

**SB 39**

# HOUSE COMMITTEE REPORT

(11)

Date Referred: February 12, 1992

FURTHER REFERRALS:

Date of Committee Action: 5/9/92

The FINANCE Committee considered:

CSSB 39(FIN)

CS FOR SENATE BILL NO. 39 (FINANCE)

PERMANENT FUND TECHNICAL REVISIONS

"An Act relating to the permanent fund and the Alaska Permanent Fund Corporation; and providing for an effective date."

**RECOMMENDATIONS:**

be replaced with HCS CS SB 39 (FIN)  the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note LAW

zero fiscal note(s) DOR 2/12/92  
DNR 2/12/92

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Mike Stavare</u> Stavare	✓	<del>Kaplan</del> Kaplan		✓	
<u>Ken Brown</u> Brown	✓	<del>Jack</del> Jack		X	
<u>Donald J. Larsen</u> Larsen	X	<del>Barnes</del> Barnes		X	
<u>F. Ulmer</u> Ulmer	X	<del>Sharp</del> Sharp		X	
<u>Mark Boyer</u> Boyer	X	<del>Phillips</del> Phillips		✓	
		<u>McLean</u> McLean		X	

Mike Stavare <sup>NAVARRE</sup>  
 (10) CHAIRMAN'S SIGNATURE  
McLean

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. HCS CSSB 39 (HJD)

Revision Date: February 21, 1992  
Title: "An Act relating to the Alaska  
Permanent Fund Corporation..."  
Sponsor: Senator Pourchot  
Requestor: House Finance Committee

Department Affected: Department of Law  
BRU: Legal Services  
Component: Operations

COMPONENT 93

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)

The House Judiciary Subcommittee substitute for SB 39 adds additional housekeeping changes to AS37.17, the Alaska Permanent Fund Statutes. These changes will not have a fiscal impact on the Department of Law.

*Richard I. Pegues*

Prepared by: Richard I. Pegues, Director  
Division: Administrative Services

Phone: 465-3672

Date: February 21, 1992

Approved by Commissioner: Charles E. Cole, Attorney General  
Agency: Department of Law

Date: February 21, 1992

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

FISCAL NOTE

No. 4

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Bill Version HCS CSSB 39 (JUD)

(H) Publish Date: 2/12/92

Revision Date: \_\_\_\_\_ Department Affected: AK Permanent Fund Corporation

Title: An Act relating to the permanent fund and the AK Permanent Fund Corp.; BRU: Alaska Permanent Fund Corporation

and providing for an effective date. Component: #109 AK Permanent Fund Corporation

Sponsor: Senator Pat Pourchoi

Requestor: House Judiciary Committee COMPONENT SERIAL NO. 

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: David A. Rose Phone: (907) 465-2047

Division: Alaska Permanent Fund Corporation Date: 1/23/92

Approved by Commissioner: Darrel Rexwinkel, Department of Revenue

Agency: Alaska Permanent Fund Corporation Date: 1/23/92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

No. 3  
Bill Version: HCS CSSB 39 (JUD)  
(H) Publish Date: 2/12/92

Revision Date: 5-Feb-92 Department Affected: Natural Resources  
Title: Permanent Fund Technical Revision BRU: Management & Administration  
Sponsor: Senator Pourchot Components: Administrative Services  
Requestor: House Judiciary COMPONENT SERIAL NO. 424

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
Funding Source:						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
Funding Source:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact:

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Sharon Barton Phone: 465-2406  
Division: Management and Administration Date: 5-Feb-92

Approved by Commissioner: Harold C. Heinze Date: 5-Feb-92  
Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

## HOUSE CS FOR CS FOR SENATE BILL NO. 39 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATORS POURCHOT, Sturgulewski, Menard

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to the permanent fund and the Alaska Permanent Fund Corporation; and  
2 providing for an effective date."

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

4 \* Section 1. AS 36.30.850(b)(16) is amended to read:

5 (16) a contract that is a delegation, in whole or in part, of investment powers or  
6 fiduciary duties of the Board of Trustees of the Alaska Permanent Fund Corporation under  
7 AS 37.13;

8 \* Sec. 2. AS 37.13.010(b) is amended to read:

9 (b) Payments due the Alaska permanent fund under (a) of this section shall be made to  
10 the fund within three banking days after the day the amount due to the fund reaches at least  
11 \$3,000,000 and at least once each month.

12 \* Sec. 3. AS 37.13.020 is amended to read:

13 Sec. 37.13.020. FINDINGS. The people of the state, by constitutional amendment, have  
14 required the placement of at least 25 percent of all mineral lease rentals, royalties, royalty sale

1 proceeds, and federal mineral revenue sharing payments and bonuses received by the state into  
2 a permanent fund. The legislature finds with respect to the fund [ALASKA PERMANENT  
3 FUND CORPORATION] that

4 (1) the fund [CORPORATION] should provide a means of conserving a portion  
5 of the state's revenue from mineral resources to benefit all generations of Alaskans;

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

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

11 \* Sec. 4. AS 37.13.030 is amended to read:

12 Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to provide a mechanism for  
13 the management and investment of those [PERMANENT] fund assets by [ALLOCATED TO]  
14 the Alaska Permanent Fund Corporation in a manner consistent with the findings in  
15 AS 37.13.020.

16 \* Sec. 5. AS 37.13.040 is amended to read:

17 Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is established  
18 the Alaska Permanent Fund Corporation. The corporation is a public corporation and government  
19 instrumentality in the Department of Revenue managed by the board of trustees. The purpose  
20 of the corporation [BOARD] is to manage and invest the assets of the permanent fund and  
21 other funds designated by law [CORPORATION] in accordance with this chapter.

22 \* Sec. 6. AS 37.13.080 is amended to read:

23 Sec. 37.13.080. QUORUM AND VOTING. Four members of the board constitute a  
24 quorum for the transaction of business and the exercise of the powers and duties of the board.  
25 action may be taken only upon affirmative vote of a majority of the full membership of the  
26 board.

27 \* Sec. 7. AS 37.13.110 is amended to read:

28 Sec. 37.13.110. CONFLICTS OF INTEREST. (a) Members of the board, [AND] the  
29 executive director, and investment officers of the corporation are subject to the provisions of  
30 AS 39.50.

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

1 controls an interest, direct or indirect, in an entity or project in which fund [CORPORATION]  
2 assets are invested, the member shall immediately disclose the interest to the board. The  
3 disclosure is a matter of public record and shall be included in the minutes of the board meeting  
4 next following the disclosure.

5 \* Sec. 8. AS 37.13.120(a) is amended to read:

6 (a) The prudent-investor [PRUDENT-MAN] rule shall be applied by the board in the  
7 management and investment of [ALASKA PERMANENT] fund assets. The prudent-investor  
8 [PRUDENT-MAN] rule as applied to investments of the fund [CORPORATION] means that in  
9 making investments the board shall exercise the judgment and care under the circumstances then  
10 prevailing that an institutional investor of ordinary prudence, discretion, and intelligence exercises  
11 in the management of large investments entrusted to it not in regard to speculation but in regard  
12 to the permanent disposition of funds, considering probable safety of capital as well as probable  
13 income.

