alaskans...." The contribution rate has been set at 50% of mineral lease bonuses (after deducting payments under the Alaska Native Claims Settlement Act and for the Alaska Renewable Resources Fund), 25% of the mineral lease royalties from present leases, and 50% of future leases.

It is to be an independent trust, yet made accountable in various ways to "...maintain safety of principal while maximizing total return..." (page 4).

Three major concerns -- safety of principal, accountability, and legislative oversight -- are addressed by the legislation.

Safety of Principal

The House Permanent Fund bill provides a framework for fiscally conservative and responsible management of the Fund's principal. It assures and emphasizes the safety of the assets while providing the responsible managers with sufficient investment latitude to achieve superior results. Under the terms of this bill, the Alaska Permanent Fund would consist of a wide variety of quality, high-grade investments.

The Fund is designed to be a trust which focuses on the safety of principal first and the maximization of earnings second (page 4). It is a trust held to a more restricted list of investments than most other fiduciary trusts including the Alaska State Pension Funds and it confirms in law the current state practice of evaluating performance according to nationally recognized and accepted standards. The investment managers are required to maintain investment diversification and are allowed to determine the investment mix of short, intermediate, and long-term investments. The flexibility allowed enables the managers to achieve a sound rate of return on the investments.

The bill provides the investment managers with the authority to place funds in direct obligations of the United States Treasury, federal agency securities, certificates of deposit, high-grade corporate bonds, quality short-term investments, and federally guaranteed loans (pages 8-9). Nothing precludes in-state investments of these types, as long as they fulfill the standards of quality as specified in the bill. Importantly, the bill has a minimum of investment restrictions yet provides a very definite and certain framework. It does not authorize investments in stock or bullion, restricts the purchase of corporate bonds to 25% of the Fund's total investments, and limits the purchase of loans and mortgages to 25% of the total. It also prohibits the Fund from either borrowing or guaranteeing the obligations of others (page 8).

The bill also provides for the handling of gains and losses and income (page 10). Any losses not offset by gains on the sale of securities shall be deducted from income and added to the Fund principal; this protects the Fund principal from erosion. Losses from sales of securities are spread over a period of time equal to the remaining life; this encourages the managers to get rid of bad investments. Capital gains are added to the Fund principal, helping to offset the effects of inflation. The Fund income is defined as the interest received on the investments, and the amount of income available for disbursement will be determined on an averaging basis; this insures a relatively steady income flow.

Accountability

It was the aim of the Committees to establish a management system for the Alaska Permanent Fund which would be protected from political influences but, at the same time, responsive to changes in state policy and accountable to the people through their elected officials. As former Permanent Fund Committee Chairman Clark Gruening has said, "We want insulation without isolation." It was agreed that the best way of achieving these ends was not to place the management within the Department of Revenue, but to create a public corporation distinct from state government. Although the Department of Revenue currently manages the pension funds as well as the general fund, it was agreed that the Permanent Fund, with its fundamentally different goals and large size, should not be in the hands of the same people whose primary duty is managing money for day-to-day use by the state.

The proposed Permanent Fund Corporation, therefore, has its own board of trustees which is made accountable in several ways (page 5). The five members of the board will be appointed by the Governor and confirmed by the Legislature. Terms are three years, staggered, and members may be reappointed subject to reconfirmation. Members may be removed from the board by the Governor only with the consent of the Legislature. The trustees must be three-year Alaskan residents, may not hold any other state or federal office or employment, and a majority must have recognized competence and wide experience in finance, investments, or other business management-related fields. They are subject to the conflict of interest law and must disclose any interest in entities in which corporate assets are invested. They will be paid honorariums competitive with the largest private corporations in the state, and they will employ an executive director who is also subject to the conflict of interest law and responsible for hiring additional staff with the board's approval.

The corporation's operating budget is from the general fund and is subject to the Executive Budget Act (page 10). This provision offers another check on the management and will prevent such things as the hiring of excessive numbers of employees or uncontrolled expense accounts.

Among the board's responsibilities is the publishing of a yearly report (page 11) including a financial statement reviewed by independent auditors, a statement of the earnings from each investment, a market-value appraisal of the investments, and a performance evaluation with recommendations for needed changes. These reports, which must be written in easily understandable language, will be available to the Governor, the Legislature, and the public. The income statement and balance sheet will be published yearly in newspapers and every two years in the election pamphlet.

The bill thus insures that the board of trustees of the Alaska Permanent Fund Corporation will be the best investment managers available in the state, will be accountable to both the executive and legislative branches through appointment and budget processes and oversight by the Legislative Budget and Audit Committee, and will keep the public informed about the Fund's investment performance.

Legislative Oversight

The House Special Committee, like its predecessor, found a need for co-ordinated, continuing oversight of all the state's investment efforts. Accordingly, the review will extend beyond the Alaska Permanent Fund to include the Alaska Renewable Resources Fund, loan programs, the several authorities, and the general fund. As well as building up a body of legislators with detailed knowledge of investments, this new approach will give the Legislature and the broad public better information on the policies and efficiency of the various investment agencies, on the extent to which these agencies conform to statutory intent, and on the extent to which the economic and social goals of the various programs are being achieved.

The House Finance Committee also considered providing in the Permanent Fund bill for a new interim committee to handle this oversight function but decided, in the interests of efficiency, to simply expand the powers and duties of the present Legislative Budget and Audit Committee (pages 1-3). As proposed, the Legislative Budget and Audit Committee will review the plans and reports of all state agencies involved in lending or investing, report to the Legislature its findings and recommendations, and provide for audits and performance evaluations of the Alaska Permanent Fund Corporation's investment program.

It is the Committees' intent, however, that these new duties be assigned to the Legislative Budget and Audit Committee on a trial basis and that that committee report back to the Legislature within two years, recommending how best the oversight duty could be carried out and including consideration of the option of delegating the responsibilities to a separate committee.

The Future

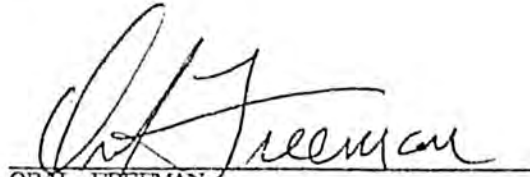
As stated earlier, this bill addresses only the question of Fund management and leaves the separate question of how to use the Fund earnings to later legislation. It merely assures that there will be income and does not preclude any options for its use. Until another determination is made, the Permanent Fund earnings will be deposited in the general fund. No matter what use(s) are decided for the income, the very establishment of a secure trust will be a sign to the national financial community that Alaska is following a responsible fiscal policy.



HUGH MALONE

Chairman

House Special Committee on the
Permanent Fund



ORAL FREEMAN

Vice Chairman

House Finance Committee

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

(2) corporate securities which under the Securities Act of 1933 are freely marketable;

(3) short-term investments which meet the requirements of (a) and (b) of this section except for the term of the investments.

(4) loans secured by first liens on unencumbered realty or leaseholds;

(1) obligations of, or obligations insured by 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) certificates of deposit issued by United States domestic banks which are members of the Federal Deposit Insurance Corporation and which are secured as to the payment of principal and interest in accordance with Alaska law and for which a generally recognized secondary market exists;

(4) corporate debt securities which are rated A or better by a nationally recognized rating service;

(5) short-term corporate promissory notes of the highest rating assigned by a nationally recognized rating service.

(6) bankers' acceptance drawn on and accepted by United States bank each of which have a combined capital and surplus aggregating at least \$200,000,000;

(7) repurchase agreements, the securities underlying the agreements being any of the items in (1) - (5) of this subsection;

(8) notes secured by mortgages of fully developed commercial or residential real estate if the mortgages are insured by a corporation which is authorized to do business in Alaska and has combined capital, surplus and reserves aggregating at least \$20,000,000;

(9) notes secured by conventional residential mortgages if the originating financial institution retains at least 25% of the mortgage for a minimum of two (2) years;

(10) notes secured by mortgages of fully developed commercial real estate if the originating financial institution retains at least 25% of the mortgage;

(11) the guaranteed portion of Federal Small Business Administration loans;

(12) first lien real estate mortgages guaranteed by the Federal Veterans Administration;

(13) FHA insured portion of business and industrial loans made under the Rural Development Act of 1972;

(14) the guaranteed portion of Farmer's Home Administration loans.

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Suggested List of Investments

(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) short-term investments which meet the requirements of (a) and (b) of this section except for the term of the investments ((a) and (b) require the investments to be income-producing and prudent);

(4) corporate securities which under the Securities Act of 1933 are freely marketable;

Option 1

(5) loans secured by first liens on unencumbered realty or leaseholds;

Add qualifying paragraph:

No portion of the assets of the corporation may be used for the purchase of loans if immediately following the purchase the proportional (market) value of all loans would exceed 30 percent of the assets of the corporation.

Option 2

(5) loans secured by first liens on unencumbered realty or leaseholds if the offering financial institution retains at least 25 percent.

INVESTMENTS PROHIBITED BY OMISSION

1. COMMON STOCK
2. PREFERRED STOCK
3. DIRECT LOANS
4. SECONDARY PERSONAL LOANS
5. NO SECOND MORTGAGES
6. FOREIGN SECURITIES
7. GOLD, SILVER OR PLATINUM
8. NONRATED CORPORATE DEBT
9. REAL ESTATE EQUITY



Alaska State Legislature

1975

Source:

SCS CSSS HJR 39(Resources) am S

HOUSE JOINT RESOLUTION NO. 39

Proposing an amendment to the Alaska Constitution, establishing an Alaska Permanent Fund for certain proceeds derived from non-renewable resources.

and the election laws of the state.

* Sec. 4. The amendments proposed by this resolution if adopted by the voters at the next general election shall become effective 90 days after the certification of the election returns by the lieutenant governor.

