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Merrill Lynch White Weld Capital Markets Group
Merrill, Lynch Pierce Fenner & Smith, Inc.
1 Liberty Plaza
New York, New York 10006

June 14, 1978

The Speaker of the House, Rep. Hugh Malone
The Chairman of the House Sub-Committee Permanent Fund,
Rep. Clark Gruening

Gentlemen:

I regret I am unable to remain in Juneau for a proposed free conference on the Permanent Fund Bill. Other matters press me in New York and I am forced to return.

As a result of attending numerous hearings over the last several months, both Ted Swick and I have attempted to assist the Committee in drafting a bill for the administration of your Permanent Fund. We have received the distinct impression that the voters look upon this fund as an Alaskan Legacy. With the legacy concept in mind, we believe that House Bill 596 is written in such a way as to assure the professional, independent and non-political administration and investment of the fund according to the highest ethical standards. We believe that doing it any other way will defeat the expressed mandate of the voters.

In our opinion, the income from the Permanent Fund should be treated in such a manner as to bring benefit to all classes of Alaskans and if such purpose cannot be properly addressed in this closing session it would be better to permit it to flow back into the Permanent Fund and be dealt with by subsequent legislative actions. "Soft Loan" programs may have a legitimacy, but to utilize the income of the Fund to support such programs is to shirk the responsibility for the outright subsidy inherent in the "Soft Loan" concept.

We believe that the Senate's capital needs assessment and proposed six year forecast of capital expenditures and the segregating of a percentage of the Oil Royalty income to create a "pay-as-you-go" program is excellent and fiscally responsible. We have no opinion as to what this percentage should be.

The joining together of the above Senate Bill with the House Bill's administration of the Permanent Fund would constitute an excellent piece of legislation of which both Houses could be proud. "Soft Loan" programs do not belong in a legacy, public or private.

We are grateful for having had the opportunity to serve you as financial consultants on this singularly important issue. We will be available for any telephone consultation you may so desire.

Respectfully submitted,

Merrill Lynch White Weld
Capital Markets Group

Samuel L. Plaia
Vice-President

#18:21

March 5, 1980

The Alaska Permanent Fund and Management of Alaska's Wealth

This information is provided by Representative Hugh Malone, chairman of the House Special Committee on the Permanent Fund and a member of the free conference committee on the Permanent Fund.

The Alaska Permanent Fund was established by the voters in 1976 to receive at least 25% of all mineral royalties and bonuses. What this means in real terms is that approximately one out of every eight dollars which the state receives in oil revenues is deposited in the Permanent Fund. The fund currently contains about $350 million and is earning interest of over 11%. It is being invested by the Department of Revenue under an interim management plan, and the earnings flow into the general fund. The legislature has yet to decide just how the Permanent Fund shall be invested and managed over the long-run. A free conference committee, of three House and three Senate members, is presently meeting in an attempt to reach agreement on Permanent Fund legislation.

Alaska today is in the unique position of having enough money to adequately provide governmental services; to construct needed capital projects; to eliminate the personal income tax, expand loan opportunities, and return a share of the oil wealth to Alaskans as dividends; and to save a portion of the wealth for the future. Although earnings of the Permanent Fund will never completely replace today's oil revenues, they can go a long way towards helping stabilize the Alaskan economy and reducing the need for personal income tax payments in the

future.

Q. What are the basic components of the House Permanent Fund bill (HCS for SB 161)?

A. The House bill focuses on the management of the Permanent Fund and addresses three major concerns-- safety of principal, accountability, and legislative oversight. The fund would be invested as a trust consisting of a wide variety of quality, high-grade investments. These investments have been described as "squeaky conservative." The House also decided that the fund, because of its fundamentally different goals, should not be invested by the same people who manage money for day-to-day use by the state-- the Department of Revenue-- but should be managed by a public corporation distinct from state government. The proposed Permanent Fund Corporation, with its own board of trustees, would be made accountable in several ways. The House bill also expands the powers and duties of the Legislative Budget and Audit Committee to oversee all lending and investment functions of the state, including those of the Permanent Fund Corporation.

Q. How much money would the House bill deposit into the Permanent Fund?

A. The House bill would raise the contribution level to the Permanent Fund from the current 25% to 50% of all bonuses, 25% of royalties from existing leases, and 50% of royalties from new leases. It's important to remember that 50% of bonuses and royalties actually means about 25% of all oil revenues, so that three-quarters of state revenues would still be going to the general fund for general governmental purposes.

Q. What would be the advantages of investing the Permanent Fund according to the House plan?

A. The Permanent Fund, if invested as an "inviolate trust," would be just as secure as possible and would return substantial earnings to Alaskans. Because the investments would be diversified and would not rise and fall with Alaska's economy, the earnings would be stable. In addition, the establishment of a secure trust would be a sign to the national financial community that Alaska is following a responsible fiscal policy. The passage of the House bill would not preclude aiding the state's economy in other ways as well. Loan programs, capital projects, tax repeals or refunds-- all these can be taken care of through the general fund.

Q. Under the House plan, what would happen to the fund's earnings?

A. The earnings would flow into the general fund, just as they do today. Future legislatures would still have the option of redirecting the earnings. Paying them as dividends to today's Alaskans is one idea.

Q. How does the Hohman bill (SB 1) differ from the House bill?

A. Senator Hohman's fill is an extremely long and complex one which deals only peripherally with the Permanent Fund. SB 1 provides for the elimination of existing loan programs and development authorities and the substitution of a new program combining all loan purposes. The loan program would be tied to the Permanent Fund by using the Permanent Fund earnings to guarantee revenue bonds to fund the loans. The Hohman bill also differs from the House bill in that its Permanent Fund investment list is much broader (and less secure), its contribu-

tion rate is set at 100% of bonuses and 25% of royalties, and the fund is managed by the Department of Revenue.

Q. What are the House objections to the Hohman bill?

A. The primary objection is that it is concerned much more with the state's loan programs than with the Permanent Fund, and that a free conference committee on the Permanent Fund is not the place to so drastically restructure the loan programs. SB 1 is extremely complex and, if implemented, would have far-reaching consequences for the state's economy and credit rating. Specific problems with the concept include 1) the earnings of the Permanent Fund are put at risk, 2) consolidation of the loan programs does not solve the existing problem of access to them, 3) the programs would receive automatic funding without legislative review, 4) there is no method of prioritization and the different loan programs could not be judged separately on their merits, and 4) municipalities would be encouraged to issue unrestricted debt.

Q. What does the House offer as an alternative to the loan program portion of SB 1?

A. The House Finance Committee is currently developing a package of loan bills which will address the needs of Alaskans for easily accessible and low-cost loans. Although the details are yet to be worked out, some consolidation will occur and loans will be made available for financing housing and businesses. Emphasis will be placed on ensuring that those people who most needs loans receive them. Interest rates will be reasonable. I feel confident that the House will pass comprehensive and responsible loan legislation within the

next several weeks. I might add that $35 million a month in state funds is right now available for Alaskan mortgages through HCR 33, sponsored by the House Finance Committee this session.

Q. What does the state's financial picture look like for the next few years?

A. The latest financial projections are very impressive. With the Permanent Fund receiving just 25% of royalties and bonuses and with the earnings being distributed to the public, at the end of 1982 we should have about $1.2 billion in the Permanent Fund and $6.7 billion in the general fund. Since, at current growth and inflation rates, $1.6 billion will be needed to meet the state budget, there will be over $5 billion extra in the general fund to be appropriated for whatever purposes the legislature desires. While the opportunities for spending money within the state are vast, the legislature also bears an unprecedented responsibility to manage Alaska's new wealth wisely. Setting a portion of it aside in a secure Permanent Fund should be one step in responding to that responsibility.

#18:21

REMARKS OF GEORGE G. WOLF ON SSSB1

BEFORE THE HOUSE SPECIAL COMMITTEE ON THE PERMANENT FUND

Juneau, Alaska

March 29, 1979

MR. CHAIRMAN; MEMBERS OF THE COMMITTEE:

My name is George Wolf. I am with the firm of Orrick, Herrington, Rowley & Sutcliffe in San Francisco. Our firm specializes in, among other things, municipal bond matters. I myself am a tax lawyer, and I assist our bond department on federal tax questions arising in connection with our bond practice.

I am here today at the invitation of your staff to provide to you an analysis of Sponsor Substitute for Senate Bill No. 1, entitled 'An Act relating to the Alaska loan programs fund, the Alaska permanent fund, and state investment policy and other state revenues; and providing for an effective date", insofar as the Bill raises questions under Section 103 of the federal Internal Revenue Code of 1954, which deals with the exemption from tax for interest on obligations of a state or a political subdivision thereof.

I have been told that the members of the committee are familiar with the provisions of the Bill and how

they would operate if the Bill becomes law. Accordingly, I will dispense with any provision-by-provision or flow-of-funds analysis, and confine my remarks to the general impact of section 103 upon the perceived benefits of the Bill. Details will be addressed only as they become pertinent.

INTRODUCTION

Section 103(a) of the Internal Revenue Code provides that interest on the obligations of a state or any political subdivision thereof is excluded from the gross income of the recipient, and is therefore exempt from federal income tax. A typical example of such so-called tax-exempt obligations would be general obligation bonds issued by a state to finance a public project, such as a courthouse or public roads.

However, the statute also provides two significant limitations on the tax-exempt status of governmental obligations. That is, Section 103(b) denies the tax exemption to "industrial development bonds," and Section 103(c) denies the exemption to "arbitrage bonds." I will discuss the details of these provisions in a moment.

Insofar as Section 103 is concerned, the Bill under consideration essentially does two things. First,

it will consolidate virtually all of the State's loan programs into a single omnibus State loan agency. The Alaska Loan Programs Fund so created will issue revenue bonds to finance a large number of loan programs that are now financed individually by single purpose revenue bonds or by appropriation from the State general fund. Second, the Bill will dedicate the income from the Alaska Permanent Fund as security for the bonds issued by the Loan Programs Fund. (For purposes of clarity, I will refer to the Loan Programs Fund simply as "the Fund;" when I refer to the Permanent Fund, I will say the Permanent Fund.)

Both of these features will have a significant affect on the tax-exempt status of the revenue bonds issued by the Fund. This affect is both obscured and compounded by ambiguities in the Bill as to exactly how these two essential features will be accomplished.

The balance of my prepared remarks will follow the following format. First, the impact of the industrial development bond provisions of the Internal Revenue Code to the revenue bonds issued by the Fund. Second, the impact of the arbitrage bond provisions of the Code on the loans made by the Fund as well as the investment of the Permanent Fund and the Allocated Reserve Account. Third, various miscellaneous considerations. And fourth, as requested, a discussion of the trends in the tax-exempt status of governmental obligations.

INDUSTRIAL DEVELOPMENT BOND ASPECTS

An industrial development bond, to which tax exemption is denied, is one which meets two tests, commonly referred to as the trade or business test and the security interest test, respectively. In the arcane language of the Code, an IDB is any obligation (A) which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly in any trade or business carried on by any person other than an exempt person (an exempt person being a governmental unit or a "section 501(c)(3)" charity), and (B) the payment of the principal or interest on which (under the terms of the obligation or any underlying arrangement) is, in whole or in major part, secured by any interest in property used or to be used in a trade or business or in payments in respect of such property, or to be derived from payments in respect of property, or borrowed money, used or to be used in a trade or business.

For purposes of the trade or business test, a "major portion" means more than 25%. In other words, if 75% or more of the proceeds of an issue of obligations will be used other than in the trades or businesses of nonexempt persons, the obligations will not be IDBs. Alternatively, if less than 75% of the proceeds are used

for noncommercial purposes, but the security interest test is not met, the bonds will not be IDB's.

The abuse sought to be remedied by the enactment of these IDB provisions in 1968 was the loaning, so to speak, by a state or city of its tax exemption to private business. The prior practice of many governments of issuing tax-exempt bonds to finance large-scale private business expansion has, as a result, been largely curtailed.

There are three exceptions to what would otherwise constitute an IDB. These are for bonds substantially all of the proceeds of which are used to provide so-called exempt facilities, to provide industrial parks, or which qualify as exempt small issues. That is, obligations that would otherwise be IDBs will nonetheless carry tax-exempt interest if substantially all of the proceeds of the bonds are to be used for one of the described purposes, unless held by a user of the facilities financed. "Substantially all" for this purpose means 90% or more of the net bond proceeds.

Exempt facilities are specifically defined in the statute, and include residential real property for family units, sports facilities, convention or trade show facilities, various types of transportation facilities, sewage or solid waste disposal facilities, air or water

pollution control facilities, and certain types of public utility facilities. All of these items are subject to considerable refinement, such as various public use requirements, both in the statute itself and in regulations promulgated by the Secretary of the Treasury.

Briefly stated, the small issue exemption permits the issuance of up to $1 million in obligations to finance facilities within one locality for one principal user. Under certain conditions, related to what is called the capital expenditure test, up to $10 million in obligations may be issued without losing the tax exemption. The industrial park exemption appears to be largely self-explanatory.

The Bill indicates that the following types of loans will be made from the Fund: farming, fishing, forestry, renewable and nonrenewable resources development, tourism, general business, small business, child care facilities, exempt facilities, single and multi-family housing, scholarship, municipal and nonprofit corporation, public and private historical preservation, and outdoor recreation development. Of the foregoing, only the following would fail to meet the trade or business test: single family residential housing, municipal and certain nonprofit corporation, scholarship, noncommercial historic preservation, and noncommercial outdoor recreation

development. All of the remaining types of loans would be commercial loans, and as a general proposition would meet the trade or business test, and therefore, assuming that the security interest test would be met, which will be discussed in a moment, single purpose bonds issued for such commercial loans would not carry tax-exempt interest.

It is my understanding that a major purpose of the Bill, and perhaps the single overriding purpose, is to finance the commercial loans enumerated above with tax-exempt bonds by combining the commercial loan programs with the noncommercial loan programs, and thereby utilizing the minor portion of bond proceeds for the commercial loans. The question then is whether that purpose can be accomplished under current federal law and regulations, and the general answer is, yes, it can be, provided that the volume of noncommercial loans is sufficient to support the commercial loan program at a rate of at least three to one, either on an overall basis or on an issue-by-issue basis.

This raises the first significant ambiguity in the Bill and the consequent uncertain application of Section 103(b) to the revenue bonds of the Fund. That is, it is not clear under the Bill whether the Fund will issue general revenue bonds to provide funds for all of the types of loans that can be made by the Fund, or

whether limited purpose bonds will be issued to provide funds for only specified types of loans. In other words, whether there will be a complete pooling of all bond proceeds to be used for all types of loans, or whether there will be a tracing of the proceeds of particular bonds into particular loans.

The distinction is important because, if complete pooling is contemplated, the Fund would likely lose the ability to issue bonds under the exempt activities, industrial park, and small issue exemptions, which require specific tracing of the bond proceeds into the designated expenditures for determining compliance with the substantially all test. The Fund would also lose its ability to issue tax-exempt bonds under the Housing Act (an independent basis for issuing tax-exempt bonds) by complete pooling, because Housing Act bonds also require tracing. Of course, if commercial loans will comprise less than 25% of the pool in any event, these factors are less important. In addition, while there is nothing to suggest that complete pooling is impermissible, that would be something new in the bond world, and a ruling from the Internal Revenue Service may be appropriate, and might be required to make the bonds marketable.

Because of these considerations, limited purpose revenue bonds, the proceeds of which are traceable into specific types of loans, would probably be required. Thus, a bond issue combining, for example, 75% municipal, single family residential, and student loans with 25% commercial loans would qualify for tax-exempt status. Similarly, bonds combining 90% exempt facilities (such as convention facilities and pollution control facilities) with 10% nonexempt commercial, could qualify for tax exemption, although this is somewhat more difficult to achieve because all or most of the 10% leeway for exempt facility loans and small issues is often necessary to account for the nonqualifying expenditures, such as loan proceeds being used to provide working capital, and other items that cannot properly be charged to capital account.

Whether such limited purpose revenue bonds, combining disparate loan activities such as student loans and farming loans, are marketable and at the more favorable interest rates contemplated by the Bill, is, of course, a question for your financial advisors.

I will mention only briefly the security interest test, because in almost all instances where the trade or business test is met the security interest test is also met. This is because, for revenue bonds to be marketable, payments on the loans made with bond proceeds must

secure the bonds. So it is here, where the assets of the Fund, which will consist essentially of its loan portfolio, are pledged as security for its bonds. In one published ruling of the Internal Revenue Service, the security interest test was broken on general obligation bonds issued to provide commercial loans, where the loans were not pledged as security for the bonds, but this Bill does not describe that situation. Here, payments on the commercial loans as well as on the noncommercial loans will be necessary for the payment of the principal of and interest on the bonds, and accordingly, under Treasury regulations, even if there was no specific pledge of the loans as security for the bonds, there would be an "underlying arrangement" which would supply the necessary element to satisfy the security interest test. It is possible that a very large pool of small loans, each of which is individually insignificant as security for the bonds, may fail the security interest test, but that is unlikely.

ARBITRAGE BONDS ASPECTS

Section 103(c) of the Internal Revenue Code provides that an arbitrage bond, which is also denied tax-exempt treatment, is any obligation all or a major portion of the proceeds of which, at the time of issuance,

are reasonably expected to be used directly or indirectly to acquire other obligations which may be reasonably expected to produce a yield over the term of the issue which is materially higher than the yield on the obligations, or to replace funds which are used directly or indirectly to acquire securities or obligations with a materially higher yield.

The basic abuse sought to be outlawed by the arbitrage bond provisions was the exploitation by governmental issuers of the difference between tax exempt and taxable securities. In other words, prior to 1969, a city or a state could issue bonds carrying an interest rate of, say, 6%, which would be two to three percent below market interest because of the tax exemption, invest the proceeds of the bond issue in U.S. government securities bearing 8% interest, and pocket the 2% difference.

As with the IDB provisions, the arbitrage provisions of Section 103 deal essentially with the use of the proceeds of governmental obligations. Unlike the IDB provisions, however, the arbitrage provisions affect every issue of governmental obligations, even those issued for purely public purposes as well as those issued to finance noncommerical loan programs, such as residential housing and veterans programs. For this reason, and because they

deal with the intricate and arcane rules of public finance and flow of funds, the arbitrage rules, currently set forth merely in proposed form as Treasury regulations, are among the most complex provisions to be found in the federal revenue laws, dealing with definitions, yield computations, temporary periods, reserve funds, refunding issues, and so forth.

In the jargon of this area of the law, bonds issued by the governmental unit are called "governmental obligations" and the obligations acquired with the proceeds of such bonds are called "acquired obligations." The loans made by the Fund will constitute acquired obligations for this purpose.

The first question on the application of these rules to the Bill under consideration is which yield spread is applicable. The Bill provides that the interest rate on loans made by the Fund will be equal to the Fund's cost of borrowing plus 1% (which goes into loss reserve account) plus the optional 1/6 of 1% for fire and liability insurance. Thus, the Bill contemplates a basic 1% spread in the yield between the obligations it issues and the obligations it acquires.

Generally, the arbitrage rules permit a yield spread of only 1/8th of one percentage point between the governmental obligations and the acquired obligations.

Under various conditions, the permitted yield spread is reduced to zero or increased to 1/2%. However, if the proceeds of the bonds are used to fund a "governmental program," the permitted yield spread is increased to 1-1/2 percentage points. The question, then, is whether the loan program contemplated in the Bill will constitute a "governmental program" under the arbitrage regulations.

The regulations define a governmental program as one which involves the acquisition of so-called acquired purpose obligations (that is, obligations acquired to carry out the purpose of the program and for which the governmental obligations were issued); at least 90% of all such obligations acquired under the program, by amount of cost outstanding, are evidences of loans to a substantial number of persons representing the general public, loans to exempt persons, or loans to provide housing and related facilities, or any combination of the foregoing; at least 90% of all of the amounts received by the governmental unit with respect to the obligations acquired under the program will be used to pay debt service on the obligations, make additional program loans, or for other purposes germane to the program; plus various detail requirements.

By far the most common governmental programs are those involving residental mortgage loans, student loans, and veterans programs. That does not mean, however,

that other types of programs cannot qualify, so long as the general public test is met. In addition, the regulations are reasonably clear that two or more types of loans can be embodied within one governmental program. Thus, for example, there is nothing in the regulations that would explicitly prohibit a governmental program that amalgamated housing, student, and veterans loans with miscellaneous commercial loans, although, again because of the novelty of the proposed Alaska Loan Programs Fund, a ruling on this point would be strongly advisable.

It is clear, however, that single purpose bond issues, such as for exempt facilities, do not constitute a governmental program, and therefore cannot qualify for the 1-1/2% spread. Bonds issued for such purposes, as well as for industrial parks and to qualify for the small issue exemption, will therefore be limited to the 1/8th% spread.

This obviously again raises against the question of pooling or tracing of bonds proceeds. If complete pooling were contemplated, it is possible that a ruling could be obtained from the Internal Revenue Service that the entire Alaska Loan Programs Fund constitutes one governmental program, so that all of the loans could qualify for the 1-1/2% spread.

On the other hand, it is open to question whether a large number of limited purpose issues can each be said to be funding a governmental program.

Another arbitrage aspect of the pooling versus tracing question is that the arbitrage regulations require the yield on each issue of governmental obligations to be computed separately, and compared with the separate computation of the yield on the obligations acquired with the proceeds of such bonds. Permission from the IRS is necessary for a joint yield computation on two or more issues of bonds. Thus, unless a joint yield ruling is obtained each time a series of bonds is issued, it will be necessary for the Fund to maintain adequate accounts to trace all of its bond proceeds into particular loans. Thus, determination of compliance with the arbitrage rules will require extensive tracing in any event. It should also be noted that most single purpose loan agencies, such as housing agencies, find the accounting requirements necessary to comply with this tracing to be extremely difficult at best. The complexity of such accounting for a multi-purpose agency such as that contemplated by the Bill may approach impossibility.

The next significant arbitrage question raised by the Bill is the matter of bond security. Under the Bill, the average annual income from the Permanent

Fund will be placed in the Allocated Reserve Account. Monies in the Allocated Reserve Account will then be used to fund the capital reserve account (equal to 5% of all bonds outstanding), the loss reserve account (equal to 5% of all loans outstanding), and the fire insurance and liability reserve account (with no specific funding requirements). The debt service reserve account is separately funded (with an amount up to the maximum permissible under Section 103(c)).

As I read the section of the Bill dealing with the Allocated Reserve Account (Section 45.96.120; p. 13), after the funding of the three accounts mentioned above, expenditures may be made from the Allocated Reserve Account in accordance with annual appropriations by the Legislature. If the result of that provision is that the balance of the Allocated Reserve Account is not pledged as security for bonds, such that there is no reasonable assurance that amounts in the Account will be available to pay debt service if necessary, the Allocated Reserve Account does not present an arbitrage problem because the funding levels for the reserve accounts (assuming some level such as 1% is specified for the liability account) are well within the 15% limit that can be invested without restriction.

I have been advised, however, that this section of the Bill, dealing with the Allocated Reserve Account, was intended to pledge the entire Account as security for bonds issued by the Fund, in order to increase the security for the bonds and therefore reduce interest cost. If that is the case, or if the same result is achieved through a subsequent pledge of the monies in the Allocated Reserve Account by the Legislature or through resolutions authorizing the issuance of the bonds (assuming that could lawfully be done), a serious arbitrage problem will result, because the entire Allocated Reserve Account would become what is called an "invested sinking fund." This is because the Treasury currently takes the position that any monies pledged as security for bonds, where the pledge is sufficient to restrict the issuer's discretion with respect to such monies so that there is a reasonable assurance to the bondholders that such monies will be available to pay debt service if necessary, such monies will be treated as bond proceeds, whether or not they are in fact bond proceeds. The result of being classified as an invested sinking fund is that when the amounts held in the Allocated Reserve Account, when aggregated with all other reserve funds (such as the debt service reserve fund), exceed 15% of the original

face amounts of all bonds outstanding, such excess will be subject to investment yield restrictions. Moreover, sinking fund proceeds are not entitled to the 1/8th% yield spread, but are essentially restricted to a zero spread.

Again, whether the significant reduction in interest expense contemplated by the Bill can be achieved if less than the entire Allocated Reserve Account is pledged as security for the Fund's bonds is a question for your financial advisors.

The final significant arbitrage question raised by the Bill is the potential application of the replacement clause of Section 103(c)(2). You will recall that a bond is an arbitrage bond not only if the immediate use of the proceeds is investment in higher yielding obligations, but also if bond proceeds are used to replace other funds of the issuer which in turn had been invested in higher yield obligations. In other words, a city cannot issue bonds to finance its everyday expenditures, while investing its tax receipts.

The only known application of the replacement clause to treat bonds as arbitrage bonds involved a complicated financial maneuver by a city-owned utility whereby the city switched the usual application of funds so that operating revenues were used to pay debt service

and an investment fund was used to pay operating expenses. The Internal Revenue Service held that the investment fund was being used to replace revenues, and the investment fund was therefore subject to arbitrage yield restrictions.

On the other hand, it is generally accepted that a state or local government is not required to fund capital projects out of current revenues to the extent of its ability before it can issue bonds. On the contrary, states with large surpluses continue to issue general obligation and other bonds to fund various projects, including loan programs.

The question, then, is whether the Internal Revenue Service will view the Permanent Fund or the income therefrom as available for making loans under the Alaska Loan Programs Fund, with the result that the proceeds of revenue bonds issued by the Fund will be viewed as replacing amounts in the Permanent Fund or in the Allocated Reserve Account for the purpose of applying arbitrage yield restrictions. While this result is unlikely, again, because of the novelty of the arrangement purposed, a ruling on this point should be considered.

MISCELLANEOUS

The bill provides that the Fund may purchase

bonds issued by nonprofit corporations on behalf of certain municipalities. (Actually there is a technical error in the Bill in this respect, because it refers to bonds issued by municipalities on behalf of nonprofit corporations.) The Bill states that a nonprofit corporation is eligible for a loan under this section if it is exempt from federal income tax under section 501(c)(3) or (4) of the Internal Revenue Code, it is a public corporation or other municipal instrumentality under Alaska statutes, or it is created by statute and performs a state function. It should be pointed out that the requirements for nonprofit corporations to issue tax-exempt bonds are substantially more complicated than reflected in the Bill. (Moreover, only Section 501(c)(3)'s are exempt persons for purposes of determining the IDB status of bonds.) These requirements to date have been developed in public and private rulings issued by the Internal Revenue Service. In addition, in February, 1976, the Treasury Department published detailed proposed regulations on what it refers to as "constituted authorities," which can issue tax-exempt obligations on behalf of a state or local governmental unit. It is questionable whether the final form of these regulations will be substantially similar to that proposed. In short, it would probably be impossible

to draft a statute that adequately reflected all of the current and anticipated requirements of the Treasury Department, and it may be preferable simply to require that the interest on bonds issued by such nonprofit corporations be tax-exempt if held by a person other than a person exempt from federal income tax generally, such as the state.

One of the numerous provisions of the Bill regarding loan eligibility and loan limits is a maximum limit on any single commercial project of $5 million. To the extent that this figure was selected because that was the maximum permissible loan under the small issue exemption for industrial development bonds, the maximum should be raised to $10 million, in conformity with a change in the law in 1978.

The Bill also allows for bank participation in the origination and servicing of loans made by the Fund. A currently open question in the IDB area is whether the loan servicing contract with the bank results in the proceeds of a bond issue being used in the trade or business of the bank, even if the most direct use of the funds is to provide, for example, residential housing. For this reason, it is customary for such bank servicing contracts to be terminable at the will of the agency at least annually. This is probably not the kind of detail that should

be placed in a statute, but I bring it to your attention in any event.

At several points in my prior comments I have mentioned the advisability of seeking a ruling from the Internal Revenue Service as to the effect of some of the more novel features of this Bill. In particular, rulings would be advisable on a total pooling of bond proceeds to fund all types of loans, if that is contemplated, whether the fund generally or specific segments of it constitute a governmental program for purposes of the 1-1/2% yield spread, and probably for joint yield computations on all bonds issued for the same general purposes. Requests for IRS rulings, however, have become substantially more complex in the last few months. As part of the Revenue Act of 1978, the Congress added a new provision to the Internal Revenue Code permitting issuers of governmental obligations to seek a declaratory judgment from the United States Tax Court that the interest on prospective obligations will be tax exempt. Because of this new provision, the IRS will no longer issue rulings on one question involving the tax exempt status of bonds. Instead, they now require that the ruling request address every question that can affect the tax-exempt status of the bonds. In other words, in connection with bonds that might be issued by the Fund, the Fund could not seek a ruling limited to, for example,

the question whether the intended use of the bond proceeds will constitute a governmental program, but will have to address every other issue in a ruling request as well.

Moreover, the IRS will accept a ruling request only with respect to an actually prospective issue of obligations, which will require a resolution calling for the issuance of the bonds. Because this is an entirely new procedure, we do not know at this time how strictly the IRS will interpret this requirement. It is possible that they might require the implementation of the entire Alaska Loan Programs Fund before they will even accept a ruling request on the tax-exempt status of the bonds to be issued by the Fund.

TRENDS

Your staff asked me to address not only the application of the current law and regulations to the omnibus loan program and bond security arrangements contemplated by the Bill, but also to make an assessment of what the law might be in five years.

I will say at the outset that there is no serious suggestion at this time to eliminate the tax-exempt status of governmental obligations generally, and it is politically unlikely that that will happen in the foreseeable future. Most of the proposals for a so-

called taxable bond option, whereby the interest on governmental obligations would be subject to federal income tax in the hands of the holders of the obligations and the federal government would provide a subsidy to the issuer to pay the extra interest expense, have provided that the option would be with the issuer and would be with respect to bonds that would otherwise be tax-exempt. One proposal in the last Congress would have given the holder of the obligation the option to include the interest in income, pay the tax thereon, and take a tax credit for the full amount of such interest, but that proposal would have been beneficial, by expanding the market for tax-exempt obligations to moderate income individuals.

The current controversy in the tax-exempt bond market relates to bonds issued to finance single and multi-family housing for other than low and moderate income individuals. The volume of housing bonds has taken a sharp upswing in the last few years, and Treasury and Housing and Urban Development, as well as the politically powerful banking & savings and loan industries, are urging the Congress to restrict the availability of tax-exempt housing bonds. Varous alternatives are being proposed, such as limiting the income level of the recipients of governmental assistance, limiting the fair market value

of residences financed with governmental assistance, and geographic targeting of government mortgage assistance. How this controversy will be resolved, and it is likely that some restrictions will be placed on housing bonds within the next one to two years, may have a significant affect on the omnibus loan Fund. For example, if arbitrary income limits are imposed, with bonds financing mortgage loans for persons exceeding certain income limits being treated in a manner similar to the current treatment of industrial development bonds, and if, in addition, a substantial portion of Alaska's residential mortgage loans are to persons exceeding the income limits, a significant portion of the leverage that the Bill contemplates to produce a large minor portion to be used for commercial loans may be eliminated. This may, of course, be mitigated somewhat by cost-of-living adjustments for different geographic areas, which would yield a much higher income limit for Alaska, but it cannot be known at this time how the housing bond controversy will eventually be resolved.

There are no other specific trends in the area of tax-exempt bonds. However, as a wholly new approach to state lending activities, the Alaska Loan Programs Fund may create its own trend. That is, if this Bill is adopted and is successful in raising large amounts of capital for

commercial loans with tax-exempt financing, you will have accomplished exactly what the Congress thought it had prohibited in 1968 with the enactment of the industrial development bond provisions. That may prompt other states to do the same, which may in turn prompt the Treasury to seek legislation from the Congress prohibiting this type of financing vehicle. Whether that would occur in three years, five years, or ten years, if at all, cannot be known.