14 \* Sec. 9. AS 37.13.120(b) is amended to read:

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

17 \* Sec. 10. AS 37.13.120(e) is amended to read:

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

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

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

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

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

29 (3) certificates of deposit and term deposits of United States domestic banks that  
30 are members of the Federal Deposit Insurance Corporation and that may be readily sold in a  
31 secondary market at prices reflecting fair value or that are fully secured at all times as to

1 payment of principal and interest as described in (m) of this section;

2 (4) certificates of deposit and term deposits of federally chartered savings and  
3 loan associations in Alaska [THAT MAY BE READILY SOLD IN A SECONDARY MARKET  
4 AT PRICES REFLECTING FAIR VALUE OR] that are fully secured at all times as to payments  
5 of principal and interest as described in (m) of this section;

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

11 (6) certificates of deposit and term deposits of mutual savings banks in Alaska  
12 [THAT MAY BE READILY SOLD IN A SECONDARY MARKET AT PRICES REFLECTING  
13 FAIR VALUE OR] that are fully secured at all times as to payments of principal and interest as  
14 described in (m) of this section;

15 (6) [(7)] fixed-term certificates of indebtedness of federally insured credit unions  
16 in Alaska [THAT MAY BE READILY SOLD IN A SECONDARY MARKET AT PRICES  
17 REFLECTING FAIR VALUE OR] that are fully secured at all times as to payments of principal  
18 and interest as described in (m) of this section;

19 (7) [(8)] domestic corporate debt securities that are rated A [AA] or better by a  
20 nationally recognized rating service, or nondomestic corporate debt securities of comparable  
21 quality;

22 (8) [(9)] short-term

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

25 (B) nondomestic corporate promissory notes of comparable quality, the  
26 interest on which may be payable in either United States dollars or nondomestic  
27 currencies;

28 (9) [(10)] bankers' acceptances drawn on and accepted by United States banks  
29 each of which has a combined capital and surplus aggregating at least \$200,000,000;

30 (10) [(11)] repurchase agreements, the securities underlying the agreements being  
31 any of the items in (1) - (6) [(1) - (3) AND (8) - (10)] of this subsection;

1           (11) [(12) THE GUARANTEED PORTION OF FEDERAL SMALL BUSINESS  
2 ADMINISTRATION LOANS;

3           (13) THE PORTION OF FIRST LIEN REAL ESTATE MORTGAGES  
4 GUARANTEED BY THE FEDERAL VETERANS ADMINISTRATION;

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

7           (12) [(15)] the guaranteed portion of Farmers Home Administration loans;

8           (13) [(16)] notes secured by mortgages granting a first lien on [COMMERCIAL  
9 OR] residential real estate improved by completed buildings if the mortgages are insured by a  
10 private mortgage insurance corporation that is authorized to do business in this state [ALASKA]  
11 and has combined capital and surplus aggregating at least \$20,000,000, and if loan-to-value ratios  
12 do not exceed [75 PERCENT FOR COMMERCIAL MORTGAGES AND] 90 percent [FOR  
13 RESIDENTIAL MORTGAGES]; however,

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

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

25           (14) [(17) NOTES SECURED BY MORTGAGES GRANTING A FIRST LIEN  
26 ON COMMERCIAL REAL ESTATE IMPROVED BY COMPLETED BUILDINGS IF THE  
27 ORIGINATING FINANCIAL INSTITUTION RETAINS AT LEAST 25 PERCENT OF THE  
28 MORTGAGE UNTIL MATURITY;

29           (18)] preferred and common stock of corporations incorporated in the United  
30 States;

31           (15) [(19)] certificates of deposit, term deposits, or bankers' acceptances, that are

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

7 (16) [(20)] equity interests in, and debt obligations secured by mortgages granting  
8 a first lien on, real estate improved by completed and substantially rented buildings and located  
9 in the United States, if these investments are made

10 (A) in a corporation, partnership, trust, or other entity in which, at the  
11 conclusion of each investment transaction, at least 60 percent of the beneficial ownership  
12 interests are held by other institutional investors, and which is organized and operated for  
13 the purpose of making real estate investments by a bank, insurance company, or other  
14 manager of institutional funds that has had at least five years of experience in the  
15 management of real estate investments of institutional investors; or

16 (B) with corporations, partnerships, trusts, or entities in which, at the  
17 conclusion of each investment transaction, at least 50 percent of the beneficial  
18 ownership interests in the co-investing entity or entities as a whole are held by  
19 institutional investors, and if

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

23 (ii) the rights and obligations of the fund are  
24 substantially similar to those of the other institutional investors, except for the  
25 percentage interest in the property; and

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

31 (17) [(21)] securities of nondomestic governments and nondomestic government

1 agencies, the principal of, or interest on, which is payable in either United States dollars or  
2 nondomestic currencies;

3 (18) [(22)] securities of nondomestic corporations, including common and  
4 preferred stock, whose dividends, if any, may be payable in either United States dollars or  
5 nondomestic currencies;

6 (19) taxable municipal or state debt securities that are rated A or better by  
7 a nationally recognized rating service;

8 (20) shares in a money market or short-term investment fund that has either  
9 collateral securities of a type authorized elsewhere in this section as acceptable collateral  
10 or securities of similar quality to those authorized elsewhere in this section as acceptable  
11 collateral.

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

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

19 (1) mortgages under (g)(13) [(g)(16)] of this section - 15 percent;

20 (2) real estate investments under (g)(16) [(g)(20)] of this section - 15 percent;

21 (3) certificates of deposit, term deposit, or bankers' acceptances under (g)(15)  
22 [(g)(19)] of this section - 20 percent;

23 (4) securities of nondomestic governments, nondomestic government agencies, and  
24 nondomestic corporations under (g)(7), (17), and (18) [(g)(8), (21), AND (22)] of this section,  
25 domestic corporate stocks [AND DEBT SECURITIES] under (g)(14) [(G)(8) AND (18)] of this  
26 section, and short-term nondomestic corporate promissory notes under (g)(8)(B) [(g)(9)(B)] of  
27 this section - 50 percent;

28 (5) domestic corporate debt securities that are rated A and nondomestic  
29 corporate debt securities of comparable quality under (g)(7) of this section, and taxable  
30 municipal or state debt securities that are rated A under (g)(19) of this section - five  
31 percent.

1 \* Sec. 13. AS 37.13.120(j) is amended to read:

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

6 \* Sec. 14. AS 37.13.120(k) is amended to read:

7 (k) The board shall establish and from time to time as necessary modify guidelines for  
8 the investment of the assets of the fund [CORPORATION]. Before adoption of any guidelines  
9 the guidelines shall be reported to the Legislative Budget and Audit Committee for review and  
10 comment.

11 \* Sec. 15. AS 37.13.120(l) is amended to read:

12 (l) The board shall invest the assets of the fund [CORPORATION] in in-state  
13 investments to the extent in-state investments are available if the in-state investments

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

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

17 \* Sec. 16. AS 37.13.120(m) is amended to read:

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

21 (1) investments authorized for the [ALASKA PERMANENT] fund under (g)(1),  
22 (2), (4), or (8) - (10) [(8), OR (12) - (17)] of this section;

23 (2) [OR BY A PLEDGE AS COLLATERAL OF] obligations of the state or  
24 instrumentalities of the state that are rated at least "A" by a major bond rating service and have  
25 a demonstrated secondary market;

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

27 (4) the portion of first lien real estate mortgages guaranteed by the federal  
28 Department of Veterans Affairs; or

29 (5) notes secured by mortgages granting a first lien on commercial or  
30 residential real estate improved by completed buildings if the originating financial  
31 institution retains at least 25 percent of the mortgage until maturity [, WHICH

1 INVESTMENTS OR OBLIGATIONS HAVE VALUE AT LEAST EQUAL TO THE FACE  
2 VALUE OF THE CERTIFICATE OF DEPOSIT. THE BOARD MAY REQUIRE  
3 SUBSTITUTION OF COLLATERAL IN ORDER TO ENSURE CONTINUED SATISFACTION  
4 OF THE REQUIREMENTS SET OUT IN THIS SUBSECTION].