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

* Section 1. Article IX, sec. 7, Constitution of the State of Alaska, is amended to read:

SECTION 7. DEDICATED FUNDS. The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

* Sec. 2. Article IX, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 15. ALASKA PERMANENT FUND. At least twenty-five per cent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a 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. All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law.

* Sec. 3. The amendments proposed by this resolution shall be placed before the voters at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska,

Introduced: 2/22/79
Referred: Special Permanent
Fund Committee and Finance

1 IN THE HOUSE

BY THE SPECIAL
PERMANENT FUND COMMITTEE

2 HOUSE BILL NO. 281

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

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

11 ARTICLE IV. INVESTMENT OVERSIGHT COMMITTEE.

12 Sec. 24.20.600. INVESTMENT OVERSIGHT COMMITTEE ESTABLISHED. The
13 Investment Oversight Committee is established as a permanent interim
14 committee of the legislature. The establishment of the committee recog-
15 nizes the need of the legislature for technical review and oversight of
16 the performance of all agencies of the state which perform lending or
17 investment functions.

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

28 Sec. 24.20.620. PURPOSES. The purposes of the Investment Over-
29 Sight Committee are to

1 (1) monitor and report

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

4 (B) the extent to which the performance of these agen-
5 cies has contributed to the fiscal, financial, economic and social
6 improvement of the state and its citizens,

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

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

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

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

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

28 (b) When a member of the Investment Oversight Committee files a
29 declaration of candidacy for an elective office other than that of

1 member of either house of the legislature, and he has not resigned from
2 membership on the committee, his committee membership terminates on the
3 date of filing.

4 Sec. 24.20.650. VACANCIES. When a vacancy occurs in the statutory
5 or appointive membership of the Investment Oversight Committee, the
6 presiding officer of the house incurring the vacancy shall choose a
7 successor. If the office of the president of the senate or speaker of
8 the house of representatives becomes vacant and a vacancy from the
9 affected house occurs among the membership of the committee, the re-
10 maining committee members from the house incurring the vacancy shall
11 appoint a new member.

12 Sec. 24.20.660. MEETINGS. The Investment Oversight Committee may
13 meet during sessions of the legislature and during the interim between
14 sessions at such times and places in the state as the chairman may
15 determine. Members may receive, for the minimum time required to get to
16 and from meetings and for the period while attending meetings, the same
17 travel and per diem allowances provided by law for members of the
18 legislature when attending sessions, except that members of the commit-
19 tee receive no per diem during legislative sessions other than the per
20 diem allowance paid to other members of the legislature.

21 Sec. 24.20.670. POWERS. The Investment Oversight Committee has
22 the power to

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

27 (2) hold public hearings, administer oaths, issue subpoenas,
28 compel the attendance of witnesses and production of papers, books,
29 accounts, documents and testimony, and have the deposition of witnesses

1 taken in a manner prescribed by court rule or law for taking depositions
2 in civil actions;

3 (3) require all state officials and agencies of state govern-
4 ment to give full cooperation to the committee or its staff in assem-
5 bling and furnishing requested information;

6 (4) hold public hearings on the confirmation of the members
7 of the Board of Trustees of the Alaska Permanent Fund Corporation, and
8 the members of the Board of Trustees of the Alaska Renewable Resources
9 Corporation;

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

12 (6) make recommendations concerning the structure and operat-
13 ing practices of all agencies of the state which perform lending or
14 investment functions;

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

18 (8) enter into and enforce all contracts necessary or desira-
19 ble for the functions of the committee.

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

25 Sec. 24.20.690. DUTIES. The Investment Oversight Committee shall

26 (1) report to the legislature its recommendations relating to
27 the confirmation of suggested appointees to the Board of Trustees of the
28 Alaska Permanent Fund Corporation and the Board of Trustees of the
29 Alaska Renewable Resources Corporation;

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

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

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

9 (5) present to the legislature within 30 days after the con-
10 vening of each regular session a review of the report of the governor
11 under AS 37.07.020(b) with recommendations for any needed legislation;

12 7 (6) in conjunction with the finance committee of each house
13 recommend annually to the legislature the investment policy for the
14 general fund surplus and for the income from the permanent fund;

15 (7) provide for an annual post audit and annual operational
16 and performance evaluation of the Alaska Permanent Fund Corporation in-
17 vestments and investment programs.

18 Sec. 24.20.700. RECORDS. The Investment Oversight Committee shall
19 keep a complete file of all reports presented to it and all reports
20 presented by it to the legislature or to a legislative committee.

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

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

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

27 (2) alternative investment policy for the general fund sur-
28 plus.

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

1 CHAPTER 13. ALASKA PERMANENT FUND.

2 Sec. 37.13.010. ALASKA PERMANENT FUND. (a) Under art IX, sec. 15
3 of the state constitution, there is established as a separate fund the
4 Alaska permanent fund. The Alaska permanent fund consists of

5 (1) one hundred per cent of mineral lease bonuses after
6 deduction of any amounts allocated

7 (A) to the Alaska Native Fund under the Alaska Native
8 Claims Settlement Act and implementing state legislation; and

9 (B) in AS 37.11.020 to the Alaska renewable resources
10 development fund;

11 (2) thirty per cent of all mineral lease rentals, royalties,
12 royalty sale proceeds, and federal mineral revenue sharing payments
13 received by the state; and

14 (3) any other money appropriated or otherwise allocated by
15 law to the Alaska permanent fund.

16 (b) Payments due the Alaska permanent fund under (a) of this
17 section shall be made to the fund once each month.

18 (c) The Alaska permanent fund shall be managed by the Alaska
19 Permanent Fund Corporation established in this chapter.

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

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

29 (2) the corporation's [primary] goal should be to maximize

1 total return while maintaining safety of principal;

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

5 Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to
6 provide a mechanism for the management and investment of those permanent
7 fund assets allocated to the Alaska Permanent Fund Corporation in a
8 manner consistent with the findings established in AS 37.13.020.

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

16 Sec. 37.13.050. COMPOSITION OF BOARD OF TRUSTEES. (a) The Board
17 of Trustees of the Alaska Permanent Fund Corporation consists of three
18 members appointed by the governor and confirmed by a majority of the
19 members of the legislature in joint session.

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

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

27 Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may
28 remove a member of the board from office by and with the consent of a
29 majority of the members of the legislature in joint session. A removal

1 by the governor shall be in writing and state the reason for removal.
2 If the legislature is not in session, the governor may suspend a member
3 of the board. Upon suspension, a vacancy is not created but the board
4 member may not participate in board business and may not be counted for
5 purposes of establishing a quorum. The joint session shall be held
6 within 30 days from the date of removal if the removal occurs while the
7 legislature is in session or within 30 days of convening of the legis-
8 lature if the legislature is not in session. If the legislature refuses
9 to consent to his removal, the board member shall be reinstated to his
10 position.

11 (b) A vacancy on the board shall be promptly filled by appointment
12 by the governor and confirmation by a majority of the members of the
13 legislature in joint session, and an appointee to fill a vacancy shall
14 hold office for the balance of the term for which his predecessor on the
15 board was appointed. If a vacancy arises on the board while the legis-
16 lature is not in session, the governor may appoint an interim board
17 member who shall exercise all powers of a permanent board member until
18 such time as the legislature in joint session fails to confirm the
19 appointment of the interim board member

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

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

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

29 (c) At least one member of the board shall have recognized compe-

1 tence and wide experience in finance, investments, or other business
2 management-related field. No two members may be appointed to the board
3 who share substantially similar professional or occupational back-
4 grounds.

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

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

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

18 Sec. 37.13.120. CONFLICTS OF INTEREST. (a) Members of the board
19 are subject to the provisions of AS 39.50.

20 (b) If a member or employee acquires, owns or controls an in-
21 terest, direct or indirect, in an entity or project in which corporation
22 assets are invested, he shall immediately disclose the interest to the
23 board. The disclosure is a matter of public record and shall be in-
24 cluded in the minutes of the board meeting next following the disclo-
25 sure.

26 Sec. 37.13.130. POWERS AND DUTIES. (a) The prudent-man rule is
27 applicable to the board in the management and investment of permanent
28 fund assets. The prudent-man rule as applied to investments of the
29 corporation means that in making investments the board shall exercise

*What are the requirements
to keep minutes in a report to
stock holders - ~~of~~
residents*

1 the judgment and care under the circumstances then prevailing which an
2 institutional investor of ordinary prudence, discretion, and intel-
3 ligence exercises in the management of large investments entrusted to it
4 not in regard to speculation but in regard to the permanent disposition
5 of funds, considering the probable income from them as well as probable
6 safety of capital.

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

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

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

14 (e) The corporation may not borrow funds or guarantee from princi-
15 pal of the fund the obligations of others.

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

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

28 (1) No portion of the assets of the fund may be used in the
29 purchase of stock of a corporation which is not paying dividends on that

1 stock in cash at the time of purchase; nor in the purchase of bonds of
2 any corporation, upon which any regular interest payment has been de-
3 faulted within five years before purchase, except bonds never in default
4 but which have been outstanding for less than five years.

5 (2) No portion of the assets of the corporation may be used
6 for the purchase of stock if immediately following the purchase the
7 proportionate market value of all stocks held by the corporation would
8 exceed 30 per cent of the assets of the corporation.

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

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

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

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

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

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

13 Sec. 37.13.160. BOARD BUDGET. The board's operating budget is
14 from the general fund and is subject to the Executive Budget Act (AS
15 37.07).