My final comment in this area is to make reference again to the Tax Court declaratory judgment procedure enacted last year. Under this new procedure, we will for the first time be getting a significant body of case law in this area. Probably the first area to come under challenge will be the Treasury's proposed regulations, expected to be finalized in the immediate future, on arbitrage bonds, especially the invested sinking fund provisions. An opinion widely held within the bond community is that the regulations go far beyond the statute and are invalid. Whether that opinion will be shared by the courts remains to be seen. What is virtually certain, however, is that an increasing number of judicial decisions over the next several years will have an unsettling effect upon the law in this area. In such a

climate, the value of following customary financial practices in the bond industry, established over many years, cannot be estimated.

#14:21

MEMORANDUM

To: Representative Hugh Malone

From: Nancy Lord, Aide

Date: May 3, 1979

Subject: CS for SS for SB1 (Rules) and CS for SJR26

At your request I have prepared the following summary of the contents of the latest version of Senator Hohman's permanent fund bill and his CS for the governor's proposal for a constitutional amendment.

CS for SS for SB1 is basically a gluing together of CS for HB281 (the House permanent fund bill), HB99 (the governor's tax credit bill), and SS for SB1, with a few important changes.

I have not attempted here to analyze any of the bill but only to identify the changes from previous drafts of SB1 as well as changes in the House and governor's bills whcih are incorporated into it.

Pages 1 through 12 are identical to CS for HB281 except in three places.

First, the contribution level of the permanent fund is set at 100% of bonuses and 25% of royalties rather than the 50% level for both set forth in the House bill. This conflicts with the accompanying CS for SJR26, however, in that it provides for the dedication to the permanent fund of 25% of all dedicated mineral

revenues (i.e. 25% of 100% of bonuses and 25% of 75% of royalties). Mr. Berrier assures me that this is a drafting error and that the intent of the resolution was for the permanent fund to receive 25% of both bonuses and royalties. Thus, should that correction be made and should the constitutional amendment become law, the permanent fund would receive 25% of bonuses, not 100% as stated in the bill.

Second, the new Hohman bill sunsets the Permanent Fund Corporation in 1982 (page 5, lines 14-17) and turns the management of the fund back to the Department of Revenue.

Third, the language in section k (page 10) differs from 281's language and offers a possibly dangerous loophole concerning allowable permanent fund investments.

Pages 12-13 correspond to HB99 except that the tax credits are not given unless a constitutional amendment dedicating 75% of mineral revenues to various funds and accounts becomes effective.

The allocated reserve account (page 19) now gets one-half of the permanent fund earnings instead of all. This, however, is inconsistent with the resolution, which says that half of the earnings go to tax credits and half to the general fund.

The problem of the spread of responsibilites for the loan program among departments is partially taken care of by assigning the

accounting and collecting duties to the Department of Commerce.

This latest CS excludes veteran and scholarship loans. (That is, those loan programs are not repealed and replaced under the umbrella program.) The loan programs, funds, and authorities now repealed are those for agriculture, commercial fishing, housing, recreation and open space, area development, child care, state development, small business development, AIDA, water resources, alternative power, tourism, business, and historical districts.

A new section 45.96.200 (page 34) says that "public purpose" loans may not be made unless certified by the commissioner of Revenue as good risks.

A section in earlier drafts which prevented municipalities from selling industrial development bonds is now deleted.

A new Sec. 27 (page 50) sets up a comprehensive loan program reserve account to receive 15% of mineral royalties (bonuses aren't mentioned here). That money is then appropriated to the allocated reserve account for the securing of the bonds, and flows from there to various other reserve accounts.

Another new section, Sec. 34 (page 52), sets up for six months a "special account" in the general fund, made up of the general fund surplus in excess of $100 million. This provides interim loan money for the period between the time the old loan programs

shut down and the time the new one is operable. The loans in the interim, purchased by the special account, shall all have an interest rate of 9½%.

Other than the changes noted and a number of very minor ones, the latest Hohman proposal is the same as the earlier SS.

The accompanying resolution takes the governor's proposal for a constitutional amendment to increase the contributions to the permanent fund and changes it to provide for a whole series of dedications. Under the CS, 75% of all mineral royalties and 100% of all bonuses would be dedicated as follows: 25% to the permanent fund, 5% to the Renewable Resources Development Fund, 25% to the capital outlay account, 5% to the energy facilities development account, and 15% to the loan programs fund.

It is worth noting that this latest loan fund bill, when it is detached from the House proposal for fund management, no longer has any tie to the permanent fund, assuming that the permanent fund earnings are distributed as specified in the resolution. The loan programs fund would now have nothing to do with either the permanent fund income or principal, but would be funded by a separate dedication from oil revenues. (This would impact the permanent fund only to the extent that the contribution rates to it could not be increased.)

STATE of ALASKA

MEMORANDUM

#18:21

TO: [redacted]

DATE: February 27, 1978

FILE NO:

John Sackett

TELEPHONE NO:

FROM: Judy Crondahl

SUBJECT: SB-429 Alaska Permanent Fund

The following will be a brief analysis of the Senate Permanent Fund Bill and some of its possible ramifications.

Section 1 of SB-429 [1]. establishes the Alaska Loan Program Fund and provides the State Bond Committee with revenue bonding authority "to carry out the fund's purposes". Obligations of the fund would be secured by the establishment of an Unallocated Reserve Account. This account would receive all the income from the 25% Permanent Fund contribution, and other funds as appropriated. In turn it would fund other accounts established to service specific needs of the Revenue Bonds. They are the Fire Insurance and Liability Reserve Account, the Loss Reserve Account, and the Capital Reserve Account. Other expenditures could be made from the Unallocated Reserve Account as appropriated.

There would also be established, as a sub-account of the Unallocated Reserve Account, the General Fund Contributions Account. Its revenue would come from the lesser of two sources: either the revenue of the 40% of mineral lease rentals, royalties, etc. going to the General Fund; or the Unobligated General Fund amounts for which appropriations have not lapsed at the end of the fiscal year. Expenditures from this sub-account would be the same as the Unallocated Reserve Account, subject to appropriation. [2].

The effect of authorizing Revenue Bonds for the Loan Program will be to have a multiplier effect on the available revenues from the Permanent Fund. It is possible that these funds could be increased ten-fold through the sale of Revenue Bonds. At the same time, while the liability of the state is limited in terms of not obligating the full faith and credit nor the taxing power of the state, the revenues and assets of the Loan Program Fund are obligated [3]. As stated earlier, this includes not only the income from the Permanent Fund, but also other funds as appropriated and General Fund amounts automatically appropriated to the General Fund Contribution Account.

The types of loans allowable under the Alaska Loan Program would be of four (or five) major types. They would be for residential housing, commercial purposes, public purposes and education. (Reference Sec. 45.96.250, page 14). A fifth type for tourism, historical and open space loans is included under Sec. 45.96.360 (page 27). These five types increase the scope of the current state loan programs immeasurably. It would appear that there would be very few enterprises not covered by this proposed program [4].

To administer the Alaska Loan Program there would be established a Division of Alaska Loan Programs in the Department of Commerce and Economic Development and a Division of Collections in the Department of Revenue. Also established in Section 1 of SB-429 would be two evaluations committees. One would be the Alaska Loan Programs Evaluation Committee comprised of the Directors of the two new above-named divisions, and also the Director of the Division of Economic Development. The other committee, the Renewable Resources Loans Evaluation Committee, would be comprised of the two new above-named divisions and the Director of a third new division, the Division of Renewable Resources in the Department of Commerce and Economic Development [5].

Section 2 of SB-429 [6] establishes the Permanent Fund under AS 37.13. Changes in investment of the Permanent Fund from Chapter 6, SLA 77 [7] increase the number of allowable types of investment. It would be advisable to obtain professional opinion as to the relative security of the added types.

Under Sec. 15 of SB-429 [8] surplus General Funds are permitted to be invested in all loans under the Alaska Loan Program, rather than just the current agricultural and veteran's loans. This could immeasurably increase the amount of <u>illiquid</u> General Funds.

1. Attachment "A", pp 1-38
2. Attachment "B"
3. Attachment "A", Sec. 45.9[illegible].090, page 6
4. Attachment "C"
5. Attachment "A", Sec. 37.11.130, p. 43.
6. Attachment "A", pp. 38-40
7. Attachment "D"
8. Attachment "A", p. 55.

ATT. A - Copy of Bill

ATTACHMENT "B"

ALASKA LOAN PROGRAMS FUND

Unallocated Reserve Account

Revenues	Expenditur
1. Permanent Fund Income	1. Funding for Fire Ins. & Liability Res. Acct.
2. Other Appropriated Funds	2. Funding for Loss Reserve Acct.
	3. Other expenditures as appropriated
	4. Funding for Capital Reserve Acct.

General Fund Contribution (Sub-) Account

Revenues	Expenditures
Lesser of: 1. All G.F. Revenue from mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments & bonuses received by state, or; 2. Unobligated G.F. amounts for which appropriation has not lapsed at end of F.Y.	1. As above-subject to Legislative Appropriation

Debt Service Reserve Account

Revenues	Expenditures
1. Proceeds of sale of obligations - The maximum allowable under Federal law & regs for tax-exempt obligations.	1. When funds not available from principal & interest acct. or Cap. Res. Acct: (a) payment of principal (b) redemption or purchase (c) payment of interest (d) redemption premium 2. Balance at retirement to Unallocated Reserve Account.

Capital Reserve Account

Revenues	Expenditures
1. 5% of obligations issued & sold from Unallocated Reserve Account	1. From each account to the Unallocated Reserve Acct at end of F.Y.: (a) any amt in excess of 5% of obligations secured.
2. From the Unallocated Reserve Acct at end of F.Y.: (a) any amt necessary to bring Capital Reserve Acct to 5% of obligations secured.	2. When funds not available from Principal & Interest Acct: (a) payment of principal of obligations. (b) purchase redemption of obligations. (c) payment of interest of obligations. (d) payment of required redemption premium.
3. Interest earned	3. Interest paid to Unallocated Reserve Account
	4. Remaining balance when issue fully retired paid to Unallocated Reserve Account.

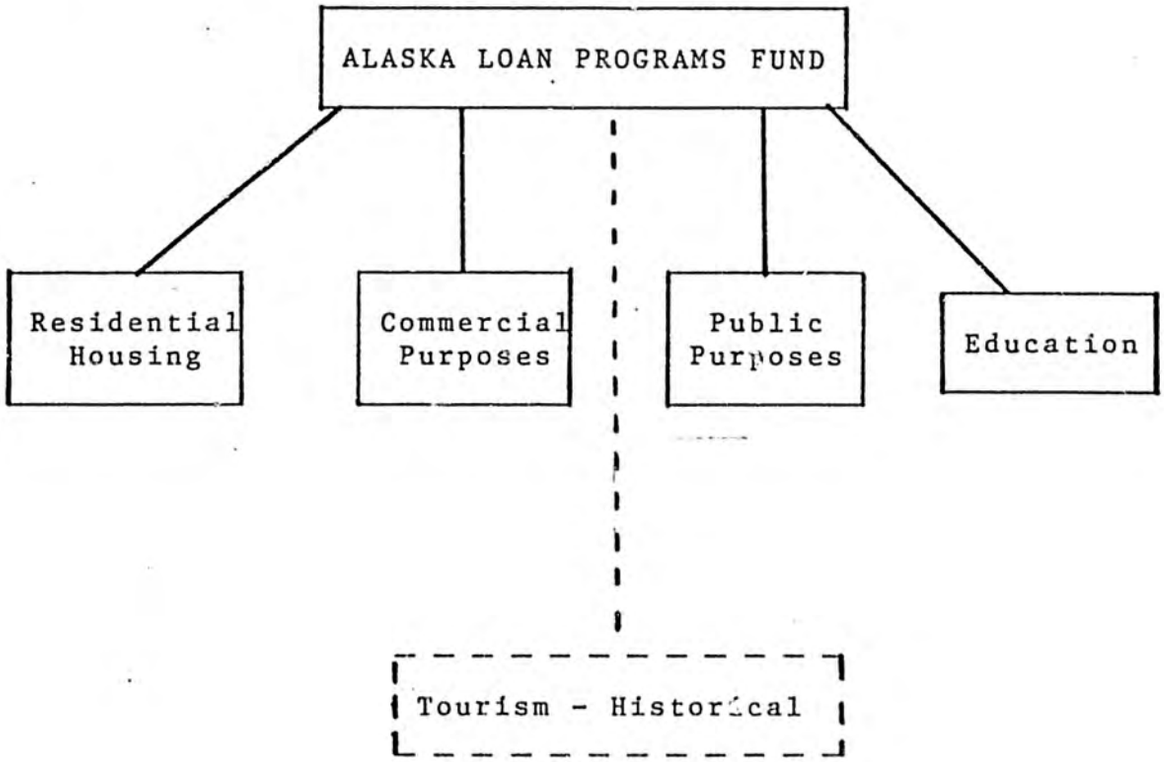
Loss Reserve Account

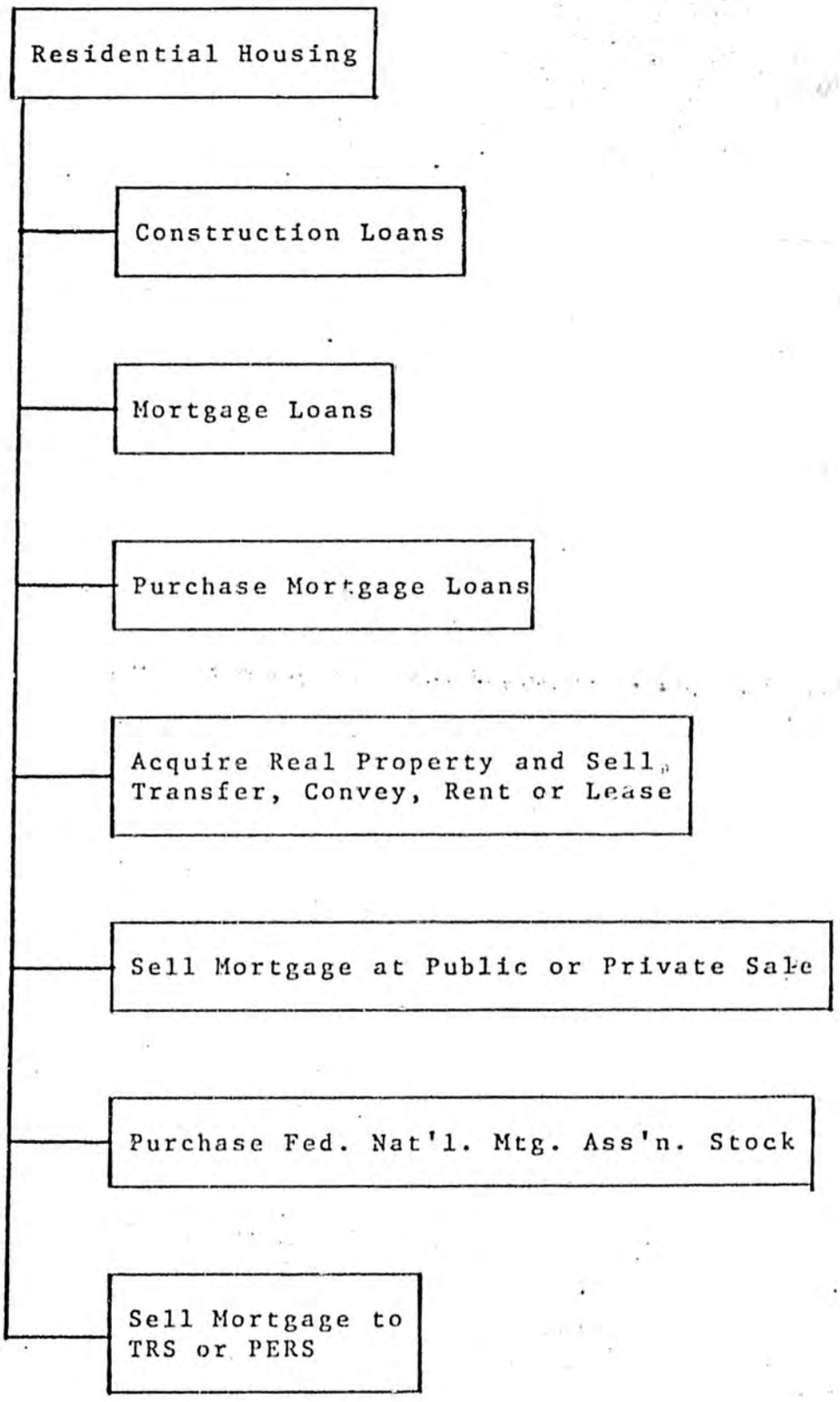
Revenues	Expenditures
1. From Unallocated Reserve Acct: (a) 5% of estimated loans to be made during first year. (b) Amt. necessary to bring balance to 5% of loans outstanding during each succeeding year. (c) Sufficient funds to bring balance to 5% at any (and all) times during year.	1. Losses realized from loans
2. 1% difference between interest paid by borrower and interest paid by fund.	2. Excess of 5% (a) Unallocated Reserve Acct until all amts paid to Loss Reserve & Capital Reserve have been re-paid, then (b) Earned Income Acct of Loan Programs Fund.

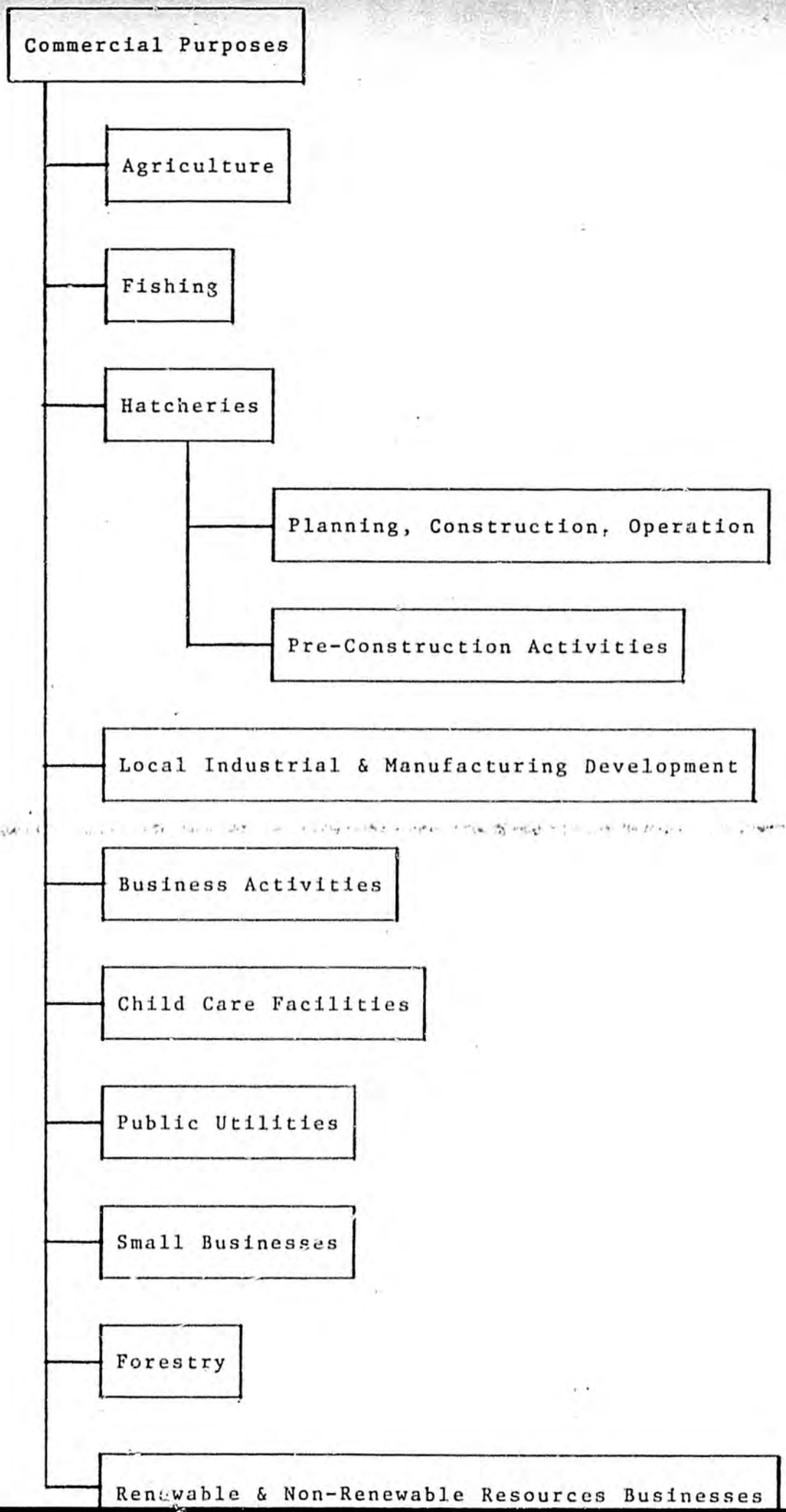
Fire Insurance & Liability Reserve Account

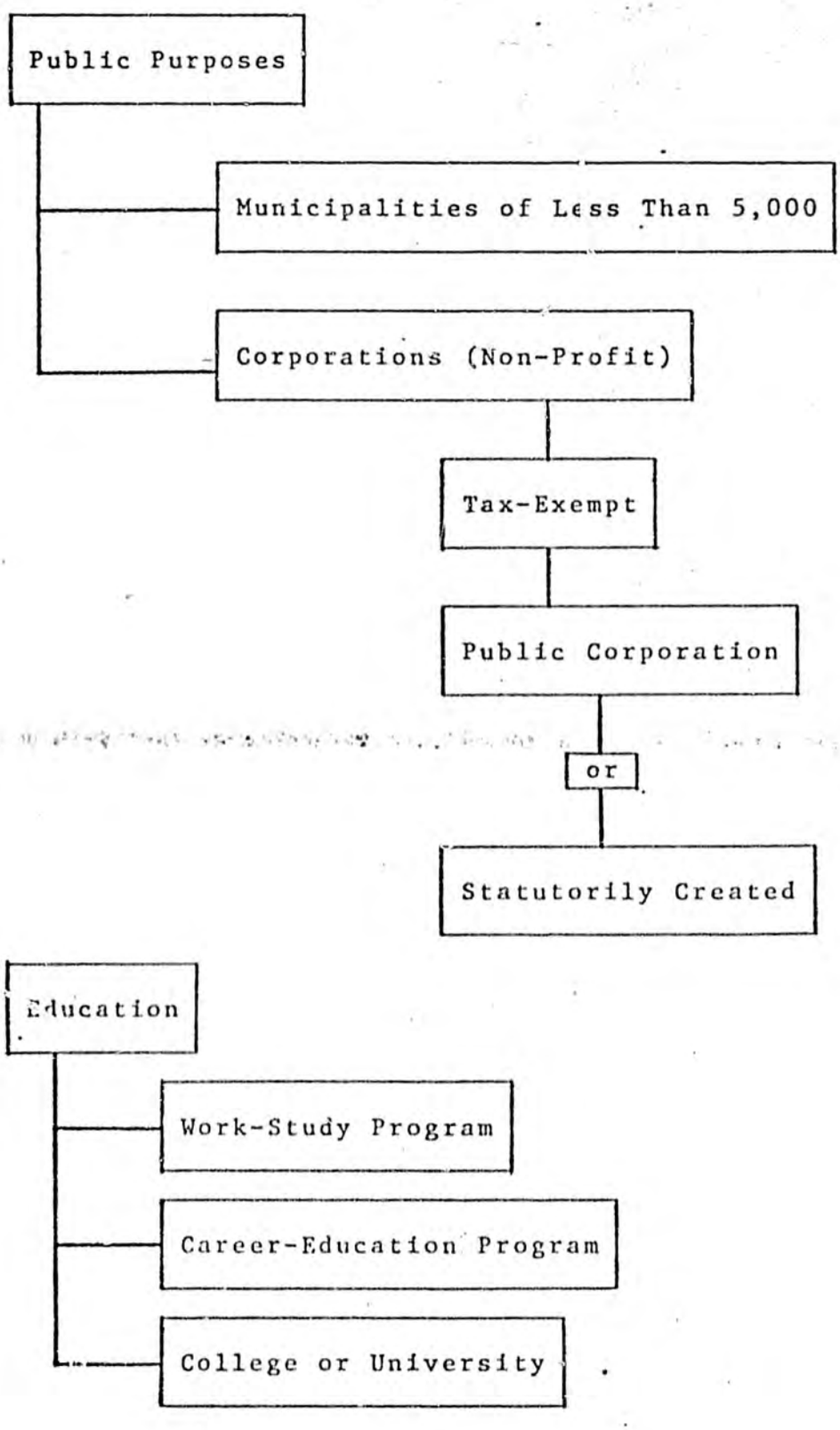
Revenues	Expenditures
1. Add'l charge of .6%/year on loans which do not provide proof of fire & liability insurance.	1. Fund loss reimbursement

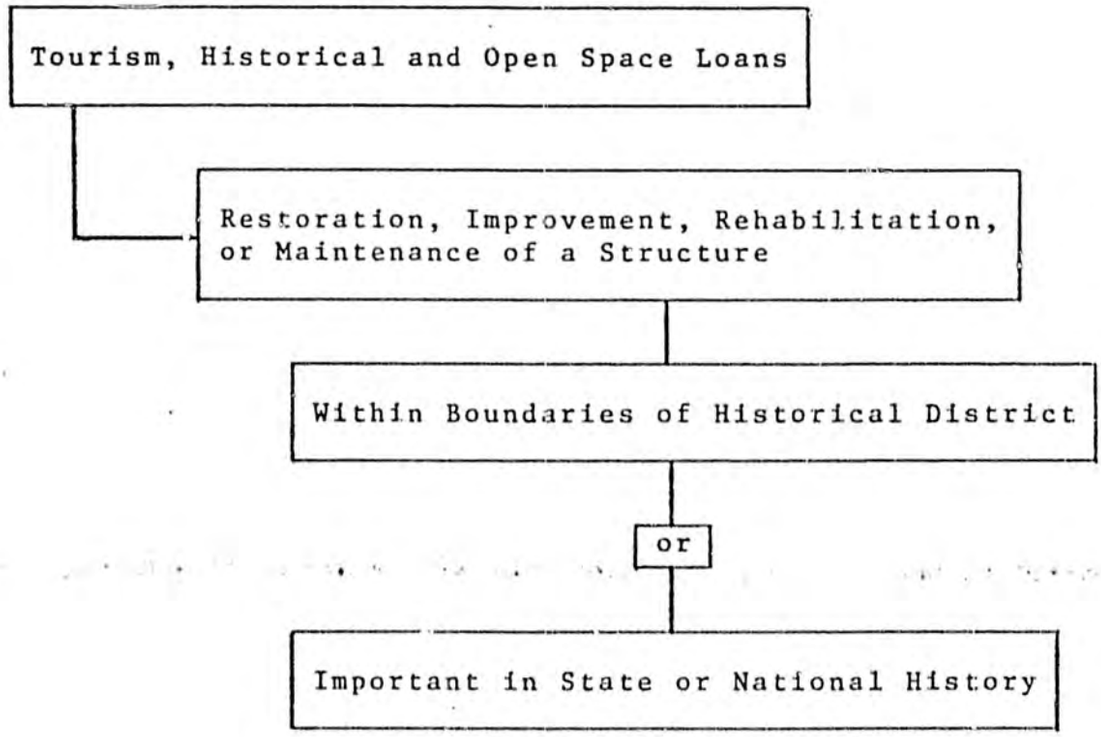
ATTACHMENT "C"




Residential Housing
Construction Loans
Mortgage Loans
Purchase Mortgage Loans
Acquire Real Property and Sell, Transfer, Convey, Rent or Lease
Sell Mortgage at Public or Private Sale
Purchase Fed. Nat'l. Mtg. Ass'n. Stock
Sell Mortgage to TRS or PERS


Commercial Purposes
Agriculture
Fishing
Hatcheries
Planning, Construction, Operation
Pre-Construction Activities
Local Industrial & Manufacturing Development
Business Activities
Child Care Facilities
Public Utilities
Small Businesses
Forestry
Renewable & Non-Renewable Resources Businesses


Public Purposes
Municipalities of Less Than 5,000
Corporations (Non-Profit)
Tax-Exempt
Public Corporation
or
Statutorily Created
Education
Work-Study Program
Career-Education Program
College or University


Tourism, Historical and Open Space Loans
Restoration, Improvement, Rehabilitation, or Maintenance of a Structure
Within Boundaries of Historical District
or
Important in State or National History

Attachment D

LAWS OF ALASKA

1977

Source: HB 210

Chapter No. 6

AN ACT

Providing for interim management of the Alaska Permanent Fund; and providing for an effective date.

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

* Section 1. AS 37.10 is amended by adding a new section in art. 3 to read:

Sec. 37.10.065. INVESTMENT OF THE ALASKA PERMANENT FUND. (a) The Alaska Permanent Fund consists of 25 per cent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the state. The commissioner of revenue shall deposit in the Alaska Permanent Fund 25 per cent of the receipts from these sources at least once each month. The commissioner of revenue shall invest the money in the Alaska Permanent Fund in income-producing investments of the following types:

(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' acceptances 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.

(b) The commissioner of revenue may enter into contracts providing for custody of securities and execution of transactions.

(c) The commissioner of revenue shall transfer to whatever agency is established for the express purpose of managing and investing the Alaska Permanent Fund all or part of the securities and money in the Alaska Permanent Fund in accordance with Alaska law no later than two weeks after receipt of written notice from that agency.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

Approved by the Governor: March 22, 1977
Actual Effective Date: March 23, 1977

TO: Rep. Cowper, Chairman
House Finance Committee

DATE: 8 March 1978

FROM: James B. Rhode, AA

SUBJECT: Economic Premises of HB 596 (Alaska Permanent Fund) and Related Bills

You have asked for a brief comment on the economic premises that emerge in HB 596 and related bills. They are grouped below under three broad headings: (1) public savings, (2) closing the "capital gap", and (3) subsidies.

(1) The trust in HB 596 is a "nest egg" or public savings account for the future. This serves a number of compatible purposes:

- to support the budget as oil revenues decline
- to check the use of revenues for lower state priorities
- to hold revenues that are not immediately needed (but otherwise might not be collected)
- to give time for the state to better assess its priorities

These purposes are met by the historic trust rule of maximum return consistent with safety of principle.

(2) The Enterprise Fund is to close the "capital gap" in Alaska, private and public. This gap is measured by economists as the amount of capital that would normally be provided by private markets but is not because of "institutional barriers" in the financial community as a whole. Such barriers include lack of information, lack of experience with particular kinds of investment, and racial and other bias. Local regulatory practice can be a barrier, but the effects are probably not great due to the relatively free flow of capital within and even between countries.

A capital gap is not a sheer absence of funds. Money can usually be obtained at some price. Rather, the usual reason that funds are not forthcoming is that other areas, offering better returns and lesser risks, can pay more for capital and enjoy more investor confidence.

The full scale of this gap in Alaska is not documented. However, the evidence is that the shortfall is in the millions, not billions, of dollars and is focused in rural Alaska, mainly in small and medium ventures. Elsewhere, there is no proof that large, attractive loans are being missed or rejected by the private capital markets (banks and their lines of credit, bond and money markets, insurance companies).

(3) Many appropriations are made to further economic goals that are not met, or met as well, by the growth of the private economy. We concentrate here on spending meant to spur development, including

capital items (whether from bond proceeds or the general fund), loan programs, technical assistance programs, job training, and, soon, the renewable resources fund. The economic goals of these efforts include reducing the seasonal and cyclical nature of the Alaskan economy, stable employment, improving resident and minority hire, raising personal incomes, lowering the cost of living, and the like. For the most part, the money spent on these goals represent a subsidy, direct or indirect. They provide a good or service for which people are unable to pay or, at times, unwilling to pay.