5 \* Sec. 17. AS 37.13.120 is amended by adding a new subsection to read:

6 (n) Investments or obligations pledged as collateral under (m) of this section must have  
7 value at least equal to the face value of the certificates of deposit being secured. The board may  
8 require substitution of collateral in order to ensure continued satisfaction of the requirements set  
9 out in (m) of this section.

10 \* Sec. 18. AS 37.13.140 is amended to read:

11 Sec. 37.13.140. INCOME. Net income of the fund includes income of the earnings  
12 reserve account established under AS 37.13.145. Net income of the fund [CORPORATION]  
13 shall be computed annually as of the last day of the fiscal year in accordance with generally  
14 accepted accounting principles, excluding any unrealized gains or losses. Income available for  
15 distribution equals 21 percent of the net income of the fund [CORPORATION] for the last five  
16 fiscal years, including the fiscal year just ended, but may not exceed net income of the fund  
17 [CORPORATION] for the fiscal year just ended plus the balance in the earnings reserve account  
18 described in AS 37.13.145.

19 \* Sec. 19. AS 37.13.145 is repealed and reenacted to read:

20 Sec. 37.13.145. DISPOSITION OF INCOME. (a) The earnings reserve account is  
21 established as a separate account in the fund. Income from the fund shall be deposited by the  
22 corporation into the account as soon as it is received. Money in the account shall be invested  
23 in investments authorized under AS 37.13.120.

24 (b) At the end of each fiscal year, the corporation shall transfer from the earnings reserve  
25 account to the dividend fund established under AS 43.23.045 50 percent of the income available  
26 for distribution under AS 37.13.140.

27 (c) After the transfer under (b) of this section, the corporation shall transfer from the  
28 earnings reserve account to the principal of the fund an amount sufficient to offset the effect of  
29 inflation on principal of the fund during that fiscal year. The corporation shall calculate the  
30 amount to transfer to the principal under this subsection by

31 (1) computing the average of the monthly United States Consumer Price Index

1 for all urban consumers for each of the two previous calendar years;

2 (2) computing the percentage change between the first and second calendar year  
3 average; and

4 (3) applying that rate to the value of the principal of the fund on the last day of  
5 the fiscal year just ended.

6 (d) Notwithstanding (b) of this section, income earned on money awarded in or received  
7 as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial  
8 District), including settlement, summary judgment, or adjustment to a royalty-in-kind contract that  
9 is tied to the outcome of this case, or interest earned on the money, or on the earnings of the  
10 money shall be treated in the same manner as other income of the Alaska permanent fund, except  
11 that it is not available for distribution to the dividend fund, and shall be annually deposited into  
12 the principal of the Alaska permanent fund.

13 \* Sec. 20. AS 37.13.150 is amended to read:

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

19 \* Sec. 21. AS 37.13.160 is amended to read:

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

23 \* Sec. 22. AS 37.13.170 is amended to read:

24 Sec. 37.13.170. REPORTS AND PUBLICATIONS. By September 30 of each year, the  
25 board shall publish a report of the fund [CORPORATION] for distribution to the governor,  
26 legislature, and the public. The report shall be written in easily understandable language. The  
27 report must include financial statements audited by independent outside auditors, a statement of  
28 the amount of money received by the [ALASKA PERMANENT] fund from each investment  
29 during the period covered, a statement of investments of the fund [CORPORATION] including  
30 an appraisal at market value, a description of fund [CORPORATION] investment activity during  
31 the period covered by the report, a comparison of the fund [CORPORATION] performance with

1 the intended goals contained in AS 37.13.020, an examination of the impact of the investment  
2 criteria of this chapter on the fund [CORPORATION] portfolio with recommendations of any  
3 needed changes, and any other information the board believes would be of interest to the  
4 governor, the legislature, and the public. The annual income statement and balance sheet of the  
5 fund [CORPORATION] shall be published in at least one newspaper in each judicial district. The  
6 income statement and balance sheet for the two fiscal years preceding the publication of the  
7 election pamphlet under AS 15.58 shall be included in that pamphlet.

8 \* Sec. 23. AS 37.13.180 is amended to read:

9 Sec. 37.13.180. TAX EXEMPTION. The corporation and the fund are [IS] exempt  
10 from all taxes and assessments in the state. All security instruments issued by the corporation  
11 or the fund, their transfer, and their income are exempt from all taxes and assessments in the  
12 state.

13 \* Sec. 24. AS 37.13.190 is amended to read:

14 Sec. 37.13.190. POLITICAL ACTIVITIES. The resources of the corporation or the fund  
15 may not be used to finance or influence political activities.

16 \* Sec. 25. AS 37.13.210 is amended by adding a new paragraph to read:

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

19 \* Sec. 26. AS 39.50.200(b)(42) is amended to read:

20 (42) Board of Trustees, [AND] executive director, and investment officers of the  
21 Alaska Permanent Fund Corporation (AS 37.13.040);

22 \* Sec. 27. AS 43.23.025(a) is amended to read:

23 (a) By October 1 of each year the commissioner shall determine the value of each  
24 permanent fund dividend for that year by

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

26 (A) the amount of income of the Alaska permanent fund transferred to the  
27 dividend fund under AS 37.13.145(b) [AS 43.23.045(b)] during the current year;

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

30 (C) less the amount necessary to pay dividends from the dividend fund in  
31 the current year under AS 43.23.055(3) and (7);

1 (D) less the amount necessary to pay dividends from the dividend fund  
2 due to eligible applicants who, as determined by the department, filed for a previous  
3 year's dividend by the filing deadline but who were not included in a previous year's  
4 dividend computation;

5 (E) less appropriations from the dividend fund during the current year,  
6 including amounts to pay costs of administering the dividend program and the hold  
7 harmless provisions of AS 43.23.075;

8 (2) determining the number of individuals eligible to receive a dividend payment  
9 for the current year; and

10 (3) dividing the amount determined under (1) of this section by the amount  
11 determined under (2) of this section.

12 \* Sec. 28. AS 37.13.145(d), added by sec. 19 of this Act, is repealed on the day that the revisor of  
13 statutes certifies to the legislature that the Alaska Supreme Court has made a final determination that,  
14 in the absence of AS 43.23.045(e), repealed by sec. 29 of this Act, or AS 37.13.145(d), added by sec. 19  
15 of this Act, no judge or juror is disqualified from serving as judge or juror solely because the judge or  
16 juror may qualify to receive a permanent fund dividend.

17 \* Sec. 29. AS 43.23.045(b) and 43.23.045(e), and sec. 4, ch. 18, SLA 1991, are repealed.

18 \* Sec. 30. TRANSITION. Notwithstanding the filing deadline set by AS 39.50.020(a), a person  
19 employed by the Alaska Permanent Fund Corporation as an investment officer on the effective date of  
20 this Act shall file the statement required by AS 39.50.020(a) within 30 days after the effective date of  
21 this Act.

22 \* Sec. 31. This Act takes effect July 1, 1992.

Adopted

AMENDMENT 5

POURCHOT

HCSCSSB 39 (JUDICIARY)

7-IS0158\M

PAGE 1, LINE 8 THROUGH PAGE 2, LINE 8:

Delete all material.

Renumber sections accordingly.

**RATIONALE FOR AMENDMENT TO 3B 39:**

This amendment deletes section 2, and avoids the controversy regarding "generally accepted accounting practices." The Permanent Fund Corporation will and the Legislature will continue with the status quo: interest earned on the money will require an annual front section appropriation to the principal.

## HCS CSSB 39 (JUD) Bill History

2/13/91 **Senate Labor and Commerce CS.** Adopted five sponsor amendments: 1. eliminated gender bias by substituting "prudent-investor" for "prudent-man." 2. clarified the calculation of "net income" to include income of the earnings reserve account as well as income of the principal. 3. brought dividend program language into the Permanent Fund statutes, thus consolidating all the uses of the income into one section. 4. conforming amendment to bring revenue statutes into compliance with the new placement of the dividend program language. 5. repealed the section where the dividend program was previously placed.