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

19 Sec. 37.13.180. REPORTS AND PUBLICATIONS. No later than Septem-
20 ber 30 of each year, the board shall publish a report of the corporation
21 for distribution to the governor, legislature, and the public. The
22 report shall be written in easily understandable language. The report
23 must include financial statements audited by independent outside audi-
24 tors, a statement of the amount of money received by the permanent fund
25 from each investment during the period covered, a statement of corpora-
26 tion investments including an appraisal at market value, a description
27 of corporation investment activity during the period covered by the
28 report, a comparison of the corporation performance with the intended
29 goals contained in AS 37.13.020, an examination of the impact of the

1 investment criteria of this chapter on the corporation portfolio with
2 recommendations of any needed changes and any other information the
3 board believes would be of interest to the governor, the legislature,
4 and the public. The annual income statement and balance sheet of the
5 corporation shall be published in at least one newspaper in each judi-
6 cial district. The income statement and balance sheet for the two
7 fiscal years preceding the publication of the election pamphlet under
8 AS 15.57 shall be included in that pamphlet. The board may also publish
9 other reports it considers desirable to carry out its purpose.

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

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

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

27 Sec. 37.13.220. DEFINITIONS. In this chapter,

28 (1) "board" means the Board of Trustees of the Alaska Per-
29 manent Fund Corporation;

1 (2) "corporation" means the Alaska Permanent Fund Corpora-
2 tion.

3 * Sec. 4. AS 39.25.110 is amended by adding a new paragraph to read:

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

6 * Sec. 5. AS 39.50.200(9) is amended by adding a new subparagraph to
7 read:

8 (QQ) Board of Trustees of the Alaska Permanent Fund
9 Corporation.

10 * Sec. 6. TRANSITION. The commissioner of revenue shall transfer all
11 funds of the Alaska permanent fund to the Alaska Permanent Fund Corporation
12 established by this Act after request for transfer is made by the board of
13 trustees of the corporation.

14 * Sec. 7. AS 37.10.065(c) is repealed.

15 * Sec. 8. AS 37.10.065(a) and (b) are repealed.

16 * Sec. 9. Section 8 of this Act takes effect upon transfer of the funds
17 of the Alaska permanent fund to the Alaska Permanent Fund Corporation as
18 provided in sec. 6 of this Act. The remainder of this Act takes effect
19 immediately in accordance with AS 01.10.070(c).

PERMANENT FUND BALANCES
UNDER
ALTERNATIVE LEASING AND PERMANENT FUND SCENARIOS

Year	Bonus	Production	Royalty <u>12.5%</u>	Permanent Fund Contribution		Permanent Fund Balance	Permanent Fund Contribution		Permanent Fund Balance
				50% Bonus	30% royalties		50% Bonus	50% Royalties	
1	100.0			50.0		50.0	50.0		50.0
2						50.0			50.0
3						50.0			50.0
4						50.0			50.0
5						50.0			50.0
6		100.0	12.5	3.7		53.7	6.2		56.2
7		100.0	12.5	3.7		57.5	6.2		62.5
8		100.0	12.5	3.7		61.2	6.2		68.7
9		100.0	12.5	3.7		65.0	6.2		75.0
10		100.0	12.5	3.7		68.7	6.2		81.2
11		100.0	12.5	3.7		72.5	6.2		87.5
12		100.0	12.5	3.7		76.2	6.2		93.7
13		100.0	12.5	3.7		80.0	6.2		100.0
14		100.0	12.5	3.7		83.7	6.2		106.2
15		100.0	12.5	3.7		87.5	6.2		112.5
			<u>25%</u>						
1	0			-		-	-		-
2				-		-	-		-
3				-		-	-		-
4				-		-	-		-
5				-		-	-		-
6		100.0	25.0	7.5		7.5	12.5		12.5
7		100.0	25.0	7.5		15.0	12.5		25.0
8		100.0	25.0	7.5		22.5	12.5		37.5
9		100.0	25.0	7.5		30.0	12.5		50.0
10		100.0	25.0	7.5		37.5	12.5		62.5
11		100.0	25.0	7.5		45.0	12.5		75.0
12		100.0	25.0	7.5		52.5	12.5		87.5
13		100.0	25.0	7.5		60.0	12.5		100.0
14		100.0	25.0	7.5		67.5	12.5		112.5
15		100.0	25.0	7.5		75.0	12.5		125.0

HOUSE SPECIAL PERMANENT FUND COMMITTEE

11 April 1979 -- Mark-up

HB 281

Sec 1 Investment Oversight Committee.

- Speaker, President, + 3 members each house.
- Oversight and audit function for investment of all state funds.
- Recommendations on confirmation and investments.
- Powers similar to Legislative Budget & Audit otherwise.

OPTIONS

- HB 281 (Investment Oversight Committee).
- Delegate to existing LB&A Committee.
- Delegate to standing committees (Finance).
- Delete function.

Sec 2 Report by Governor on investments as part of budget message.

OPTIONS

- Delete (means using existing reporting by agencies).

Sec 3 Alaska Permanent Fund (37.13 - new chapter).

010 APF contributions to principal.

- 100% mineral lease bonuses (net of other deductions).
- 30% royalties, rentals, federal revenues
(5% above existing rate, about \$18-20 million per year today).
- Other appropriations or contributions by law.
- Payments to principal monthly (same as present schedule).
- Management will be by APF Corporation (now function of Department of Revenue).

020 Findings on APF.

030 Purpose.

- * Strike "primary", P. 6 L. 29.

040 Establishes Corporation as separate entity, within Department of Revenue.

050,60,70 Establishes 3 member Board of Trustees, appointed by Governor, confirmed by legislature.

- * Increase Board?
- * Confirmation and removal requirement may be challenged by executive.

080 Qualifications of Board.

- * Perhaps (c) should be deleted.

130

- P. 10 L. 13, reference to Investment Oversight Committee.
- * P. 10 L. 18, word "not" questioned.
- P. 10 L. 20, eligible investments gives broader range than current law (see separate sheet comparing).
- P. 11 L. 12, Investment Oversight Committee.

140 Gains and losses.

Provides that capital gains and losses be netted out, remaining losses to be made up over time. Remaining capital gains become part of principal.

150 Provides for calculating income as lesser of current income or 5 year average. Income from interest and dividends only, after adjustment for losses charged to that year.

160 Operating expenses.

- * General Fund or Permanent Fund income?

170 Reference to Investment Oversight Committee.

200 Political activity.

- * First sentence may be useless.

* items refer to problems or questions raised previously and noted here for your consideration.

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

(2) loans secured by first liens on un-encumbered realty or leaseholds;

(3) corporate securities which under the Securities Act of 1933 are freely marketable;

(4) short-term investments which meet the requirements of (a) and (b) of this section except for the term of the investments.

((a) and (b) require the investments to be income-producing and prudent.)

(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) certificates of deposits issued by United States domestic banks which are members of the Federal Deposit Insurance Corporation and secured as to the payment of principal and interest in accordance with Alaska law;

(4) corporate investment-grade securities;

(5) bankers' acceptance drawn on and accepted by United States banks which each have a combined capital and surplus aggregating at least \$100,000,000;

(6) repurchase agreements, the securities underlying the agreements being any of the items in (1) — (5) of this subsection;

(7) deposits of federally insured savings and loan associations not to exceed 10 per cent of each savings and loan association's deposits exclusive of federal, state, and municipal deposits;

(8) fixed-term certificates of debentures of federally insured credit unions not to exceed 10 per cent of each credit union's shares.

The case for a specific, restricted list of investments is that it reduces the risks that can be taken by the fund and lessens the skills that are required of the fund managers.

The case for a general list of (trust grade) investments is that it will allow the managers to adjust to market changes and seek more than minimal returns, e.g. Treasury bills, which are issued for up to one year, have ranged from 3% to 9% and back over the past decade. As for the sound performance of the managers, that is favored by having a bottom-line that can be measured by national standards, by the fund's ability to pay salaries above the civil service rate, and by the fund not being forced to accept loans from state programs.



Alaska State Legislature

House

April 3, 1979

JUNEAU ALASKA

MEMORANDUM

TO: The Honorable Ernie Haugen
House Finance Committee

FROM: Milt Barker, ^{AB} Fiscal Analyst
Legislative Finance Division

SUBJECT: Power Project Financing

Following is a summary of the various funding sources and mechanisms that might be used to finance power projects:

1. General Funds can be appropriated to fund entire projects, front-end costs (reconnaissance and feasibility studies, engineering, etc.), reserves for revenue bonds, or partial project costs. Appropriation of general funds can be designated as coming from the reserve for energy facilities development account which is allocated 5% of mineral rents, royalties, and bonuses, or the reserve for capital outlay account which is allocated 25% of mineral revenues.

If the appropriation is made as a grant, it should probably be viewed as a subsidy. This would allow undertaking of projects that would not otherwise occur, although it is conceivable that a project would be subsidized even if capable of being conventionally financed in order to lower costs to users, say to fight inflation or provide or promote economic development.

If the general funds are appropriated as a loan or to the power project revolving fund or water resources revolving fund to be passed on as a loan which will ultimately be paid back out of project revenues, the appropriation may or may not involve a subsidy depending on the terms of the loan.

The payback of loans from these revolving funds will eventually create another source of funding; however, at present there are essentially no unloaned funds in these revolving funds.

2. Revenue bonds can be sold by the State or the Alaska Power Authority for construction costs. If the State were to combine its full faith and credit with the pledged revenues in a "double-barreled" bond a lower interest rate could be obtained. (See attached materials on HB 241 which proposes this combined revenue-general obligation bond.) Such bonds would need voter approval.

3. Guarantees of revenue bonds have been proposed from permanent fund income in HB 414. Bond underwriters estimate this technique could get interest rates down to within 1/4 to 1/2 of a percentage point of G.O. bonds. The advantage of this proposal is that permanent fund income is the only available source of revenue that can legally be dedicated, thus avoiding the necessity of making a large appropriation to a reserve or guarantee fund to assure the bondholder of monies to be paid in the event of a default.