HB 596, in turning away from subsidies, is not opposing them as such. Indeed, they are permitted for the Enterprise Fund under special conditions. Yet most subsidies are expected to be made in the state budget process. And that forum is to receive more scrutiny as the result of a new legislative committee for investment oversight. The premise of this approach is simply that more intelligent subsidies will be made if they are openly voted---if the public can see what money is at stake, who gets it, and who wanted them to have it.

cc: Rep. Gruening, Chairman
House Special Committee on the Alaska Permanent Fund

of liability. The liability of a certifying
in the same manner as provided by law
the liability of a disbursing and other
CLA 1949)

2. Accounting.

Section
60. Department of Revenue to deposit money to state treasury

for state money and payment to
deposit in proper fund. (a) Each office
authorized to collect or receive fees
belonging to the state shall account for
es or other money, less fees to which he
artment of Revenue at least once each

state shall be deposited by the collector
ount of the Department of Revenue when
irects this to be done.
enue in June and December of each year
wspaper of general circulation in each of
tailed report in display advertising form
y deposited in each named bank or other
f the semiannual report on bank deposits
slative Affairs Agency for distribution of
legislature. The terms of the deposit may
equest. (§ 12-2-1 ACLA 1949; am § 8 ch
186 SLA 1957; am § 1 ch 115 SLA 1965)

ACLA
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A 1953
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2, SLA
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ed § 8.
A 1957

Cross reference. — As to deposit of state funds, see AS 37.10.075.

Quoted in Empire Printing Co. v. Robertson, 17 Alas. 209, 247 F.2d 8 (9th Cir. 1957).

Am. Jur. and C.J.S. references. — 42 Am. Jur., Public Funds, §§ 5 to 41.

26 C.J.S. Depositories §§ 7 to 14; 81 C.J.S. States § 155.

nt of Revenue to deposit money to state
ts received by the Department of Revenue
posited in the state treasury at least once
the department to the proper fund. (§ 12-2-2

Article 3. Investment and Deposit of State Funds.

Section
65. Investment of the Alaska Permanent Fund
70. Investment of surplus funds
75. Deposit of state funds
79. Purchase of bonds
80. Sale of bonds held as investments
85. Financial aid to corporations by state or political subdivision
87. Loans to bond construction funds
88. Department of Administration authorized to make advances to the University

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Legislative committee report. — For report on ch. 6, SLA 1977 (HB 210), see 1977 Senate Journal, p. 575; 1977 House Journal, p. 279.

MEMORANDUM

To: Representative Hugh Malone

From: Nancy Lord, Aide

Date: May 3, 1979

Subject: CS for SS for SB1 and CS for SJR26

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

IN THE HOUSE

BY THE SPECIAL PERMANENT
FUND COMMITTEE

HOUSE BILL NO. 279

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

* Section 1. AS 24.20.151 is amended to read:

Sec. 24.20.151. LEGISLATIVE BUDGET AND AUDIT COMMITTEE ESTABLISHED. The Legislative Budget and Audit Committee is established as a permanent interim committee of the legislature. The establishment of the committee recognizes the need of the legislature for full-time technical assistance in accomplishing the fiscal analysis, budget review, <u>investment oversight</u> and post-audit functions.

* Sec. 2. AS 24.20.201(a) is amended by adding new paragraphs to read:

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

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

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

* Sec. 3. AS 24.20 is amended by adding new sections to read:

Sec. 24.20.321. INVESTMENT OVERSIGHT DIVISION. The investment

oversight division is established as a permanent staff agency responsible to the Legislative Budget and Audit Committee for the performance of oversight and review functions to provide information on the policy and performance of all agencies of the state which perform lending or investment functions.

Sec. 24.20.331. STAFF. (a) The committee shall hire and determine the salary of the division director who shall serve both at the direction and pleasure of the committee. The director shall serve as head of the investment oversight division and, within the limits of the budget approved by the committee, shall employ and determine the compensation of the professional and clerical staff of the division.

(b) The director and members of the professional and clerical staff shall not join or support a partisan political organization. This prohibition does not prevent the director or members of the staff from joining social organizations, expressing private opinion, registering as to party or voting.

Sec. 24.20.341. DUTIES. The investment oversight division shall

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

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

(3) present a complete report of investment programs, plans, performance, and policies of all agencies of the state which perform lending or investment functions to the Legislative Budget and Audit Committee at the time the committee directs;

(4) present to the committee within 30 days after the convening of each regular session a review of the report of the governor under AS 37.07.020(d);

* Sec. 4. AS 37.07.020 is amended by adding a new subsection to read:

(d) The governor shall annually, before the convening of the legislature, report to the legislature through the Legislative Budget and Audit Committee the long-range fiscal and economic consequences of

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

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

* Sec. 5. AS 37 is amended by adding a new chapter to read:

CHAPTER 13. ALASKA PERMANENT FUND.

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

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

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

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

(2) twenty-five per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federa mineral revenue sharing payments received by the state; and

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

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

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

Sec. 37.13.020. FINDINGS. The people of the state, by constitutional amendment, have required the placement of at least 25 per cent of

all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses received by the state into a permanent fund. The legislature finds with respect to the Alaska Permanent Fund Corporation that

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

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

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

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

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

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

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

members.

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

Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may remove a member of the board from office by and with the consent of a majority of the members of the legislature in joint session. A removal by the governor shall be in writing and state the reason for removal. If the legislature is not in session, the governor may suspend a member of the board. Upon suspension, a vacancy is not created but the member of the board may not participate in board business and may not be counted for purposes of establishing a quorum. The joint session of the legislature shall be held within 30 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the legislature is not in session. If the legislature refuses to consent to his removal, the member of the board shall be reinstated to his position.

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

(c) A vacancy on the board does not impair the authority of a

quorum of the board to exercise all the powers and perform all the duties of the board.

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

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

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

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

Sec. 37.13.100. COMPENSATION. Each member of the board shall receive an honorarium of $250 for each meeting day in attendance. Members of the board are entitled to per diem and travel allowances as provided by law for members of state boards and commissions.

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

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

(b) If a member of the board or an employee acquires, owns or

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

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

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

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

(d) The board shall submit long-range and quarterly investment reports to the Legislative Budget and Audit Committee.

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

(f) The board may enter into and enforce all contracts necessary, convenient or desirable for purposes of the corporation. It may contract with the division of treasury of the Department of Revenue for services.

(g) Subject to (a) and (b) of this section, the board may invest

corporation assets in obligations of, or obligations insured or guaranteed by, the United States or agencies or instrumentalities of the United States; corporate securities which under the Securities Act of 1933 are freely marketable; and short-term investments which meet the requirements of (a) and (b) of this section except for the term of the investments.

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

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

(h) Subject to (a) and (b) of this section, the board may invest corporation assets in

(1) Federal Housing Administration mortgages;

(2) Federal Veterans Administration mortgages;

(3) conventional residential mortgages if the offering financial institution retains at least 25 per cent of the mortgage.

(i) To qualify as a mortgage or secured loan which may be purchased by the board under (h) of this section, the mortgage or secured loan shall

(1) be secured by real estate in the state;

(2) have as a mortgagor an Alaska resident or a corporation in which at least 60 per cent of the stock is owned by Alaska residents;

(3) be certified by the originating financial institution

that the loan being sold has been made in compliance with law and that liens supporting the loan have been perfected;

(4) have no initial closing fees or service fees which exceed one-half of one per cent, excluding closing costs.

(j) The board may purchase loans provided for in (h) of this section only with the approval of each purchase by the division of Alaska loan programs of the Department of Commerce and Economic Development, and the loans may be purchased only from financial institutions which are operating under the national banking laws, federal savings and loan laws, or under the provisions of AS 06.05, AS 06.15, AS 06.25 or AS 06.30.

(k) The board shall establish and from time to time as necessary modify guidelines for the investment of the corporation's assets. Before adoption of any investment guidelines, the guidelines shall be reported to the Legislative Budget and Audit Committee for review and comment.

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

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

year in which the gains on the sales of securities exceed the losses on the sales of securities, the excess shall be added to the principal of the fund.

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

(b) When 50 per cent of the income of the corporation available for distribution, as certified by the commissioner of revenue, exceeds the amount estimated by the commissioner as equal to the amount of the tax credits allowed by AS 43.20.015, the credit allowed in AS 43.20.-015(b)(3) shall be $300 plus an additional amount equal to the quotient obtained by dividing that excess by the number of eligible taxpayers claiming credit under AS 43.20.015(b)(3).

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

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

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

programs.

Sec. 37.13.180. REPORTS AND PUBLICATIONS. No later than September 30 of each year, the board shall publish a report of the corporation for distribution to the governor, legislature, and the public. The report shall be written in easily understandable language. The report must include financial statements audited by independent outside auditors, a statement of the amount of money received by the permanent fund from each investment during the period covered, a statement of corporation investments including an appraisal at market value, a description of corporation investment activity during the period covered by the report, a comparison of the corporation performance with the intended goals contained in AS 37.13.020, an examination of the impact of the investment criteria of this chapter on the corporation portfolio with recommendations for any needed changes and any other information the board believes would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the corporation shall be published in at least one newspaper in each judicial district. The income statement and balance sheet for the two fiscal years preceding the publication of the election pamphlet under AS 15.57 shall be included in that pamphlet. The board may also publish other reports it considers desirable to carry out its purpose.

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

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

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

* Sec. 6. AS 39.25.110 is amended by adding a new paragraph to read:

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

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

(QQ) Alaska Permanent Fund Corporation Board of Trustees.

* Sec. 8. TRANSITION. The commissioner of revenue shall transfer all funds of the Alaska permanent fund to the Alaska Permanent Fund Corporation established by this Act after request for transfer is made by the corporation board of trustees.

* Sec. 9. AS 45 is amended by adding a new chapter to read:

CHAPTER 96. ALASKA LOAN PROGRAMS FUND.

Sec. 45.96.010. PURPOSE. Efficient use of the capital resources of the state will be promoted by creating a single loan fund to provide a single source from which potential users can acquire a state loan and obtain information about existing federal or private loan programs which will better serve the needs of the user or which will complement a proposed state loan. A single state source of lending will provide strong assurance of repayment of its loans and thereby lower the cost of borrowing to the state. The purpose of the loan programs fund is to

provide the lowest possible interest costs to Alaska borrowers consistent with sound financial practices and to make available to all sectors of the Alaska economy loans including long-term financing. A strong, single loan source, by being available to secure interest rates and terms better than those available to loan funds limited in size for a specific purpose, will make a significant contribution to lowering costs of living for Alaska residents and costs of operations in the private and public sector.

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

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

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

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

(b) The principal and interest on these bonds or bond anticipation notes are payable from assets of the fund. Bond anticipation notes may be payable from the proceeds of the sale of bonds or from the proceeds

of sale of other bond anticipation notes or, if bond or bond anticipation note proceeds are not available, the bond anticipation notes may be paid from other assets of the fund. Bonds or bond anticipation notes may also be secured by a pledge of a grant or contribution from the federal or state government, a corporation, association, institution or person, or a pledge of money, income, or revenues of the fund from any source.

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

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

(e) If an officer whose actual or facsimile signature appears on any bonds or notes or coupons attached to them ceases to be an officer before the delivery of the bond, note or coupon, his signature is valid

as if he had remained in office until delivery.

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

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

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

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

provisions.

Sec. 45.96.070. OBLIGATIONS ELIGIBLE FOR INVESTMENT. Obligations issued under the provisions of this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These obligations may be deposited with the state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds, notes or obligations of the state is authorized by law.

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

(b) Refunding obligations may be sold or exchanged for outstanding obligations issued under this chapter. If sold, the proceeds may be applied, in addition to other authorized purposes, to the purchase, redemption or payment of the outstanding obligations. Pending the application of the proceeds of refunding obligations, with any other available funds, to the payment of the principal (accrued interest and any redemption premium on the obligations being refunded, and if so

provided or permitted in the authorization for issuance of the refunding obligations, to the payment of any interest on the refunding obligations and any expenses in connection with the refunding), the proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which mature or which will be subject to redemption, at the option of the holders of them, not later than the respective dates when the proceeds, together with the interest accruing on them, will be required for the purposes intended.

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

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

Sec. 45.96.110. SALE OF BONDS. (a) The state bond committee may sell bonds at public or private sale until July 1, 1984. After July 1, 1984, the state bond committee may sell bonds only at public sale.

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

Sec. 45.96.120. ALLOCATED RESERVE ACCOUNT. For the purpose of securing obligations of the fund, a special account called the allocated reserve account is established. The amounts necessary to fund the capital reserve account established under sec. 140 of this chapter, the fire insurance and liability reserve account under sec. 160 of this chapter, and the loss reserve account under sec. 150 of this chapter are allocated to those accounts to the extent appropriations for that purpose are available. All other expenditures from this account shall be in accordance with annual appropriations.

Sec. 45.96.125. UNALLOCATED RESERVE ACCOUNT. (a) For the purpose of securing obligations of the fund, a special account called the unallocated reserve account is established. The unallocated reserve account consists of any amounts remaining in the general fund at the end of a fiscal year which have not been obligated.

(b) The legislature may, by appropriation, fund the allocated reserve account created in sec. 120 of this chapter from funds in the unallocated reserve account.

Sec. 45.96.130. DEBT SERVICE RESERVE ACCOUNT. For the purpose of securing each issue of its obligations, the fund shall establish a special account called the debt service reserve account and shall pay into the account from the proceeds of the sale of that issue of its obligations the maximum amount permissible under federal law and regu-

lations for tax exempt obligations which may be invested without limitation as to yield. All money held in a debt service reserve account may be used as required, when money is not available from the principal and interest account or the capital reserve account, solely for (1) the payment of the principal of obligations, (2) the purchase or redemption of obligations, (3) the payment of interest on obligations, or (4) the payment of any redemption premium required to be paid when those obligations are redeemed before maturity. Any amount remaining in a debt service reserve account when the issue the account secures is fully retired shall be paid to the allocated reserve account.

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

(4) the payment of any redemption premium required to be paid when those obligations are redeemed before maturity. Income or interest earned by a capital reserve account shall be paid to the allocated reserve account established by sec. 120 of this chapter. Any amount remaining in a capital reserve account when the issue the account secures is fully retired shall be paid to the allocated reserve account.

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

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

(c) The one per cent difference between the rate of interest paid by a borrower and the rate of interest paid by the fund required by sec. 430 of this chapter shall be allocated to the loss reserve account.

(d) Money in the loss reserve account may only be used for losses realized from loans made under this chapter, except when, at the beginning of a fiscal year, the balance of this account exceeds five per cent of the remaining principal balance of the total amount of loans

projected to be outstanding during the fiscal year, the amount in excess of five per cent shall be paid to the allocated reserve account until all amounts paid to the loss reserve account and the capital reserve account have been paid and then to the earned income account of the loan programs fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Each district loan office shall include a veterans' loans section. The veterans' loans section shall process loan applications from applicants who meet the eligibility requirement of sec. 440 of this chapter. The veterans' loan section shall also provide information and assistance to veterans relating to loan applications under this chapter, other state loan programs or state grant programs, federal loan or grant programs, and to the extent feasible, private loans.

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

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

alternative terms and conditions which will protect the interest of the state and prevent the default of the loan.

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

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

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

(b) If a borrower who has received notification of delinquency in accordance with sec. 220 of this chapter does not request reevaluation, or if the evaluation committee determines that renegotiation of the existing terms and conditions is not feasible or justified, and the loan is not brought current within 30 days after the notification of delin-

quency is sent, the loan shall be transferred to the loss reserve account and transmitted for collection to the division of collections. A monthly report of the status of the collection effort shall be made to the Legislative Budget and Audit Committee. The total principal and interest due shall be transferred from the loss reserve account to the fund upon assignment of each loan.

Sec. 45.96.250. LOAN PURPOSES. Loans may be made from the fund for residential housing, commercial purposes, public purposes, and education.

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

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

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

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

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

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

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

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

Sec. 45.96.270. COMMERCIAL LOANS. (a) In addition to other powers granted in this chapter, the director of the division of Alaska loan programs may make loans from the fund to

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

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

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

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

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

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

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

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

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

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

(8) other businesses for equipment and operations related to

harvesting, manufacturing and processing other renewable or nonrenewable resources in the state.

(b) Notwithstanding the provisions of secs. 410 and 420 of this chapter, a loan under (a)(2) of this section may not run longer than 15 years or exceed 90 per cent of the appraised value of the collateral used to secure the loan.

Sec. 45.96.280. CERTIFICATE OF NEED FOR CHILD CARE FACILITIES. (a) The Department of Community and Regional Affairs shall determine whether to award a certificate of need to child care facilities applying for a loan under sec. 270(7) of this chapter on the basis of the following criteria:

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

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

(3) the proposed capacity of the applicant facility;

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

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

Sec. 45.96.295. LOANS MADE TO COMMERCIAL FISHERMEN. A loan under sec. 270(2) of this chapter shall be secured by a first lien and appropriate security agreements, except that a lien in favor of the state is not required for loans guaranteed fully by the federal government under the Federal Ship Financing Act of 1972 (46 U.S.C. secs. 1271 - 1279b; 86 Stat. 909), as amended. In the case of a security agreement given to secure a loan made under sec. 270(2) of this chapter and covering a

vessel documented under the laws of the United States and so long as the Ship Mortgage Act of 1920 (46 U.S.C. secs. 911 - 984; 41 Stat. 1000), as amended, and the Shipping Act of 1916 (46 U.S.C. secs. 801 - 842; 39 Stat. 728), as amended, remain ambiguous with respect to whether or not a state or state agency qualifies as a citizen of the United States for purposes of those Acts, the first lien requirement of this section may be satisfied by the recordation and endorsement of a first preferred ship mortgage under the Ship Mortgage Act of 1920, and by perfection of a security interest under the Uniform Commercial Code - Secured Transactions (AS 45.05.690 - 45.05.794), if the approval of the Secretary of Commerce is obtained under 46 U.S.C. sec. 839 for the transfer to the department of the interest in a vessel documented under the laws of the United States. In the case of a security agreement given to secure a loan made under sec. 270(2) of this chapter and covering a vessel documented under the laws of the United States, the first lien requirement of this section may also be satisfied by use of a trust deed and bond issue under it, if the trustee is a citizen of the United States and obtains a first preferred ship mortgage on the vessel under the Ship Mortgage Act of 1920, and the approval of the Secretary of Commerce is obtained under 46 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds to the department if the trustee is not a trustee approved by the Secretary of Commerce under 46 U.S.C. secs. 808, 835 and 961.

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

(b) Upon approval by the director of the division of Alaska loan

programs, the permit to be purchased may be pledged as security for a loan under (a) of this section, if

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

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

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

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

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

(c) The director of the division of Alaska loan programs is not liable for any act or omission resulting from permit ownership nor will that act or omission affect his title to the permit or his rights under it.

(d) Upon satisfaction of the note by the debtor, the director of the division of Alaska loan programs shall certify to the Alaska Commercial Fisheries Entry Commission that the note has been satisfied.

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

Sec. 45.96.300. PUBLIC PURPOSES. (a) The director of the division of Alaska loan programs shall lend money to municipalities with populations of less than 5,000 according to the most recent survey conducted by the United States Census Bureau and to those corporations eligible under (d) of this section. Loans to municipalities shall be

made through the purchase by the fund of municipal bonds. Loans to nonprofit corporations shall be made through purchase by the fund of revenue bonds issued on behalf of the corporation by the municipality in which the project to be financed by the loan is constructed. If the loan to a nonprofit corporation is for construction outside a municipality, the revenue bonds to be purchased by the fund shall be issued by the state bond committee on behalf of the nonprofit corporation. The cost of a loan made under this section shall be the same as the cost of borrowing to the fund. Loans made under this subsection are subject to the following conditions:

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

(2) The borough or city attorney shall certify that all legal requirements relating to required bond elections, if necessary, and bond issuance have been met, or if the bonds are issued outside a municipality, certification shall be made by the Department of Law.

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

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

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

Daily Bond Buyer 20 bond average as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) it is a public corporation or other municipal

instrumentality under AS 29.59.010; or

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

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

(f) The limitations in secs. 400 - 430 of this chapter do not apply to loans or purchases made under this section.

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

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

Sec. 45.96.320. MUNICIPAL BOND CAPITAL RESERVE ACCOUNT. For the purpose of securing each tax exempt bond issue of municipalities of the state and those bonds on behalf of nonprofit corporations guaranteed or issued under this chapter there is established a special account called

the municipal bond capital reserve account. The commissioner of revenue shall pay into that account from the unallocated reserve account upon establishment an amount equal to five per cent of the obligations issued and sold after July 1, 1979 and upon subsequent sales, if any, of obligations of the issue secured an additional amount equal to five per cent of the obligations sold. At the end of each fiscal year the commissioner of revenue shall withdraw from the municipal bond capital reserve account and pay to the unallocated reserve account any amount in the account in excess of five per cent of the obligations secured or, if the amount in the account is less than five per cent of the obligations secured, pay into the account from the unallocated reserve account the amount necessary to bring the reserve to five per cent. All money held in a municipal bond capital reserve account shall be used as required, when money is not available from the principal and interest account, solely for (1) the payment of the principal of obligations, (2) the purchase or redemption of obligations, (3) the payment of interest on obligations, or (4) the payment of any redemption premium required to be paid when those obligations are redeemed before maturity. Any income or interest earned by the account shall be paid to the unallocated reserve account. Any amount remaining in a municipal bond capital reserve account when the issue the account secures is fully retired shall be paid to the unallocated reserve account.

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

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

the loan the project financed by the loan will be the property of

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

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

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

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

(2) when the activity to be financed by the loan is not performed within a municipality, the commissioner of community and regional affairs approves the project.

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

Sec. 45.96.340. PROJECT COSTS ELIGIBLE FOR BONDING. In addition to costs directly related to a project, the sum total of all costs of financing and carrying out a project are eligible for bonding under secs. 300 - 330 of this chapter. These include, but are not limited to, the costs of all necessary studies, surveys, plans and specifications,

architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property and the acquisition of machinery and equipment as may be necessary in connection with a project; an allocable portion of the administrative and operating expenses of the issuer; the cost of financing the project, including interest on bonds issued to finance the project; and the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositaries, financial advisors, and paying agents for the bonds issued as the issuer considers necessary.

Sec. 45.96.350. EDUCATION. (a) In addition to other powers granted in this chapter, the director of the division of Alaska loan programs may make scholarship loans from the fund to students selected under (b) - (g) of this section.

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

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

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

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

(f) If, upon completion of the course of study for which the loan was granted, the borrower repays 60 per cent of the principal amount of the loan with interest with no delinquency, the remaining 40 per cent owing shall be forgiven if appropriated funds are available for payment to the fund of the amount forgiven.

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

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

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

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

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

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

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

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

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

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

(c) Loans may be made from the fund for the nonfederal share of costs of projects to acquire, develop, or extend outdoor recreation sites and facilities.

Sec. 45.96.370. ELIGIBILITY. In order to be eligible for a loan under this chapter, other than a loan made under sec. 350 of this chapter, a person must have been a resident of the state for at least five years on the date of application for the loan and must be 18 years of age or older. Except for loans made under sec. 330 of this chapter, a corporation is eligible for a loan if more than 60 per cent of its shareholders have been residents of the state for at least five years on the date of the application for the loan, the chief executive officer and all members of the governing board of the corporation have been residents of the state for at least five years on the date of application for the loan, and the chief executive officer and members of the governing board assume full individual liability for repayment of the loan. A loan to a corporation is immediately due and payable if it ceases to meet these eligibility requirements. An individual is ineligible for a loan under this chapter if an earlier loan to the individual from the state or an agency of the state has been discharged in bankruptcy unless the defaulted loan has been repaid in full and 10 years have elapsed from the date of repayment.

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

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

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

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

(c) Loans for a single project under (b)(1) of this section may exceed $500,000 but may not exceed $3,000,000 if

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

(2) the loan is made to a corporation and no more than 10 individuals owning stock in that corporation assume personal liability for the loan in an amount which as to each individual does not exceed the maximum limit under (b)(1) of this section.

(d) Educational loans made under the authority of sec. 350 of this

chapter may not exceed:

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

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

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

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

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

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

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

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

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

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

(f) The maximum loan amounts established in (a) - (d) of this section shall increase in proportion to increases in the consumer price index for Anchorage. The consumer price index for Anchorage for July 1, 1979 shall be the basis for determining annual percentage increases in the maximum loan amounts.

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

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

(1) LCC is the cost of construction in the area in which the facility to be financed by the loan is located;

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

(3) LCOL is the cost of living in the area in which the facility to be financed by the loan is located;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) When the World War II veterans' revolving fund's assets become depleted so that it can no longer pay the difference, the provisions of (b) of this section relating to loans made to veterans apply only if appropriation is made for the purpose of paying the difference. When the agricultural revolving loan fund's assets become depleted so that it can no longer pay the difference, the provisions of (b) of this section relating to loans made for agricultural purposes apply only if appropriation is made for the purpose of paying the difference.

Sec. 45.96.440. ELIGIBILITY FOR VETERANS' INCENTIVE. (a) The

following persons are eligible for special interest rates for veterans established in sec. 430(b) of this chapter:

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

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

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

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

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

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

(C) he died before the official date of the termination

of that war; and

(D) his discharge was not dishonorable;

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

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

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

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

(3) service in the armed forces of the United States for 90 days or more, or service for a lesser period because of injury or disability incurred in line of duty, between June 25, 1950, and January 31, 1955, or service in the armed forces of the United States for 90 days or more or service for a lesser period because of injury or disability incurred in line of duty, between August 4, 1964, and July 1, 1977.

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

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

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

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

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

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

Sec. 45.96.470. BANK PARTICIPATION. (a) Loans made under the

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

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

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

(d) The maximum service fee for administering a loan which may be charged by a participating financial institution shall be set by the director of the division of Alaska loan programs.

Sec. 45.96.480. ASSURANCE REQUIRED. (a) For each loan made from the fund the loan agreement shall include an assurance by the borrower that no person who provides services to the borrower in preliminary phases of a project for which the loan is made, including all studies made in connection with the project,

(1) may participate in the implementation stages of that project; or

(2) may represent more than one interest in connection with the project.

(b) A list of all persons performing preliminary services for a loan applicant shall be furnished to the division of Alaska loan programs as part of the loan application, and a list of all persons with whom the borrower has contractual relations in respect to the project

after the application for loan shall be submitted to the division at intervals set by the division of Alaska loan programs.

Sec. 45.96.490. DEFINITIONS. For purposes of this chapter, "the fund" and "the loan programs fund" mean the Alaska loans program fund created in AS 45.96.020.

* Sec. 10. AS 03.10.050 is repealed and re-enacted to read:

Sec. 03.10.050. ADMINISTRATION OF FUND. The commissioner shall administer the loan fund.

* Sec. 11. AS 14.40.751(a) is amended to read:

(a) There is created a scholarship revolving loan fund. [THE FUND SHALL BE USED TO MAKE SCHOLARSHIP LOANS TO STUDENTS SELECTED UNDER AS 14.40.751 - 14.40.806. ALL REPAYMENTS OF PRINCIPAL AND INTEREST ON SCHOLARSHIP LOANS SHALL BE PAID INTO THE SCHOLARSHIP REVOLVING LOAN FUND AND SHALL BE USED TO MAKE NEW SCHOLARSHIP LOANS. IF ESTIMATED FUNDS AVAILABLE FROM SCHOLARSHIP LOAN REPAYMENTS ARE INADEQUATE TO FULLY FUND ESTIMATED SCHOLARSHIP LOANS FOR ANY FISCAL YEAR, ADDITIONAL FUNDING FROM THE GENERAL FUND MAY BE REQUESTED AND APPROPRIATED FOR THAT YEAR.]

* Sec. 12. AS 14.40.755(b) is amended to read:

(b) A person whose [LOAN OR] grant application is not recommended or presented to the committee by the executive secretary may appeal to the committee through the chairman of the committee and the committee shall consider the application.

* Sec. 13. AS 18.100.050 is amended to read:

Sec. 18.100.050. ELIGIBILITY FOR <u>GRANTS</u> [LOANS]. Only public or nonprofit private corporations are eligible for <u>grants</u> [LOANS] under this chapter. The nonprofit corporations must be designated as tax exempt under sec. <u>501(c)(3) and (4)</u> [501(e)(3) AND (4)] of the Internal Revenue Code of 1954.

* Sec. 14. AS 18.100.070(a) is amended to read:

(a) There is created within the Department of Community and Regional Affairs a senior citizens housing development fund. Subject to direct appropriation [OR THROUGH PROCEEDS OF A BONDING ISSUE] the department shall make grants [OR LOANS] to municipalities or to corporations designated as tax exempt under sec. 501(c)(3) and (4) of the Internal Revenue Code of 1954 [ELIGIBLE FOR LOANS UNDER SEC. 50 OF THIS CHAPTER] for the purpose of developing senior citizen housing. [A GRANT FROM THE PROCEEDS OF A BOND ISSUE MAY BE MADE ONLY TO MUNICIPALITIES.]

* Sec. 15. AS 18.100.070(b) is amended to read:

(b) Application for a grant [OR LOAN] under (a) of this section shall be in the form prescribed by the department. The application shall demonstrate the need for senior citizen housing in the area to be served, the feasibility of the proposed project, and an adequate management plan which shall demonstrate the ability of the eligible recipient to sustain the proposed project.

* Sec. 16. AS 29.13.100 is amended by adding a new paragraph to read:

(39) AS 29.58.290 (industrial development bonds)

* Sec. 17. AS 29.58 is amended by adding a new section to read:

Sec. 29.58.290. INDUSTRIAL DEVELOPMENT BONDS. No municipality, home rule or otherwise, may issue a revenue bond which is an industrial development bond under the provisions of the Internal Revenue Code of 1954 (26 U.S.C. 103).

* Sec. 18. AS 37.10.050 is amended to read:

Sec. 37.10.050. ACCOUNTING FOR STATE MONEY AND PAYMENT TO <u>DIVISION OF TREASURY</u> [DEPARTMENT OF REVENUE] FOR DEPOSIT IN PROPER FUND. (a) Each office, board, commission, or bureau authorized to collect or receive fees, licenses, taxes or other money belonging to the state shall account for and pay the fees, licenses, taxes or other money, less fees to which he is entitled by law to the <u>division of treasury of the</u>

Department of Revenue at least once each month.

(b) Money collected for the state shall be deposited by the collector in the nearest bank to the account of the division of treasury [DEPARTMENT OF REVENUE] when the division of treasury [DEPARTMENT OF REVENUE] directs this to be done.

(c) The division of treasury [DEPARTMENT OF REVENUE] in June and December of each year shall publish in at least one newspaper of general circulation in each of the four judicial districts a detailed report in display advertising form of the amount of state money deposited in each named bank or other financial institution. A copy of the semiannual report on bank deposits shall also be sent to the Legislative Affairs Agency for distribution of copies to the members of the legislature. The terms of the deposit may be obtained upon a written request.

* Sec. 19. AS 37.10.070(a) is amended to read:

(a) When the commissioner of revenue determines that there is in the state treasury a surplus above an amount sufficient to meet current cash expenditure needs, he shall direct the director of the division of treasury to invest the surplus. The director may invest the surplus [THE SURPLUS SHALL BE INVESTED] in any of the following:

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

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

(3) notes issued by Farmer's Home Administration;

(4) bank certificates of deposit which are secured as to the payment of principal and interest in accordance with Alaska law;

(5) corporate obligations of prime or equivalent quality, as

rated by a nationally recognized rating organization;

(6) other securities, including corporate securities;

(7) Federal Housing Administration mortgages;

(8) Federal Veterans Administration mortgages;

(9) loans made under the provisions of the Alaska loan programs fund (AS 45.96) [AS 03.10 AND AS 26.15];

(10) conventional residential mortgages if the offering financial institution retains at least 25 per cent of the mortgage;

(11) other secured loans, if the offering financial institution retains at least 33 1/3 per cent of the mortgage;

(12) mortgages of the Alaska Rural Rehabilitation Corporation which secure agricultural loans, agricultural business loans and agricultural processing loans;

(13) bankers acceptances drawn on and accepted by banks with a combined capital and surplus aggregating at least $200,000,000;

(14) repurchase agreements, reverse repurchase agreements, or any trading practice or instrumentalities that may evolve ininvestment management.