5/6/91 **Senate Judiciary CS.** Adopted two amendments upon recommendation of Legislative Budget and Audit: 1. deleted references to readily available secondary markets and state-chartered savings and loans because they do not exist. 2. clarified the corporations authority to manage other funds like the Science and Technology Foundation.

5/13/91 **Senate Finance CS.** Adopted sponsor's amendment that clarified language requiring that interest earned before the state receives litigation revenue is to be treated as Permanent Fund principal.

5/16/91 **Floor Vote:** Yea, 16    Nay, 0    Absent, 4. Effective date same as passage, transmitted to the House.

### HOUSE ACTION:

5/17/91 **First Reading, Referrals**--Judiciary, Finance.

2/10/92 **House Judiciary CS.** Adopted four sponsor amendments. Amendment #1, recommended by the Permanent Fund Corporation, extended procurement code exemption to those firms contracting with the Corporation exercising "fiduciary duties." It also allows the Corporation to invest in "A" corporate debt securities (up to 5% of the Fund) and removes them from the combined 50% limit on asset allocation. Amendment #2 requires transfers within 3 "banking days." Amendment #3 mandates a transfer when the amount due the Fund reaches \$3 million. Amendment #4 requires that 4 of the 6 members of the Board of Trustees of the Permanent Fund vote to initiate action by the Board.

## **HCS CSSB 39 Summary**

### **Senator Pourchot**

**HCS CSSB 39 (JUD), "An Act relating to the permanent fund and the Alaska Permanent Fund Corporation; and providing for an effective date."**

Office of Management and Budget research, the final report of the Commission on the Future of the Permanent Fund, and the Permanent Fund Board of Trustees have all identified several needed clarifications of statutory intent to ensure the legality of current Corporation practices. **Senate Bill 39** cleans up many of the inconsistencies, ambiguities and other confusing provisions currently in statute.

### **Language Consistency:**

In statute, the terms "Alaska Permanent Fund" and "Alaska Permanent Fund Corporation" are used inconsistently. The first term should refer to assets owned by the State of Alaska, and the second term should refer only to the government instrumentality created to manage and invest those assets. The proposed legislation modifies AS 37.13.010 - AS 37.13.210 to use these terms correctly and consistently.

### **Adjustments to the Legislated List of Investments:**

The Corporation is limited to investments of the types specified in statute. Unfortunately, this list has not been updated to reflect the present state of financial markets. **Sections 12 and 13** of SB 39 makes it possible for the Corporation to take advantage of investment opportunities in "AA" rated or better municipal and state bonds and "A" corporate debt securities. This section also provides specific authorization for investments in money market instruments.

Deleted is the reference to readily available secondary markets for certificates of deposit of Alaskas savings and loan associations, mutual savings banks and credit unions because such markets do not exist. Reference to state-chartered savings and loan associations in Alaska is deleted because such S&Ls do not exist.

### **Inflation-proofing Deposits:**

Money is added to the principal of the Fund once a year to offset the loss of value of the principal due to inflation. Inflation-proofing monthly deposits to the principal from mineral lease royalties and rents could be a very complex task if each deposit were inflation-proofed at a different rate depending on when during the year it was added to the Fund. To ensure that the simplest, most conservative method of inflation-proofing is used, **Section 20** of this legislation

mandates that all deposits to the principal of the Fund shall be inflation-proofed at the full annual rate. This change in statute conforms to the current practice of the Corporation.

### **Litigation Revenue:**

Treating all interest received as contributions to principal is the course of action currently being used by the Corporation, but is not statutorily mandated.

**Section 2** of the proposed legislation ensures that all interest on the Fund's share of any settlements or awards will be transferred to the Fund, and that both the original amount due the Fund and any interest it has garnered shall be counted as deposits to the principal of the Fund. This represents the most conservative approach to this question. It adds the greatest amount possible to the principal of the Fund and prevents unpredictable and destabilizing surges in the Corporation's earnings.

### **Timely Transfers from DNR:**

Current law mandates the transfer of funds due the Fund from royalty and lease income from the Department of Natural Resources on a monthly basis. During the thirty-day period between transfers DNR can accumulate sizable balances of monies that will eventually be transferred to the Fund. During recent months of exceptionally high oil prices and high production these monthly transfers have been as high as \$55 million, (November of 1990).

**Section 3** of this proposal changes the process so that the Fund receives a transfer whenever \$3 million dollars owed the Fund accumulates at DNR or once a month, whichever is sooner. It also requires that the transfers take place within 3 banking days. This will allow the Fund to gain the greatest possible benefit from the monies that have been constitutionally and statutorily dedicated for that purpose.

### **Asset Allocation:**

The Corporation is now prohibited from investing more than 50% of its funds in a combination of U.S. corporate stocks and bonds and all foreign investments. Having corporate bonds (currently 10.16% of the Fund) included in the limitation makes it legally impossible to meet the asset allocation goals of the Corporation.

**Section 13** of the bill removes corporate debt securities (bonds rated "A" and better) from the combined asset allocation limit now in place.

House Judiciary CS includes these amendments.

AMENDMENT #1

2/10/92

OFFERED IN THE HOUSE

BY SENATOR POURCHOT

TO: HCS CSSB 39(JUD) WORK DRAFT 7-LS0158\M  
Cook, 2/5/92

Page 1, after line 3:

Insert the following new bill section to read:

"**Section 1.** AS 36.30.850(b)(16) is amended to read:

(16) a contract that is a delegation, in whole or in part, of investment powers or fiduciary duties of the Board of Trustees of the Alaska Permanent Fund Corporation under AS 37.13;"

Page 1, line 4:

Delete "**Section 1.**"

Insert "**Sec. 2.**"

Renumber the following bill sections accordingly.

Page 4, line 22: (HCS (JUD) FINAL--PAGE 8, LINE 9)

Delete "AA"

Insert "A"

Page 4, after line 24: (HCS (JUD) FINAL--PAGE 8, LINE 10)

Insert "provided that not more than 5% of the total investments of the Fund are invested in "A" corporate debt securities."

Page 7, line 28: (HCS (JUD) FINAL--PAGE 8, LINE 6)

Delete "and debt securities under (g)(7) [(g)(8)] and (14) ["

Insert "[AND DEBT SECURITIES] under (g)(14) [(g)(8) AND]"

AMENDMENT #1 (cont.)

Page 12, line 8:

Delete "sec. 18"

Insert "sec. 19"

TO CONFORM TO SECTION  
RENUMBERING

Page 12, line 10:

Delete "sec. 27"

Insert "sec. 28"

Page 12, line 11:

Delete "sec. 18"

Insert "sec. 19"

**RATIONALE:** Amendment #1 is recommended by the Permanent Fund Corporation to make three technical revisions dealing with Corporation investment management contracts, investment bond ratings and percentages of investment allocations.

Currently, contracts by firms that invest money for the Permanent Fund Corporation are exempt from the state procurement code. A new **section 1.** is added by this amendment to amend AS 36.30.850(b)(16) to extend that exemption to other firms with similar fiduciary relationships, such as real estate consultants, the Fund's custodian, the manager search advisor and the asset allocation advisor.

AS 37.13.120(g)(7) is amended to allow the Fund to invest in "A" or better corporate bonds instead of "AA" or better--**provided that not more than 5% of the total investments of the Fund are invested in "A" corporate debt securities.**

AS 37.13.120(i) is amended to remove domestic corporate debt securities (bonds of U.S. corporations) from the combined 50% asset allocation limit now in place. At present, U.S. corporate stocks and all non-U.S. investments **and** U.S. corporate bonds are limited to not more than 50% of the Fund's investments. Last March, the Board of Trustees adopted asset allocation targets of 30% for U.S. stock and 10% for non-domestic stock. Having U.S. corporate bonds (currently 10.16% of the Fund) included in the limitation makes it legally impossible to meet this goal.