4. Subsidies of revenue bonds are proposed in CSHB 414 (attached) by setting aside 50% of permanent fund income for guarantees of bonds for which it is estimated that project revenues will not be sufficient to pay debt service.

5. G.O. bonds or double-barrel bonds could be issued for projects that were not capable of paying the debt service. This would be another way of providing subsidies where needed and determined to be appropriate.

6. A loan can be made from the permanent fund principal. However, it will usually be cheaper for the State to issue bonds, at least G.O.'s or guaranteed revenue bonds, at tax-exempt interest rates of say 6% than to appropriate or loan their general and permanent funds which can be invested in taxable securities earning more like 8%.

7. The Alaska renewable resources corporation could fund power projects from their 5% of mineral revenues; however, generally their mandate is to assist innovative projects rather than standard hydroelectric facilities.

MBB:pw

Attachments

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF-STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

February 22, 1979

John Nuveen & Co. Incorporated
209 South LaSalle Street
Chicago, Illinois 60604

C. Richard Walker
Orrick, Herrington, Rowely & Sutcliffe
600 Montgomery Street
San Francisco, California 94111

Subject: HB 241

The enclosed bill is now pending before the House Finance Committee and in preparation for discussion on the bill, I am requesting your official opinions on the following:

For John Nuveen & Co. response:

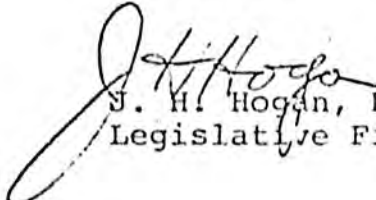
Would a pledge of the "State's full faith, credit and resources" and a pledge of specific program revenues to a bond issue create a problem in marketing bonds issued subject to this proposed provision?

For Orrick, Herrington, Rowely & Sutcliff response:

Would the proposed language have an adverse effect upon the current tax exempt status of State of Alaska general obligation bonds?

Since the measure is currently under consideration by the House Finance Committee and the Legislature is generally concerned with an expeditious handling of this year's business, we would appreciate your comments on these and any other points you might feel important as soon as possible.

Sincerely,


J. H. Hogan, Director
Legislative Finance Division

Enclosure: HB 241

CC: John Messenger, Acting
Commissioner of Revenue

ORRICK, HERRINGTON, ROWLEY & SUTCLIFFE
COUNSELORS AND ATTORNEYS AT LAW

ELEVENTH FLOOR
600 MONTGOMERY STREET
SAN FRANCISCO, CALIFORNIA 94111
TELEPHONE (415) 392-1122

CABLE "ORRICK"
TELEX 34-0973

ERIC SUTCLIFFE
WALTER G. OLSON
WILLIAM G. HOFFE
SIDNEY E. ROBERTS
JAMES H. BENNETT
C. RICHARD WALKER
JAMES F. CRAFTS, JR.
JAMES K. HAYNES
RICHARD C. SALLADIN
RICHARD J. LUCAS
CARLO S. FOWLER
DONALD A. SLICHTER
PAUL A. WEBER
JAMES R. MADISON
BILLYAN C. KINSELL, JR.
WILLIAM L. HOISINGTON
THOMAS R. SHEARER, JR.
CAMERON W. WOLFE, JR.
RALPH C. WALKER

M. PETER ULLEVAND
WILLIAM E. DONOVAN
ROBERT J. GLOSTEIN
W. REECE BADER
PAUL J. SAK
MARTIN L. B. CATTANI
WILLIAM L. RILEY
E. THOMAS URTMAN
EDWARD B. ROBIN
JACK E. FERGUSON
ALVIN W. FARGO III
JACK E. OWENS
WILLIAM F. ALDERMAN
RICHARD E. V. HARRIS
G. KIP EDWARDS
RAYMOND G. ELLIS
STEVEN A. BRICK
JOHN F. SEEDAL

February 27, 1979

Mr. J. H. Hogan
Director
Legislative Finance Division
State of Alaska
Pouch WF, State Capitol
Juneau, Alaska 99811

Re: House Bill No. 241

Dear Mr. Hogan:

I received your letter of February 22 yesterday.
In response to your question:

The federal income tax status of state and local government bonds must be determined individually by each issue or series. I can imagine general obligation bonds additionally secured by revenues which would be taxable "industrial development bonds" under the rules of the Internal Revenue Service. I can also imagine general obligation bonds additionally secured by revenues on which the interest would be exempt from federal income taxation. If a future issue of bonds pursuant to House Bill No. 241 were held to be taxable, that would not affect the tax status of any other general obligation bonds of the State.

More generally, this bill seems to me to state only the bare bones of the idea. If it is being seriously considered, you may wish to expand the language of the bill to more adequately provide for general obligation bonds additionally secured by revenues. In that connection, I am enclosing a copy of a comparable California statute.

Sincerely yours,

C. Richard Walker

cc: Mr. John R. Messenger

Enclosure

(c) "Legislative body" means the legislative body of the local agency as defined in Section 53000.

(d) "Revenue-producing facility" means an improvement, works, system or facility furnishing or providing services or products for which the local agency is authorized to impose a charge.

(e) "Pledge" means pledge, assign, place a charge upon and place a lien upon. (Added Stats. 1961, c. 1157, p. 2900, § 1.)

Library references: Statutes 179; C.J.S. Statutes § 315; Words and Phrases (Perm. Ed.)

§ 53501. Applicability of article. This article applies to all local agencies which have the power to issue general obligation bonds to acquire, construct or finance a revenue-producing facility. (Added Stats. 1961, c. 1157, p. 2900, § 1.)

§ 53502. Authority of legislative body to pledge revenues. In any ordinance, resolution, order or indenture providing for the issuance of general obligation bonds of a local agency to provide funds for the acquisition, construction or financing of a revenue producing facility or any addition to, or extension or improvement of a revenue-producing facility, the legislative body of the local agency may pledge all or any part of the revenues of such facility to the payment or security of such general obligation bonds and the interest thereon in such manner and upon such terms as the legislative body may deem advisable. (Added Stats. 1961, c. 1157, p. 2900, § 1.)

Notes of Decisions

Library references

Counties 187.
Municipal Corporations 950(15).
C.J.S. Counties § 276.
C.J.S. Municipal Corporations § 1057.

1. In general

The 1956 bonds issued by Department of Airports of City of Los Angeles were not payable out of airport revenue fund, and therefore 1963 amendment of city charter to eliminate requirement that all of fund, after payment of certain current

expenses, should be set aside for payment of 1956 bonds did not impair security of 1956 bonds, where bonds on their face stated that they were issued in compliance with § 43600 et seq., that did not indicate that any particular fund should constitute security for indebtedness, and face of each bond contained unconditional promise of city to pay bearer amount stated on presentation and surrender of bond. City of Los Angeles v. Dannenbrink (1965) 44 Cal.Rptr. 624, 234 C.A.2d 642.

§ 53503. Terms of pledge; powers of legislative body. In connection with such pledge the legislative body may provide in such ordinance, resolution, order or indenture such covenants, promises, restrictions and provisions as it may deem necessary or desirable including, but not limited to, covenants, promises, restrictions and provisions relating to the use of bond proceeds, the maintenance, opera-

§ 53503

CITIES, COUNTIES, ETC.

Title 5

tion and preservation of such facility, the rates and charges to be established and collected for the services or products furnished or provided by such facility, the incurring of additional indebtedness payable from such revenues, and the establishment, maintenance and use of reserve funds, sinking funds, interest and redemption funds, maintenance and operation funds and other special funds for the payment or security of the bonds and the interest thereon. In connection with such pledge and in connection with such covenants, promises, restrictions and provisions the legislative body shall have, but shall not be limited to, the powers specified in the Revenue Bond Law of 1941 (Chapter 6 of this part). (Added Stats.1961, c. 1157, p. 2901, § 1.)

Notes of Decisions

1. In general

The 1956 bonds issued by Department of Airports of City of Los Angeles were not payable out of airport revenue fund, and therefore 1963 amendment of city charter to eliminate requirement that all of fund, after payment of certain current expenses, should be set aside for payment of 1956 bonds did not impair security of 1956 bonds, where bonds on their face stated

that they were issued in compliance with § 43600 et seq. that did not indicate that any particular fund should constitute security for indebtedness, and face of each bond contained unconditional promise of city to pay bearer amount stated on presentation and surrender of bond. City of Los Angeles v. Dannenbrink (1965) 44 Cal.Rptr. 624, 234 C.A.2d 642.

§ 53504. Pledge and payment and security provisions additional to existing law. The pledge and the payment and security provisions authorized by this article shall be in addition to, and not in derogation of, any provisions permitted or required by law, charter or the Constitution of the State of California relating to payment of general obligation bonds from the proceeds of ad valorem taxes or ad valorem assessments and relating to the levy and collection of such taxes or assessments. (Added Stats.1961, c. 1157, p. 2901, § 1.)

Notes of Decisions

1. In general

The 1956 bonds issued by Department of Airports of City of Los Angeles were not payable out of airport revenue fund, and therefore 1963 amendment of city charter to eliminate requirement that all of fund, after payment of certain current expenses, should be set aside for payment of 1956 bonds did not impair security of 1956 bonds, where bonds on their face

stated that they were issued in compliance with § 43600 et seq. that did not indicate that any particular fund should constitute security for indebtedness, and face of each bond contained unconditional promise of city to pay bearer amount stated on presentation and surrender of bond. City of Los Angeles v. Dannenbrink (1965) 44 Cal.Rptr. 624, 234 C.A.2d 642.