* Sec. 20. AS 37.10.070(f) is repealed and re-enacted to read:

(f) Investment policy shall be formulated by the director of the division of treasury of the Department of Revenue subject to the approval of the commissioner of revenue. In formulating investment policy the director of the division of treasury shall consider maximum income and safety as governed by the prudent-man rule. The investment policy shall be proposed to the legislature during the first 10 days of any regular session. Investment policy only becomes effective 60 days after presentation to the legislature or at the end of that session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

* Sec. 21. AS 37.10.070(g) is amended to read:

(g) The director of the division of treasury [COMMISSIONER OF REVENUE, WITH THE CONSENT OF THE COMMITTEE,] may enter into contracts for services providing investment advice, custody of securities, and execution of transactions, in or out of Alaska.

* Sec. 22. AS 37.10.070(i) is amended to read:

(i) The director of the division of treasury [COMMISSIONER] shall purchase notes and mortgages under (a) of this section at a rate conducive to develop and benefit Alaska and Alaska residents and this rate may be less than the market rate.

* Sec. 23. AS 37.10.070 is amended by adding a new subsection to read:

(k) In making investments under (a) of this section, the director of the division of treasury may pool the surplus assets of the state funds but shall maintain separate accounts for each fund.

* Sec. 24. AS 37.10.075(a) is amended to read:

(a) When the commissioner of revenue determines that there are funds in the state treasury which are not being used for the purposes provided for in sec. 70 of this chapter, he may direct the director of the division of treasury to deposit the funds [THEY MAY BE DEPOSITED] in financial institutions in the state which offer the highest bid for the state funds. Collateral may be required by the commissioner to secure state deposits provided for under this section.

* Sec. 25. AS 39.25.120(2) is amended to read:

(2) the directors, division of personnel, division of public health, division of medical assistance, and those other directors of the major divisions of the principal departments of the executive branch as are specifically designated by the governor, except the directors of the division of Alaska loan programs, division of treasury and division of collections are in the classified service and may not be designated as

partially exempt;

* Sec. 26. AS 41.22.020(a) is amended to read:

(a) In addition to uses of fund money authorized in sec. 10 of this chapter, money of the fund shall be utilized to make grants to municipalities, of up to one-half the nonfederal share of costs of projects described in sec. 10 of this chapter which are initiated by a municipality [, AND LOANS OF AMOUNTS NECESSARY TO ENABLE MUNICIPALITIES TO MAKE OPTION PAYMENTS ON PARKS AND OPEN SPACE LAND FOR THE ACQUISITION OF WHICH FEDERAL FUNDS ARE ANTICIPATED].

* Sec. 27. AS 41.35.180(5) is repealed and re-enacted to read:

(5) consult with local historical district commissions regarding the establishment of historical districts under AS 29.48.108 - 29.48.110 and recommend, if appropriate, the formulation of additional criteria for the designation of historical districts under AS 29.48.-110(b).

* Sec. 28. AS 44.21.020 is amended by adding new paragraphs to read:

(13) provide accounting services for the permanent fund (AS 37.13.010), the Alaska loan programs fund (AS 45.96), the renewable resources development fund (AS 37.11), and all other state funds;

(14) provide detailed accounting of state loans outstanding and securities held by the state.

* Sec. 29. AS 44.25 is amended by adding a new section to read:

Sec. 44.25.025. DIVISION OF TREASURY. (a) There is established within the Department of Revenue the division of treasury. The director of the division is in the classified service under AS 39.25 and shall receive an annual salary within range 27 of the salary schedule established in AS 39.27.011 or within one range below that on which the highest paid deputy commissioner in the Department of Revenue is paid if that range is higher than range 27.

(b) In order to qualify for the position of director of the division, a person must

(1) be graduated from an accredited college with major course work in business administration, accounting, finance, banking, economics, or another closely related field;

(2) have 10 years of experience in banking or investment management involving review, analysis, purchase and sell recommendations, and responsibility for performance with at least four of the years in a managerial capacity.

(c) The director of the division of treasury shall collect, account for, have custody of, invest, and manage all state funds and all revenues of the state except revenues incidental to a program of licensing and regulation carried on by another state department, except that the division shall issue fish and game licenses, collect fish and game license revenues, and do all other acts incidental to the performance of these functions.

* Sec. 30. AS 44.33.020 is amended by adding a new paragraph to read:

(22) administer the Alaska loan programs fund (AS 45.96).

* Sec. 31. AS 18.56.110(a) is amended to read:

(a) The corporation, by resolution, may issue bonds and bond anticipation notes in order to provide funds to carry out and effectuate its purposes <u>only if the state bond committee finds that the issuance is consistent with the bond program of the Alaska loan programs fund</u>.

* Sec. 32. All state agencies, departments, commissions, corporations, divisions or other instrumentalities administering or having authority over or control of a loan program or loan fund affected by secs. 10 - 15, 26 - 27, and 33 of this Act shall cease accepting applications for loans no later than January 1, 1980. The division of Alaska loan programs shall begin to accept applications for loans from the Alaska loan programs fund no later than

January 1, 1980.

* Sec. 33. The following laws are repealed: AS 03.10.010; 03.10.020(1), (4), and (5); 03.10.030; 03.10.054; AS 14.40.751(c), 14.40.759 - 14.40.771; AS 16.10.300; 16.10.310(a)(1), (4), (5); 16.10.320; AS 18.100.030(1) and (4), 18.100.040 - 18.100.060; AS 26.15.010(b) - (d), 26.15.040 - 26.15.060, 26.15.110 - 26.15.160; AS 41.22.020(b) - (c); AS 41.30.010 - 41.30.080; AS 44.33.020(5), 44.33.245(a)(1), 44.33.245(b), 44.33.250 - 44.33.260; AS 44.59.140(7) - (14), 44.59.170, 44.59.190 - 44.59.410, 44.59.430; AS 44.60.010, 44.60.130(7) - (13), 44.60.160 - 44.60.260, 44.60.310 - 44.60.320; AS 44.61.010 - 44.61.220; AS 45.86.010 - 45.86.030, 45.86.040(b) - (c), 45.86.050 - 45.86.060; AS 45.88.010 - 45.88.040; AS 45.90.020(a)(1), (4), 45.90.030; AS 45.95.020 - 45.95.030, 45.95.070; AS 45.98.020 - 45.98.040, 45.98.060.

* Sec. 34. AS 37.10.065(c), 37.10.075(b) - (d), 37.10.079; and AS 44.25.-020(2) are repealed.

* Sec. 35. AS 37.10.065(a) and (b) are repealed.

* Sec. 36. Section 35 of this Act takes effect upon transfer of the funds of the Alaska permanent fund to the Alaska Permanent Fund Corporation as provided in sec. 8 of this Act.

* Sec. 37. Sections 1 - 9, 16 - 25, 28 - 32, and 34 of this Act take effect June 30, 1979. The unobligated general fund surplus as of June 30, 1979 shall lapse into the unallocated reserve account created in AS 45.96.125 on June 30, 1979.

* Sec. 38. Sections 10 - 15, 26, 27 and 33 of this Act take effect June 30, 1980.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 21, 1979

SUBJECT: Permanent Fund
(Work Order No. 6582)

TO: Representative Hugh Malone

FROM: Kenneth E. Vassar, Legislative Counsel KEV

Enclosed is the bill you requested which duplicates SB 1.

Also enclosed is a memorandum delivered to me from Donna Spragg Pegues, our revisor of statutes, pointing out some technical and legal problems in the bill.

KEV:nem

Enclosures

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M February 20, 1979

SUBJECT: The Permanent Fund Bill:
(Work Order No. 6582)

TO: Kenneth E. Vassar, Legislative Counsel

FROM: Donna Spragg Pegues, Revisor of Statutes

This memorandum is written to outline:

1. Some problems of clarity encountered in my review where changes may need to be made;

2. A few legal problems with the bill.

I will discuss the last category first. Then I will simply move through the bill section by section outlining certain problems encountered.

The Title. You will recall that we discussed the problem involved in putting together the title for this bill which would:

1. Be confined to one subject; and

2. Express that subject,
(art II sec. 13, Alaska State Constitution).

In my opinion, the title does not meet the requirements of the Alaska constitution. But, if the legislation were challenged, the Alaska supreme court might well be more liberal than I seem to be. In the case of North Slope Borough v. Sohio Petrolem et. al, P.2d CPN. No. 1750 (October, 1978), the Court stated:

> "[a]ll that is necessary is that the act should embrace some general subject; and by this is meant, merely, that all matters treated should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject. Johnson v. Harrison, 50 N.W. 923, 924 (minn. 1891)."

Perhaps here the "one general subject" required by the Court is the overall use of state revenues.

Local Hire. AS 45.96.450 establishes "employee practices" for a loan recipient who contracts for work to be done on the project financed by a loan. It requires that 90 to 95 percent Alaska resident hire on the project and calls for immediate foreclosure of the loan for a violation of the section. I think the constitutionality of this section is highly questionable in light of the United States Supreme Court opinion Hicklin v. Orbeck, (1978).

Confirmation of Members of Permanent Fund Corporation. AS 37.13.050 requires that the members appointed by the governor to the Permanent Fund Board of Trustees be confirmed by the legislature. It seems to me that this section is questionable under Bradner v. Hammond, 553 Pacific 21 (alaska 1976). The Board of Trustees is not the head of a principal department under section 26 of the Alaska constitution. Likewise, it is not a regulatory or quasi-judicial board under section 26 of the Alaska constitution. However, I note that the legislature passed a similar provision when it enacted the Renewable Resource Corporation Act (Chapter 179, SLA 1979). I also note that there are other "independent" corporations in title 44 which include the same provision. The question is probably debatable and, none of the independent "corporations" has been challenged in court. I assume the legislature will want to let this one go through as drafted, but I did want to let you know of my concern about the constitutionality of the provision.

Removal of Board Members. In AS 37.13.070 the legislature is involved in the removal process. This is also a characteristic of the Alaska Renewable Resources Corporation which was enacted last session. The same comments apply as in the matter of confirmation.

Disposition of Permanent Fund Money. As you know, article IX, section 15 of the Alaska state constitution establishes the Alaska Permanent Fund. The final sentence of that section requires that "all income from the Permanent Fund shall be deposited in the General Fund unless otherwise provided by law."

I do not see any disposition of income in this act. Is the income meant to go the the General Fund? Also, as I earlier noted, I do not observe any tie-in between money from the Permanent Fund and the resources of the loan fund. I assume none was intended in this version of the bill?

Perhaps the income tax rebate section was meant to be a disposition of the income of the Permanent Fund. However, that section does not actually require the disposition of any money. In effect, the section relating to taxes only allows for an increased credit when the income reaches a certain level. No actual disbursal of income is involved.

Unallocated Reserve Account. As you know, AS 45.96.125 sets up an "unallocated reserve account" which apparently consists of the General Fund unobligated balance. It is not clear to me just what is to happen to that balance (for example, is it subject to regular appropriation?) after it is swallowed up by this reserve account. The precise money flow here evades me. So, in your absence I took up the matter with Billy Berrier. He told me that he thought that the legislature intended to make the "unallocated reserve account" an account in the General Fund. However, in the context of the bill it reads as if it were an account in the Loan Fund. You may want to take up this question with Billy Berrier.

I will now go through the bill and list some of the technical questions encountered.

37.13.130(g)(1) I do not understand the exception in this subsection. I think it needs some redrafting and will be happy to discuss it with you.

37.13.130(i). In this subsection "secured loans" are mentioned which may be purchased under (h). But, (h) describes only "mortgages." Subsection (h) does not mention "secured loans." I find this somewhat confusing. It seems to me that only mortgages should be listed in (i). I have the same problem with AS 37.13.130(j).

37.15.150(b). This is the section concerning the tax credit which we discussed earlier. It remains unclear. This is especially true because of the difficulty of tieing a tax year into a fiscal year. The Permanent Fund is apparently on a fiscal year basis and the income tax is levied on a calendar year basis.

45.96.020(b). See the same language at 45.96.240 and 44.25.025. Because a salary and not a "range" is what is received by an individual, I think this section needs redrafting.

45.96.040. See the last sentence of this section where the "fund" is selling its assets. Here and there throughout the bill we find the "fund" doing particular things. David and I agree that a fund is inanimate and cannot actually do anything. Rather, things are done with the money in the fund. I also wonder who the "officer" is in 45.96.050. We have not had any officers of the fund identified at any point in the bill.

45.96.240. In the last line of this section the phrase "business practice" is used. I am not certain exactly what this means.

45.96.300. As I noted to you earlier, I have had some difficulty with this section on "public purpose" loans. I still believe that (a)(1) says the same thing as (a) in general, since both kinds of bonds are included in both places. It seems to me that this is one of the matters that should be taken up with the sponsor. Let's discuss. This section could also probably use some reworking for clarity.

As for (b), I cannot tell if this includes the municipalities which are already included in (a) or not. What do you think? I am just not certain what they are trying to do through these sections.

As for (e) - is the "major" part 51 percent? I am not sure what they mean by "major" part. Also, I am not certain whether (e) limits all "public purpose" loans under 45.96.300 or just some of the subsections. What do you think?

45.96.440(c). I believe this subsection needs to be tied back to 45.96.430(b) as to which fund pays this additional difference.

45.96.470(c). I believe there is a statute setting the rate of interest. It should be cited here.

37.10.070(a)(14). I wonder how the state can purchase a "trading practice?"

45.25.025(c). The exception here is unclear to me and I think the subsection should be redrafted for clarity. I will, of course, be glad to explain my problem with it.

A few other notes follow.

David pointed out that he thinks we should change the system so that section numbers change on a count of five rather than ten. In other words, AS 45.96.055 would follow AS 45.96.050. This gives more room for additions to the statutes. I do not think it is necessary to attempt to change this bill to conform with this new approach, but I did want to call it to your attention for future reference.

There is a section in the bill which provides that the legislature has power to pass on the executive branch investment policy. That policy can be rejected by the legislature. I note that the issue of the legislature's power to annul an executive action is now before the Alaska Supreme Court and may be decided sometime during the next session. It is something to think about as this bill proceeds.

I also note that almost all of the provisions for loans in the bill have residence requirements and in one section the limitations on the amount of loans is tied to length of residence. These sections may at some point be subject to challenge because of the durational residence requirements.

DSP:nem

SENATE FINANCE COMMITTEE
May 18, 1978
9:10 a.m.

TRANSCRIPT OF TESTIMONY BY REPRESENTATIVES FROM E. F. HUTTON & CO., INC.

RE: PERMANENT FUND

SF-78 # 48 (1137 - end)

Mr. Dupere introduced Messrs. Alfred A. Wiesner and Leonard E. Matz from E. F. Hutton & Co., Inc., and Mr. Allan Garfinkle of Kutak Rock & Huie, advising that they would be speaking on proposed permanent fund legislation, Mr. Garfinkle to address IRS implications and legal aspects of the fund while Messrs. Wiesner and Matz address the marketability of this pioneer-type legislation.

LEGAL ASPECTS AND IRS IMPLICATIONS

GARFINKLE: I will discuss the purpose and rationale of fund bonds with respect to the IRS Code. The state can issue tax free bonds, but there are exceptions which limit the state's power built into the IRS Code. One limitation is the purpose, the other limitation is the dollar amount of the bonds designed to help private companies (Industrial Development Bonds).

Since the purpose of the committee is to assist in commerce within the state, I will discuss the limitations with an attempt to see if they can be used more easily and with fewer constraints. There is a benefit in having one agency which can issue bonds for many purposes, most of which are non-industrial

basis without congressional interest.

GRUENING: Alaska is perceived as a very rich state, and if congress were to feel that Alaska was getting tax exempt status which creates a drain on the treasury -

GARFINKLE: That is a possibility which would result in having to rewrite the legislation. I don't think that this is going to happen. Really, if Alaska is going to issue 25 million dollars in bonds to develop the state, that is just such a tiny drop in the bucket that I can't see anyone getting upset by it. If every state did it, then there might be problems, but I don't foresee those now.

MARKETABILITY

WIESNER: My name is Fred Wiesner, I am with E.F. Hutton Company. I handle underwriting as well as distribution out of Denver, Colorado. If I may sit down and discuss this bill a little. The bill before you is, at least in my experience, unique. Possibly in the Lower 48 the closest you could come to it is some of the bond banks. You have one up here, and a number of the other states have them. The bond banks are, however, essentially oriented to financing municipal improvements. A few of them are involved in housing, and a few are involved in small issues of bonds where they feel that a better

market can be achieved through the bond bank concept rather than individually. I think the jury is still out on whether a more economical basis has been achieved through the bond bank.

Probably a slightly closer concept of this bill is one presently being considered in New Mexico and one in Wyoming. Both states are going to be impacted to a considerable degree in terms of coal extraction, etc., and have extractive taxes, and intend to take a goodly sum of that and use it in part to build roads, water systems, etc. in the impacted area, and a bit of it will be used to assist in house financing, etc. in these same areas. However, in terms of the industrial revenue aspect of this financing, it is not generally prevalent in either one of those situations.

In the case of the issues in the bond bank, the security is somewhat different than what you are looking at in this case. The bond bank deals are generally no better than the weakest link or the weakest issue in the bond bank. Most of them do not have preferral security provisions to bolster the security behind the bond bank. Some of them do, but most of them, to the extent they do, are very limited. In this case, however, you are looking at not only the security considerations in terms of loans made, but

you are looking at the income that is to be derived off of this permanent fund as an additional security behind this loan, and that is what makes the entire difference, really. Many states would, I think, like very much to set up a bill similar to what you are doing here, but the demand for loans would be heavy in the states of Colorado, New Mexico, or some of the energy states in the Lower 48, but the source of income, the source of revenue, will be nowhere near the amount of money that you are talking about up here. You are looking here at a permanent fund of somewhere between 150 and 250 million dollars a year as net addition to the permanent fund. And at that net addition, the income gets to be substantial. Unfortunately, most of the Lower 48 won't be taking in that kind of money under extractive taxes.

The bill is going to assist housing. It will assist municipalities on their water, sewers, schools, you name it. It will help the fishing industry. It will help virtually all areas of the industrial complex in Alaska in terms of its ability to borrow money from this bank (if you want to call it that) on a long term debt financing basis at rates that are more attractive than they could get in the private sector, for probably

those rates will be cheaper for two reasons. Mr. Garfinkle mentioned earlier that tax exempt versus taxable, you could probably look for a 2% savings in interest. I think that is true, 2 to 2-1/2, for credit per credit, but we are not talking about credit per credit. For a gentleman that is anticipating moving into the lumbering or perhaps fishing area, it might be a question whether he gets any money at all because in the case of this bank, you have got the security of the income of the permanent fund that is behind this loan. So, I think in terms of your small industrial borrowers, you are going to see substantially greater interest savings to them, and/or the difference between the ability to borrow any money at all versus not borrowing it.

In looking at this bond as such would emanate from this program, you've got a bond that is secured by two sources of revenue: the borrower's and the interest income from the permanent fund. The borrower's will vary probably fairly widely. To the extent that there is a lot of housing involved in any specific borrowing, your borrowers will probably be fairly strong (a fairly strong security aspect behind the bonds). To the extent that you have a lot of small industrial borrowers, your credit probably will be weakened to that extent. However,

the credit is essentially identical in all of the loans in that the anticipated source of revenue from the permanent fund will be very, very substantial.

Obviously, if you were to borrow under this program presently, under one of these bond issues presently, you are borrowing in anticipation of the security you are going to have in the future--the security from the permanent fund. I don't see that as any difficult problem in terms of marketing. You are, in terms of marketing this kind of issue, selling, in my opinion, a well secured obligation, and you are selling an unknown obligation; unknown to the extent that the investor, the institution, and the underwriter for that matter, has never been faced with a "critter" quite like this before. That doesn't mean that our industry hasn't been able to move enough to recognize a deal occasionally, but we are a little slow. It is different. It is unique. It is going to take some education on the part of the investors. I see no reason why that educational process, however, cannot commence and be successful in convincing the large institutional investors, as well as the individuals, that this "animal," this "creature" of the state legislature is one that is beneficial to an investment portfolio, and would be beneficial to the people of the state of Alaska.

A question was asked before in terms of congressional intent on changing, possibly, these ratios as to the amount of money that can be "diverted" to private enterprise. I think that if Alaska were to implement this type of program, it would be one of few states, if any other states, implementing it, and I have found, at least in my experience in the advanced refunding area, that until a program becomes highly visable and is utilized nationwide, the Treasury Department's interest in doing anything about it has been really insignificant. I think an example is the whole concept of advanced refunding which is under some change right now. I've been doing advanced refundings for 20 some years. We have never heard from the Treasury Department, and they never heard from us for many, many years until the large issues in Tennessee, Florida, Mississippi, and the East Coast started to be done, and then the Treasury Department felt there was a problem. I don't see a change in regulations in connection with those dollars that can be utilized in private industry.

I would like to try to answer some questions.

HOHMAN: Any questions of Mr. Wiesner?

GRUENING: Are you aware of what the present earnings from the permanent fund are?

WIESNER: Insignificant, because the permanent fund is so small. You'll not see earnings of any consequence until about 1981 or 82.

GRUENING: So that borrowings made in the next couple of years will be in anticipation of income. I am wondering whether - isn't the ultimate security the amount of the reserve whether it's permanent fund income or a cash reserve that is committed?

WIESNER: Define, if you will.

GRUENING: Well, there is nothing magic, is there, about the use of permanent fund income. If you allocated the same amount that you are estimating, but you don't know is going to accrue, but you think is going to accrue, actually allocate that in terms of cash to a reserve fund, aren't you providing a greater security in that the borrower doesn't have to anticipate--he's got it.

WIESNER: Well, to the extent that money is in hand versus promised, you know one in hand is always worth two in the bush, but -

GRUENING: In this case it's two in bush!

WIESNER: But in this case I think you are looking at something a little - (laughter in response to Rep. Gruening's previous statement precludes answer) In the sense that if money is needed now, and is borrowed now, the permanent fund is not in a position, now, of securing bonds of a substantial cash balance unless they were to use permanent money. A lender, a municipal lender, is lending money

on a longer term view. He is not lending on the basis of what is going to happen in Alaska next year or the year after. He is lending money, say for 20 or 25 years, and he is looking essentially at what the permanent fund is going to look like in years to come, and what reasonable sources of cash flow can he see out of the interest earnings off that fund. The fact that there is no yield this year, or very little, or next year, is not nearly as of great a consequence to him as how much does he think is going to be there 5 or 10 years from now, because that is what is going to pay him off--not the money that is there tomorrow.

GRUENING: Doesn't it require him to look at the underlying security of the permanent fund? In other words, the projects, incidentally, are based not on the security of the permanent fund, but on our oil income largely, so if the pipeline blows up or springs a leak, or there is a drop in the price of oil, these have the greatest impact on earnings at this point anyway, because we don't have a real investment plan developed for the permanent fund. My point is, wouldn't a reserve fund that we could set up today in larger quantity than could be established by flow of the income from the permanent fund help to get this program off the ground quicker then?

In other words, your suggestion is to establish, I think, a track record since there is no "critter" of this nature, you say, and perhaps starting a reserve fund to begin with so we can see whether establishing a track record might be better than anticipating income and having it materialize -

WIESNER: Let me paraphrase it, perhaps, in how I could look at an issue in two different categories. If you were to issue 100 million dollars in bonds today, and say we will put into a cash reserve today 25 million dollars (a good size figure or whatever) say 30 million dollars as security behind that bond, and that is what we are going to put up (no more, no less) but you've got 30 million to play with--versus buying a 100 million dollar issue and give me the security of the income from the permanent fund (admittedly not there today, or of any consequence, but over the next 20 years is going to amount to hundreds of millions of dollars) I will, if you will, take the two in bush versus the one in hand. I would rather have the security of the permanent fund (the total permanent fund income) than a cash balance in hand today, unless you were going to make the cash a hundred million dollars, assuming that is what the bond issue is.

GRUENING: (Question inaudible.)

Nancy Lord
c/o Malone

last '79 SB1

Original sponsor: Hohman

IN THE SENATE BY THE RULES COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 1 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

title change

For an Act entitled: "An Act relating to nonrenewable resource revenues; ~~to the investment, review and use of state revenues; to Alaska loan programs~~; to legislative oversight; and providing for an effective date."

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

* Section 1. FINDINGS. The legislature finds that there is a substantial need for oversight of the performance of those agencies of the state which perform lending or investment functions since those functions do not receive the detailed review to which other expenditures of public money are subject, and therefore the knowledge necessary for sound legislation in this area is not readily available. There is a need for legislative oversight which will provide information on the policy and performance of these agencies, the extent to which the agencies conform to statutory intent, and the impact of their performance on the economy and the state treasury. This need will be met by the enactment of AS 24.20.156 - 24.20.209 and secs. 3 and 4 of this Act.

* Sec. 2. AS 24.20 is amended by adding new sections to read:

Sec. 24.20.156. PURPOSES. The purposes of the Legislative Budget and Audit Committee include

(1) monitoring and reporting

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

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

improvement of the state and its citizens,

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

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

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

Sec. 24.20.206. DUTIES. The Legislative Budget and Audit Committee shall

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

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

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

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

(5) present to the legislature within 30 days after the convening of each regular session a review of the report of the governor under AS 37.07.020(d) with recommendations for any needed legislation;

(6) in conjunction with the finance committee of each house recommend annually to the legislature the investment policy for the

general fund surplus and for the income from the permanent fund;

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

Sec. 24.20.209. RECORDS. The Legislative Budget and Audit Committee shall keep a complete file of all reports presented to it and all reports presented by it to the legislature or to a legislative committee.

* Sec. 3. AS 24.20.201(a) is amended by adding new paragraphs to read:

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

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

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

* Sec. 4. AS 37.07.020 is amended by adding a new subsection to read:

(d) The governor shall annually, before the convening of the legislature, report to the legislature through the Legislative Budget and Audit Committee the long-range fiscal and economic consequences of

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

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

* Sec. 5. AS 37 is amended by adding a new chapter to read:

CHAPTER 13. ALASKA PERMANENT FUND.

Sec. 37.13.010. ALASKA PERMANENT FUND. (a) Under art IX, sec. 15

(1) 50
(2)
(3) 50% of all ... loans issued after July 1, 1979.

of the state constitution, there is established as a separate fund the Alaska permanent fund. The Alaska permanent fund consists of

(1) 100 per cent of mineral lease bonuses remaining after deduction of any amounts allocated

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

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

same

(2) 25 per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments received by the state from mineral leases issued on or before July 1, 1979;

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

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

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

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

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

(2) the corporation's goal should be to maintain safety of principal while maximizing total return;

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

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

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

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

(b) The existence of the corporation is terminated on June 30, 1982, and its functions and responsibilities transferred to the Department of Revenue, unless the legislature continues its existence under the provisions of AS 44.66.050.

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

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

Sec. 37.13.060. TERM OF OFFICE. The members of the board shall be appointed for terms of three years, and they may be reappointed subject to reconfirmation by a majority of the members of the legislature in joint session. Terms shall be staggered. Initial terms shall be two members serving for one year, two members serving for two years, and one member serving for three years.

Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may remove a member of the board from office by and with the consent of a majority of the members of the legislature in joint session. A removal by the governor shall be in writing and state the reason for removal. If the legislature is not in session, the governor may suspend a member of the board. Upon suspension, a vacancy is not created but the board member may not participate in board business and may not be counted for purposes of establishing a quorum. The joint session shall be held within 30 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the legislature is not in session. If the legislature refuses to consent to his removal, the board member shall be reinstated to his position.

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

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

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

(b) No member of the board may hold any other state or federal

office, position or employment, either elective or appointive, except as a member of the armed forces of the United States or of this state.

(c) At least three members of the board shall have recognized competence and wide experience in finance, investments, or other business management-related field.

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

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

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

Sec. 37.13.120. CONFLICTS OF INTEREST. (a) Members of the board and the executive director are subject to the provisions of AS 39.50.

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

Sec. 37.13.130. POWERS AND DUTIES. (a) The prudent-man rule shall be applied by the board in the management and investment of permanent fund assets. The prudent-man rule as applied to investments of

the corporation means that in making investments the board shall exercise the judgment and care under the circumstances then prevailing which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income.

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

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

(d) The board shall submit long-range and quarterly investment reports to the Legislative Budget and Audit Committee.

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

(f) The board may enter into and enforce all contracts necessary, convenient or desirable for purposes of the corporation.

(g) Subject to the limitations in (a), (h), and (i) of this section, the board may invest corporation assets in

(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 AA 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' acceptances drawn on and accepted by United States banks 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) the guaranteed portion of Federal Small Business Administration loans;

(9) the portion of first lien real estate mortgages guaranteed by the Federal Veterans Administration;

(10) the portions of business and industrial loans made under the Rural Development Act of 1972 which are guaranteed by the Farmer's Home Administration;

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

(h) Investments under (g)(4) of this section may not exceed 25 per cent of the total investments of the fund. Investments under (g)(8) - (11) of this section may not exceed in the aggregate 25 per cent of the total investments of the fund.

(i) No portion of the assets of the fund may be used for the purchase of bonds of a corporation, upon which any regular interest payment has been defaulted within five years before purchase, except bonds never in default but which have been outstanding for less than five years.

no Federal Housing Adm. mortgages.

(j) The board shall establish and from time to time as necessary modify guidelines for the investment of the assets of the corporation. Before adoption of guidelines the guidelines shall be reported to the Legislative Budget and Audit Committee for review and comment.

amended on house bill

(k) Nothing in this section precludes in-state investments that have a risk level and expected yield comparable to alternative investment opportunities.

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

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

board's op. budget

Sec. 37.13.160. BOARD BUDGET. The operating budget of the board

dc

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

Sec. 37.13.170. AUDITS. The Legislative Budget and Audit Committee shall provide for an annual post audit and annual operational and performance evaluations of the investments and investment programs of the corporation.

Sec. 37.13.180. REPORTS AND PUBLICATIONS. No later than September 30 of each year, the board shall publish a report of the corporation for distribution to the governor, legislature, and the public. The report shall be written in easily understandable language. The report must include financial statements audited by independent outside auditors, a statement of the amount of money received by the permanent fund from each investment during the period covered, a statement of corporation investments including an appraisal at market value, a description of corporation investment activity during the period covered by the report, a comparison of the corporation performance with the intended goals contained in AS 37.13.020, an examination of the impact of the investment criteria of this chapter on the corporation portfolio with recommendations of any needed changes and any other information the board believes would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the corporation shall be published in at least one newspaper in each judicial district. The income statement and balance sheet for the two fiscal years preceding the publication of the election pamphlet under AS 15.57 shall be included in that pamphlet. The board may also publish other reports it considers desirable to carry out its purpose.

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

and assessments in the state.

Sec. 37.13.200. POLITICAL ACTIVITIES. The resources of the corporation may not be used to finance or influence any political activities.

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

Sec. 37.13.220. DEFINITIONS. In this chapter,

(1) "board" means the Board of Trustees of the Alaska Permanent Fund Corporation;

(2) "corporation" means the Alaska Permanent Fund Corporation.

* Sec. 6. AS 39.25.110 is amended by adding a new paragraph to read:

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

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

(QQ) Board of Trustees and executive director of the Alaska Permanent Fund Corporation.

* Sec. 8. AS 43.20.015 is repealed and re-enacted to read:

Sec. 43.20.015. INDIVIDUAL TAX CREDIT. (a) For tax years beginning after December 31, 1977, each individual filing an Alaska net income tax return is entitled to a cost-of-living credit provided for in

this section. For married taxpayers filing a joint return, the return may claim the credit for each spouse.