**AMENDMENT # 2**

2/10/92

OFFERED IN THE HOUSE

BY SENATOR POURCHOT

TO: HCS CSSB 39(JUD) WORK DRAFT 7-LS0158\M  
Cook, 2/5/92

Page 2, line 7: (HCS (JUD) FINAL--PAGE 2, LINE 11)

Delete "**on the day**"

Insert "[ON THE DAY] **within three banking days that**"

RATIONALE: The Department of Revenue, Treasury Division has indicated that it is unrealistic to expect a single day transaction period for the deposit of the appropriate percentage of mineral lease rentals, royalties, bonuses etc. from the Department of Natural Resources through the Department of Administration, to the Department of Revenue and then the Alaska Permanent Fund. Treasury believes three banking days are sufficient to complete deposits.

**AMENDMENT # 3**

2/10/92

OFFERED IN THE HOUSE

BY SENATOR POURCHOT

TO: HCS CSSB 39(JUD) WORK DRAFT 7-LS0158\M  
Cook, 2/5/92

Page 2, line 7: (HCS (JUD) FINAL--PAGE 2, LINE 12)

Delete "\$5,000,000"

Insert "\$3,000,000"

RATIONALE: The Treasury Division estimates that lowering the amount that triggers a payment from 5 to 3 million will result in approximately \$20,000 per year in extra interest earned. Treasury staff also believes that cost to initiate additional payment requests would be "insignificant."

**AMENDMENT # 4**

2/10/92

OFFERED IN THE HOUSE

BY SENATOR POURCHOT

TO: HCS CSSB 39(JUD) WORK DRAFT 7-LS0158\M  
Cook, 2/5/92

Page 3, after line 1: (HCS (JUD) FINAL--PAGE 4, LINE 6)

Insert the following new bill section to read:

**"Sec. 6.** AS 37.13.080 is amended to read:

Sec. 37.13.080. QUORUM AND VOTING. Four members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board. **Action may be taken only upon affirmative vote of a majority of the full membership of the board.**"

Renumber the following bill sections accordingly.

RATIONALE: The Permanent Fund Board recently amended their by-laws to allow action to be taken upon a vote of three of the six members. Some legislators have expressed concern that only half the board members would need to act to establish board policy. This amendment will require that four of the six board members vote to initiate action.

2/10/92

HOUSE CS FOR CS FOR SENATE BILL NO. 39 (JUDICIARY)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS POURCHOT, Sturgulewski, Menard

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the permanent fund and the Alaska Permanent Fund Corporation; and  
2 providing for an effective date."

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

4 \* Section 1. AS 36.30.850(b)(16) is amended to read:

5 *Extends*  
6 *Procurement*  
7 *wide exemption* (16) a contract that is a delegation, in whole or in part, of investment powers or  
8 fiduciary duties of the Board of Trustees of the Alaska Permanent Fund Corporation under  
9 AS 37.13;

8 \* Sec. 2. AS 37.13.010(a) is amended to read:

9 *Language* (a) Under art. IX, sec. 15 of the state constitution, there is established as a separate fund  
10 the Alaska permanent fund. The [ALASKA PERMANENT] fund principal consists of

11 (1) 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, net  
12 profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing payments  
13 received by the state from mineral leases issued on or before December 1, 1979, and 25 percent  
14 of all bonuses received by the state from mineral leases issued on or before February 15, 1980;

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

5 (3) interest earned on money described in (1) and (2) of this subsection while  
6 the money is held in trust, escrow, or otherwise before receipt of the money by the state:

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

9 \* Sec. 3. AS 37.13.010(b) is amended to read:

10 (b) Payments due the Alaska permanent fund under (a) of this section shall be made to  
11 the fund within three banking days after the day the amount due to the fund reaches at least  
12 \$3,000,000 and at least once each month.

13 \* Sec. 4. AS 37.13.020 is amended to read:

14 Sec. 37.13.020. FINDINGS. The people of the state, by constitutional amendment, have  
15 required the placement of at least 25 percent of all mineral lease rentals, royalties, royalty sale  
16 proceeds, and federal mineral revenue sharing payments and bonuses received by the state into  
17 a permanent fund. The legislature finds with respect to the fund [ALASKA PERMANENT  
18 FUND CORPORATION] that

- 19 (1) the fund [CORPORATION] should provide a means of conserving a portion  
20 of the state's revenue from mineral resources to benefit all generations of Alaskans;  
21 (2) the fund's [CORPORATION'S] goal should be to maintain safety of principal  
22 while maximizing total return;  
23 (3) the fund [CORPORATION] should be used as a savings device managed to  
24 allow the maximum use of disposable income from the fund [CORPORATION] for purposes  
25 designated by law.

26 \* Sec. 5. AS 37.13.030 is amended to read:

27 Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to provide a mechanism for  
28 the management and investment of those [PERMANENT] fund assets by [ALLOCATED TO]  
29 the Alaska Permanent Fund Corporation in a manner consistent with the findings in  
30 AS 37.13.020.

31 \* Sec. 6. AS 37.13.040 is amended to read:

Interest on Litigation \$

Timely Transfers from DNR

Language

1 Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is established  
2 the Alaska Permanent Fund Corporation. The corporation is a public corporation and government  
3 instrumentality in the Department of Revenue managed by the board of trustees. The purpose  
4 of the corporation [BOARD] is to manage and invest the assets of the permanent fund and  
5 other funds designated by law [CORPORATION] in accordance with this chapter.

6 \* Sec. 7. AS 37.13.080 is amended to read:

7 *Requires 4 of 6 board members to vote on action.* Sec. 37.13.080. QUORUM AND VOTING. Four members of the board constitute a  
8 quorum for the transaction of business and the exercise of the powers and duties of the board.  
9 action may be taken only upon affirmative vote of a majority of the full membership of the  
10 board.

11 \* Sec. 8. AS 37.13.110(b) is amended to read:

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

17 \* Sec. 9. AS 37.13.120(a) is amended to read:

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

26 \* Sec. 10. AS 37.13.120(b) is amended to read:

27 *Language* (b) The fund [CORPORATION] assets shall only be used for income-producing  
28 investments.

29 \* Sec. 11. AS 37.13.120(e) is amended to read:

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

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

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

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

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

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

14 (4) certificates of deposit and term deposits of federally chartered savings and  
15 loan associations in Alaska [THAT MAY BE READILY SOLD IN A SECONDARY MARKET  
16 AT PRICES REFLECTING FAIR VALUE OR] that are fully secured at all times as to payments  
17 of principal and interest as described in (m) of this section;

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

23 (6) certificates of deposit and term deposits of mutual savings banks in Alaska  
24 [THAT MAY BE READILY SOLD IN A SECONDARY MARKET AT PRICES REFLECTING  
25 FAIR VALUE OR] that are fully secured at all times as to payments of principal and interest as  
26 described in (m) of this section;

27 (6) [(7)] fixed-term certificates of indebtedness of federally insured credit unions  
28 in Alaska [THAT MAY BE READILY SOLD IN A SECONDARY MARKET AT PRICES  
29 REFLECTING FAIR VALUE OR] that are fully secured at all times as to payments of principal  
30 and interest as described in (m) of this section;

31 (7) [(8)] domestic corporate debt securities that are rated A [AA] or better by a

deletes  
Non  
existent  
Less  
Secure  
INVEST

1 nationally recognized rating service, or nondomestic corporate debt securities of comparable  
2 quality;