§ 53505. Statement of intention. If the legislative body intends to exercise the powers granted by this article it shall make a statement of such intention in any ordinance, resolution or order calling or providing for an election to authorize the general obligation bonds for a revenue producing facility. Such statement may be general only or

nuveen

John Nuveen & Co. Incorporated

209 South LaSalle Street, Chicago, Illinois 60604

(312) 621-3000

March 1, 1979

J. H. Hogan, Director
Legislative Finance Division
The Legislature
State of Alaska
Pouch "WF" - State Capitol
Juneau, Alaska 99811

Subject: HB 241

Dear Mr. Hogan:

Your letter of February 22 requested a response from us to the question of possible marketing problems for bonds of the State of Alaska carrying both a full faith, credit and resources pledge and a pledge of specific program revenues.

The short answer is there should be no marketing problems if such a provision were included on certain State bonds. This is not an unusual provision with respect to municipal bonds. It is used less perhaps in financing state projects than it is in financing local government projects. A bond of this type is typically referred to as "double barreled," referring to the two different sources of security.

Acceptance in the marketplace varies, however, from issue to issue depending on the investors' analysis of the quality of the two pledges. If the full faith and credit pledge of an issuer is small relative to the size of the project being financed, then the specific program revenues pledged would be the determining factor and the bonds would sell like revenue bonds. On the other hand, with the substantial impact of a large tax base vis-a-vis the amount of debt service required for the project, then the bonds would trade like general obligation bonds.

A further factor should be kept in mind: if bonds of this type can be shown to be adequately serviced from the specific revenues pledged, most analysts and investors would remove the amount of such bonds from the full faith and credit debt when analyzing such debt, even though there would remain the liability of the full faith and credit to service the bonds in the event that the specific revenues fell short. A few analysts, however, would say that since the bonds carry the full faith and credit, they must be included in the general obligation debt totals. I believe, however, that this is a

J. H. Hogan, Director
Legislative Finance Div.
State of Alaska

- 2 -

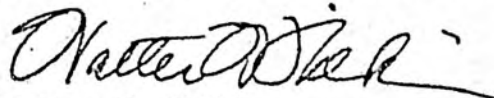
March 1, 1979

minority view. As long as a conservative analysis would indicate that bonds could reasonably be expected to be paid from the specifically pledged revenues, I believe that a general obligation debt statement would not be impacted by that debt.

If you need further discussion of this subject, please don't hesitate to let me know.

Sincerely,

JOHN NUVEEN & CO. INCORPORATED



Walter W. Filkin
Vice President & Manager
Public Finance Department

WWF:RMc

cc: John Messenger, Acting
Commissioner of Revenue

Benier

Original sponsor: Gardiner

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 241

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state bonding."

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

8 * Section 1. AS 37.15.010 is amended by adding a new subsection to read:

9 (b) General obligation bonds issued for acquiring, constructing,
10 improving and equipping a state-owned utility or other revenue-generat-
11 ing enterprise may be additionally secured by a pledge of the revenue
12 derived from operation. The bonds may contain the covenants which the
13 state bond committee considers advisable concerning

14 (1) the rates or fees to be charged for services rendered by
15 the public facilities, the revenue of which is pledged to the payment of
16 the bonds;

17 (2) the deposit and use of the revenue of the public facili-
18 ties;

19 (3) the issuance of additional bonds payable from revenue of
20 the public facilities;

21 (4) the rights of the bondholders in case of default in the
22 payment of the principal or interest on the bonds, including the appoint-
23 ment of a receiver to operate the public facilities;

24 (5) other covenants as the state bond committee determines.
25
26
27
28
29

1 IN THE HOUSE

BY THE SPECIAL PERMANENT
FUND COMMITTEE

2 CS FOR HOUSE BILL NO. 414

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 for an Act entitled: "An Act relating to income of the Alaska permanent
7 fund; and providing for an effective date."

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

9 * Section 1. AS 37.13 is amended by adding new sections to read:

10 Sec. 37.13.190. PERMANENT FUND INCOME. Income from investments
11 of the permanent fund becomes part of the permanent fund and shall be
12 deposited in the permanent fund annually. The income may be used to
13 provide for guarantees of indebtedness issued by governmental agencies
14 of the state for power projects.

15 Sec. 37.13.200. GUARANTEES OF INDEBTEDNESS. The Board of Trustees
16 of the Alaska Permanent Fund Corporation is authorized to enter into
17 agreements with any public authority of this state or any municipality
18 or other governmental agency of the state, providing for a guarantee of
19 the payment when due, whether at maturity or by sinking fund redemption
20 but not by acceleration of maturity, of the principal of and interest on
21 bonds, notes or other indebtedness issued to finance projects for con-
22 struction of electric generating and related transmission facilities,
23 this guarantee to be payable solely from the income derived from the
24 Alaska permanent fund established by AS 37.13.010 (other than income
25 derived from the Alaska enterprise development fund established by AS
26 44.55.010). The agreements shall contain such terms, provisions, and
27 covenants in furtherance of the purposes of AS 37.13.190 - 37.13.240 as
28 the board of trustees determines.
29

1 Sec. 37.13.210. SUBSIDIES OF INDEBTEDNESS. The board shall
2 require as a condition of a guarantee an analysis which compares the
3 anticipated revenues from the project which will be available after
4 payme of estimated expenses of operation and maintenance to an
5 assumed schedule, approved by the board, of debt service which would
6 be payable if the bonds, notes or other indebtedness were publicly
7 marketed with a guarantee under AS 37.13.200. If the net revenues
8 available in any year are less than the required debt service, the
9 bonds, notes, or other indebtedness to be guaranteed shall be con-
10 sidered subsidized.

11 Sec. 37.13.220. LIMITATION ON INDEBTEDNESS. Bonds, notes or
12 other indebtedness which are not subsidized may not be guaranteed
13 under AS 37.13.200 unless the board determines that the debt service
14 for any year for all bonds, notes and other indebtedness guaranteed
15 but not subsidized will not exceed fifty per cent of the amount of
16 annual income estimated by the board to be derived during that year
17 from the Alaska permanent fund (other than income from the Alaska
18 enterprise development fund). Bonds, notes, or other indebtedness
19 which are subsidized may not be guaranteed unless the board determines
20 that the debt service for any year for all subsidized bonds, notes and
21 other indebtedness guaranteed will not exceed fifty per cent of the
22 amount of annual income estimated by the board to be derived during
23 that year from the Alaska permanent fund (other than income from the
24 Alaska enterprise development fund). The determinations shall be made
25 by resolution of the board before the execution of a guarantee
26 agreement under AS 37.13.200.

1 Sec. 37.13.230. GUARANTEE ENDORSED. A bond, note or other
2 indebtedness guaranteed under AS 37.13.200 shall have on its face an
3 endorsement of the guarantee by the chairman of the board or his
4 designee.

5 Sec. 37.13.240. LEGISLATIVE APPROVAL. No bond, note or other
6 indebtedness may be guaranteed by the board under AS 37.13.200 until
7 the facilities to be financed with the proceeds of the bonds, notes
8 or other indebtedness have been approved by the legislature by con-
9 current resolution. If the bonds, notes, or other indebtedness to
10 be guaranteed are considered subsidized under AS 37.13.210, the
11 resolution shall state the total subsidy estimated to be paid to the
12 facilities during the life of the bonds, notes, or other indebtedness.

13 * Sec. 2. AS 44.56.090 is amended to read:

14 Sec. 44.56.090. POWER CONTRACTS AND THE ALASKA PUBLIC UTILITIES
15 COMMISSION. (a) The authority shall, in addition to other methods
16 which it may find advantageous, provide a method by which municipal
17 electric, rural electric, cooperative electric, or private electric
18 utilities and regional electric authorities, or other persons
19 authorized by law to engage in the distribution of electricity may
20 secure a reasonable share of the power generated by a project, or any
21 interest in a project, or for any right to the power and shall sell
22 the power or cause the power to be sold at the lowest reasonable
23 prices which cover the full cost of the electricity or services,
24 including capital and operating costs, debt coverage as considered
25 appropriate by the authority, and other charges that may be
26 authorized by this chapter. Power from a project financed with
27 bonds subsidized under AS 37.13.210 may be sold or caused to be sold
28 by the authority at prices which do not cover the full cost of the
29

1 electricity or services. A contract for the sale, transmission
2 and distribution of power generated by a project or any right to the
3 capacity of it shall provide:

4 (1) for payment of all operating and maintenance expenses of a
5 project and costs of renewals, replacements and improvements of it;

6 (2) unless the bonds of the authority issued for the project
7 are subsidized under AS 37.13.210, for interest on and amortization
8 charges sufficient to retire the bonds (OF THE AUTHORITY ISSUED FOR
9 THE PROJECT) and reserves for them, plus a debt service coverage
10 factor as may be determined by the authority to be necessary for the
11 marketability of its bonds;

12 * Sec. 3. AS 44.56.110(b) is amended to read:

13 (b) Notwithstanding any other provisions of this chapter, the
14 trust agreement shall contain a covenant by the authority that it will
15 at all times maintain rates, fees or charges sufficient to pay, and
16 that a contract entered into by the authority for the sale, trans-
17 mission or distribution of power shall contain rates, fees or charges
18 sufficient to pay the costs of operation and maintenance of the
19 project, and, unless the bonds are subsidized under AS 37.13.210,
20 sufficient to pay the principal of and interest on bonds issued
21 under the trust agreement as the same severally become due and payable,
22 to provide for debt service coverage as considered necessary by the
23 authority for the marketing of its bonds and to provide for renewals
24 replacements and improvements of the project, and to maintain reserves
25 required by the terms of the trust agreement.