(b) The amount of the annual cost-of-living credit is as follows, but not exceeding the net tax liability of the taxpayer after application of all other credits:

(1) for the 1978 tax year -- $100;

(2) for the 1979 and 1980 tax years -- $100 plus an amount determined by the department under (c) of this section times the number of years, up to a maximum of five, that the taxpayer has filed a return under this chapter;

(3) for the 1981 and following tax years -- an amount determined by the department under (c) of this section times the number of years, up to a maximum of five, that the taxpayer has filed a return under this chapter.

(c) The additional credit amount under (b)(2) of this section, and the amount under (b)(3) of this section, is equal to the quotient of 50 per cent of the income of the Alaska permanent fund during the previous fiscal year divided by the total number of creditable years as determined in (d) of this section, but no additional credit amount may be allowed under (b)(2) or (b)(3) of this section until a constitutional amendment providing for dedication of at least 75 per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments received by the state becomes effective.

(d) The number of creditable years is the number of individual tax returns filed under this chapter in the current year multiplied by the number of years that the individuals filing those returns previously filed returns up to a maximum of five years per individual.

(e) For part-year resident and non-resident individual taxpayers,

the credit provided in this section shall be prorated according to the number of months present in the state for those years in which the taxpayer is claiming credit.

* Sec. 9. AS 45 is amended by adding a new chapter to read:

CHAPTER 96. ALASKA LOAN PROGRAMS FUND.

Sec. 45.96.010. PURPOSE. The purpose of the loan programs fund is to provide the lowest possible interest costs to Alaska borrowers consistent with sound financial practices and to make available to all sectors of the Alaska economy loans including long-term financing. A strong loan source, by being available to secure interest rates and terms better than those available to loan funds limited in size for a specific purpose, will make a significant contribution to lowering costs of living for Alaska residents and costs of operations in the private and public sector.

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

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

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

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

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

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

anticipation notes have been executed and are available for delivery.

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

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

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

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

Sec. 45.96.050. REMEDIES. A holder of obligations issued under the provisions of this chapter or coupons attached to them if not restricted by the resolution, either at law or in equity, may enforce all rights granted under the coupons or under any other contract executed by

the fund under this chapter, and may enforce and compel the performance of all duties required by this chapter to be performed by the fund or by an officer of it.

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

Sec. 45.96.070. OBLIGATIONS ELIGIBLE FOR INVESTMENT. Obligations issued under the provisions of this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These obligations may be deposited with the state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds, notes or obligations of the state is authorized by law.

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

(b) Refunding obligations may be sold or exchanged for outstanding

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

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

Sec. 45.96.100. TAX EXEMPTION. All property of the fund is public property devoted to an essential public and governmental function and purpose and is exempt from all taxes of the state or a political subdivision of the state. All bonds issued under this chapter are issued by a body corporate and public of this state and for an essential public

and governmental purpose, and the bond and the interest and income on and from the bonds and all income of the fund are exempt from taxation except for transfer, inheritance and estate taxes.

Sec. 45.96.110. SALE OF BONDS. (a) The state bond committee may sell bonds at public or private sale until July 1, 1984. After July 1, 1984, the state bond committee may sell bonds only at public sale.

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

Sec. 45.96.120. ALLOCATED RESERVE ACCOUNT. For the purpose of securing obligations of the fund, a special account within the general fund called the allocated reserve account is established. One half of the income from the Alaska permanent fund established in AS 37.13.010 is allocated to the allocated reserve account, and other money may be appropriated to the account. The amounts necessary to fund the capital reserve account established under AS 45.96.140, the fire insurance and liability reserve account under AS 45.96.165, and the loss reserve account under AS 45.96.150 are allocated to those accounts from the allocated reserve account. All other expenditures from the allocated reserve account shall be in accordance with annual appropriations.

Sec. 45.96.125. UNALLOCATED RESERVE ACCOUNT. (a) For the purpose of securing obligations of the fund, a special account within the general fund called the unallocated reserve account is established. The unallocated reserve account consists of any amount in excess of $100,000,000 remaining in the general fund at the end of a fiscal year

which have not been obligated.

(b) The legislature may, by appropriation, fund the allocated reserve account created in AS 45.96.120 from funds in the unallocated reserve account.

Sec. 45.96.130. DEBT SERVICE RESERVE ACCOUNT. For the purpose of securing each issue of its obligations, the fund shall establish a special account called the debt service reserve account and shall pay into the account from the proceeds of the sale of that issue of its obligations the maximum amount permissible under federal law and regulations for tax exempt obligations which may be invested without limitation as to yield. All money held in a debt service reserve account may be used as required, when money is not available from the principal and interest account or the capital reserve account, solely for (1) the payment of the principal of obligations, (2) the purchase or redemption of obligations, (3) the payment of interest on obligations, or (4) the payment of any redemption premium required to be paid when these obligations are redeemed before maturity. Any amount remaining in a debt service reserve account when the issue the account secures is fully retired shall be paid to the allocated reserve account.

Sec. 45.96.140. CAPITAL RESERVE ACCOUNT. For the purpose of securing each issue of its obligations, the fund shall establish a special account called the capital reserve account. The commissioner of revenue shall pay into the capital reserve account from the allocated reserve account upon establishment an amount equal to five per cent of the principal amount of the obligations issued and sold and upon subsequent sales, if any, of obligations of the issue secured, an additional amount equal to five per cent of the principal amount of the obligations sold. At the end of each fiscal year the commissioner of revenue shall withdraw from each capital reserve account and pay to the allocated reserve

account any amount in the capital reserve account in excess of five per cent of the remaining principal balance of the obligations secured or, if the amount in the account is less than five per cent of the remaining principal balance of the obligations secured, pay into the account from the allocated reserve account the amount necessary to bring the reserve to five per cent. All money held in a capital reserve account may be used as required, when money is not available from the principal and interest account, solely for (1) the payment of the principal of obligations, (2) the purchase or redemption of obligations, (3) the payment of interest on obligations or (4) the payment of any redemption premium required to be paid when those obligations are redeemed before maturity. Income or interest earned by a capital reserve account shall be paid to the allocated reserve account established by AS 45.96.120. Any amount remaining in a capital reserve account when the issue the account secures is fully retired shall be paid to the allocated reserve account.

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

(b) If during the fiscal year the total amount of loans outstanding exceeds the amount projected to be outstanding, the commissioner of revenue shall pay into the loss reserve account from the allocated

reserve account the amount needed to bring the balance of the loss reserve account to five per cent of the amount of loans outstanding.

(c) The one per cent difference between the rate of interest paid by a borrower and the rate of interest as required by AS 45.96.420 shall be allocated to the loss reserve account.

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

Fire ins. + liability reserve acct.

Sec. 45.96.160. INVESTMENT OF RESERVE ACCOUNTS. (a) The director of the division of treasury in the Department of Revenue shall invest money in the reserve accounts established by this chapter, other than funds in the debt service reserve account, only in

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

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

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

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

Sec. 45.96.165. FIRE INSURANCE AND LIABILITY RESERVE ACCOUNT. The

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

Sec. 45.96.170. INVESTMENTS. (a) All investments of the fund cash balances and of reserves for specific bond issues or statutorily required reserves are managed for the fund by the director of the division of treasury in the Department of Revenue. The director shall determine investment policy and manage the investments of the fund under the same criteria applicable to other state investments he manages.

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

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

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

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

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

Sec. 45.96.180. BUDGET. The operating budget of the fund is by appropriation from the general fund unless the legislature specifically appropriates from the unallocated reserve account. The operating budget is subject to the Executive Budget Act (AS 37.07).

need to be Adm.

Sec. 45.96.190. ACCOUNTING AND REPORTS. Accounting for the fund shall be provided by the Department of Commerce and Economic Development. Reports shall be made by the department to the Legislative Budget and Audit Committee at least once a month. These reports shall include an itemization of each loan which has been in default for a period in

excess of 30 days and the measures taken for each to insure compliance with terms and conditions of the loan. The Legislative Budget and Audit Committee shall provide quarterly reports to the legislature summarizing the information it receives under this section and under AS 45.96.170(b) and including comments and suggestions the committee determines to be of interest to the legislature relating to the administration of the loan program. Other reports shall be made as prescribed by the Department of Commerce and Economic Development.

Sec. 45.96.200. LOAN PROCEDURES. The director of the division of Alaska loan programs shall establish district loan offices in Juneau, Fairbanks, and Anchorage and may establish other loan offices as necessary which shall be headed by district directors. A loan office shall provide information concerning the loan programs under this chapter, other state loan programs, state grant programs, federal loan or grant programs, and, to the extent feasible, private loans.

vet loans out

Sec. 45.96.210. ALASKA LOAN PROGRAMS COMMITTEE. There is established in the Department of Commerce and Economic Development the Alaska Loan Programs Committee consisting of the directors, or their designees, of the following divisions: (1) the division of economic enterprises in the Department of Commerce and Economic Development, (2) the division of collections in the Department of Commerce and Economic Development, and (3) the division of Alaska loan programs in the Department of Commerce and Economic Development. The committee shall make a monthly report to the Legislative Budget and Audit Committee on the status of loan collections.

trimmed down duties

Sec. 45.96.220. COLLECTIONS; DIVISION OF COLLECTIONS. There is established within the Department of Commerce and Economic Development the division of collections. The director of the division is in the classified service under AS 39.25 and shall receive an annual salary

used to be Revenue

within range 27 of the salary schedule established in AS 39.27.011 or within one range below the range on which the highest paid deputy commissioner in the department is paid if that range is higher than range 27. In order to qualify for the position of director, a person must be an attorney licensed to practice in this state with at least four years of practice in business law and business practices.

Sec. 45.96.230. LOAN PURPOSES. Loans may be made from the fund for residential housing, commercial purposes, and public purposes.

Sec. 45.96.240. RESIDENTIAL HOUSING. The director of the division of Alaska loan programs may, for the purpose of providing housing for persons who meet the eligibility requirements of AS 45.96.360,

Construction loans OUT

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

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

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

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

(5) purchase, in order to meet the requirements of the sale

of its mortgages to the Federal National Mortgage Association, stock of the Federal National Mortgage Association;

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

Sec. 45.96.250. COMMERCIAL LOANS. (a) The director of the division of Alaska loan programs may make loans from the fund to

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

(2) individual commercial fishermen who have had a commercial fishing license for at least one of the previous five years, for the repair, restoration or upgrading of existing vessels and gear and for the purchase of entry permits and gear and the construction and purchase of vessels; loans made under this paragraph are subject to the provisions of AS 45.96.270 and 45.96.280;

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

(4) develop, rehabilitate, and expand business activities in

the state;

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

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

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

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

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

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

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

(b) Notwithstanding the provisions of AS 45.96.400 and 45.96.410, a loan under (a)(2) of this section may not run longer than 15 years or exceed 90 per cent of the appraised value of the collateral used to secure the loan.

Sec. 45.96.260. CERTIFICATE OF NEED FOR CHILD CARE FACILITIES. (a) The Department of Community and Regional Affairs shall determine whether to award a certificate of need to child care facilities applying for a loan under AS 45.96.250(a)(5) on the basis of the following criteria:

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

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

(3) the proposed capacity of the applicant facility;

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

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

Sec. 45.96.270. LOANS MADE TO COMMERCIAL FISHERMEN. A loan under AS 45.96.250(a)(2) shall be secured by a first lien and appropriate security agreements, except that a lien in favor of the state is not required for loans guaranteed fully by the federal government under the Federal Ship Financing Act of 1972 (46 U.S.C. secs. 1271 - 1279b; 86 Stat. 909), as amended. In the case of a security agreement given to secure a loan made under AS 45.96.270(a)(2) and covering a vessel documented under the laws of the United States and so long as the Ship Mortgage Act of 1920 (46 U.S.C. secs. 911 - 984; 41 Stat. 1000), as amended, and the Shipping Act of 1916 (46 U.S.C. secs. 801 - 342; 39 Stat. 728), as amended, remain ambiguous with respect to whether or not a state or state agency qualifies as a citizen of the United States for purposes of those Acts, the first lien requirement of this section may

be satisfied by the recordation and endorsement of a first preferred ship mortgage under the Ship Mortgage Act of 1920, and by perfection of a security interest under the Uniform Commercial Code - Secured Transactions (AS 45.05.690 - 45.05.794), if the approval of the Secretary of Commerce is obtained under 46 U.S.C. sec. 839 for the transfer to the department of the interest in a vessel documented under the laws of the United States. In the case of a security agreement given to secure a loan made under AS 45.96.250(a)(2) and covering a vessel documented under the laws of the United States, the first lien requirement of this section may also be satisfied by use of a trust deed and bond issue under it, if the trustee is a citizen of the United States and obtains a first preferred ship mortgage on the vessel under the Ship Mortgage Act of 1920, and the approval of the Secretary of Commerce is obtained under 46 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds to the department if the trustee is not a trustee approved by the Secretary of Commerce under 46 U.S.C. secs. 808, 835 and 961.

Sec. 45.96.280. LOANS FOR PURCHASE OF LIMITED ENTRY PERMITS. (a) Loans under AS 45.96.250(a)(2) for the purchase of a limited entry permit may be made only upon certification by the Alaska Commercial Fisheries Entry Commission (AS 16.43.020) that the fisherman is a person who qualifies as a transferee for the permit under AS 16.43 and the regulations adopted by the commission.

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

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

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

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

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

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

(c) The director of the division of Alaska loan programs is not liable for any act or omission resulting from permit ownership nor will that act or omission affect his title to the permit or his rights under it.

(d) Upon satisfaction of the note by the debtor, the director of the division of Alaska loan programs shall certify to the Alaska Commercial Fisheries Entry Commission that the note has been satisfied.

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

Sec. 45.96.290. PUBLIC PURPOSES. (a) The director of the division of Alaska loan programs shall lend money to municipalities with populations of less than 5,000 according to the most recent survey conducted by the United States Census Bureau and to those corporations eligible under (d) of this section. Loans to municipalities shall be made through the purchase by the fund of municipal bonds. Loans to nonprofit corporations shall be made through purchase by the fund of revenue bonds issued on behalf of the corporation by the municipality in which the project to be financed by the loan is constructed. If the loan to a nonprofit corporation is for construction outside a municipality, the revenue bonds to be purchased by the fund shall be issued by

the state bond committee on behalf of the nonprofit corporation. The cost of a loan made under this subsection shall be the same as the cost of borrowing to the fund. Loans made under this subsection may not exceed $5,000,000 and are subject to the following conditions:

(1) The borough or city attorney shall certify that all legal requirements relating to required bond elections, if necessary, and to bond issuance have been met, or if the bonds are issued outside a municipality, certification shall be made by the Department of Law.

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

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

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

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

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

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

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

maturity;

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

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

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

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

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

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

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

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

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

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

(c) The director of the division of Alaska loan programs shall submit a bid for all revenue bonds offered on a competitive basis by a home rule borough or city or general law borough or city of any class or on behalf of a nonprofit corporation performing any of the functions described in AS 29.48 for which revenue sharing is received directly or indirectly by the corporation or on behalf of those nonprofit corporations described in (d) of this section if the borough, city, or nonprofit corporation provides its bid form to the director at least

10 days before the opening of the bid. The request for bids and the bid proposal shall provide for issuing all or a portion of the bonds based upon the best combination of bids. The bid shall be determined on the basis of the Daily Bond Buyer 20 bond average as follows:

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

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

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

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

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

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

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

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

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

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

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

(f) The limitations in AS 45.96.370 - 45.96.410 do not apply to loans or purchases made under this section.

new section

Sec. 45.96.300. CERTIFICATE REQUIRED. No loan may be made or bonds purchased under AS 45.96.290 unless the commissioner of revenue has certified to the director of Alaska loan programs that, in the judgment of the commissioner, the borrower or seller has sufficient financial capacity, resources or assets to reasonably assure repayment of the loan or payment of the bonds when due.

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

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

Sec. 45.96.320. MUNICIPAL BOND CAPITAL RESERVE ACCOUNT. For the purpose of securing each tax exempt bond issue of municipalities of the state guaranteed or issued under this chapter there is established a special account called the municipal bond capital reserve account. The commissioner of revenue shall pay into that account from the unallocated reserve account upon establishment an amount equal to five per cent of

the obligations issued and sold after July 1, 1979 and upon subsequent sales, if any, of obligations of the issue secured an additional amount equal to five per cent of the obligations sold. At the end of each fiscal year the commissioner of revenue shall withdraw from the municipal bond capital reserve account and pay to the unallocated reserve account any amount in the account in excess of five per cent of the obligations secured or, if the amount in the account is less than five per cent of the obligations secured, pay into the account from the unallocated reserve account the amount necessary to bring the reserve to five per cent. All money held in a municipal bond capital reserve account shall be used as required, when money is not available from the principal and interest account, solely for (1) the payment of the principal of obligations, (2) the purchase or redemption of obligations, (3) the payment of interest on obligations, or (4) the payment of any redemption premium required to be paid when those obligations are redeemed before maturity. Any income or interest earned by the account shall be paid to the unallocated reserve account. Any amount remaining in a municipal bond capital reserve account when the issue the account secures is fully retired shall be paid to the unallocated reserve account.

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

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

(1) the municipality in which the activity is conducted,

unless the municipality has provided otherwise by a resolution adopted before approval of the loan; or

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

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

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

(2) when the activity to be financed by the loan is not conducted within a municipality, the commissioner of community and regional affairs approves the project.

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

Sec. 45.96.340. PROJECT COSTS ELIGIBLE FOR BONDING. In addition to costs directly related to a project, the total of all costs of financing and carrying out a project are eligible for bonding under AS 45.96.290 - 45.96.330. These include, but are not limited to, the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, recon-

struction and improvement of real property and the acquisition of machinery and equipment as may be necessary in connection with a project; an allocable portion of the administrative and operating expenses of the issuer; the cost of financing the project, including interest on bonds issued to finance the project; and the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositaries, financial advisors, and paying agents for the bonds issued as the issuer considers necessary.

scholarship loans out

Sec. 45.96.350. TOURISM, HISTORICAL AND OPEN SPACE LOANS. (a) The director of the division of Alaska loan programs may make loans from the fund to a business directly involved in the tourist industry.

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

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

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

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

(c) Loans may be made from the fund for the nonfederal share of costs of projects to acquire, develop, or extend outdoor recreation sites and facilities.

Sec. 45.96.360. ELIGIBILITY. In order to be eligible for a loan under this chapter, a person must have been a resident of the state for at least five years on the date of application for the loan and must be 18 years of age or older. A corporation is eligible for a loan if more than 60 per cent of its shareholders have been residents of the state for at least five years on the date of the application for the loan, the chief executive officer and all members of the governing board of the corporation have been residents of the state for at least five years on the date of application for the loan, and the chief executive officer and members of the governing board assume full individual liability for repayment of the loan. A loan to a corporation is immediately due and payable if the corporation ceases to meet the eligibility requirements of this section. The eligibility requirements of this section do not apply to loans made under AS 45.96.330. An individual is ineligible for a loan under this chapter if an earlier loan to the individual from the state or an agency of the state has been discharged in bankruptcy unless the defaulted loan has been repaid in full and 10 years have elapsed from the date of repayment.

Sec. 45.96.370. MAXIMUM LOAN AMOUNTS. (a) Loans made under the authority of AS 45.96.240 for the purchase or construction of residential housing may not exceed: (1) $90,000 for a single family dwelling; (2) $130,000 for a duplex; (3) $170,000 for a triplex; (4) $210,000 for a fourplex. A loan made for the purchase or construction of residential facilities in excess of four units shall be treated as a commercial building loan subject to the limitations placed on such loans in (b)(1) of this section.

(b) Commercial loans made under the authority of AS 45.96.250 may not exceed:

(1) $500,000 by a borrower for business activities; farm

development; agricultural irrigation systems; purchase, construction, renovation, or repair of commercial buildings; fish processing; fishing vessels and gear; logging operations and equipment; timber manufacturing and processing; nonrenewable resource extraction; or any other commercial activity not specifically provided for in this section;

(2) $350,000 by a borrower for farm chattels other than irrigation systems.

(c) Loans for a single project under (b)(1) of this section may exceed $500,000 but may not exceed $3,000,000 if

(1) the loan is made to more than one but not more than 10 individual borrowers participating in the project and the loan to each individual borrower does not exceed the maximum limit under (b)(1) of this section; or

(2) the loan is made to a corporation and no more than 10 individuals owning stock in that corporation assume personal liability for the loan in an amount which as to each individual does not exceed the maximum limit under (b)(1) of this section.

education loans out

(d) A loan may not be made under (c) of this section if a borrower or an owner of stock in a corporate borrower has unpaid debt on a loan made under (c) of this section.

(e) A loan to an associate of the borrower is considered to be a loan to the borrower. For the purposes of this section, "associate of the borrower" means

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

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

borrower;

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

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

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

(f) The maximum loan amounts established in (a) - (d) of this section shall increase in proportion to increases in the consumer price index for Anchorage. The consumer price index for Anchorage for July 1, 1979, is the basis for determining annual percentage increases in the maximum loan amounts.

Sec. 45.96.380. AREA COST DIFFERENTIAL. (a) The maximum loan amounts established in AS 45.96.370(a) and (b) shall be increased by the area cost differential (ACD) determined by the formula ACD = LCC/BCC x LCOL/ BCOL where

(1) LCC is the cost of construction in the area in which the facility to be financed by the loan is located;

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

(3) LCOL is the cost of living in the area in which the facility to be financed by the loan is located;

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

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

nation.

Sec. 45.96.390. ADDITIONAL LOAN LIMITATIONS. The maximum loan amounts established in AS 45.96.370(b) and 45.96.380 shall be further limited, based upon the actual technical and managerial experience in Alaska of the borrower relating to the project or activity for which the loan is made, as follows:

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

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

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

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

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

Sec. 45.96.400. VALUE LIMITATION. The provisions of AS 45.96.-370 - 45.96.390 notwithstanding, no loan made under this chapter, unless it is a loan made under the provisions of AS 45.96.330, may exceed

(1) 95 per cent of the appraised value of an owner-occupied single family dwelling for which the loan is made;

(2) 90 per cent of the appraised value of an owner-occupied multiple dwelling with four or less units for which the loan is made;

(3) 80 per cent of the appraised value of other residential real property for which a loan is made;

down from 80%

(4) 75 per cent of the appraised value of other real or personal property pledged as security for a loan.

Sec. 45.96.410. MAXIMUM TERMS OF LOANS. The term of a loan made under this chapter may not exceed the useful life of the property

pledged as security for the loan or

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

(2) 20 years on a loan secured by real property other than residential real property;

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

(4) five years on a loan secured by tangible personal property.

Sec. 45.96.420. RATE OF INTEREST. (a) The rate of interest charged to borrowers under this chapter shall be the amount determined by the commissioner of revenue to be sufficient to cover anticipated cost of money to the fund and, for borrowers other than municipalities, one per cent over the anticipated cost of money to the fund for the loss reserve account plus the amount required for any necessary insurance. However, the rate of interest charged a municipality may be lower if necessary to prevent bonds issued under this chapter from being arbitrage bonds under sec. 103(c) of the Internal Revenue Code of 1954, as amended. The determination of the anticipated cost of money to the fund made by the commissioner is conclusive. Rates of interest less than the rate established by this subsection may be charged if the renewable resource development fund or another state fund pays the difference between the cost of money to the fund and the interest rate charged or if an appropriation is made to pay the difference.

(b) The rate of interest determined in accordance with (a) of this section shall be reduced by one per cent if the loan is made for agricultural purposes. If the loan is made for agricultural purposes, the agricultural revolving loan fund, created in AS 03.10.040, shall pay the the difference between the rate determined in (a) of this section and the rate charged to the borrower.

(c) When the agricultural revolving loan fund's assets become depleted so that it can no longer pay the difference, the provisions of (b) of this section relating to loans made for agricultural purposes apply only if appropriation is made for the purpose of paying the difference.

veterans OUT

Sec. 45.96.430. EMPLOYMENT PRACTICES. (a) In the performance of contracts let by a recipient of a loan under this chapter for construction, repair, preliminary surveys, engineering studies, consulting, maintenance work or any other retention of services necessary to complete any project for which the loan was made, 95 per cent residents shall be employed if they are available and qualified. If 10 or fewer persons are employed under the contract, then 90 per cent residents shall be employed if they are available and qualified.

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

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

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

Sec. 45.96.440. COOPERATION WITH OTHER AGENCIES. All departments, agencies and public corporations of the state shall provide information, services and facilities to the director of the Alaska loan programs fund on request. The fund shall reimburse the department, agency or corpora-

tion for expenses reasonably incurred under this section.

Sec. 45.96.450. BANK PARTICIPATION. (a) Loans made under the authority of this chapter may be made in participation with financial institutions. The participating financial institution may act as agent for the division of Alaska loan programs in the initial processing of applications for loans. Fees for such services shall be mutually agreed upon.

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

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

(d) The maximum service fee for administering a loan which may be charged by a participating financial institution shall be set by the director of the division of Alaska loan programs.

Sec. 45.96.460. ASSURANCE REQUIRED. (a) For each loan made from the fund, the loan agreement shall include an assurance by the borrower that no person who provides services to the borrower in preliminary phases of a project for which the loan is made, including all studies made in connection with the project,

(1) may participate in the implementation stages of that project; or

(2) may represent more than one interest in connection with the project.

(b) A list of all persons performing preliminary services for a loan applicant shall be furnished to the division of Alaska loan pro-

grams as part of the loan application, and a list of all persons with whom the borrower has contractual relations in respect to the project after the application for loan shall be submitted to the division at intervals set by the division of Alaska loan programs.

Sec. 45.96.470. DEFINITIONS. For purposes of this chapter, "the fund" and "the loan programs fund" mean the Alaska loans program fund created in AS 45.96.020.

* Sec. 10. AS 03.10.050 is repealed and re-enacted to read:

Sec. 03.10.050. ADMINISTRATION OF FUND. The commissioner shall administer the loan fund.

* Sec. 11. AS 18.100.050 is amended to read:

Sec. 18.100.050. ELIGIBILITY FOR GRANTS [LOANS]. Only public or nonprofit private corporations are eligible for grants [LOANS] under this chapter. The nonprofit corporations must be designated as tax exempt under sec. 501(c)(3) and (4) [501(c)(3) AND (4)] of the Internal Revenue Code of 1954.

* Sec. 12. AS 18.100.070(a) is amended to read:

(a) There is created within the Department of Community and Regional Affairs a senior citizens housing development fund. Subject to direct appropriation [OR THROUGH PROCEEDS OF A BONDING ISSUE] the department shall make grants [OR LOANS] to municipalities or to corporations designated as tax exempt under sec. 501(c)(3) and (4) of the Internal Revenue Code of 1954 [ELIGIBLE FOR LOANS UNDER AS 18.100.050] for the purpose of developing senior citizen housing. [A GRANT FROM THE PROCEEDS OF A BOND ISSUE MAY BE MADE ONLY TO MUNICIPALITIES.]

* Sec. 13. AS 18.100.070(b) is amended to read:

(b) Application for a grant [OR LOAN] under (a) of this section shall be in the form prescribed by the department. The application shall demonstrate the need for senior citizen housing in the area to be

served, the feasibility of the proposed project, and an adequate management plan which shall demonstrate the ability of the eligible recipient to sustain the proposed project.

* Sec. 14. AS 37.10.050 is amended to read:

Sec. 37.10.050. ACCOUNTING FOR STATE MONEY AND PAYMENT TO DIVISION OF TREASURY [DEPARTMENT OF REVENUE] FOR DEPOSIT IN PROPER FUND. (a) Each office, board, commission, or bureau authorized to collect or receive fees, licenses, taxes or other money belonging to the state shall account for and pay the fees, licenses, taxes or other money, less fees to which he is entitled by law to the division of treasury of the Department of Revenue at least once each month.

(b) Money collected for the state shall be deposited by the collector in the nearest bank to the account of the division of treasury [DEPARTMENT OF REVENUE] when the division of treasury [DEPARTMENT OF REVENUE] directs this to be done.

(c) The division of treasury [DEPARTMENT OF REVENUE] in June and December of each year shall publish in at least one newspaper of general circulation in each of the four judicial districts a detailed report in display advertising form of the amount of state money deposited in each named bank or other financial institution. A copy of the semiannual report on bank deposits shall also be sent to the Legislative Affairs Agency for distribution of copies to the members of the legislature. The terms of the deposit may be obtained upon a written request.

* Sec. 15. AS 37.10.070(a) is amended to read:

(a) When the commissioner of revenue determines that there is in the state treasury a surplus above an amount sufficient to meet current cash expenditure needs, he shall direct the director of the division of treasury to invest the surplus. The director may invest the surplus [THE SURPLUS SHALL BE INVESTED] in any of the following:

9/ Surplus

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

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

(3) notes issued by Farmer's Home Administration;

(4) bank certificates of deposit which are secured as to the payment of principal and interest in accordance with Alaska law,

(5) corporate obligations of prime or equivalent quality, as rated by a nationally recognized rating organization;

(6) other securities, including corporate securities;

(7) Federal Housing Administration mortgages;

(8) Federal Veterans Administration mortgages;

(9) loans made under the provisions of the Alaska loan programs fund (AS 45.96) and [AS 03.10] AS 26.15;

(10) conventional residential mortgages if the offering financial institution retains at least 25 per cent of the mortgage;

(11) other secured loans, if the offering financial institution retains at least 33 1/3 per cent of the mortgage;

(12) mortgages of the Alaska Rural Rehabilitation Corporation which secure agricultural loans, agricultural business loans and agricultural processing loans;

(13) bankers acceptances drawn on and accepted by banks with a combined capital and surplus aggregating at least $200,000,000;

(14) repurchase agreements or reverse repurchase agreements.

* Sec. 16. AS 37.10.070(f) is repealed and re-enacted to read:

(f) Investment policy shall be formulated by the director of the division of treasury of the Department of Revenue subject to the ap-

proval of the commissioner of revenue. In formulating investment policy the director of the division of treasury shall consider maximum income and safety as governed by the prudent-man rule. The investment policy shall be proposed to the legislature during the first 10 days of any regular session. Investment policy only becomes effective 60 days after presentation to the legislature or at the end of that session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

* Sec. 17. AS 37.10.070(g) is amended to read:

(g) The director of the division of treasury [COMMISSIONER OF REVENUE, WITH THE CONSENT OF THE COMMITTEE,] may enter into contracts for services providing investment advice, custody of securities, and execution of transactions, in or out of Alaska.

* Sec. 18. AS 37.10.070(i) is amended to read:

(i) The director of the division of treasury [COMMISSIONER] shall purchase notes and mortgages under (a) of this section at a rate conducive to develop and benefit Alaska and Alaska residents and this rate may be less than the market rate.

* Sec. 19. AS 37.10.070 is amended by adding a new subsection to read:

(k) In making investments under (a) of this section, the director of the division of treasury may pool the surplus assets of the state funds but shall maintain separate accounts for each fund.

* Sec. 20. AS 37.10.075(a) is amended to read:

(a) When the commissioner of revenue determines that there are funds in the state treasury which are not being used for the purposes provided for in AS 37.10.070, he may direct the director of the division of treasury to deposit the funds [THEY MAY BE DEPOSITED] in financial institutions in the state which offer the highest bid for the state funds. Collateral may be required by the commissioner to secure

state deposits provided for under this section.

* Sec. 21. AS 41.22.020(a) is amended to read:

(a) In addition to uses of fund money authorized in sec. 10 of this chapter, money of the fund shall be utilized to make grants to municipalities, of up to one-half the nonfederal share of costs of projects described in AS 41.22.010 which are initiated by a municipality [, AND LOANS OF AMOUNTS NECESSARY TO ENABLE MUNICIPALITIES TO MAKE OPTION PAYMENTS ON PARKS AND OPEN SPACE LAND FOR THE ACQUISITION OF WHICH FEDERAL FUNDS ARE ANTICIPATED].