3 (8) [(9)] short-term

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

6 (B) nondomestic corporate promissory notes of comparable quality, the  
7 interest on which may be payable in either United States dollars or nondomestic  
8 currencies;

9 (9) [(10)] bankers' acceptances drawn on and accepted by United States banks  
10 each of which has a combined capital and surplus aggregating at least \$200,000,000;

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

13 (11) [(12)] THE GUARANTEED PORTION OF FEDERAL SMALL BUSINESS  
14 ADMINISTRATION LOANS;

15 (13) THE PORTION OF FIRST LIEN REAL ESTATE MORTGAGES  
16 GUARANTEED BY THE FEDERAL VETERANS ADMINISTRATION;

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

19 (12) [(15)] the guaranteed portion of Farmers Home Administration loans;

20 (13) [(16)] notes secured by mortgages granting a first lien on [COMMERCIAL  
21 OR] residential real estate improved by completed buildings if the mortgages are insured by a  
22 private mortgage insurance corporation that is authorized to do business in this state [ALASKA]  
23 and has combined capital and surplus aggregating at least \$20,000,000, and if loan-to-value ratios  
24 do not exceed [75 PERCENT FOR COMMERCIAL MORTGAGES AND] 90 percent [FOR  
25 RESIDENTIAL MORTGAGES]; however,

26 [(A) MORTGAGE INSURANCE IS NOT NECESSARY FOR  
27 COMMERCIAL LOANS HAVING LOAN-TO-VALUE RATIOS OF LESS THAN 50  
28 PERCENT AND THE MINIMUM COVERAGE OF OTHER COMMERCIAL LOANS  
29 SHALL BE 10 PERCENT FOR THOSE HAVING A LOAN-TO-VALUE RATIO OF  
30 50 - 60 PERCENT AND 15 PERCENT FOR THOSE HAVING A LOAN-TO-VALUE  
31 RATIO GREATER THAN 60 PERCENT BUT NO MORE THAN 75 PERCENT; AND

*Deletes  
Now Trust  
Grade*

*High Risk  
Prohibited  
by board  
policy.*

1 (B)] mortgage insurance is not necessary for residential loans having a  
2 loan-to-value ratio of less than 70 percent and the minimum coverage of other residential  
3 loans shall be 10 percent for those having a loan-to-value ratio greater than 70 percent  
4 but less than 90 percent and 20 percent for those having a loan-to-value ratio of 90  
5 percent;

6 (14) [(17) NOTES SECURED BY MORTGAGES GRANTING A FIRST LIEN  
7 ON COMMERCIAL REAL ESTATE IMPROVED BY COMPLETED BUILDINGS IF THE  
8 ORIGINATING FINANCIAL INSTITUTION RETAINS AT LEAST 25 PERCENT OF THE  
9 MORTGAGE UNTIL MATURITY;

10 (18)] preferred and common stock of corporations incorporated in the United  
11 States;

12 (15) [(19)] certificates of deposit, term deposits, or bankers' acceptances, that are  
13 issued by a United States or nondomestic bank or trust company located outside of the United  
14 States and are denominated in United States or nondomestic currency, if either (A) they may be  
15 readily sold in a secondary market at prices reflecting fair value, or (B) the issuing bank or trust  
16 company has capital, surplus, and retained earnings at the date of issue equaling at least  
17 \$500,000,000; investments made under this paragraph are not subject to the collateral  
18 requirements for domestic certificates under (m) of this section;

19 (16) [(20)] equity interests in, and debt obligations secured by mortgages granting  
20 a first lien on, real estate improved by completed and substantially rented buildings and located  
21 in the United States, if these investments are made

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

28 (B) with corporations, partnerships, trusts, or entities in which, at the  
29 conclusion of each investment transaction, at least 60 percent of the beneficial  
30 ownership interests in the co-investing entity or entities as a whole are held by  
31 institutional investors, and if

1 Comprehensive  
2 Replacment  
3 Language -  
4 AS 37.13.120

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

(ii) the rights and obligations of the fund are substantially similar to those of the other institutional investors, except for the percentage interest in the property; and

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

(17) [(21)] securities of nondomestic governments and nondomestic government agencies, the principal of, or interest on, which is payable in either United States dollars or nondomestic currencies;

(18) [(22)] securities of nondomestic corporations, including common and preferred stock, whose dividends, if any, may be payable in either United States dollars or nondomestic currencies;

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

(20) shares in a money market or short-term investment fund that has either collateral securities of a type authorized elsewhere in this section as acceptable collateral or securities of similar quality to those authorized elsewhere in this section as acceptable collateral.

18 "Overnight"  
19 deposits  
20  
21 INVEST.  
22 DECISION

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

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

(1) mortgages under (g)(13) [(g)(16)] of this section - 15 percent;

Remember

L

- 1 (2) real estate investments under (g)(16) [(g)(20)] of this section - 15 percent;
- 2 (3) certificates of deposit, term deposit, or bankers' acceptances under (g)(15)
- 3 [(g)(19)] of this section - 20 percent;
- 4 (4) securities of nondomestic governments, nondomestic government agencies, and
- 5 nondomestic corporations under (g)(7), (17), and (18) [(g)(8), (21), AND (22)] of this section,
- 6 domestic corporate stocks [AND DEBT SECURITIES] under (g)(14) [(G)(8) AND (18)] of this
- 7 section, and short-term nondomestic corporate promissory notes under (g)(8)(B) [(g)(9)(B)] of
- 8 this section - 50 percent;
- 9 (5) domestic corporate debt securities that are rated A and nondomestic
- 10 corporate debt securities of comparable quality under (g)(7) of this section - five percent.

Remove  
5 Corporate  
6 Bonds  
7 known  
7 combined  
8 50% limit  
9 Allow "A"  
10 US "AA"  
11 limit to  
12 5% of  
Fund

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

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

16 \* Sec. 15. AS 37.13.120(k) is amended to read:

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

21 \* Sec. 16. AS 37.13.120(l) is amended to read:

- 22 (l) The board shall invest the assets of the fund [CORPORATION] in in-state
- 23 investments to the extent in-state investments are available if the in-state investments
- 24 (1) have a risk level and expected yield comparable to alternate investment
- 25 opportunities; and
- 26 (2) are included in the list of permissible investments in (g) of this section.

27 \* Sec. 17. AS 37.13.120(m) is amended to read:

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

31 (1) investments authorized for the [ALASKA PERMANENT] fund under (g)(1),

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*Allowable collateral*

(2), (4), or (8) - (10) [(8), OR (12) - (17)] of this section;

(2) [OR BY A PLEDGE AS COLLATERAL OF] obligations of the state or instrumentalities of the state that are rated at least "A" by a major bond rating service and have a demonstrated secondary market;

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

(4) the portion of first lien real estate mortgages guaranteed by the federal

Department of Veterans Affairs; or

(5) notes secured by mortgages granting a first lien on commercial or residential real estate improved by completed buildings if the originating financial institution retains at least 25 percent of the mortgage until maturity [ , WHICH INVESTMENTS OR OBLIGATIONS HAVE VALUE AT LEAST EQUAL TO THE FACE VALUE OF THE CERTIFICATE OF DEPOSIT. THE BOARD MAY REQUIRE SUBSTITUTION OF COLLATERAL IN ORDER TO ENSURE CONTINUED SATISFACTION OF THE REQUIREMENTS SET OUT IN THIS SUBSECTION].

\* Sec. 18. AS 37.13.120 is amended by adding a new subsection to read:

(n) Investments or obligations pledged as collateral under (m) of this section must have value at least equal to the face value of the certificates of deposit being secured. The board may require substitution of collateral in order to ensure continued satisfaction of the requirements set out in (m) of this section.