26 * Sec. 4. AS 44.56.130(b) is amended to read:

27 (b) The bonds issued by the authority, unless they are
28 guaranteed under AS 37.13.190-240, do not constitute an indebtedness
29 or other liability of the state or of a political subdivision of

1 the state, except the authority, but shall be payable solely from the
2 income and receipts or other funds or property of the authority. The
3 authority may not pledge the faith or credit of the state or of a poli-
4 tical subdivision of the state, except the authority, to the payment
5 of a bond and the issuance of a bond by the authority does not directly
6 or indirectly or contingently obligate the state or a political
7 subdivision of the state to apply money from, or levy or pledge any form
8 of taxation whatever to the payment of the bond.

9 * Sec. 5. AS 44.56.180(b) is amended to read:

10 (b) Upon completion of the reconnaissance study, the authority
11 shall submit to the governor and the legislature a statement of its
12 recommendations for financing each new project. The financing plan
13 may include a recommendation for a guarantee of indebtedness or a
14 general fund appropriation only when necessary to supplement private
15 financing in order to make a project financially feasible. If the
16 recommended financing for the project includes a guarantee of in-
17 debtedness by the permanent fund or an appropriation from the general
18 fund, the legislature must first give its approval by joint resolution
19 before the authority may proceed with the engineering or design
20 phase of the project. The legislative approval required in this
21 subsection may not be considered the approval required under (AS
22 37.13.230) AS 37.13.240 for granting of a permanent fund guarantee.

23 * Sec. 6. This Act takes effect upon the effective date of a version
24 of House Bill No. 281 establishing the Alaska Permanent Fund Corporation.
25
26
27
28
29

SSHJR
39"JOINT CHAIRMANS' REPORT ON
CS SSHJR 39

The Finance and Judiciary Committees of the House have each considered individually SS HJR 39, transmitted to the House by the Governor on January 15, 1976. The House Judiciary Committee, in unanimously adopting and reporting out a Judiciary Committee Substitute, incorporated amendments adopted by both the Finance and Judiciary Committees. CS SSHJR 39 is addressed in this joint report so that the intent of the constitutional amendment proposed by the resolution is clear.

The proposed constitutional amendment, which both committees view as of vital importance to the state, would establish an Alaska Permanent Fund into which 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments, bonuses and all mineral production taxes would automatically be placed.

The committee substitute raises from 15 to 25 the percentage of nonrenewable resource revenue to be dedicated. This change was made after the committees' concurrence with the Governor that the 25 percent level of funding would allow flexibility in future budgeting of state expenditures even if the most conservative case for future state revenue projections proves true. On the other hand, sufficient income would be accumulated in the Alaska Permanent Fund to allow diversification of Alaska's economy and to insure that future generations receive benefits from development of the state's nonrenewable resources.

The word "all" has been added before the words "mineral production taxes" in sec. 15 of the proposed constitutional amendment so that it is clear that all future taxes measured by mineral production or severance are included in this provision of the Constitution. The addition of the word "all" does not include property taxes. Examples of taxes included under sec. 15 include Oil and Gas Property Production Tax, AS 43.55 and the Oil and Gas Regulation and Conservation Tax, AS 43.57. Taxes which are not included are Oil and Gas Exploration, Production and Pipeline Transportation Property Taxes, AS 43.56 and Oil and Gas Reserves Ad Valorem Tax, AS 43.58.

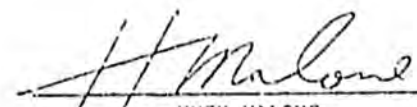
In regard to both mineral leasing and mineral production taxes, the amount to be placed in the Fund would be based upon the gross amount to be received by the state. Accordingly, twenty-five percent of the gross amount of these revenues would be paid into the fund even though a portion of these revenues will be paid into the Alaska Native Fund as required by law.

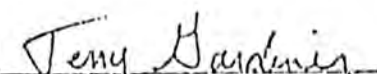
In the event royalties are taken in kind, 25 percent of the proceeds from their sale would be placed in the fund. Also, revenue sharing payments which the state receives from federal mineral leasing would be dedicated.

The principal of the fund would be used only for investment in income-producing investments which the legislature would establish and change from time to time to meet the needs of the state. The fund would come into existence and accumulate 25 percent of all nonrenewable source revenues received by the state 90 days after the certification of the 1976 election returns by the lieutenant governor. It is the purpose of the delayed effective date to allow the legislature to provide by law for an investment structure for the Alaska Permanent Fund.

The purpose of the language in the last sentence of the resolution is to give future legislatures the maximum flexibility in using the fund's earnings -- ranging from adding to fund principal to paying out a dividend to resident Alaskans.

The fiscal note provides for an interim study and development of alternative investment goals and structures for the fund to be performed jointly by executive and legislative staff under the direction of the State Investment Advisory Committee.


HUGH MALONE
Chairman House Finance Committee


TERRY GARDINER
Chairman House Judiciary Committee

The State Affairs Committee has had HOUSE JOINT RESOLUTION NO. 41 (Requesting the Secretary of the United States Department of Transportation to transfer Southeast Alaska from the Pacific Standard Time Zone to the Yukon Standard Time Zone) under consideration and a majority of the members of the committee recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 41 (Requesting the Secretary of the United States Department of Transportation to revise the standard time zones in which Alaska is located) and that it do pass. The report was signed by Mr. McKinnon, Chairman, and concurred in by Parker, Wallis, Fischer and Miller. Not concurring was McKinnon who has no recommendation.

Mr. Malone moved and asked unanimous consent that the Finance Committee referral on HOUSE JOINT RESOLUTION NO. 41 be waived. There being no objection, it was so ordered and the resolution was referred to the Rules Committee for placement on the calendar.

STATE
of ALASKA

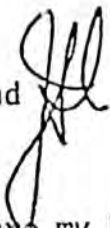
MEMORANDUM

TO: [Senator Clem Tillion

DATE: April 17, 1979

FILE NO:

TELEPHONE NO:

FROM: Governor Hammond SUBJECT: Permanent Fund Legislation;
Loan Programs

The following are my bottom line concerns regarding permanent fund enabling legislation and reorganization of the loan programs. I will be flexible regarding details and other aspects of the legislation, but I hope to see the following principles incorporated into any permanent fund legislation which arrives on my desk.

Permanent Fund

1. The permanent fund should be managed as an inviolable trust fund. This means that these funds should be invested in a safe, secure manner to provide a relatively certain flow of income. The principal of the permanent fund may not be used as a guarantee for any debt nor may the fund be used to guarantee debt of its own.
2. 50% of income return to general fund and 50% of income for specific programs as designated by the legislature, such as guarantees for hydro projects, guarantees for state loans, dividends to Alaskans (Ak., Inc.), provided that at a minimum of 25% of earnings would be returned to Alaskans.
3. Investment of permanent fund principal should be based on a list of eligible investments identified as appropriate with respect to risk level and return to the fund.
4. All permanent fund investments should yield a market rate of return.
5. Fund managers should be limited to operating within the guidelines specified in enabling legislation. They are not to be responsible for designing or implementing social or economic policy outside of their specific mandate.
6. No reorganization of state government for loan programs.
7. Increase contribution rate of 50% of bonuses and royalties, at a minimum.
- 8.

STATE OF ALASKA

DEPARTMENT OF REVENUE

TREASURY DIVISION

JAY S. HAMMOND, GOVERNOR

ELEVENTH FLOOR
STATE OFFICE BUILDING
POUCH SB
JUNEAU, ALASKA 99811

April 9, 1979

Representative Hugh Malone, Chairman
House Special Committee on the Permanent Fund
Pouch V
Juneau, Alaska 99811

Dear Representative Malone:

You have asked under what conditions would existing law (AS 37.10.065(a)) permit a Permanent Fund investment in the proposed Gas Pipeline. It is possible that such an investment could be made given the following conditions:

1. A guarantee by the United States government or an agency or instrumentality of the United States government that covers all debt service on an obligation issued to finance pipeline construction; or,
2. A rating of Baa or better on an obligation issued to finance pipeline construction.

I must emphasize that it is only theoretically possible that the Permanent Fund would invest in the project and that it is not at all likely that the Fund would do so. An investment of the size necessary for this project would not be compatible with management of a fiduciary trust which requires reasonable diversification of investments.

If I can be of any further help, please do not hesitate to contact me.

Sincerely,



Peter A. Bushre
Deputy Commissioner

PAB:ms

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TESTIMONY BEFORE THE HOUSE
SPECIAL PERMANENT FUND COMMITTEE

By Clark Gruening

March 30, 1979

Mr. Chairman, committee members, friends, and former colleagues, I understand that you're about to go into what's known as "mark-up" on the various Permanent Fund proposals before you. As I recall, mark-up takes place when you've heard every conceivable bit of advice as to what you ought to do, and now it's your turn to do what you think should be done. Having been through this exercise myself once or twice, I hope I can share with you some basic references I found helpful in sorting out all the information and issues.

The two basic references I find helpful are: first, Section 15, Article IX of the State Constitution creating the Alaska Permanent Fund and those major principles Alaskans have told us they wanted written into any permanent fund legislation.

Before reflecting further on those basic references, one preliminary question needs to be addressed. This question will undoubtedly arise among that group known as "the body at the other end of the hall." That is, does there need to be any action this session to establish in law more definite

management and investment guidelines. This question is sometimes phrased as, what's wrong with letting the Department of Revenue go on doing as it has been doing with the Permanent Fund money.

Why is it better that a comprehensive Permanent Fund management bill pass sooner than later? In the first place, the passage of time is not going to make the legislature's decision any easier. As the size of the Permanent Fund grows, so will the number of lobbying groups which seek special uses of the money. The pressure will grow in proportion to the size of the Permanent Fund.