* Sec. 22. AS 41.35.180(5) is repealed and re-enacted to read:

(5) consult with local historical district commissions regarding the establishment of historical districts under AS 29.48.108 - 29.48.110 and recommend, if appropriate, the formulation of additional criteria for the designation of historical districts under AS 29.48.-110(b).

* Sec. 23. AS 44.25 is amended by adding a new section to read:

Sec. 44.25.025. DIVISION OF TREASURY. (a) There is established within the Department of Revenue the division of treasury. The director of the division is in the classified service under AS 39.25 and shall receive an annual salary within range 27 of the salary schedule established in AS 39.27.011 or within one range below that on which the highest paid deputy commissioner in the Department of Revenue is paid if that range is higher than range 27.

(b) In order to qualify for the position of director of the division, a person must

(1) be graduated from an accredited college with major course work in business administration, accounting, finance, banking, economics, or another closely related field;

(2) have five years of experience in banking or investment

management involving review, analysis, purchase and sell recommendations, and responsibility for performance with at least four of the years in a managerial capacity.

(c) The director of the division of treasury shall collect, account for, have custody of, invest, and manage all state funds, except the permanent fund established in AS 37.13, and all revenues of the state except revenues incidental to a program of licensing and regulation carried on by another state department. However, the division shall issue fish and game licenses, collect fish and game license revenues, and do all other acts incidental to the performance of those functions.

* Sec. 24. AS 44.33.020 is amended by adding a new paragraph to read:

(22) administer the Alaska loan programs fund (AS 45.96).

* Sec. 25. AS 18.56.110(a) is amended to read:

(a) The corporation, by resolution, may issue bonds and bond anticipation notes in order to provide funds to carry out and effectuate its purposes only if the state bond committee finds that the issuance is consistent with the bond program of the Alaska loan programs fund.

* Sec. 26. All state agencies, departments, commissions, corporations, divisions or other instrumentalities administering or having authority over or control of a loan program or loan fund affected by secs. 7 - 10, 18 - 19, and 24 of this Act shall cease accepting applications for loans no later than January 1, 1980. The division of Alaska loan programs shall begin to accept applications for loans from the Alaska loan programs fund no later than January 1, 1980.

* Sec. 27. AS 37.05 is amended by adding a new section to read:

new

Sec. 37.05.159. GENERAL FUND; COMPREHENSIVE LOAN PROGRAM RESERVE ACCOUNT. (a) There is created within the general fund the comprehensive loan program reserve account.

15% of principal

(b) Fifteen per cent of the annual receipts paid the state from mineral lease rentals for state land and royalties derived from minerals produced on state land shall be allocated to the comprehensive loan program reserve account.

(c) The proceeds of the comprehensive loan program reserve account are subject to annual appropriation in the general appropriation Act and may be appropriated to the allocated reserve account established in AS 45.96.120.

(d) The term "comprehensive loan program" as used in this section means the loan program established under AS 45.96.

* Sec. 28. AS 39.25.120(2) is amended to read:

(2) the directors, division of personnel, division of public health, division of medical assistance, and those other directors of the major divisions of the principal departments of the executive branch as are specifically designated by the governor, except the directors of the division of Alaska loan programs, division of treasury, and division of collections are in the classified service and may not be designated as partially exempt;

* Sec. 29. TRANSITION. Section 8 of this Act and AS 43.20.015(b)(1) in sec. 8 of this Act are intended to assure that taxpayers are allowed the credit provided for the 1978 tax year by AS 43.20.015 as enacted in ch. 144 SLA 1978, and to avoid a double credit for that tax year.

* Sec. 30. TRANSITION. The commissioner of revenue shall transfer all funds of the Alaska permanent fund to the Alaska Permanent Fund Corporation established by this Act after request for transfer is made by the board of trustees of the corporation.

* Sec. 31. The following laws are repealed: AS 03.10.010; 03.10.020(1), (4), and (5); 03.10.030; 03.10.054; AS 16.10.300; 16.10.310(a)(1), (4), and (5); 16.10.320; AS 18.100.030(1) and (4), 18.100.040 - 18.100.060; AS 41.22.-

14.40 - no scholarship loans
26.15 - no vet loans

020(b) - (c); AS 41.30.010 - 41.30.080; AS 44.33.245(a)(1), 44.33.245(b), 44.33.250 - 44.33.260; AS 44.59.140(7) - (14), 44.59.170, 44.59.190 - 44.59.410, 44.59.430; AS 44.60.010, 44.60.130(7) - (13), 44.60.160 - 44.60.260, 44.60.310 - 44.60.320; AS 44.61.010 - 44.61.220; AS 45.86.010 - 45.86.030, 45.86.040(b) - (c), 45.86.050 - 45.86.060; AS 45.88.010 - 45.88.040; AS 45.90.020(a)(1), (4), 45.90.030; AS 45.95.020 - 45.95.030, 45.95.070; AS 45.98.020 - 45.98.040, 45.98.060.

* Sec. 32. AS 37.10.065(c), 37.10.075(b) - (d), 37.10.079; and AS 44.25.020(2) are repealed.

* Sec. 33. AS 37.10.065(a) and (b) are repealed.

* Sec. 34. The unobligated general fund surplus as of June 30, 1979, in excess of $100,000,000 shall lapse into a special account in the general fund. Money in the special account may be used only from June 30, 1979, to December 31, 1979, for purchase of evidences of indebtedness acquired or to be acquired after June 30, 1979, and before December 31, 1979, from state loan programs which were in existence on January 1, 1979. Loans purchased with money in the special account must bear interest at an annual rate of nine and one-half per cent. Despite any provisions in existing loan programs, all state loans to be purchased with money in the special account bear interest at an annual rate of nine and one-half per cent. Before January 31, 1980, the governor shall certify to the legislature the balance remaining in the special account and that balance may be appropriated to the principal of the permanent fund established by AS 37.13.010.

* Sec. 35. Section 8 of this Act is retroactive to January 1, 1978.

* Sec. 36. Sections 9, 14 - 20, 23 - 28, and 34 of this Act take effect June 30, 1979.

* Sec. 37. Sections 10 - 13, 21, 22, and 31 of this Act take effect June 30, 1980.

* Sec. 38. Section [illegible] of this Act takes effect upon transfer of the funds

of the Alaska permanent fund to the Alaska Permanent Fund Corporation as provided in sec. 30 of this Act. The remainder of this act take effect July 1, 1982

* Sec. 39. Sections 1 - 8, 29, 30, 32, and 35 of this Act take effect immediately in accordance with AS 01.10.070(c).

Introduced: 2/23/79
Referred: Commerce and Finance

IN THE SENATE BY HOHMAN

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 1

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

* Section 1. AS 24.20.151 is amended to read:

Sec. 24.20.151. LEGISLATIVE BUDGET AND AUDIT COMMITTEE ESTABLISHED. The Legislative Budget and Audit Committee is established as a permanent interim committee of the legislature. The establishment of the committee recognizes the need of the legislature for full-time technical assistance in accomplishing the fiscal analysis, budget review, investment oversight and post-audit functions.

* Sec. 2. AS 24.20.201(a) is amended by adding new paragraphs to read:

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

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

* Sec. 3. AS 24.20 is amended by adding new sections to read:

Sec. 24.20.321. INVESTMENT OVERSIGHT DIVISION. The investment oversight division is established as a permanent staff agency responsible to the Legislative Budget and Audit Committee for the performance of oversight and review functions to provide information on the policy

and performance of all agencies of the state which perform lending or investment functions.

Sec. 24.20.331. STAFF. (a) The committee shall hire and determine the salary of the division director who shall serve both at the direction and pleasure of the committee. The director shall serve as head of the investment oversight division and, within the limits of the budget approved by the committee, shall employ and determine the compensation of the professional and clerical staff of the division.

(b) The director and members of the professional and clerical staff shall not join or support a partisan political organization. This prohibition does not prevent the director or members of the staff from joining social organizations, expressing private opinion, registering as to party or voting.

Sec. 24.20.341. DUTIES. The investment oversight division shall

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

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

(3) present a complete report of investment programs, plans, performance, and policies of all agencies of the state which perform lending or investment functions to the Legislative Budget and Audit Committee at the time the committee directs;

(4) present to the committee within 30 days after the convening of each regular session a review of the report of the governor under AS 37.07.020(d);

* Sec. 4. AS 37.07.020 is amended by adding a new subsection to read:

(d) The governor shall annually, before the convening of the legislature, report to the legislature through the Legislative Budget and Audit Committee the long-range fiscal and economic consequences of

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

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

* Sec. 5. AS 37 is amended by adding a new chapter to read:

CHAPTER 13. ALASKA PERMANENT FUND.

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

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

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

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

(2) twenty-five per cent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments received by the state; and

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

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

Sec. 37.13.020. INVESTMENT OF THE PERMANENT FUND. (a) The prudent-man rule is applicable to the management and investment of permanent fund assets. The prudent-man rule as applied to investments of the permanent fund means that in making investments the commissioner of revenue shall exercise the judgment and care under the circumstances then prevailing which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large in-

vestments entrusted to it not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income from them as well as probable safety of capital.

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

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

(d) The commissioner shall submit long-range and quarterly investment reports to the Legislative Budget and Audit Committee.

(e) Subject to (a) and (b) of this section, the commissioner may invest permanent fund assets in obligations of, or obligations insured or guaranteed by, the United States or agencies or instrumentalities of the United States; corporate securities which under the Securities Act of 1933 are freely marketable; and short-term investments which meet the requirements of (a) and (b) of this section except for the term of the investments.

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

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

(f) Subject to (a) and (b) of this section, the commissioner may

invest permanent fund assets in

(1) Federal Housing Administration mortgages;

(2) Federal Veterans Administration mortgages;

(3) conventional residential mortgages if the offering financial institution retains at least 25 per cent of the mortgage.

(g) To qualify as a mortgage or secured loan which may be purchased by the commissioner under (h) of this section, the mortgage or secured loan shall

(1) be secured by real estate in the state;

(2) have as a mortgagor an Alaska resident or a corporation in which at least 60 per cent of the stock is owned by Alaska residents;

(3) be certified by the originating financial institution that the loan being sold has been made in compliance with law and that liens supporting the loan have been perfected;

(4) have no initial closing fees or service fees which exceed one-half of one per cent, excluding closing costs.

(h) The commissioner may purchase loans provided for in (f) of this section only from financial institutions which are operating under the national banking laws, federal savings and loan laws, or under the provisions of AS 06.05, AS 06.15, AS 06.25 or AS 06.30.

(i) The commissioner shall establish and from time to time as necessary modify guidelines for the investment of permanent fund assets. Before adoption of any investment guidelines, the guidelines shall be reported to the Legislative Budget and Audit Committee for review and comment. Nothing in this section may be interpreted to preclude in-state investments that have a risk level and expected yield comparable to alternative investment opportunities.

Sec. 37.13.030. GAINS AND LOSSES. At the end of each fiscal year, the total amount of losses on the sales of securities, not offset by

gains on the sales of securities during that year, shall be computed, with a portion of these losses to be deducted each fiscal year from the interest and dividend income and the resulting amount of interest and dividend income added to the principal of the fund. Losses taken on the sales of bonds shall be accumulated over a period equal to the average remaining life of the bonds sold, and losses taken on the sales of stocks shall be accumulated within a period of five years, unless these losses are offset by gains on future sales of securities. In any fiscal year in which the gains on the sales of securities exceed the losses on the sales of securities, the excess shall be added to the principal of the fund.

Sec. 37.13.040. INCOME. The interest and dividends received in a year are the income of the permanent fund for that year. The income available for allocation to the allocated reserve account established in AS 45.96.120 shall be determined on an averaging basis. For the first five years, income will be the simple averaging of the annual current return at cost. Subsequently, there will be a moving average current return, in which the latest fiscal year will replace the oldest year. The income available for allocation will be the lesser of the latest fiscal year's income, or the average annual current income for the past five fiscal years of the fund at cost, and after adjustment for capital losses charged to that fiscal year.

Sec. 37.13.050. BUDGET. The operating budget is from the general fund unless the legislature specifically appropriates from the unallocated reserve and is subject to the Executive Budget Act (AS 37.07).

Sec. 37.13.060. ACCOUNTING. Accounting for the fund shall be provided by the Department of Administration. Reports shall be made by that department to the Department of Revenue, the Department of Commerce and Economic Development, and the Legislative Budget and Audit Committee

on at least a monthly basis. These reports shall include an itemization of each loan which has been in default for a period in excess of 30 days and the measures taken for each to insure compliance with terms and conditions of the loan. The Legislative Budget and Audit Committee shall provide quarterly reports to the legislature summarizing the information it receives under this section and under AS 37.13.020(d) and (i) and including comments and suggestions the committee determines to be of interest to the legislature relating to the administration of the fund.

Sec. 37.13.070. REPORTS AND PUBLICATIONS. No later than September 30 of each year, the commissioner of revenue shall publish a report for distribution to the governor, legislature, and the public. The report shall be written in easily understandable language. The report must include financial statements audited by the legislative audit division, a statement of the amount of money received by the permanent fund from each investment during the period covered, a statement of fund investments including an appraisal at market value, a description of fund investment activity during the period covered by the report, an examination of the impact of the investment criteria of this chapter on the fund portfolio with recommendations for any needed changes and any other information the commissioner believes would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the fund shall be published in at least one newspaper in each judicial district. The income statement and balance sheet for the two fiscal years preceding the publication of the election pamphlet under AS 15.57 shall be included in that pamphlet.

* Sec. 6. AS 45 is amended by adding a new chapter to read:

CHAPTER 96. ALASKA LOAN PROGRAMS FUND.

Sec. 45.96.010. PURPOSE. Efficient use of the capital resources

of the state will be promoted by creating a single loan fund to provide a single source from which potential users can acquire a state loan and obtain information about existing federal or private loan programs which will better serve the needs of the user or which will complement a proposed state loan. A single state source of lending will provide strong assurance of repayment of its loans and thereby lower the cost of borrowing to the state. The purpose of the loan programs fund is to provide the lowest possible interest costs to Alaska borrowers consistent with sound financial practices and to make available to all sectors of the Alaska economy loans including long-term financing. A strong, single loan source, by being available to secure interest rates and terms better than those available to loan funds limited in size for a specific purpose, will make a significant contribution to lowering costs of living for Alaska residents and costs of operations in the private and public sector.

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

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

(c) The division of Alaska loan programs shall manage the loan

programs fund in accordance with AS 45.96.010 - 45.96.490.

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

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

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

bonds or bond anticipation notes when the definitive bonds or bond anticipation notes have been executed and are available for delivery.

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

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

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

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

Sec. 45.96.050. REMEDIES. A holder of obligations issued under the provisions of this chapter or coupons attached to them if not restricted by the resolution, either at law or in equity, may enforce all

rights granted under the coupons or under any other contract executed by the fund under this chapter, and may enforce and compel the performance of all duties required by this chapter to be performed by the fund or by an officer of it.

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

Sec. 45.96.070. OBLIGATIONS ELIGIBLE FOR INVESTMENT. Obligations issued under the provisions of this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These obligations may be deposited with the state or municipal officer of an agency or political subdivision of the state for any purpose for which the deposit of bonds, notes or obligations of the state is authorized by law.

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

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

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

Sec. 45.96.100. TAX EXEMPTION. All property of the fund is public property devoted to an essential public and governmental function and purpose and is exempt from all taxes of the state or a political subdivision of the state. All bonds issued under this chapter are issued

by a body corporate and public of this state and for an essential public and governmental purpose, and the bond and the interest and income on and from the bonds and all income of the fund are exempt from taxation except for transfer, inheritance and estate taxes.

Sec. 45.96.110. SALE OF BONDS. (a) The state bond committee may sell bonds at public or private sale until July 1, 1984. After July 1, 1984, the state bond committee may sell bonds only at public sale.

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

Sec. 45.96.120. ALLOCATED RESERVE ACCOUNT. For the purpose of securing obligations of the fund, a special account within the general fund called the allocated reserve account is established. The income from the Alaska permanent fund established in AS 37.13.010 is allocated to the account. Other money may be appropriated to the account. The amounts necessary to fund the capital reserve account established under AS 45.96.140, the fire insurance and liability reserve account under AS 45.96.160, and the loss reserve account under AS 45.96.150 are allocated to those accounts from the allocated reserve account. All other expenditures from the allocated reserve account shall be in accordance with annual appropriations.

Sec. 45.96.125. UNALLOCATED RESERVE ACCOUNT. (a) For the purpose of securing obligations of the fund, a special account within the general fund called the unallocated reserve account is established. The unallocated reserve account consists of any amounts remaining in the

general fund at the end of a fiscal year which have not been obligated.

(b) The legislature may, by appropriation, fund the allocated reserve account created in AS 45.96.120 from funds in the unallocated reserve account.

Sec. 45.96.130. DEBT SERVICE RESERVE ACCOUNT. For the purpose of securing each issue of its obligations, the fund shall establish a special account called the debt service reserve account and shall pay into the account from the proceeds of the sale of that issue of its obligations the maximum amount permissible under federal law and regulations for tax exempt obligations which may be invested without limitation as to yield. All money held in a debt service reserve account may be used as required, when money is not available from the principal and interest account or the capital reserve account, solely for (1) the payment of the principal of obligations, (2) the purchase or redemption of obligations, (3) the payment of interest on obligations, or (4) the payment of any redemption premium required to be paid when those obligations are redeemed before maturity. Any amount remaining in a debt service reserve account when the issue the account secures is fully retired shall be paid to the allocated reserve account.

Sec. 45.96.140. CAPITAL RESERVE ACCOUNT. For the purpose of securing each issue of its obligations, the fund shall establish a special account called the capital reserve account. The commissioner of revenue shall pay into the capital reserve account from the allocated reserve account upon establishment an amount equal to five per cent of the principal amount of the obligations issued and sold and upon subsequent sales, if any, of obligations of the issue secured, an additional amount equal to five per cent of the principal amount of the obligations sold. At the end of each fiscal year the commissioner of revenue shall withdraw from each capital reserve account and pay to the allocated reserve

account any amount in the capital reserve account in excess of five per cent of the remaining principal balance of the obligations secured or, if the amount in the account is less than five per cent of the remaining principal balance of the obligations secured, pay into the account from the allocated reserve account the amount necessary to bring the reserve to five per cent. All money held in a capital reserve account may be used as required, when money is not available from the principal and interest account, solely for (1) the payment of the principal of obligations, (2) the purchase or redemption of obligations, (3) the payment of interest on obligations or (4) the payment of any redemption premium required to be paid when those obligations are redeemed before maturity. Income or interest earned by a capital reserve account shall be paid to the allocated reserve account established by AS 45.96.120. Any amount remaining in a capital reserve account when the issue the account secures is fully retired shall be paid to the allocated reserve account.

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

(b) If during the fiscal year the total amount of loans outstanding exceeds the amount projected to be outstanding, the commissioner of revenue shall pay into the loss reserve account from the allocated

reserve account the amount needed to bring the balance of the loss reserve account to five per cent of the amount of loans outstanding.

(c) The one per cent difference between the rate of interest paid by a borrower and the rate of interest paid by the fund required by sec. 430 of this chapter shall be allocated to the loss reserve account.

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

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

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

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

(2) obligations secured by reserves paid in by the United States or agencies or instrumentalities of the United States or obliga-

tions of corporations in which the United States is a shareholder or member; or

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

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

Sec. 45.96.180. INVESTMENTS. (a) All investments of the fund cash balances and of reserves for specific bond issues or statutorily required reserves are managed for the fund by the director of the division of treasury in the Department of Revenue. The director shall determine investment policy and manage the investments of the fund under the same criteria applicable to other state investments he manages.

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

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

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

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

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

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

Sec. 45.96.200. ACCOUNTING AND REPORTS. Accounting for the fund shall be provided by the Department of Administration. Reports shall be made by that department to the Department of Revenue, the Department of Commerce and Economic Development, and the Legislative Budget and Audit Committee at least once a month. These reports shall include an itemi-

zation of each loan which has been in default for a period in excess of 30 days and the measures taken for each to insure compliance with terms and conditions of the loan. The Legislative Budget and Audit Committee shall provide quarterly reports to the legislature summarizing the information it receives under this section and under AS 45.96.180(b) and 45.96.240(b) and including comments and suggestions the committee determines to be of interest to the legislature relating to the administration of the loan program. Other reports shall be made as prescribed by the Department of Commerce and Economic Development.

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

(b) Each district loan office shall include a veterans' loans section. The veterans' loans section shall process loan applications from applicants who meet the eligibility requirement of AS 45.96.440. The veterans' loan section shall also provide information and assistance to veterans relating to loan applications under this chapter, other state loan programs or state grant programs, federal loan or grant programs, and to the extent feasible, private loans.

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

of Revenue, and (3) the division of Alaska loan programs in the Department of Commerce and Economic Development.

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

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

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

Sec. 45.96.240. COLLECTIONS; DIVISION OF COLLECTIONS. (a) There is established within the Department of Revenue the division of collections. The director of the division is in the classified service under AS 39.25 and shall receive an annual salary within range 27 of the salary schedule established in AS 39.27.011 or within one range below the range on which the highest paid deputy commissioner in the depart-

ment is paid if that range is higher than range 27. In order to qualify for the position of director, a person must be an attorney licensed to practice in this state with at least four years of practice in business law and business practices.

(b) If a borrower who has received notification of delinquency in accordance with AS 45.96.220 does not request reevaluation, or if the evaluation committee determines that renegotiation of the existing terms and conditions is not feasible or justified, and the loan is not brought current within 30 days after the notification of delinquency is sent, the loan shall be transferred to the loss reserve account and transmitted for collection to the division of collections. A monthly report of the status of the collection effort shall be made to the Legislative Budget and Audit Committee. The total principal and interest due shall be transferred from the loss reserve account to the fund upon assignment of each loan.

Sec. 45.96.250. LOAN PURPOSES. Loans may be made from the fund for residential housing, commercial purposes, public purposes, and education.

Sec. 45.96.260. RESIDENTIAL HOUSING. In addition to other powers granted in this chapter, the director of the division of Alaska loan programs may, for the purpose of providing housing for persons who meet the eligibility requirements of AS 45.96.370,

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

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

(3) purchase or participate in the purchase of mortgage loans

made from the fund to sponsors, developers, builders, owners, and purchasers of residential housing;

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

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

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

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

Sec. 45.96.270. COMMERCIAL LOANS. (a) In addition to other powers granted in this chapter, the director of the division of Alaska loan programs may make loans from the fund to

(1) individual farmers, homesteaders, and partnerships or

corporations composed of farmers and homesteaders, for development of farms, storage and processing of farm produce, livestock, machinery and equipment, and farm irrigation;

(2) individual commercial fishermen who have had a commercial fishing license for at least one of the previous five years, for the repair, restoration or upgrading of existing vessels and gear and for the purchase of entry permits and gear and the construction and purchase of vessels; loans made under this paragraph are subject to the provisions of AS 45.96.295 and 45.96.297;

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

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

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

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

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

(C) the applicant shall apply to the Department of

Community and Regional Affairs for and receive a certificate of need;

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

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

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

(b) Notwithstanding the provisions of AS 45.96.410 and 45.96.420, a loan under (a)(2) of this section may not run longer than 15 years or exceed 90 per cent of the appraised value of the collateral used to secure the loan.

Sec. 45.96.280. CERTIFICATE OF NEED FOR CHILD CARE FACILITIES. (a) The Department of Community and Regional Affairs shall determine whether to award a certificate of need to child care facilities applying for a loan under AS 45.96.270(5) on the basis of the following criteria:

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

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

(3) the proposed capacity of the applicant facility;

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

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

receipt of the application.

Sec. 45.96.295. LOANS MADE TO COMMERCIAL FISHERMEN. A loan under AS 45.96.270(2) shall be secured by a first lien and appropriate security agreements, except that a lien in favor of the state is not required for loans guaranteed fully by the federal government under the Federal Ship Financing Act of 1972 (46 U.S.C. secs. 1271 - 1279b; 86 Stat. 909), as amended. In the case of a security agreement given to secure a loan made under AS 45.96.270(2) and covering a vessel documented under the laws of the United States and so long as the Ship Mortgage Act of 1920 (46 U.S.C. secs. 911 - 984; 41 Stat. 1000), as amended, and the Shipping Act of 1916 (46 U.S.C. secs. 801 - 842; 39 Stat. 728), as amended, remain ambiguous with respect to whether or not a state or state agency qualifies as a citizen of the United States for purposes of those Acts, the first lien requirement of this section may be satisfied by the recordation and endorsement of a first preferred ship mortgage under the Ship Mortgage Act of 1920, and by perfection of a security interest under the Uniform Commercial Code - Secured Transactions (AS 45.05.690 - 45.05.794), if the approval of the Secretary of Commerce is obtained under 46 U.S.C. sec. 839 for the transfer to the department of the interest in a vessel documented under the laws of the United States. In the case of a security agreement given to secure a loan made under AS 45.96.270(2) and covering a vessel documented under the laws of the United States, the first lien requirement of this section may also be satisfied by use of a trust deed and bond issue under it, if the trustee is a citizen of the United States and obtains a first preferred ship mortgage on the vessel under the Ship Mortgage Act of 1920, and the approval of the Secretary of Commerce is obtained under 46 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds to the department if the trustee is not a trustee approved by the Secretary of

Commerce under 46 U.S.C. secs. 808, 835 and 961.

Sec. 45.96.297. LOANS FOR PURCHASE OF LIMITED ENTRY PERMITS. (a) Loans under AS 45.96.270(2) for the purchase of a limited entry permit may be made only upon certification by the Alaska Commercial Fisheries Entry Commission (AS 16.43.020) that the fisherman is a person who qualifies as a transferee for the permit under AS 16.43 and the regulations adopted by the commission.

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

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

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

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

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

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

(c) The director of the division of Alaska loan programs is not liable for any act or omission resulting from permit ownership nor will that act or omission affect his title to the permit or his rights under it.

(d) Upon satisfaction of the note by the debtor, the director of the division of Alaska loan programs shall certify to the Alaska Commercial Fisheries Entry Commission that the note has been satisfied.

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

Sec. 45.96.300. PUBLIC PURPOSES. (a) The director of the division of Alaska loan programs shall lend money to municipalities with populations of less than 5,000 according to the most recent survey conducted by the United States Census Bureau and to those corporations eligible under (d) of this section. Loans to municipalities shall be made through the purchase by the fund of municipal bonds. Loans to nonprofit corporations shall be made through purchase by the fund of revenue bonds issued on behalf of the corporation by the municipality in which the project to be financed by the loan is constructed. If the loan to a nonprofit corporation is for construction outside a municipality, the revenue bonds to be purchased by the fund shall be issued by the state bond committee on behalf of the nonprofit corporation. The cost of a loan made under this subsection shall be the same as the cost of borrowing to the fund. Loans made under this subsection may not exceed $5,000,000 and are subject to the following conditions:

(1) The borough or city attorney shall certify that all legal requirements relating to required bond elections, if necessary, and to bond issuance have been met, or if the bonds are issued outside a municipality, certification shall be made by the Department of Law.

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

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

(b) The director of the division of Alaska loan programs shall submit a bid for all general obligation bonds offered on a competitive

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

maturity;

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

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

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

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

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

(f) The limitations in AS 45.96.400 - 45.96.430 do not apply to loans or purchases made under this section.

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

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

default occurs, the office is forfeited and is filled as provided by law for filling vacancies.

Sec. 45.96.320. MUNICIPAL BOND CAPITAL RESERVE ACCOUNT. For the purpose of securing each tax exempt bond issue of municipalities of the state and those bonds on behalf of nonprofit corporations guaranteed or issued under this chapter there is established a special account called the municipal bond capital reserve account. The commissioner of revenue shall pay into that account from the unallocated reserve account upon establishment an amount equal to five per cent of the obligations issued and sold after July 1, 1979 and upon subsequent sales, if any, of obligations of the issue secured an additional amount equal to five per cent of the obligations sold. At the end of each fiscal year the commissioner of revenue shall withdraw from the municipal bond capital reserve account and pay to the unallocated reserve account any amount in the account in excess of five per cent of the obligations secured or, if the amount in the account is less than five per cent of the obligations secured, pay into the account from the unallocated reserve account the amount necessary to bring the reserve to five per cent. All money held in a municipal bond capital reserve account shall be used as required, when money is not available from the principal and interest account, solely for (1) the payment of the principal of obligations, (2) the purchase or redemption of obligations, (3) the payment of interest on obligations, or (4) the payment of any redemption premium required to be paid when those obligations are redeemed before maturity. Any income or interest earned by the account shall be paid to the unallocated reserve account. Any amount remaining in a municipal bond capital reserve account when the issue the account secures is fully retired shall be paid to the unallocated reserve account.

Sec. 45.96.330. INDUSTRIAL DEVELOPMENT LOANS. (a) The director

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

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

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

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

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

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

(2) when the activity to be financed by the loan is not performed within a municipality, the commissioner of community and regional affairs approves the project.

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

a credit rating of "A" or better.

Sec. 45.96.340. PROJECT COSTS ELIGIBLE FOR BONDING. In addition to costs directly related to a project, the sum total of all costs of financing and carrying out a project are eligible for bonding under AS 45.96.300 - 45.96.330. These include, but are not limited to, the costs of all necessary studies, surveys, plans and specifications, architectural, engineering or other special services, acquisition of real property, site preparation and development, purchase, construction, reconstruction and improvement of real property and the acquisition of machinery and equipment as may be necessary in connection with a project; an allocable portion of the administrative and operating expenses of the issuer; the cost of financing the project, including interest on bonds issued to finance the project; and the cost of other items, including any indemnity and surety bonds and premiums on insurance, legal fees, fees and expenses of trustees, depositaries, financial advisors, and paying agents for the bonds issued as the issuer considers necessary.

Sec. 45.96.350. EDUCATION. (a) In addition to other powers granted in this chapter, the director of the division of Alaska loan programs may make scholarship loans from the fund to students selected under (b) - (g) of this section.

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

(c) To maintain a loan the student must continue to be enrolled as

a full-time student in good standing in a work study program approved by the Department of Education, in a career education program, or in a college or university designated under (b) of this section.

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

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

(f) If, upon completion of the course of study for which the loan was granted, the borrower repays 60 per cent of the principal amount of the loan with interest with no delinquency, the remaining 40 per cent owing shall be forgiven if appropriated funds are available for payment to the fund of the amount forgiven.

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

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

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

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

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

Sec. 45.96.360. TOURISM, HISTORICAL AND OPEN SPACE LOANS. (a) In addition to other powers granted in this chapter, the director of the division of Alaska loan programs may make loans from the fund to a

business directly involved in the tourist industry.

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

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

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

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

(c) Loans may be made from the fund for the nonfederal share of costs of projects to acquire, develop, or extend outdoor recreation sites and facilities.

Sec. 45.96.370. ELIGIBILITY. In order to be eligible for a loan under this chapter, other than a loan made under AS 45.96.350, a person must have been a resident of the state for at least five years on the date of application for the loan and must be 18 years of age or older. Except for loans made under AS 45.96.330, a corporation is eligible for a loan if more than 60 per cent of its shareholders have been residents of the state for at least five years on the date of the application for the loan, the chief executive officer and all members of the governing board of the corporation have been residents of the state for at least five years on the date of application for the loan, and the chief executive officer and members of the governing board assume full indi-

vidual liability for repayment of the loan. A loan to a corporation is immediately due and payable if it ceases to meet these eligibility requirements. An individual is ineligible for a loan under this chapter if an earlier loan to the individual from the state or an agency of the state has been discharged in bankruptcy unless the defaulted loan has been repaid in full and 10 years have elapsed from the date of repayment.

Sec. 45.96.380. MAXIMUM LOAN AMOUNTS. (a) Loans made under the authority of AS 45.96.260 for the purchase or construction of residential housing may not exceed: (1) $90,000 for a single family dwelling; (2) $130,000 for a duplex; (3) $170,000 for a triplex; (4) $210,000 for a fourplex. A loan made for the purchase or construction of residential facilities in excess of four units shall be treated as a commercial building loan subject to the limitations placed on such loans in (b)(1) of this section.