\* Sec. 19. AS 37.13.140 is amended to read:

*Clarify Net Income*

Sec. 37.13.140. INCOME. Net income of the fund includes income of the earnings reserve account established under AS 37.13.145. Net income of the fund [CORPORATION] shall be computed annually as of the last day of the fiscal year in accordance with generally accepted accounting principles, excluding any unrealized gains or losses. Income available for distribution equals 21 percent of the net income of the fund [CORPORATION] for the last five fiscal years, including the fiscal year just ended, but may not exceed net income of the fund [CORPORATION] for the fiscal year just ended plus the balance in the earnings reserve account described in AS 37.13.145.

*PFD Fund Transfer*

\* Sec. 20. AS 37.13.145 is repealed and reenacted to read:

DISPOSITION OF INCOME. (a) The earnings reserve account is established as a separate account in the fund. Income from the fund shall be deposited by the corporation into

1 the account as soon as it is received. Money in the account shall be invested in investments  
2 authorized under AS 37.13.120.

3 (b) At the end of each fiscal year, the corporation shall transfer from the earnings reserve  
4 account to the dividend fund established under AS 43.23.045 50 percent of the income available  
5 for distribution under AS 37.13.140.

6 (c) After the transfer under (b) of this section, the corporation shall transfer from the  
7 earnings reserve account to the principal of the fund an amount sufficient to offset the effect of  
8 inflation on principal of the fund during that fiscal year. The corporation shall calculate the  
9 amount to transfer to the principal under this subsection by

10 (1) computing the average of the monthly United States Consumer Price Index  
11 for all urban consumers for each of the two previous calendar years;

12 (2) computing the percentage change between the first and second calendar year  
13 average; and

14 (3) applying that rate to the value of the principal of the fund on the last day of  
15 the fiscal year just ended.

16 (d) Notwithstanding (b) of this section, income earned on money awarded in or received  
17 as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial  
18 District), including settlement, summary judgment, or adjustment to a royalty-in-kind contract that  
19 is tied to the outcome of this case, or interest earned on the money, or on the earnings of the  
20 money shall be treated in the same manner as other income of the Alaska permanent fund, except  
21 that it is not available for distribution to the dividend fund, and shall be annually deposited into  
22 the principal of the Alaska permanent fund.

23 \* Sec. 21. AS 37.13.150 is amended to read:

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

29 \* Sec. 22. AS 37.13.160 is amended to read:

30 Sec. 37.13.160. AUDITS. The Legislative Budget and Audit Committee may provide  
31 for an annual post audit and annual operational and performance evaluations of the fund's

1 [CORPORATION'S] investments and investment programs.

2 \* Sec. 23. AS 37.13.170 is amended to read:

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

18 \* Sec. 24. AS 37.13.180 is amended to read:

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

23 \* Sec. 25. AS 37.13.190 is amended to read:

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

26 \* Sec. 26. AS 37.13.210 is amended by adding a new paragraph to read:

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

29 \* Sec. 27. AS 43.23.025(a) is amended to read:

30 (a) By October 1 of each year the commissioner shall determine the value of each  
31 permanent fund dividend for that year by

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- (1) determining the total amount available for dividend payments, which equals
  - (A) the amount of income of the Alaska permanent fund transferred to the dividend fund under AS 37.13.145(b) [AS 43.23.045(b)] during the current year;
  - (B) plus the unexpended and unobligated balances of prior fiscal year appropriations that lapse into the dividend fund under AS 43.23.045(d);
  - (C) less the amount necessary to pay dividends from the dividend fund in the current year under AS 43.23.055(3) and (7);
  - (D) less the amount necessary to pay dividends from the dividend fund due to eligible applicants who, as determined by the department, filed for a previous year's dividend by the filing deadline but who were not included in a previous year's dividend computation;
  - (E) less appropriations from the dividend fund during the current year, including amounts to pay costs of administering the dividend program and the hold harmless provisions of AS 43.23.075;
- (2) determining the number of individuals eligible to receive a dividend payment for the current year; and
- (3) dividing the amount determined under (1) of this section by the amount determined under (2) of this section.

\* Sec. 28. AS 37.13.145(d), added by sec. 20 of this Act, is repealed on the day that the revisor of statutes certifies to the legislature that the Alaska Supreme Court has made a final determination that, in the absence of AS 43.23.045(e), repealed by sec. 29 of this Act, or AS 37.13.145(d), added by sec. 20 of this Act, no judge or juror is disqualified from serving as judge or juror solely because the judge or juror may qualify to receive a permanent fund dividend.

\* Sec. 29. AS 43.23.045(b) and 43.23.045(e), and sec. 4, ch. 18, SLA 1991, are repealed.

\* Sec. 30. This Act takes effect July 1, 1992.

A.H. conflict of interest ruling,  
then Repeal. PER SB 213



**Alaska Permanent Fund Corporation**

P.O. Box 25500 Juneau, Alaska 99802-5500

(907) 465-2047

**MEMORANDUM**

**DATE:** February 20, 1992

**TO:** Representative Mike Navarre  
Co-Chairman, House Finance Committee

**FROM:** David A. Rose  
Executive Director

**SUBJECT:** **Proposed Amendment to House CS for CS for Senate Bill No. 39 (Judiciary): "An Act relating to the permanent fund and the Alaska Permanent Fund Corporation; and providing for an effective date."**

The Board of Trustees of the Alaska Permanent Fund Corporation ask that you consider adoption of the following amendment to HCS CSSB 39 (Judiciary):

**Amendment #1:**

Section 12, Page 7, Lines 18-19 — Amend to read as follows:

(19) taxable municipal or state debt securities that are rated "A" or better by a nationally recognized rating service;

Section 13, Page 8, Lines 9-10 — Amend to read as follows:

(5) domestic corporate debt securities that are rated "A" and nondomestic corporate debt securities of comparable quality under (g)(7) of this section and taxable municipal or state debt securities that are rated "A" under (g)(19) of this section - five percent.

**Purpose:** HCS CSSE 39 (Judiciary) would expand the Permanent Fund's authorized list of investments to include A-rated debt securities (such investments not to exceed 5 percent of the Fund). This amendment makes it clear that the new authorization includes taxable municipal or state debt securities as well as domestic and nondomestic corporate debt securities.



**Alaska Permanent Fund Corporation**

P.O. Box 25500 Juneau, Alaska 99802-5500  
(907) 465-2047

**MEMORANDUM**

**DATE:** May 5, 1992

**TO:** Representative Mike Navarre  
Co-Chairman, House Finance Committee

**FROM:** Jim Kelly   
Research & Liaison Officer

**SUBJECT:** **Sectional Analysis of HCS SB 39 (Jud): "An Act relating to the permanent fund and the Alaska Permanent Fund Corporation; and providing for an effective date."**

**Section 1:** Currently, the Corporation is exempt from the provisions of the procurement code only for contracts which are a delegation of investment powers. This amendment would clarify existing law to make it clear that the exemption includes contracts not only with a firm which specifically invests money on the Fund's behalf, but also with any firm which has a fiduciary relationship with the Corporation such as the real estate consultant, the Fund's custodian, the manger search advisor and the asset allocation advisor.

**Section 2:** Clarifies that dedicated oil revenues flow to Permanent Fund principal. Expands the statute setting out the sources of deposits to that principal to include interest earned by the state on those sources before the money is deposited into the Fund. No change from current policy. (Note: it is *not* the intent of this section to require Treasury to pay interest on the money it receives for

deposit to the Fund during the period Treasury holds the money prior to depositing it in the Fund's account.)