We would do well to take a leaf from our own State Constitutional Convention, which in 1955 and 1956 worked under the advantage of writing the Constitution in the relatively uncharged political atmosphere. That is not to say that the Constitutional debates were not spirited, heated, and arduous. But in the main, those debates focused on matters of long-term policy and not short-term political expediency. The hard work of the many eminent Alaskans who were delegates to the Convention was viewed by some as an academic exercise since, at the time of their deliberations, statehood for Alaska was still a major uphill battle to be won in Congress. Yet the delegates took their jobs seriously and were able to produce, in a relatively unpressured atmosphere, a document that is widely admired as a model Constitution.

In regard to the Permanent Fund, I have heard the comment more than once that the legislature really doesn't need ^{to make} a more definite and clear statutory statement of Permanent Fund management structure and investment guidelines until the fund grows to a size in which it can "really do something."

I firmly believe we need better guidelines than those stated presently in A.3. 37.10.065--otherwise known as the interim management statute. I disagree with the statement in the Governor's letter of transmittal for the administration's Permanent Fund proposal that this statute is adequate for the management of the basic 25 percent. If you also believe that the interim management statute can be improved, the time to do it is now before the pressure is really upon the administration and the legislature for bills to meet competing demands for immediate disbursement of Permanent Fund money for this or that project.

What are, then, the critical elements, not now in law, that a Permanent Fund management bill should contain? This brings us back to those basic references I referred to. After the passage to the constitutional amendment in November of 1976, public hearings were held, questionnaires were sent out, and both the House and Senate committees working on Permanent Fund legislation received testimony of statements both on how the fund should be specifically invested, what

should be the basic management concept. Even if there appeared to be no consensus on what the specific Permanent Fund investments ought to be, there appear to me to be a clear view by Alaskans on those general principles under which the fund should be managed.

In my view the five main principles emerging from the Alaska public can be simply stated as follows:

First, the Permanent Fund should serve as a safe depository for mineral revenues and not used for current expenditures;

Second, the mineral revenues placed in the Permanent Fund (the principal of the fund) should stay there and not be dissipated by using it to pay for operations of state government or by investing it unwisely;

Third, where there are sound investments in Alaska the Permanent Fund should make them without duplicating financial services already available;

Fourth, money earned by the Permanent Fund investments (the earnings or income) should be used for the benefit of current and future Alaskans; and

Fifth, the day-to-day management of the Permanent Fund should be insulated from politics but the management should be accountable to the public in matters of policy and performance.

Some of these principles are in a large degree mandated by a plain reading of the constitutional amendment. In reviewing A.S. 37.10.065, it's obvious that no attempt was made to write these principles into the law. It should

be noted, however, that this statute was only intended as an interim measure passed on the heels of the amendment in order to authorize somebody to invest the first Permanent Fund money.

What is critically important now is that a definite statement of investment management goals be stated in law.

The present list of investments is limited to mostly so-called "money market instruments" which, by their nature, preclude a larger portion of Permanent Fund money from being invested in Alaska even though undoubtedly many investments can be safely made in Alaska.

Another major problem with the interim management statute is that it authorizes management by the Department of Revenue. A primary function of that Department is to ensure that sufficient revenue is available from the General Fund to meet on-going state expenditures. In other words, of necessity, the General Fund is of primary concern to the Commissioner of Revenue. This is as it should be since it is the General Fund which will continue to be the largest repository of public money and the sole source of revenue for operation of state government.

Without being critical of any person or policy of the Department of Revenue, I have no doubt that had the interim statute permitted the Commissioner of Revenue to

purchase state loans with Permanent Fund money that past and current General Fund cash crunches would have sorely tempted the Commissioner to sell the least liquid loans to the Permanent Fund in order to achieve liquidity for the on-going expense of government operations. The same conflict exists between General Fund and Permanent Fund management policies even within the limited list of investments currently allowed for the Permanent Fund. Even money market instruments, because they can grow relatively less liquid or less attractive with fluctuating interest rates, are subject to being traded off at a loss to the Permanent Fund.

It may be argued that there is an economy to be achieved by having all the funds managed under one roof. This proposition is yet to be persuasively demonstrated, but should this be viewed as a critical factor, it might be wiser to place all investments functions under a board such as Wisconsin's Investment Board for which investment functions have been clearly separated from revenue and taxation problems. Even though there is a split within the Department of Revenue by division between investments and revenue collection, I would submit that a headstrong Commissioner (and Alaska has seen a few of these) can easily overlook any separation^{of} function so as to solve whatever political or financial problems may confront him.

Moreover, there's something to be said because of the special constitutional stature of the Permanent Fund for establishing a separate corporate identity for the Permanent Fund management. ^(as) Under the House proposal of the last session of the Tenth Legislature and House Bill 281 now before you) The establishment of a separate corporate existence removed from the Department of Revenue should not mean any less accountability. Accountability is assured by continued oversight by the legislature through an appropriate committee or committees. The administration would continue to have oversight ~~power~~ through the appointment and removal power and budget review under the Executive Budget Act. It is interesting to note that the administration has no problem with management of 75 percent of the Permanent Fund by a separate corporation.

This brings us back to a very basic question. What are you going to ask this management structure to do? What guidelines are you going to give them for the investment of this public money? After considerable deliberation, the predecessor to this committee, the House Special Permanent Fund Committee in the Tenth Legislature determined that the guidelines should approximate those of a savings trust and that regardless of whatever long-term investment commitments

the fund may be called on to make in the future, that a large portion of permanent fund money should be in very liquid form of investment--that is to say that a large portion of the fund would be flexible and available for a totally new kind of investment in which savings may or may not be the primary emphasis.

By flexibility or liquidity, we meant the ability to change the form or thrust of the investment without discounting or taking a substantial loss on the investment you are "cashing in." Implicit in this statement is the possibility that the legislature may reasonably or unreasonably decide at some time in the future that the fund should be committed directly or indirectly (by equity investment or by guaranteeing or pledging) to some major project or series of projects within the Alaskan economy or to address an "economic emergency" by certain investments the legislature may designate by statute.

The necessity and wisdom, however, of stating in law a clear statutory charter for the savings trust is that when that time comes to change the major thrust of the Permanent Fund, it can only be done by amending the law by a bill requiring hearings and majority approval of each House as well as the approval of the Governor. There is, in my view, a far less likelihood of ill-advised or secret deals being cut for the disposal of permanent fund money under

the requirement of a passage of a bill rather than simply the decision of a compliant bureaucrat.

The statutory charter you are called upon to address would also provide for a flexibility which may or may not be the case under the "temporary" statutory provisions. Without further inquiry it is difficult to ascertain the true position of Permanent Fund from the Department of Revenue's monthly investment reports.

One extreme would have been to completely remove the policy decisions of the Permanent Fund managers from reach of any elected officials. This would have had the unfortunate result, however, of completely insulating the managers of the Permanent Fund from the general public or the need to respond to changes of public policy. This was the essence of the major criticism against the establishing a Permanent Fund in the first place. Nevertheless, I believe the provisions of House Bill 281 will prevent the Permanent Fund from becoming a headless monster. House Bill 281 appropriately balances the need for insulation from day-to-day politics with the need for responsiveness to changes in basic public policy.

There is, among all the legislative proposals now before you, a consensus that the trust concept should be the dominant theme of any final bill. In order to make this

theme more plain to the principal fund managers, there needs to be both a general statement as to investment standards (such as the prudent man rule) and list of eligible investments specified as appropriate in regard to risk level and return to the fund. The greatest danger of substantial erosion of the Permanent Fund principal is not (as suggested in a February 23, 1979 Permanent Fund policy memorandum of the Division of Policy Development and Planning) from a practice of making investments at less than market rates but rather from making investments entailing more than a reasonable risk. Generally, in the investment world the higher the risk, the higher the expected return. In a number of instances, however, we have seen the investment of public assets in investments which are highly risky and yet offer in the outset a very low return. Sometimes, these investments are justified on policy grounds as being necessary to diversify the economy or create jobs. Often, neither goal is achieved.

Both before and after the passage of the constitutional amendment establishing the Permanent Fund, elected officials, consultants, members of the general public all offered differing views to what the Permanent Fund could and should accomplish. I recall writing an article in which I enumerated various worthy things the Permanent Fund could do. Principal

among these was the opportunity to use Permanent Fund money to diversify the economy and to replace absentee ownership of certain industries, particularly renewable resource industries, with Alaskan ownership. Now that I'm older and wiser, or at least older, I see the Permanent Fund cannot reasonably be expected to accomplish all our goals at once.

One reason for a modification in my view is that the fund didn't turn out to be as big a pot of gold as anticipated. Another factor was the realization that many of the "development banking" investments would be at risk levels generally incompatible with the concept of a savings trust. A solution we proposed was to commit the basic 25 percent mandated by the Constitution to a savings trust and to provide for an additional contribution over and above the 25 percent to an "Alaska Enterprise Investment Corporation." The purpose of this corporation, as in your House Bill 282, is to assist financially sound, small and medium scale productive private enterprises and community development projects in the State.

I urge you to act on bills which provide for clear and accountable management of the Permanent Fund and the Alaska Enterprise Investment Corporation. Whether or not capitalization for the enterprise function actually comes from an additional dedication from the Permanent Fund

or from the General Fund, I believe there needs to be an active entity in the area of development banking, designed to assist the economies of the varied communities and regions of the State in an original way which does more than merely replace sources of capital that otherwise would have been available. After the separate managements of the Permanent Fund and the enterprise function have had the opportunity to establish a track record, some joint participation by the two entities in "development banking" may be justified.

In the meantime, Permanent Fund management ought to be required by law to place a premium on safety and liquidity of investment so that when we see more clearly where the greatest potential of the fund for new investment opportunities lies, we can act.