(b) Commercial loans made under the authority of AS 45.96.270 may not exceed:

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

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

(c) Loans for a single project under (b)(1) of this section may exceed $500,000 but may not exceed $3,000,000 if

(1) the loan is made to more than one but not more than 10

individuals participating in the project and the loan to each individual does not exceed the maximum limit under (b)(1) of this section; or

(2) the loan is made to a corporation and no more than 10 individuals owning stock in that corporation assume personal liability for the loan in an amount which as to each individual does not exceed the maximum limit under (b)(1) of this section.

(d) Educational loans made under the authority of AS 45.96.350 may not exceed:

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

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

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

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

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

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

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

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

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

(5) a person directly or indirectly controlling, controlled

by, or under common control with, the borrower.

(f) The maximum loan amounts established in (a) - (d) of this section shall increase in proportion to increases in the consumer price index for Anchorage. The consumer price index for Anchorage for July 1, 1979 shall be the basis for determining annual percentage increases in the maximum loan amounts.

Sec. 45.96.390. AREA COST DIFFERENTIAL. (a) The maximum loan amounts established in AS 45.96.380(a) and (b) shall be increased by the area cost differential (ACD) determined by the formula ACD = LCC/BCC x LCOL/ BCOL where

(1) LCC is the cost of construction in the area in which the facility to be financed by the loan is located;

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

(3) LCOL is the cost of living in the area in which the facility to be financed by the loan is located;

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

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

Sec. 45.96.400. ADDITIONAL LOAN LIMITATIONS. The maximum loan amounts established in AS 45.96.380(b) and 45.96.390 shall be further limited, based upon the actual technical and managerial experience of the borrower relating to the project or activity for which the loan is made, as follows:

(1) if the borrower's experience is less than two years, he

may receive up to 50 per cent of the maximum amount;

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

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

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

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

Sec. 45.96.410. VALUE LIMITATION. The provisions of AS 45.96.-380 - 45.96.400 notwithstanding, no loan made under this chapter, unless it is a loan made under the provisions of AS 45.96.330, may exceed

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

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

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

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

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

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

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

Sec. 45.96.430. RATE OF INTEREST. (a) The rate of interest

charged to borrowers under this chapter shall be the amount determined by the commissioner of revenue to be sufficient to cover anticipated cost of money to the fund and, for borrowers other than municipalities, one per cent over the anticipated cost for the loss reserve account plus the amount required for any necessary insurance, but the rate of interest charged may be lower if necessary to prevent bonds issued under this Act from being arbitrage bonds under the provisions of and regulations under section 103(c) of the Internal Revenue Code of 1954, as amended. The determination of the anticipated cost by the commissioner is conclusive. Rates of interest less than that, except as provided in (b) of this section, may be charged if the renewable resource development fund or another state fund agrees to pay the difference between cost and the interest rate to be charged or if appropriation for the purpose of paying the difference has been made.

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

(c) When the World War II veterans' revolving fund's assets become depleted so that it can no longer pay the difference, the provisions of (b) of this section relating to loans made to veterans apply only if

appropriation is made for the purpose of paying the difference. When the agricultural revolving loan fund's assets become depleted so that it can no longer pay the difference, the provisions of (b) of this section relating to loans made for agricultural purposes apply only if appropriation is made for the purpose of paying the difference.

Sec. 45.96.440. ELIGIBILITY FOR VETERANS' INCENTIVE. (a) The following persons are eligible for special interest rates for veterans established in AS 45.96.430(b);

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

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

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

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

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

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

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

(D) his discharge was not dishonorable;

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

(b) The provisions of AS 45.96.430(b) are extended to persons who served other than dishonorably on active duty between June 25, 1950, and January 31, 1955, who served other than dishonorably on active duty between August 4, 1964, and six months after termination of hostilities involving forces of the United States, and to dependents of those persons, subject to the following provisions and eligibility qualifications:

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

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

(3) service in the armed forces of the United States for

90 days or more, or service for a lesser period because of injury or disability incurred in line of duty, between June 25, 1950, and January 31, 1955, or service in the armed forces of the United States for 90 days or more or service for a lesser period because of injury or disability incurred in line of duty, between August 4, 1964, and July 1, 1977.

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

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

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

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

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

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

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

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

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

(d) The maximum service fee for administering a loan which may be charged by a participating financial institution shall be set by the director of the division of Alaska loan programs.

Sec. 45.96.480. ASSURANCE REQUIRED. (a) For each loan made from the fund the loan agreement shall include an assurance by the borrower that no person who provides services to the borrower in preliminary phases of a project for which the loan is made, including all studies made in connection with the project,

(1) may participate in the implementation stages of that project; or

(2) may represent more than one interest in connection with the project.

(b) A list of all persons performing preliminary services for a loan applicant shall be furnished to the division of Alaska loan programs as part of the loan application, and a list of all persons with whom the borrower has contractual relations in respect to the project after the application for loan shall be submitted to the division at intervals set by the division of Alaska loan programs.

Sec. 45.96.490. DEFINITIONS. For purposes of this chapter, "the fund" and "the loan programs fund" mean the Alaska loans program fund created in AS 45.96.020.

* Sec. 7. AS 03.10.050 is repealed and re-enacted to read:

Sec. 03.10.050. ADMINISTRATION OF FUND. The commissioner shall administer the loan fund.

* Sec. 8. AS 14.40.751(a) is amended to read:

(a) There is created a scholarship revolving loan fund. [THE FUND SHALL BE USED TO MAKE SCHOLARSHIP LOANS TO STUDENTS SELECTED UNDER AS 14.40.751 - 14.40.806. ALL REPAYMENTS OF PRINCIPAL AND INTEREST ON SCHOLARSHIP LOANS SHALL BE PAID INTO THE SCHOLARSHIP REVOLVING LOAN FUND AND SHALL BE USED TO MAKE NEW SCHOLARSHIP LOANS. IF ESTIMATED FUNDS AVAILABLE FROM SCHOLARSHIP LOAN REPAYMENTS ARE INADEQUATE TO FULLY FUND ESTIMATED SCHOLARSHIP LOANS FOR ANY FISCAL YEAR, ADDITIONAL FUNDING FROM THE GENERAL FUND MAY BE REQUESTED AND APPROPRIATED FOR THAT YEAR.]

* Sec. 9. AS 14.40.755(b) is amended to read:

(b) A person whose [LOAN OR] grant application is not recommended or presented to the committee by the executive secretary may appeal to the committee through the chairman of the committee and the committee shall consider the application.

* Sec. 10. AS 18.100.050 is amended to read:

Sec. 18.100.050. ELIGIBILITY FOR GRANTS [LOANS]. Only public or nonprofit private corporations are eligible for grants [LOANS] under this chapter. The nonprofit corporations must be designated as tax exempt under sec. 501(c)(3) and (4) [501(e)(3) AND (4)] of the Internal Revenue Code of 1954.

* Sec. 11. AS 18.100.070(a) is amended to read:

(a) There is created within the Department of Community and Regional Affairs a senior citizens housing development fund. Subject to direct appropriation [OR THROUGH PROCEEDS OF A BONDING ISSUE] the department shall make grants [OR LOANS] to municipalities or to corporations designated as tax exempt under sec. 501(c)(3) and (4) of the Internal Revenue Code of 1954 [ELIGIBLE FOR LOANS UNDER AS 18.100.050] for the purpose of developing senior citizen housing. [A GRANT FROM THE PROCEEDS OF A BOND ISSUE MAY BE MADE ONLY TO MUNICIPALITIES.]

* Sec. 12. AS 18.100.070(b) is amended to read:

(b) Application for a grant [OR LOAN] under (a) of this section shall be in the form prescribed by the department. The application shall demonstrate the need for senior citizen housing in the area to be served, the feasibility of the proposed project, and an adequate management plan which shall demonstrate the ability of the eligible recipient to sustain the proposed project.

* Sec. 13. AS 29.13.100 is amended by adding a new paragraph to read:

(39) AS 29.58.290 (industrial development bonds)

* Sec. 14. AS 29.58 is amended by adding a new section to read:

Sec. 29.58.290. INDUSTRIAL DEVELOPMENT BONDS. No municipality, home rule or otherwise, may issue a revenue bond which is an industrial development bond under the provisions of the Internal Revenue Code of 1954 (26 U.S.C. 103).

* Sec. 15. AS 37.10.050 is amended to read:

Sec. 37.10.050. ACCOUNTING FOR STATE MONEY AND PAYMENT TO DIVISION OF TREASURY [DEPARTMENT OF REVENUE] FOR DEPOSIT IN PROPER FUND. (a) Each office, board, commission, or bureau authorized to collect or receive fees, licenses, taxes or other money belonging to the state shall account for and pay the fees, licenses, taxes or other money, less fees to which he is entitled by law to the division of treasury of the Department of Revenue at least once each month.

(b) Money collected for the state shall be deposited by the collector in the nearest bank to the account of the division of treasury [DEPARTMENT OF REVENUE] when the division of treasury [DEPARTMENT OF REVENUE] directs this to be done.

(c) The division of treasury [DEPARTMENT OF REVENUE] in June and December of each year shall publish in at least one newspaper of general circulation in each of the four judicial districts a detailed report in display advertising form of the amount of state money deposited in each named bank or other financial institution. A copy of the semiannual report on bank deposits shall also be sent to the Legislative Affairs Agency for distribution of copies to the members of the legislature. The terms of the deposit may be obtained upon a written request.

* Sec. 16. AS 37.10.070(a) is amended to read:

(a) When the commissioner of revenue determines that there is in the state treasury a surplus above an amount sufficient to meet current cash expenditure needs, he shall direct the director of the division of treasury to invest the surplus. The director may invest the surplus [THE SURPLUS SHALL BE INVESTED] in any of the following:

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

(2) obligations secured by reserves paid in by the United States or agencies or instrumentalities of the United States or obli-

gations of corporations in which the United States is a shareholder or member;

(3) notes issued by Farmer's Home Administration;

(4) bank certificates of deposit which are secured as to the payment of principal and interest in accordance with Alaska law;

(5) corporate obligations of prime or equivalent quality, as rated by a nationally recognized rating organization;

(6) other securities, including corporate securities;

(7) Federal Housing Administration mortgages;

(8) Fede .l Veterans Administration mortgages;

(9) loans made under the provisions of the Alaska loan programs fund (AS 45.96) [AS 03.10 AND AS 26.15];

(10) conventional residential mortgages if the offering financial institution retains at least 25 per cent of the mortgage;

(11) other secured loans, if the offering financial institution retains at least 33 1/3 per cent of the mortgage;

(12) mortgages of the Alaska Rural Rehabilitation Corporation which secure agricultural loans, agricultural business loans and agricultural processing loans;

(13) bankers acceptances drawn on and accepted by banks with a combined capital and surplus aggregating at least $200,000,000;

(14) repurchase agreements, reverse repurchase agreements, or any trading practice or instrumentalities that may evolve investment management.

* Sec. 17. AS 37.10.070(f) is repealed and re-enacted to read:

(f) Investment policy shall be formulated by the director of the division of treasury of the Department of Revenue subject to the approval of the commissioner of revenue. In formulating investment policy the director of the division of treasury shall consider maximum income

and safety as governed by the prudent-man rule. The investment policy shall be proposed to the legislature during the first 10 days of any regular session. Investment policy only becomes effective 60 days after presentation to the legislature or at the end of that session, whichever is earlier, unless disapproved by a · solution concurred in by a majority of the members of each house.

* Sec. 18. AS 37.10.070(g) is amended to read:

(g) The director of the division of treasury [COMMISSIONER OF REVENUE, WITH THE CONSENT OF THE COMMITTEE,] may enter into contracts for services providing investment advice, custody of securities, and execution of transactions, in or out of Alaska.

* Sec. 19. AS 37.10.070(i) is amended to read:

(i) The director of the division of treasury [COMMISSIONER] shall purchase notes and mortgages under (a) of this section at a rate conducive to develop and benefit Alaska and Alaska residents and this rate may be less than the market rate.

* Sec. 20. AS 37.10.070 is amended by adding a new subsection to read:

(k) In making investments under (a) of this section, the director of the division of treasury may pool the surplus assets of the state funds but shall maintain separate accounts for each fund.

* Sec. 21. AS 37.10.075(a) is amended to read:

(a) When the commissioner of revenue determines that there are funds in the state treasury which are not being used for the purposes provided for in AS 37.10.070, he may direct the director of the division of treasury to deposit the funds [THEY MAY BE DEPOSITED] in financial institutions in the state which offer the highest bid for the state funds. Collateral may be required by the commissioner to secure state deposits provided for under this section.

* Sec. 22. AS 39.25.120(2) is amended to read:

(2) the directors, division of personnel, division of public health, division of medical assistance, and those other directors of the major divisions of the principal departments of the executive branch as are specifically designated by the governor, except the directors of the division of Alaska loan programs, division of treasury and division of collections are in the classified service and may not be designated as partially exempt;

* Sec. 23. AS 41.22.020(a) is amended to read:

(a) In addition to uses of fund money authorized in sec. 10 of this chapter, money of the fund shall be utilized to make grants to municipalities, of up to one-half the nonfederal share of costs of projects described in AS 41.22.010 which are initiated by a municipality [, AND LOANS OF AMOUNTS NECESSARY TO ENABLE MUNICIPALITIES TO MAKE OPTION PAYMENTS ON PARKS AND OPEN SPACE LAND FOR THE ACQUISITION OF WHICH FEDERAL FUNDS ARE ANTICIPATED].

* Sec. 24. AS 41.35.180(5) is repealed and re-enacted to read:

(5) consult with local historical district commissions regarding the establishment of historical districts under AS 29.48.108 - 29.48.110 and recommend, if appropriate, the formulation of additional criteria for the designation of historical districts under AS 29.48.-110(b).

* Sec. 25. AS 44.21.020 is amended by adding new paragraphs to read:

(13) provide accounting services for the permanent fund (AS 37.13.010), the Alaska loan programs fund (AS 45.96), the renewable resources development fund (AS 37.11), and all other state funds;

(14) provide detailed accounting of state loans outstanding and securities held by the state.

* Sec. 26. AS 44.25 is amended by adding a new section to read:

Sec. 44.25.025. DIVISION OF TREASURY. (a) There is established

within the Department of Revenue the division of treasury. The director of the division is in the classified service under AS 39.25 and shall receive an annual salary within range 27 of the salary schedule established in AS 39.27.011 or within one range below that on which the highest paid deputy commissioner in the Department of Revenue is paid if that range is higher than range 27.

(b) In order to qualify for the position of director of the division, a person must

(1) be graduated from an accredited college with major course work in business administration, accounting, finance, banking, economics, or another closely related field;

(2) have 10 years of experience in banking or investment management involving review, analysis, purchase and sell recommendations, and responsibility for performance with at least four of the years in a managerial capacity.

(c) The director of the division of treasury shall collect, account for, have custody of, invest, and manage all state funds and all revenues of the state except revenues incidental to a program of licensing and regulation carried on by another state department, except that the division shall issue fish and game licenses, collect fish and game license revenues, and do all other acts incidental to the performance of these functions.

* Sec. 27. AS 44.33.020 is amended by adding a new paragraph to read:

(22) administer the Alaska loan programs fund (AS 45.96).

* Sec. 28. AS 18.56.110(a) is amended to read:

(a) The corporation, by resolution, may issue bonds and bond anticipation notes in order to provide funds to carry out and effectuate its purposes <u>only if the state bond committee finds that the issuance is consistent with the bond program of the Alaska loan programs fund</u>.

* Sec. 29. All state agencies, departments, commissions, corporations, divisions or other instrumentalities administering or having authority over or control of a loan program or loan fund affected by secs. 7 - 12, 23 - 24, and 30 of this Act shall cease accepting applications for loans no later than January 1, 1980. The division of Alaska loan programs shall begin to accept applications for loans from the Alaska loan programs fund no later than January 1, 1980.

* Sec. 30. The following laws are repealed: AS 03.10.010; 03.10.020(1), (4), and (5); 03.10.030; 03.10.054; AS 14.40.751(c), 14.40.759 - 14.40.771; AS 16.10.300; 16.10.310(a)(1), (4), (5); 16.10.320; AS 18.100.030(1) and (4), 18.100.040 - 18.100.060; AS 26.15.010(b) - (d), 26.15.040 - 26.15.060, 26.15.110 - 26.15.160; AS 41.22.020(b) - (c); AS 41.30.010 - 41.30.080; AS 44.33.020(5), 44.33.245(a)(1), 44.33.245(b), 44.33.250 - 44.33.260; AS 44.59.140(7) - (14), 44.59.170, 44.59.190 - 44.59.410, 44.59.430; AS 44.60.010, 44.60.130(7) - (13), 44.60.160 - 44.60.260, 44.60.310 - 44.60.320; AS 44.61.010 - 44.61.220; AS 45.86.010 - 45.86.030, 45.86.040(b) - (c), 45.86.050 - 45.86.060; AS 45.88.010 - 45.88.040; AS 45.90.020(a)(1), (4), 45.90.030; AS 45.95.020 - 45.95.030, 45.95.070; AS 45.98.020 - 45.98.040, 45.98.060.

* Sec. 31. AS 37.10.065, 37.10.075(b) - (d), 37.10.079; and AS 44.25.-020(2) are repealed.

* Sec. 32. Sections 1 - 6, 13 - 22, 25 - 29, and 31 of this Act take effect June 30, 1979. The unobligated general fund surplus as of June 30, 1979 shall lapse into the unallocated reserve account created in AS 45.96.125 on June 30, 1979.

* Sec. 33. Sections 7 - 12, 23, 24 and 30 of this Act take effect June 30, 1980.

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October 1, 1979

Mr. Peter A. Bushre
Deputy Commissioner
Department of Revenue
Treasury Division
State of Alaska
Pouch SB
Juneau, Alaska 99811

Dear Peter:

Enclosed you will find our draft response to the questions posed in your letter of June 18, 1979 regarding Senate Bill 1. This is a draft so as to afford you and your colleagues an opportunity to comment and suggest additions or revisions prior to our issuing a "final" version to the Bond Committee.

I expect we will want to schedule a review session on my next trip to Juneau. In the interim, don't hesitate to call should you need additional information.

Best regards.

Sincerely,

Tony

Anthony T. Dean
Asst. Vice President

ATD:Lmc

cc: Thomas K. Williams
Commissioner of Revenue

bcc: Sterling Gallagher ✓
Elizabeth Reid
Wally Filkin

The Alaska State Bond Committee has asked that, as financial advisor to the State, we analyze provisions of Senate Bill 1 relating to the Alaska Loan Program Fund and that we respond to several specific questions concerning this legislation.

S.B. 1 attempts to provide a consolidated and comprehensive loan program offering low cost loans for the following purposes and/or borrowers:

(1) Farmers
(2) Commercial fishermen
(3) Local development companies
(4) Statewide development activities
(5) Childcare facilities
(6) Small businesses
(7) Forest products enterprises
(8) Renewable resources activities
(9) Municipal projects
(10) Industrial development by exempt persons
(11) Tourism facilities
(12) Historic restoration activities
(13) Open space acquisition
(14) Residential housing

The resources with which to fund such loans will be derived from a sale of revenue bonds in the tax-exempt market pursuant to approval by the State Bond Committee. Loan repayments will be structured in such a manner as to provide funds sufficient to service the principal and interest payments on the bonds, meet certain insurance premium expenses, provide for servicing and administrative expenses, and fund certain reserve accounts. The bonds are to be secured by a pledge of the notes evidencing the loans, the revenues to be derived pursuant to repayment of the loans, and amounts in the following reserve accounts:

(1) Debt service reserve
(2) Capital reserve
(3) Loss reserve
(4) Fire and casualty reserve, and
(5) Allocated reserve

In addition, the bonds may be secured by a guarantee from the Permanent Fund Corporation to the extent of Permanent Fund income. As currently drafted, S.B. 1 provides that servicing of loans will be handled by a collections division within the Department of Commerce and Economic Development.

S.B. 1, in its current state, represents a preliminary and conceptual attempt to achieve the goal of a consoldiated and expanded state loan program. With respect to certain aspects of the program, appropriate

authority is not included in the legislation, whereas in developing loan criteria and other operating procedures, the legislation is entirely too specific and detailed to provide a workable basis for the structuring of a marketable revenue bond. As a result, it may be that the authors of the legislation can resolve many of our concerns by more careful drafting. In any event, our response will deal with the bill as it is now drafted.

STRUCTURE OF AN ALASKA LOAN PROGRAM REVENUE BOND

Pool Structure

At the outset it is important to consider whether the loan program revenue bonds will be issued against a previously orginated pool of loans or will fund a blind pool of loans to be originated at some future time in accordance with preestablished credit criteria.

In the former case, investors can evaluate the security represented by the loan agreements, assess the credit-worthiness of the borrowers and evaluate the security enhancements associated with certain third party guarantees or personal guarantees which may further secure the loans in the pool. The use of a blind pool requires that investors place considerable reliance on the administrative skills of those civil servants administering the program and that certain criteria be established for each type of loan category to better ensure that all loans subsequently placed in the loan pool will meet the credit requirements of potential investors.

In addition, if separate series of bonds are issued to finance single purpose loan pools (e.g. single family housing or commercial loans to renewable resource enterprises) a different approach would be appropriate for each type of loan. Residential mortgage loan pools are typically created from bond proceeds in accordance with the criteria established prior to issuance, whereas commercial loans might be better financed as a known pool rather than a blind pool. The Connecticut Development Authority issues its industrial project bonds against a known pool of loans to qualifying business enterprises. The Pennsylvania Industrial Development Authority and the Puerto Rico Industrial Company issue bonds against blind pools which authority staff will originate pursuant to preestablished criteria.

Loan Criteria

In whatever manner the underlying loan pools are assembled, loan criteria will be required to assure potential investors that loans being originated will meet certain minimum standards of credit-worthiness. In addition, because the loan fund is authorized to participate in the financing of such a wide range of activities, no general standards or criteria can be established applying to all potential loan categories.

As a result, it is likely that separate series of revenue bonds will have to be issued to finance loans for each category. Along lines of a broad division between bonds issued to finance residential housing, those issued to finance commercial loans, and those issued to finance municipal improvements, the rating agencies will likely perform separate and distinct analyses, assigning separate and distinct ratings to each such category.

Because of these complicating factors, loan criteria should not be set out in the statutory language, but the agency should be authorized to establish such loan criteria as are consistent with sound financial practices. The rating agencies and the market will dictate the criteria to be incorporated in the underlying legal documents. Such criteria may well include loan to value ratios, maximum loan limits, showings of historic and/or projected loan repayment coverage, limitations on the permitted indebtedness of borrowers, requirements for additional security including pledge of assets not being financed by the loan, personal guarantees or guarantees by third parties and, where available or appropriate, requirements for private mortgage insurance, casualty and special hazard insurance.

Servicing

Servicing the underlying loan agreements will involve considerably more than simply collecting loan repayments as they become due. Of primary importance to potential purchasers of the revenue bonds will be administrative provisions and experience in monitoring a substantial portfolio of diverse loans. The Collections Division must have the administrative flexibility and capability to move promptly to prevent losses. For different types of loans, different servicing arrangements will be appropriate and, where possible, private financial institutions should be used.

Term and Rate

The legislation provides specific direction regarding loan maturities and interest rates, matters which would better be left to the discretion of the commissioner and market. It can be assumed that loan maturities will match the economic life of the facilities being financed. Relatively liberal prepayment provisions and procedures for assumption of debt would be included in most loan agreements. It should be noted, however, that the uncertain repayment schedule for such a loan pool would require mandatory call provisons for the revenue bonds, which in turn may lead to a slight premium in the market.

Loans would bear interest at rates which would vary according to the function, purpose, or issuer served within the broad menu of loan programs to be funded under this legislation. There are substantial differences in financial strength and ability to repay among the universe of borrowers to be served and these distinctions would be reflected in

interest rate and credit rating. Any attempt to pool stronger credits with weaker credits will serve to penalize the stronger credits in order to subsidize weaker credits and do so inefficiently, since investors may well focus on the weaknesses rather than the strengths. In addition, IRS rulings severely limit the policy of industrial development loans. It is for this reason that separate series of bonds would be necessary to accommodate the wide variety of underlying credit standards.

Arbitrage

The relationship of the interest rate on the bonds and the interest rates on the loans is subject to the applicable arbitrage regulations of the Federal Internal Revenue Service and several specific provisons of the proposed statute. Under present arbitrage regulations, the allowable yield on the loans is limited to the cost of borrowing except when bond proceeds are invested in obligations that carry out the purpose of a governmental program. To satisfy the requirements of a "governmental program," the loans purchased with bond proceeds must be loans to a substantial number of persons representing the general public, loans to exempt persons within the meaning Section 501(C)(3), or loans to provide housing and related facilities. Where these requirements are met, the loan may bear an interest rate which is 150 basis points (i.e., 1 1/2%) above the yield on the revenue bonds (as calculated in accordance with IRS regulations). The allowed 150 basis points of arbitrage spread must be sufficient to meet servicing expenses, trustee's fees, administrative expenses charged to the program by state agencies, insurance premiums for policies required by the terms of the revenue bond offering and the funding of any special reserves. These costs cannot be added over and above the 150 basis point spread.

Where the 150 basis point arbitrage spread is not allowed, these same expenses must be met from other sources of revenue. Even should all loan programs presently contemplated by the legislation qualify for the 150 basis point spread, such treatment is not indefinitely assured. Legislation now before the U.S. Congress would serverely restrict the use of tax-exempt revenue bonds to finance residential housing and curtail the use of arbitrage to meet program expenses. Legislation or regulation with a similar effect on other types of loan programs may be promulgated in the future.

The legislation allows for rates of interest upon the loans less than those allowed by the arbitrage regulations or less than the yield on the revenue bonds, if the Renewable Resource Development Fund or another state fund agrees to pay the difference between the cost of money for the state and the interest rate to be charged program participants. Agricultural loans are specifically authorized at a rate of 1% below the allowed arbitrage rate with any deficiencies to be made up by the Agricultural Revolving Fund. The effect of these provisions will be to cause investors to look beyond the loan pool securing such a series of

revenue bonds and scrutinize carefully the resources available to the revolving fund or other state funds which have been pledged to meet interest deficiencies.

Security

The revenue bonds, the proceeds of which will fund these different loan programs, will necessarily be issued in different series to reflect the varying financial strength of the participants and the functional uses of the funds as well as to reflect the various structural arrangements which have become customary in each functional area of revenue bond financing. For example, the market will expect a bond issue secured by single family mortgage loans to be structured similarly to other housing issues and would not expect that a bond issue secured by commercial loans have comparable features especially in consideration of IRS small issue limitations. Security provisions certainly will vary according to the strength of the ultimate borrowers.

The legislation provides for a complex set of reserves which are described in brief summary in the following table.

FUND	CONTROL	SOURCES	USES
A. General Fund			
1. Allocated Reserve	Trustee	-1/2 of income from Permanent Fund	-Capital Reserve Account
		-Appropriation from Unallocated Reserve	-Fire & Casualty Insurance Acct.
			-Loss Reserve Acct.
2. Unallocated Reserve	State of Alaska	-All amounts in General Fund in excess of $100 million at end of the fiscal year	-By appropriation to fund allocated reserve

FUND	CONTROL	SOURCES	USES
3. Comprehensive Loan Fund Reserve	State of Alaska	-15% of state mineral leases, rentals of state lands, mineral lease bonus and royalty income	-By appropriation to the allocated reserve account or account or to any other purpose
B. Debt Service Reserve Fund	Trustee	-Bond Proceeds (to limit allowed in arbitrage rulings)	-Interest -Principal
C. Capital Reserve	Trustee	-Allocated Reserve Fund (to amount equal to 5% of principal amount of bonds out standing)	-Principal -Interest -Redemption -Premium
D. Loss Reserve	Trustee	-Allocated Reserve Fund	-To meet losses on loans
		-1% arbitrage earnings on loans, if any	-To repay allocated reserve from amounts in excess of 5% requirements
		(Required to equal 5% of principal amount of loans oustanding)	-To earned income account

FUND	CONTROL	SOURCES	USES
E. Fire & Casualty Reserve	Trustee	-6/10's of 1% from borrowers -Allocated Reserve	-To meet fire and casualty losses on uninsured loan collateral
F. Municipal Bond Capital	Trustee	-Allocated Reserve (Equal to 5% of outstanding Municipal issues which are guaranteed or issued under this chapter)	-To pay principal and interest -To redeem Bonds

With respect to each separate issue of bonds, arbitrage regulations would appear to limit the debt service reserve fund (that portion eligible to earn an unrestricted yield) to an amount which when combined with the portion of the Capital Reserve and Loss Reserve allocated to the specific bond issue, would equal 15% of the bond proceeds.

Potential sources of additional security which may be required to enhance marketability of certain series of loan program revenue bonds, include: (1) a Permanent Fund guarantee based on Permanent Fund income, but not principal; (2) a pledge (moral obligation) of the State to replenish the reserve fund accounts by appropriation from the Unallocated Reserve and from the comprehensive loan program reserve account, and (3) purchase of AMBAC or MBIA bond insurance. The value of a Permanent Fund guarantee will be in direct proportion to the relationship between annual income of the Fund, potential liabilities under the state loan program, and the extent of other guarantees written against Permanent Fund income. The security value of the moral obligation pledge will depend on the credit standing of the State, its general financial condition, and the past practices of the State in meeting similar "contingent" liabilities.

Bond insurance, if available, would improve marketability of weaker series of loan program revenue bonds providing a AA or AAA rating for AMBAC and MBIA, respectively. The availability of bond insurance would be enhanced by structuring revenue bond issues against a known pool of loans which could be carefully analyzed by the insurance underwriters. It is also possible that strict loan originations criteria would serve the same purpose.

INTRINSIC SECURITY, THIRD PARTY GUARANTEES, AND ALASKA'S CREDIT STANDING

In attempting to evaluate the credit underlying a revenue bond issue, analysts and investors will look first to the quality and realiability of the pledged revenues, which are expected to be the primary source of interest and principal payments. It is also possible to augment or substitute security where certain risks may impair the reliability of the revenue flow and where legal and constitutional circumstances allow such additional security. Additional security features such as those described in the preceeding section may so strengthen the market perception of the issue that overall borrowing costs are reduced in return for the issuer's accepting certain tangible and intangible costs. Such substitute security is workable to the extent that investors feel confident it will be readily available when needed, sufficient in amount to cover all conceivable types of risks (based on resources not otherwise committed), and subject to quick mechanical implementation not subject to discretion or delay.

Of course, in the event enterprise revenues are insufficient to meet principal and interest payments and additional security features must be called upon to prevent default, expectations and attitudes quickly change. The revenue stream will be severely discounted and security analysis will focus on the substitute security. An aura of mismanagement will attach to the enterprise and may spread to the third party guarantors. Any additional financing or reorganization financing may command extremely high rates even with the substitute security features thus, creating the worst of both worlds: high cost of money and a general obligation type liability for the State.

The likelihood that the Alaska State Loan Program could stand alone and not call on general state credit, will depend on several factors, the most important of which are the following:

1) Adherence to strict loan underwriting criteria supported by thorough fact finding and investigatory procedures and reviewed by an external credit committee.

2) Servicing procedures and loan surveilliance policies, which insure detailed, timely updates as to the status of each loan and prompt action to handle developing problem loans. Placing these responsibilities with private institutions, is generally better received than creating state agencies to accomplish the same function.