- Section 3:** Requires that payments due to the Permanent Fund be paid within three banking days after the day the amount due to the Fund reaches \$5 million and at least once each month.
- Section 4:** Replaces [ALASKA PERMANENT FUND CORPORATION] with fund. In this case (and in all subsequent sections in which similar changes are made), the purpose is simply to clarify what was intended when the Alaska Permanent Fund Corporation Act was originally enacted in 1980. Specifically, the change makes clear the distinction between the "Alaska Permanent Fund" which comprises assets owned by the State of Alaska, and the "Alaska Permanent Fund Corporation" which is the government instrumentality created to manage and invest those assets.
- Section 5:** Conforming Amendment — See Section 4.
- Section 6:** Conforming Amendment — See Section 4.
- Section 7:** Requires that four of the six members of the Board of Trustees must vote to initiate action.
- Section 8:** Conforming Amendment — See Section 4.
- Section 9:** Conforming Amendment — See Section 4; and changes [PRUDENT-MAN] to prudent-investor.
- Section 10:** Conforming Amendment — See Section 4.
- Section 11:** Technical Amendment — Replaces [FUNDS] with money.
- Section 12:** (1) Removes from the Fund's list of authorized investments those investments which are not considered by the Corporation to be of trust-grade quality and which have never been made by the Corporation. These include:

Certificates of Deposit issued by Alaska Savings & Loan Associations, Mutual Savings Banks and Credit Unions for which a readily-available secondary market exists; the guaranteed portions of Small Business Administration (SBA) and Veterans Administration (VA) loans; and commercial mortgages. (2) Expands the Corporation's list of authorized investments to include A-rated corporate bonds (3) Adds to the Fund's list of authorized investments taxable municipal or state debt securities that are rated "AA" or better and shares in a money market or short-term investment fund. No substantive change from current Corporation policy. (4) Replaces a sub-section relating to equity real estate investment which had little real meaning with language which clearly spells out current policy.

- Section 13:** Conforming Amendment — See Section 12; and provides a 5 percent limit on newly-authorized A-rated corporate debt securities.
- Section 14:** Conforming Amendment — See Section 4.
- Section 15:** Conforming Amendment — See Section 4.
- Section 16:** Conforming Amendment — See Section 4.
- Section 17:** Conforming Amendment — See Section 12; and clarifies that the investments which are removed from the authorized list in Section 12 may still be used as collateral under the Alaska Bank Certificate of Deposit program.
- Section 18:** Conforming Amendment — See Section 15.
- Section 19:** Conforming Amendment — See Section 4; and clarifies that income of the Fund includes income of the earnings reserve account as well as income of the principal.
- Section 20:** Rewrites AS 37.13.145: (1) to clarify original legislative intent and Corporation practice regarding the annual disposition of Fund income; (2) to bring (without change)

the section of law addressing the annual Permanent Fund dividend transfer from AS 43.23 into AS 37.13; and (3) to spell out the procedure used by the Corporation in the annual inflation-proofing transfers. (Note: this provision provides that the annual inflation-proofing transfer shall be made from the earnings reserve account rather than from current year income as provided for in existing law.)

- Section 21:** Conforming Amendment — See Section 3.
- Section 22:** Conforming Amendment — See Section 3.
- Section 23:** Conforming Amendment — See Section 3.
- Section 24:** Conforming Amendment — See Section 3.
- Section 25:** Conforming Amendment — See Section 3.
- Section 26:** Conforming Amendment — See Section 3.
- Section 27:** Conforming Amendment — See Section 18.
- Section 28:** Repeals the provisions of AS 37.13.145(d) added by Sec. 20 above as soon as the Alaska Supreme Court rules that no judge or juror is disqualified from serving as judge or juror solely because the judge or juror may qualify to receive a Permanent Fund dividend.
- Section 29:** Conforming Amendment — See Section 20.
- Section 30:** Effective Date — July 1, 1991.

# MEMORANDUM

State of Alaska

Office of the Governor  
Division of Policy

TO: G. Thomas Koester  
Assistant Attorney General  
Natural Resources Section  
Department of Law

DATE: March 7, 1988

88F-891

FROM: Jack Fagnoli *JF*  
Senior Analyst  
Division of Policy

PHONE: 465-3568

SUBJECT: 8(g) Escrow Payment to the Permanent Fund

RECEIVED  
ALASKA DEPARTMENT OF REVENUE

AUG 1 1988

OFFICE OF THE COMMISSIONER

This memorandum is to apprise you of two discussions I had recently that may bear on the 8(g) issue before you, particularly that aspect dealing with how the Permanent Fund's interest portion of the escrow payment should be treated upon its receipt by the Alaska Permanent Fund Corporation (APFC).

The first discussion occurred on March 2, 1988, with Mr. Ken Sherman, project manager for the ongoing Financial Reporting Project of the Governmental Accounting Standards Board (GASB), in Stamford, Connecticut. As you may be aware, GASB establishes generally accepted accounting principles for state and local government institutions. I therefore called Mr. Sherman to see whether GASB has promulgated a standard or issued a statement that addresses the issue of how the APFC should treat the interest portion of its escrow payment.

Mr. Sherman said that it is unlikely that any extant GASB ruling bears directly on this specific issue. He did say, however, that his "common sense" opinion, based on accounting conventions and practices currently applied to non-expendable public trust funds (i.e., public fiduciary funds whose principal may not be spent, but whose earnings may be used to achieve the objectives of the fund), would be that the APFC should recognize the interest portion of its escrow payment as earnings of the Permanent Fund rather than as Fund principal, and should show it separately from income earned through the operations of the Permanent Fund so that no confusion would exist as to who is (was) managerially responsible for it.

Mr. Sherman said that the State of Alaska could formally request a GASB "Technical Inquiry" on the issue, if it wished formal clarification. This would require submission of a full statement of the facts of the case by our Department of Law, and would take approximately 2-4 weeks for a GASB response. In all likelihood, Mr. Sherman said, he would be responsible for preparing GASB's formal response.

The second conversation occurred on March 3, 1988, with Mr. Ron Bossio, project manager for the Non-Profit Institutions Division of the Financial Accounting Standards Board (FASB), which also is located in Stamford, Connecticut. As you may be aware, under standards promulgated by both GASB and the American Association of Certified Public Accountants, a FASB standard or ruling on a particular issue has force for state and local government institutions if no GASB standard or ruling on the issue has been made. I therefore called Mr. Bossio to see whether, in the possible absence of a GASB standard or ruling on the issue, FASB has promulgated one.

As was the case with Mr. Sherman of GASB, Mr. Bossio said that it is unlikely that any extant FASB ruling bears directly on this specific issue. Interestingly, Mr. Bossio offered the same "common sense" opinion on the issue that Mr. Sherman did -- i.e., that the APFC should recognize its portion of the escrow earnings as Permanent Fund earnings, rather than as Fund principal, and show it separately from other Permanent Fund earnings. From the point of view of generally accepted accounting principles for non-expendable public trusts, Mr. Bossio went on to say, the APFC should recognize earnings achieved by an escrow account that is under the responsibility of a federal trustee in the same way that it recognizes earnings that are achieved by non-APFC managers who are entrusted with the investment of APFC funds.

If the State of Alaska does request a GASB "Technical Inquiry" on the issue, Mr. Bossio requests that a full copy of the Department of Law's factual submission be forwarded to FASB. This would be helpful, he said, as the GASB and FASB technical staffs probably would collaborate on the matter.

Should you wish to contact either of these individuals, Mr. Sherman may be reached at GASB at (203)-968-7300, and Mr. Bossio may be contacted at FASB at (203)-329-8401.

cc: Mary Halloran, Director  
Division of Policy  
Office of the Governor

Garrey Peska, Chief of Staff  
Office of the Governor