Even though it now appears we cannot accomplish all our goals at once, over a period of time it is, in my view, possible to do most of those things originally envisioned for the Permanent Fund. Within the realm of a savings trust a number of current benefits still accrue to Alaskans:

1. Mineral wealth, otherwise destined for expenditure in the operating budget of state government is held available for future capital investment and improvement in the State;

2. Active capital investment in the State can be properly made under the savings trust concept;

3. The credit worthiness of the State for both general obligation bonds and revenue bonds is enhanced, thereby increasing the ability of the State to acquire new capital sources at lower cost;

4. The opportunity to participate in the diversification of the Alaska economy at a future time remains open; and

5. The Permanent Fund will continue to serve as a meaningful focus for the public to discuss State fiscal and economic policy.

There is a common awareness now that the income from the earnings of the Permanent Fund will never be sufficient to replace, in any significant amount, the revenue now required for state government. I'm still partial to the use of income proposal contained in House Bill 595 of the Tenth Legislature. That use of income proposal was designed to assist the development of low cost energy projects throughout the State.

If, however, this committee does not reach this conclusion as to the use of the income from the Permanent Fund, returning the income to the principal of the fund so that the impact of inflation on the corpus of the fund will be lessened is preferable to its present deposit in the General Fund.

To sum up, three points bear repetition. Whatever bill you finally agree on, provision ought to be made in the investment guidelines for liquidity of investment of the larger portion of the fund. Second, the statutes must provide for public accountability for the performance and policy of the fund's management. This, I believe, entails placing the management out from under the potential conflict situation within the Department of Revenue. Accountability also should include at a minimum, a meaningful reporting procedure and an active oversight function by the legislature. My last point is that the legislature has sufficient information to make a decision this session and I don't think there is any good reason for delaying a permanent fund bill.

MEMORANDUM
State of Alaska

TO: The Honorable Hugh Malone
Chairman, House Permanent Fund
Committee
Alaska State Legislature

DATE: April 7, 1979

FROM: Frances Ulmer
Director
Division of Policy Development
and Planning

RE: Suggested Amendments
to HB 281

I would like to share with you a few amendments to HB 281 which you might consider in your mark-up session.

- p. 6,
line 11 The contribution rate in HB 281 is set at 30%, which we feel is better than 25%, but we request that you seriously consider a 75% contribution rate and a 100% contribution rate for bonuses.
- p. 6,
line 29 Delete the word "primary" as it implies unstated secondary goals.
- p. 10,
line 17 Board membership set at three. The Administration feels a larger board would provide additional perspective and expertise.
- p. 7,
line 18 Legislative confirmation of the Board is probably unconstitutional.
- p. 7,
line 28 Legislative consent for Board member removal is probably unconstitutional.
- p. 10,
line 14 We would like to make special note of our support for this provision which is designed to prohibit placing the principal at risk through leveraging or guaranteeing with the principal.
- p. 11,
line 13 We recommend the use of the language in HB 277, Sec. 190(1) which we believe is clearer.
- p. 12,
line 13 We recommend that the funding for the operating budget come from permanent fund earnings rather than the general fund for the extra incentive for efficient operation such funding source would create. Such funding would remain subject to appropriation and the Executive Budget Act.

MEMORANDUM
State of Alaska

TO: The Honorable Hugh Malone
Chairman, House Permanent Fund
Committee
Alaska State Legislature

DATE: April 7, 1979

FROM: Peter Bushre
Deputy Commissioner, Treasury
Department of Revenue

RE: HB 281

The Department of Revenue suggests that HB 281 be amended as follows:

Page 4, line 15: With regard to the powers of the Investment Oversight Committee, audits should not be restricted to the Legislative Budget & Audit Committee. Subsection 7 should be amended to review of reports and past audit analyses conducted by outside, independent auditors as well as Legislative Budget & Audit.

Page 4, line 20: With regard to Audit reports and analyses, the Investment Oversight Committee should have the option of contracting these items independent of the Budget & Audit Committee.

Page 10, line 18: With regard to the power and duties of the Permanent Fund Corporation, the Board is specifically prohibited by existing language from contract management of Permanent Fund investments with the Department of Revenue. Delete language beginning with the word "it" and all of lines 18 and 19.

Page 10, lines 20 through 27: Qualifying investments are not sufficiently defined to conform with the intent of the House Permanent Fund Committee as expressed in previous meetings. Existing language would permit soft loans and other investments of a questionable nature, particularly under the short term category. We suggest that the Committee substitute the investments as defined in Administration Permanent Fund Bill which is HB 277 (for the 25% trust, i.e., 37.10.065(b)).

Page 11, lines 16 through 29; and page 12, lines 1 through 9: With regard to treatment of gains and losses, the impact of HB 281 as currently drafted will be to spread such items over a defined future period. Net income is apparently added to the income (line 21). We suggest this be amended to inclusion within Section 150 requiring disposition of Permanent Fund income. The disposition of income appears to be somewhat unnecessarily complicated and we maintain that the language in the Administration Bill is superior and should be substituted.

SELECTED EXCERPTS FROM TESTIMONY BY MR. ROBERT BLIXT, THE EXECUTIVE SECRETARY OF THE MINNESOTA STATE BOARD OF INVESTMENT

presented to the House Special Permanent Fund Committee Nov. 19, 1977

BLIXT: You're hitting a question here that's just fascinating in Minnesota, and may I say-- watch out. I wonder if some of you see some of the problems involved in what you're discussing right now. In this problem of income versus total return, if you are actually going to sell stock that has a profit and use it as income, let us assume that fifty years from now the decision has been made to build a big dam in Alaska. You need money in a hurry. You need lots of money. You have a statute here which in essence says that if you sell stocks at a profit, it's income, under total returns. What do you have? Automatically, you go down your portfolio. Say that there's two billion in stocks at that time. What do you do? You sell everything at a profit. And you keep what we call your "puppy dogs." . . . We've gone through this actually in our state right now. And even though we use the total return concept of investment, we are extremely careful not to put the proceeds from the sale of equities on the total return system into the income stream because, if we do, we're continually lowering the quality of the portfolio. Now we use this total return concept, but there are many words for it. . . We use the total return concept-- total return, pver all, over a period of years-- and then we can sell the stock at a profit, then turn around and put those profits back in the portfolio and maybe buy a bond or some other stocks with it. Once you find you're selling stocks at a profit, under a total return situation, to get money for now, the corpus of that permanent fund is going to streak out. I can see it happening in other states.

GRUENING: Right now the constitutional provision says that 100% of the income goes to the general fund, which means that if a stock were sold, 100% would go back to the general fund unless we decide to do otherwise, and what I was just suggesting is that we put 50% of whatever's realized back into the permanent fund. I'm just tossing that out.

BERRIER: The point that Mr. Blixt is raising-- and the committee can do this if it chooses-- is to define capital gains as principal rather than as income.

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BLIXT: We take the capital gains and put them right back in the corpus of the fund. And let's be blunt-- investment men always make a lot of mistakes. Every time I sell a stock at a profit I find there's a couple of puppy dogs in there that I wish I'd never had in the first place and I want to sell at a loss. And you know, it makes it just marvelous to take a \$100,000 profit and then a \$90,000 loss to revamp the portfolio, and I'm still \$10,000 ahead. But if I had to put all the profits into the current fund, what would I do with the losses? You're not going to find an investment man that's so good that he only buys things that go up.

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Our constitution was changed in 1962. Our legal beagles didn't like the standard prudent man rule that you have in banks. . . . Let me read you this language that's in there now-- it's been upheld by the court and it's pretty good-- "All funds arising from the sale or other disposition of the lands (that's our permanent trust fund lands), or income accruing in any way before the sale

or disposition thereof, shall be credited to the permanent school fund within limitations proscribed by law"-- I like this phrase-- "to secure the maximum return thereon consistent with the maintenance of the perpetuity of the fund." See what that says? We all like it. We think it means that the capital gains go right back into the fund. We must maintain the perpetuity of the fund. From now we must presume that we're going to want as much from this fund as we would have had if the iron ore was still in the ground and we could sell it now.

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GRUENING: When Bill mentioned crediting the capital losses to the income, do you have an equivalent of that?

BLIXT: I think any investment man can always arrange to sell enough at a profit each year so that he'll come out a little ahead, and that's what we do. Yes, we have losses. Every year our permanent school fund has come out ahead. A fund the size you folks are talking about-- you'll be able to do the same thing. I wouldn't take it out of income as such. The constitution and the statutes in Minnesota do say, if I sell a whole group of stocks at a loss that loss must be made up out of income over a period of five years. I think that language is reasonable. Otherwise I could sell it off all one year and really dive into the income which we need for schools.

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You have to have something that spreads your losses or gains over a period of time. We have one sentence in the constitution and the rest by statute. The sentence in the constitution is, "The principal of the permanent school fund shall be perpetual and inviolate for-

ever. This does not prevent the sale of any public or private stocks or bonds at less than cost to the fund. However, all losses not offset by gains shall be repaid to the fund by the interest and dividends earned thereafter." That's all the constitution says. Then we have other provisions in the statutes. "At the end of each fiscal year, the total amount of losses on the sale of securities not offset by gains on the sale 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 such an amount of interest and dividend income shall be added to the principal of the fund." In other words, losses taken on the sale of bonds shall be accumulated over a period equal to the average remaining life of the bonds sold and losses taken on the sale 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, such excess shall be added to the principal of the fund." What we're saying here is we can sell all kinds of bonds to take advantage of the market-- sell a bunch of bonds at 80 but if they're twenty-year bonds let's not take that out of income in one year. We will simply take enough out of the income each year so that we raise the amount from 800 to 810 the first year, then 820 the next. It's worked beautifully.