PROPOSED LEGISLATION

In the spring of 1979, several bills were introduced into the U.S. Congress to restrict the use of tax-exempt revenue bonds to finance residential, single-family mortgage loans. One such bill has been reported out of the House, Ways and Means Committee and action is expected during this session. For Alaska, the effect of the Committee bill would be to limit issuance of mortgage subsidy revenue bonds in Alaska to an annual par amount of $50 million. In addition, a variety of eligibility standards with respect to both the mortgagors and the areas to be served would be imposed. Similar standards and critiera would also affect any multi- family project to be financed through tax-exempt revenue bonds. The overall effect, then, would be to severely curtail the volume of tax-exempt financing for housing generally and to reduce that portion of the Alaska loan program which would be comprised of loans for residential housing.

This legislation was introduced in response to the rapidly growing use of a financing program that was felt to be an abuse of the tax-exempt option. Fears of excessive income tax losses for the Federal treasury and a judgment that such mortgage subsidy programs benefitted a group of our citizens not necessarily deserving of such benefits also motivated the bill's introduction. In addition, the Internal Revenue Service has for many years opposed tax-exempt financing for any purpose. Programs proposed in Senate Bill 1 would not inevitably or even necessarily incite a similar response from either Congress or the IRS. However, were programs of this type to become widespread and constitute a significant portion of tax-exempt bond financing, one can reasonably expect some Federal response.

Coverage

Coverage requirements would be different for each distinct series of bonds. For a pass-through type of financing, e.g. single-family mortgages, municipal purpose, or certain industrial loans, coverage is not as relevant a measure of financial strength as are loan criteria, pool composition, insurance provisions, asset coverage, and the strength of servicing arrangements. In the case of commercial loan programs, where the state has also provided strong back up security, as in Connecticut and New York, coverage is less important than is the magnitude and frequency of loan losses, delinquencies and reserves. In such pool, pass through type financings, the "coverage" is found in the number of times each borrower's cash flow exceeds principal and interest obligations on its loan.

Where a substantial portion of a lending agency's assets have been financed from other than bond proceeds, annual net revenue on the loan portfolio may have to cover maximum annual debt service on the outstanding bonds by a factor of 1.5 to 2.0, as in Pennsylvania and Puerto Rico.

COMPARABLE ISSUES

Market reaction to the proposed Alaska Loan Program Revenue Bond will be determined by both an analysis of the intrinsic characteristics of the bonds and a comparative analysis of similar issues. For purposes of illustration, we have selected four issuers whose activity and market standing cover a wide range. These include the Puerto Rico Industrial Development Company, the Connecticult Development Authority, the Pennsylvania Industrial Development Authority, and the New York Job Development Authority.

Puerto Rico Industrial Development Company

Purpose: The Puerto Rico Industrial Development Company was created in 1942 to stimulate the development of local industry and to encourage mainland and foreign firms to establish operations in Puerto Rico. To accomplish this goal, PRIDCO builds and purchases facilities for lease or sale to qualified private industrial investors and makes loans to and investments in private industrial enterprises.

Funding: PRIDCO obtains funds for capital improvements from various sources in addition to borrowings. Such sources include Federal and Commonwealth grants, retained earnings, and appropriations. As of the end of 1977, total capitalization of approximately $360,000,000 was composed of $122,000,000 in long-term debt, $171,000,000 in contributed capital and $65,000,000 in retained earnings.

Lending Experience: As of June 30, 1977, the loan portfolio amounted to $41,216,790 of which 84% was secured by senior or junior mortgages on real property or equipment. At that date, the total reserve for loan losses was $8,850,796. PRIDCO has a policy of including in its appropriation request to the Commonwealth legislature any amounts necessary to reimburse it for losses previously incurred from local industrial loans and investments. Historically, the legislature has approved such appropriations for PRIDCO and as of February 28, 1978, $5.6 million had been appropriated, but undisbursed by the legislature for the losses incurred through fiscal year 1977.

Bond Security: The bonds are payable from the gross revenues received by PRIDCO from certain of its revenue-producing real properties, machinery or other equipment, first mortgages on real property or first mortgage bonds, all of which are specified by PRIDCO to be trusteed properties. The gross revenues from trusteed properties are deposited with the trustee without deduction for any other expenses or charges. From such gross revenues the trustee makes deposits into the various accounts sufficient to meet its semi-annual debt service requirements and to maintain the debt service reserve account. Any remaining balance is available for any lawful corporate purpose.

Protective Covenants: If the gross revenues from the trusteed properties, during any consecutive 12 months, are less than 150% of the maximum annual debt service requirements on all the bonds then outstanding, PRIDCO will immediately designate as trusteed properties such other of its properties eligible to be trusteed as may be necessary in order that the gross revenues of the trusteed properties will be at least 150% of the maximum annual debt service requirements.

Additional parity bonds may be issued provided that gross revenues from the trusteed properties during the most recent 12 preceding months are equal to not less than 150% of the maximum annual debt service requirements on all bonds then outstanding plus those proposed to be issued.

Coverage: Historical debt service coverage by gross revenues on a cash basis received from trusteed properties and properties eligible to be trusteed, equalled 2.70 times as of the end of 1977. At no time during the period 1973 through 1977 did this coverage drop below 2.0 times. Projected revenues are estimated to equal, or slightly exceed, 2.0 times. During the most recent 12 months, gross revenues from trusteed properties only (excluding properties eligible to be trusteed) provided 1.64 times coverage.

Ratings: A $40,000,000 issue, dated April 1, 1978, was assigned a rating of BAA 1 by Moody's and a BBB by Standard and Poor's.

The Connecticut Development Authority

Purpose: The Authority was created in 1973 as a subdivision within the Department of Commerce of the State of Connecticut for the purpose of stimulating industrial and commercial development within the state through various financial assistance and other programs. The Authority is authorized to assist in financing the cost of acquiring, constructing, and improving and equipping plants and other facilities, for the furnishing of water available for public use, for the control of pollution, for the acquisition of ferryboats or for the development of recreational facilities. The Authority has, to date, established three separate programs. Through its umbrella program, the Authority makes financial assistance available to qualified applicants only for the financing of facilities or machinery and equipment to be used for manufacturing, warehousing, research and pollution control.

Under its insurance program, the Authority insures loans by lending institutions to companies for qualified projects located within the state. Insurance claims are payable from a special insurance fund created by the Act for the funding of which general obligations bonds of the state may be issued. All loans financed under the umbrella program are also eligible for insurance under the insurance program. The Authority has also implemented its self-substaining program through which it provides assistance to companies through the issuance of special obligation bonds which are payable solely from revenues derived from the assisted project.

Funding: Loans under the umbrella program are funded from bond proceeds. The insurance fund currently has assets in excess of $2.5 million and the State Bond Commission has authorized the issuance of general obligation bonds in the aggregate amount of $35,000,000 when required to satisfy claims against the insurance funds.

Lending Experience: Since the establishment of the umbrella program in 1972, 470 firms have submitted applications for financing; 173 of these firms have submitted formal applications of which 86 have been approved and of which 67 have closed loans. It has been the Authority's policy in connection with all loans closed to date, to provide loans to industrial real property only in the form of a first mortgage loan with a maturity not exceeding 25 years and to provide loans for machinery and equipment with a maturity not exceeding 10 years only upon receipt of prior perfected security interest. The Authority generally requires further security such as life insurance payable to the Authority, a personal note or guarantee of the loan or a first or second mortgage on other property of the applicant, although the Act would permit the Autority to make loans on an unsecured basis in appropriate circumstances.

Applicants for financing must prepare preliminary applications which are screened for legal eligibility and financial viability. Upon determination of eligibility, a formal application is filed, reviewed and inspected by Authority staff; the business premises of each applicant are inspected; management is interviewed; the project site is visited, and an appraisal of the underlying value of all real estate projects is prepared. The summary report on the project is submitted to an independent credit committee consisting of three persons chosen on a rotating basis from a group of 13 current or former senior loan officers of Connecticut financial institutions. In addition to the recommendation of the credit committee, the Authority currently orders two investigative reports (one from a credit service and one from a general investigative agency) in connection with each application. The Authority has no delinquent umbrella program loans and is not aware of any other default with respect to its umbrella program loans.

Bond Security: The bonds are general obligations of the Authority secured by pledged receipts, including loan payments and advance payments, various funds and accounts, including the insurance fund and a special capital reserve fund. This special capital reserve fund is funded from bond proceeds in an amount not less than the maximum amount of principal and interest becoming due in any succeeding calendar year. Should there be any deficiency in the capital reserve fund, there shall be appropriated from the State General Fund such funds as are necessary to restore the reserve fund to its minimum requirement. Such appropriations, in the opinion of Bond Counsel do not require further legislative approval.

Ratings: The Series 1975 A through Series 1975 X Bonds were rated Aa by Moody's Investor's Service and AA by Standard and Poor's. The 1977 A through Series 1977 L bonds were rated A 1 by Moody's and AA by Standard and Poor's. Subsequently, Moody's upgraded the rating to Aa. Bonds issued in 1977 carried an average interest rate of 6%.

The Pennsylvania Industrial Development Authority

Purpose: The Pennsylvania Industrial Development Authority was created in 1956 to alleviate unemployment and economic stagnation within the Commonwealth by the promotion and development of industrial and manufacturing enterprise and research and development facilities in those areas of the state where conditions of critical unemployment exist. The Authority is authorized to make loans to local non-profit industrial development agencies which are to be used with other local monies to finance industrial development projects which are sold or leased to responsible buyers or responsible tenants.

Funding: In addition to approximately $85 million in outstanding revenue bonds, the program has been financed by nearly $210,000,000 of direct legislative appropriations. As of June 30, 1978, the Authority had over $280,000,000 of loans outstanding in addition to approximately $30 million of investment securities. Authority activities are also supported by surplus revenues generated by the Authority's Loan and Investment portfolio.

Lending Experience: As of June 30, 1978, the Authority had $280,000,000 of loans outstanding. The Authority loan loss experience has been small relative to the total amount of loans made since 1956, but the amount of write-offs has increased substantially in the last two years. Prior to 1976, the total amount of loans written off was $50,790, but since 1975 $1.1 million in loans have been written off. In addition, approximately $4.8 million of loans were 90 days or more delinquent as of June 30, 1978. The Authority has also granted moratoriums with respect to either principal or principal and interest on loans having a remaining principal due of $11,803,000.

The Authority makes loans to local industrial development agencies which in turn make loans approved by the Authority for an industrial development project. Generally, the Authority's loans to the agencies are secured by a second mortgage on the agency's freehold interest in the industrial development project. The first mortgagee would generally be a local bank or group of banks. The loans made by the Authority are restricted by the Act depending on the type of project to be financed. Generally, the Authority is limited to a certain percentage of the total project cost, and commitments are required to be in place for the remainder of the financing.

Bond Security: All revenues received from loans made by the Authority are pledged to the payment of the bonds. Each bond issue is divided into bond lots of no more than $1 million each. Repayments of loans made from each bond lot are pledged solely for the payment of bonds of that lot; in addition, all bonds are secured by the pledged of repayments from loans made from any funds other than bond proceeds. The Authority reserves the right to merge all accounts and secure all bonds from all of its revenue regardless of bond lot, if the applicable Internal Revenue Service regulations are amended to permit the Authority to do so.

Protective Covenants: Additional parity bonds may be issued, provided that revenues estimated to be received in future years are at least equal to 200 percent of annual debt service requirements on all series of bonds. The Authority also covenants that its revenues shall at all times be sufficient to meet principal and interest requirements on its bonds, to meet all sinking fund installments, and to make all required reserve fund payments.

Coverage: Interest rates on loans made by the Authority range from 7/8 of 1% to 4% per annum below the rates paid on the Authority's bonds. The negative interest spread is made up by the cash flow generated from the loans made with funds provided from State appropriations. The revenues which were expected to be received from loans made under the program were well in excess of the 2 0 times coverage required by the bond resolution. At the time the 1978 Series bonds were sold, coverage was projected to be approximately 2.4 times maximum annual debt service on the bonds then outstanding and to be issued.

Ratings: All recent series of the Authority's bonds have been rated A by both Moody's and Standard and Poor's.

New York Job Development Authority

Purpose: The Authority was created in 1962 to improve employment opportunities within the State by making secured loans to local development corporations, which in turn lend to industrial manufacturing and research and development firms and other eligible business enterprises. Funds borrowed from the Authority are utilized to finance the construction of new plants, the acquisition, rehabilitation or improving of existing plants and the acquisition of machinery and equipment.

Funding: As of May, 1979, the Authority had issued $108 million bonds and $18 million bond anticipation notes of which obligations, $84,715,000 are currently outstanding.

Lending Experience: Since its creation, the Authority has approved 959 loans in original principal amounts totaling $151,186,807, of which 885 have been disbursed with original principal amounts totaling $133,845,322. During the Authority's 17- year history, it has had total

net losses of $1,812,670 representing a total of 1.4% of all loans disbursed by the Authority. As of March 31, 1979, 32 loans were delinquent 60 days or more, with a principal amount outstanding of $4,077,615 and representing 4.9% of total loans outstanding.

Bond Security: Each series of bonds constitutes an issue of special obligations of the Authority payable solely from (1) pledged revenue with respect to such series and (2) to the extent that such revenues are insufficient other available special purpose funds of the Authority. Each series of bonds is additionally secured by a debt service reserve fund equal to approximately 11% of the aggregate principal of the underlying loans for each such series. Recoveries of principal with respect to any loan are to be used to make additional loans, the payments on which will be applied to the payment of debt service on the series of bonds authorized by such resolution. The punctual payment of the bonds is fully and unconditionally guaranteed by the State of New York as to both principal and interest. The guarantee by the State is authorized by the Act and Section 8 of Article 10 of the Constitution of the State of New York.

Coverage: In compliance with the requirements of the Internal Revenue Code, the interest on each loan except during any applicable temporary period, must not exceed the yield on notes or bonds of the Authority issued to finance the loans by more than 1 1/2%.

Ratings: For the most recent issue of the Authority, Moody's assigned a rating of A and Standard and Poor's assigned a rating of AA.

CONCLUSIONS AND RECOMMENDATIONS

1. While access to tax-exempt financing will benefit certain Alaska residents, a pooling of all types of financing is neither feasible nor desirable since stronger credits and established programs would pay higher interest costs with little, if any, reduction in the borrowing costs for the weaker credits and more risk oriented programs.

2. State guarantees and similar security devices can be effectively employed to improve market acceptance and thereby reduce borrowing costs. However, guarantees for economically marginal projects will accurately be viewed as a contingent liability against the State's general credit with an above average probability of becoming a direct liability. To the extent these pessimistic expectations are confirmed by events, investors will discount any security value in the pledged revenues and look exclusively to the State's General Fund for repayment.

3. Industrial development financing with tax-exempt bonds has been restricted and thoroughly regulated. Legislation now before the Congress proposes to accomplish similar ends with regard to

tax-exempt financing of residential housing. Senate Bill 1 will not invite retaliatory national legislation, but continuing Federal opposition to all forms of tax-exempt financing may restrict the program's operations at some future date.

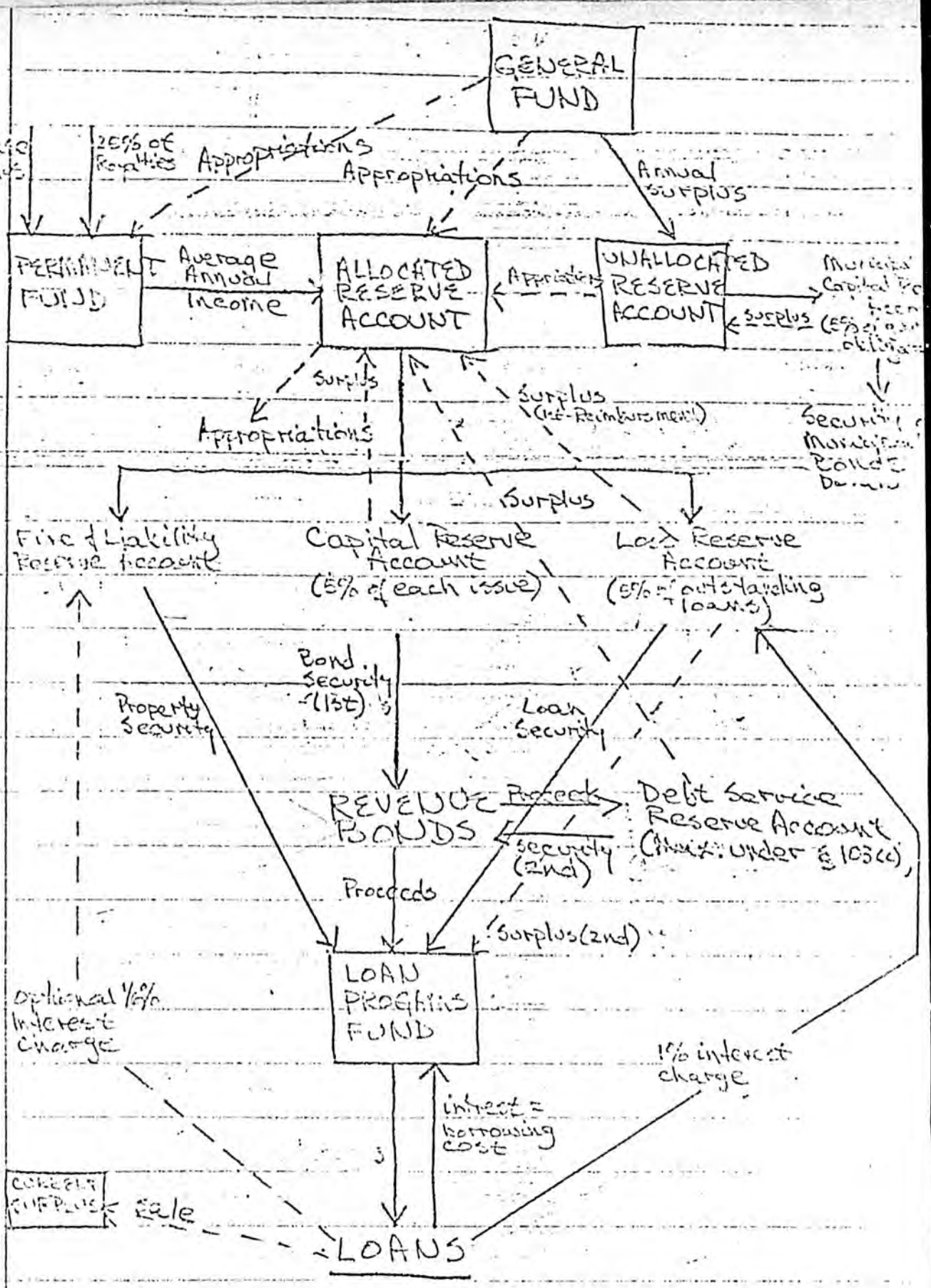
4. With the possible exception of housing, all programs to be financed would qualify for the full 1 1/2% arbitrage margin authorized for "governmental programs." Arbitrage for housing programs will be limited to 1% under proposed legislation. These amounts have been sufficient in the past to meet costs of servicing, insurance and administration, but certain costs may exceed prior experience in which case the State and the program participants would be required to assume the additional charges.

5. Debt Service coverage is only one measure of financial strength. For a program of this type, adequate asset relationships and access to the resources of third parties would be important prerequisites for market acceptance.

6. In reaching these conclusions, we have consulted with the rating agencies and major underwriters of Alaska securities.

For the reasons enumerated above, we would not support SB 1 in its current form.

#18.21



Commercial	Housing	Municipal
Farming	Construction/ Mortgage	Small Issuers
Fishing		Nonprofit Corporations
Forestry	Single Family/ Multi-Family	(Exempt only)
Resources		
Tourism		
Business		
SBA Develop. Cos.	Scholarship	Historical
Child Care		
Exempt Activities		Public/Private

Outdoor Recreation

Hugh
For your information
& use as you see fit -
Chet

PERMANENT FUND QUESTIONS TO PUBLIC

I. As you know the Constitution provides for two funds: a)The General Fund b)The Permanent Fund

1. The constitution permits the withdrawal of monies from the general fund only when authorized by law - by the legislature.
2. The constitution prevents the withdrawal of monies from the Permanent Fund. The Legislature cannot appropriate monies from the permanent fund.
3. The earnings from the Permanent Fund constitutionally shall be deposited in the general fund and handled accordingly.

So do you think the Permanent Fund should be handled with extra care?

II. a)Would you be willing to give someone else the full authority to use your money or even earnings from your money for loans to projects you know will fail and force default on the loan?

b)Are you willing to give someone else the full authority to select the quality of loan or investment for which to use your money? Or do you want to reserve that right?

c)If you reserve that right - would you put your money in secure investments or in investments with little if any chance of paying you back?

III. Do you think the Permanent Fund should become a bank which will provide for poor quality-low interest loans with a high risk of default.?

IV. All revenue projections indicate the General Fund balance will be two or three times greater than the Permanent Fund balance. If you knew you could get the low interest loans from the General Fund - would that be enough? - or would you want the Permanent Fund to also be able to secure loans?

V. Why should the State Government have both a General Fund and a Permanent Fund? Or should we propose a constitutional amendment to repeal the Permanent Fund?

VI. Do you have an opinion on how the earnings from the Permanent Fund are used? Should it be distributed to the people? Should it all go into the General Fund? or should it all go into the Permanent Fund?

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INVESTING MONTANA'S MINERAL SEVERANCE TRUST FUNDS

During the past decade, Montanans have shown an acute awareness of the transient nature of our nonrenewable natural resources. The best proof of this awareness is the four trust funds that were created during these years to save a portion of the severance taxes collected.

In 1973, the legislature enacted a 1/2 of 1% tax on the gross value of all minerals extracted in the state and dedicated the funds collected to the resource indemnity trust. The purpose of the trust is, in the legislature's words, "to provide security against loss or damage to our environment from the extraction of nonrenewable natural resources...in order that the people and resources of Montana may long endure." In 1975, the legislature allocated portions of the newly enacted coal severance tax to two trust funds:

1) 10% to the education trust fund for the support of Montana's public schools and universities; and
2) 2 1/2% to a parks and cultural projects trust fund, 2/3 of the interest from which may be used to purchase and maintain state parks and 1/3 of which is used for various cultural projects.

The citizens of Montana have shared with the legislature this concern over extraction of nonrenewable resources. In 1976, 179,000

voters (63% of those voting) approved a constitutional amendment creating a permanent coal tax trust fund. The amendment provided that the legislature would appropriate not less than 25% and beginning January 1, 1980, not less than 50% of the severance tax collected to a trust fund. The principal of the trust was to remain "forever inviolate" unless appropriated by a 3/4 vote of the members of each house. However, the interest earned from the fund could be appropriated during each legislative session.

Supporters of the amendment argued that the trust would:

1) free the state from undue dependence on coal production by:
   a) allowing research and development of alternative, renewable energy sources; and
   b) encouraging a diversified, stable economy in the state.
2) allow us to share Montana's heritage of nonrenewable natural resources with future generations, who would have no such legacy. In other words, something would remain when the coal was gone.

Montana voters evidently concurred in these goals and created the trust fund. Thus, beginning January 1, 1980, 62.5% of Montana's coal severance tax goes into trust funds.

The funds in these trusts have mounted steadily over the past several years. To date, $12 million has been deposited in the resource indemnity trust fund, $25 million in the education trust fund, and $3 million in the parks and cultural projects trust. By far the largest account is, however, the coal tax trust fund.

Currently, there is nearly $300 million in the trust. By the end of 1985, the trust should - by conservative estimates - contain $300 million. Those who are brave enough to project long-range energy production have estimated the fund may contain between $3 and $4 billion by the year 2000.

These staggering sums make clear that Montanans of this decade face a new task. In the 1970's the Montana legislature and citizens exercised great foresight in creating these trust funds and research accounts. Now, in the 1980's we must exercise equal foresight in determining how these funds should be invested or spent to insure a lasting legacy remains when the coal and other nonrenewable resources are gone.

Two questions central to this task are:

1) How can we foster a stable, diversified economy through investment and spending?
2) How can we share our heritage of natural resources with future generations?

As those who have observed the last two sessions of the Montana legislature know, the prospective answers to these questions are diverse, representing a whole range of philosophical and political positions. Bills were introduced in 1977 to require that all coal tax trust funds be invested in Montana financial institutions, that the funds be used to subsidize home mortgages and promote energy conservation for lower income Montanans, that a state bank be created to house the trust and other state funds, and that the

interest from the trust be reinvested until the year 2000 when the next generation could vote on how the funds should be spent.

After much debate, the 1977 legislature rejected all these bills and voted to place the trust funds in the state's unified investment plan for investment under the modified prudent man statute.

Since most states invest public funds under a modified prudent man statute, many of you are no doubt familiar with its provisions. Montana statutes require the citizen board and professional staff that invest state funds to consider two guidelines:

1) a list of permissable investments.

   Montana law contain a lengthy list of types of securities in which the Board may invest public funds. The list is varied enough to give the Board considerable latitude. One notable exception is, however, common and preferred corporate stock. The Board of Investments may invest only state retirement funds in stock, not any trust funds.

2) the prudent man rule.

   Montana law further directs the Board to invest public funds

   > ...with that degree of judgement and care...which men of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income.

This, of course, is a restatement of a famous 1830 Massachusetts Supreme Court case that has come to be called the prudent man rule and which forms the basis of 40 states' investment programs.

The importance of the rule is that it gives trustees discretion to use their judgement and react to changes in the investment field, allowing an aggressive, dynamic investment program.

However, critics of the rule have objected to some of its features. One, it places great emphasis on two elements of an investment: its security and its rate of return. Investments to subsidize social projects, direct investment in businesses, or venture capital loans have no place under this investment rule. Two, the modified prudent man rule limits the amount of state funds that can be invested in Montana. Although the 1974 legislature passed a bill requiring the Board of Investments to seek in-state investments as much as possible and the Board has made efforts to increase the number of Montana mortages and CD's it buys, only 16% of all state funds are currently invested in Montana. [This figure construes Montana investment narrowly, counting only those investments in corporations headquartered in Montana, mortgages on Montana real property, and CD's in Montana banks and savings and loans. If investments in corporations having offices in Montana - like Beneficial Finance or Continental Oil - were included, the percentage would be higher.]

The Board of Investments notes that specific provisions of state law limit increased in-state investment:

1) Eligibility

   The statutory list of permissible investments allows the Board to invest in only those corporate bonds rated among the top third of their quality category and in the

commercial paper of corporations having net income averaging $1 million or more for each of the past five years. Very roughly, this translates into corporations listed in Fortune's 500 and only one or two firms of this size are incorporated in Montana.

2) Return.

Historically, treasury notes and utility bonds have produced more income and had no more risk than Montana mortgages and certificates of deposit. The Board argues that under the prudent man rule, a trustee would be remiss to choose the less profitable investment.

3) Diversification.

The Board has argued that large scale investment in Montana would increase risk for the funds because a statewide catastrophe - such as a sustained drought - could jeopardize all in-state bonds, CD's, or mortgages. Investments throughout the U.S. and Canada lessen these risks.

Because of these considerations, the Board has invested less than 10% of the coal tax trust fund and the resource indemnity trust fund in-state. As of June 30, 1979, 80% of the funds were invested in bonds issued by corporations, utility companies, and financial institutions headquartered outside the state and 10% in federal securities. The only in-state investment is the approximately 9% invested in Montana CD's.

The Board of Investments has defended the current method of investment before the legislature - and won many supporters - with the following arguments:

1) The interest rate earned in recent years on the state's unified investment program is one of the highest in the nation and adds nearly $70 million a year to the state's general fund. During this biennium, over $5 million in interest will be earned on the coal tax trust fund alone. These funds can be used for tax relief or to finance new state programs.
2) The state's aggressive investment program imports capital into the state, thereby improving our economy and our rating in national bond markets.
3) Since the Board seeks to purchase more Montana mortgages and CD's than are offered to it, Board members question whether capital gaps or lack of capital really existed in Montana. Existing financial institutions and federal programs such as SBA and FmHA are fulfilling the needs for capital.

These arguments were discussed at some length in 1977-78 when the Coal Tax Oversight Committee of the Montana Legislature undertook an in-depth study of various alternatives for investing the coal tax trust fund and other state funds. The 1977 Legislature, which voted to invest the coal tax trust fund under the prudent man rule, requested and funded this study to explore whether alternative methods of investment could be used to increase the supply of lower-income housing in the state and help young Montanans get a start in business or agriculture.

For over a year, the Coal Tax Oversight Committee analyzed the current investment policy, solicited testimony on capital needs in the state, studied other states' and other countries' experience with investment

programs, and considered various economic theories on the topic. As a result of this work, the Committee concluded:

1) Need does exist in the state for investment capital for product development, small-scale manufacturing, and farm ownership loans. Existing programs do not meet these needs.
2) While the Board of Investments is doing a commendable job of investing under the prudent man statute, this statute is too narrow to meet the state's needs as it seeks to promote a diversified state economy and independence from nonrenewable natural resources. In other words, the current investment program may import capital into the state, but that capital does not seem to get to where it is most needed.

Therefore, the Committee proposed a three-tiered program to the 1979 Legislature:

1) Amend the prudent man rule to require in-state investment if the investment a) has an interest rate within 1% of an out-of-state investment and b) would not have a higher risk.
2) Establish direct loan programs to stimulate product development and farm ownership. This proposal would leave the trust funds under the prudent man investment program, but use the interest it generates to support two programs.
   a) Montana Product Development Corporation

      This bill would have created a nonprofit corporation with the authority to advance funds to inventors and developers of new products in return for a percentage of any profits later earned on the product. The bill was patterned on

Connecticut's Product Development Corporation and the British National Research and Development Council, which has existed for over 30 years and become self-sustaining.

While the Committee's bill would have appropriated $2 million of the interest from the coal tax trust fund to the program, members hoped that the corporation would eventually become self-sufficient and, in fact, return to the state the original $2 million investment.

b) Homestead Land Program

Senator Towe, a Coal Tax Oversight Committee member, introduced an individual bill to establish a lease and loan program for young farmers. Under this program, the state would have purchased agricultural land and leased it to qualified young farmers for periods up to 15 years. If a qualified farmer chose to purchase the land, the state would allow him a mortgage of up to 60 years at a low rate of interest.

As introduced, the bill would have funded this program by state general obligation bonds backed by interest from the coal tax trust fund.

3) Increase investment in secondary loan markets. In its research, the Committee received extensive testimony that Farmers Home Administration and the Small Business Administration could increase the number of loans made in the state if the Board of Investments purchased their guaranteed loans and participated in FmHA real estate mortgages. The Committee sponsored two joint resolutions urging the Board to increase its investment in the secondary loan market.

As many of you know, this three-tiered program did not fare well in the 1979 Legislature. The bills to increase in-state investment and establish direct loan programs were killed. Opponents of the bills expressed real concern at the thought of state involvement in real estate, product development, and other private markets. Several argued that increased public investment in-state would simply drive out private funds and, thus, weaken the state's economy. These legislators and citizens said they were satisfied with the current investment plan under the prudent man rule. The only part of the Committee's program that passed were the resolutions urging the Board to invest more funds in Montana's secondary law market. The Board is currently preparing a policy and procedure for implementing these resolutions.

The defeat of the Committee's bills does not mean, however, that debate on this topic is over. As the amount of money in the coal tax and indemnity trust funds grows, the interest they produce increases and supplies of fossil fuel energy decrease, legislators will face increasing pressure to invest and spend these funds for a variety of purposes.

Wise investment of these funds depends, I think, on two elements: continued research into alternative methods of investment and economic development and increased public discussion and analysis of these alternatives. Detailed study of the extent of capital gaps in Montana, the segments of the economy most in need of capital infusions, and the best means of stimulating stable, diversified growth will enable

legislators to refine the current investment program or design new programs that will achieve these ends. Public involvement in the study and analysis of alternatives is vital if the investment program is to meet the needs of Montana society and economy as they grow and mature. Gatherings such as the conference today are a vital first step in accomplishing these tasks.



Teresa Olcott Cohea, Staff Researcher
Coal Tax Oversight Committee
Revenue Oversight Committee

Speech delivered at Conference on Alternative State and Local Policies Meeting in Billings, February 9, 1980