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Alaska State Legislature




House of Representatives
House Judiciary Committee

P. O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4990
(907) 465-4712

HOUSE JUDICIARY LETTER OF INTENT

HCS CSSB 213 (JUD)

The Revisor of Statutes is requested to insert paragraph
(C) of Section 1. in a note under AS 22.20.020.



Chairman Dave Donley

5/17/91

Date:

FISCAL NOTE

REQUEST:

Revision Date: _____ Affected Agency: Ak. Perm. Fund Corp
 Title: Act relating to transfers BRU: Ak. Perm. Fund Corp
to dividend fund
 Sponsor: Rules/Gov. Components: Ak. Perm. Fund Corp
 Requestor: Senate Finance

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	*					
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FUNDING: (THOUSANDS OF DOLLARS)

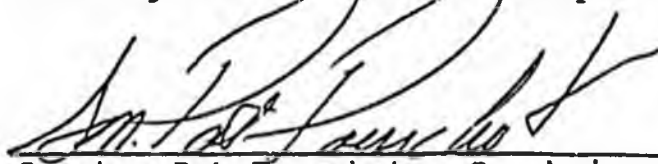
General Fund						
Federal Fund						
Other	*					
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

* Provisions of this bill will reduce the Permanent Fund Dividends and retain monies within the corpus of the fund. See attached sheets on P.F.D. and future growth of the P-F corpus.



Senator Pat Fourchot, Co-chairman
Senate Finance Committee

Phone: 465-3879
Date: 3-Apr-91

DISTRIBUTION (BY PREPARER)
LEGISLATIVE FINANCE
LEGISLATIVE SPONSOR

REQUESTOR
OFFICE OF MANAGEMENT AND BUDGET
AGENCY (IES)



Alaska Permanent Fund Corporation

P.O. Box 4-1000 Juneau, Alaska 99802-4100

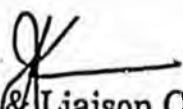
(907) 465-2047

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MEMORANDUM

DATE: March 29, 1991

TO: Senator Pat Pourchot
Co-Chair, Senate Finance

FROM: Jim Kelly 
Research & Liaison Officer

SUBJECT: Analysis of Senate Bill No. 213

Attached are two financial projections prepared by the Alaska Permanent Fund Corporation at your request.

Financial Projection #1: This is the status quo case as of February 28, 1991. It provides the benchmark against which to compare and contrast any changes to current law.

Financial Projection #2: This projection depicts the impacts of enacting SB 213. The State Constitution mandates that the Fund receive at least 25 percent of all royalty-in-kind (RIK) payments received by the State. SB 213 would add the stipulation that all income earned on the Fund's share of the RIK claims which are awarded after trial in State v. Amerada Hess forever be excluded from Permanent Fund dividend calculations and instead be deposited to Fund principal. For the purpose of this analysis, it is assumed, in accordance with the Department of Law's most recent estimates, that the RIK payment will be made on January 1, 1992 and will total \$62.5 million (25 percent of \$250 million).

You specifically asked for an analysis which reflects the positive impact on Permanent Fund principal of SB 213. Included on the following page is a chart which provides that information in tabular form. By the year 2005,

the difference in principal would total \$223 million which is derived from the following sources:

* initial deposit of \$62.5 million;

* subsequent annual deposits of income earned on that deposit totaling \$165 million;

* the \$4.5 million difference between \$223 million and \$227.5 million (\$62.5 million plus \$165 million) is accounted for by the increased inflation-proofing shortfall in the case of SB 213. If there were no inflation-proofing shortfalls in future years, the positive impacts on principal under SB 213 would be even greater.

(In millions of \$)			
FY	Principal Status Quo	Principal SB 213	Difference
91	10,890	10,890	
92	11,674	11,742	69
93	12,675	12,754	79
94	13,757	13,849	92
95	14,912	15,018	106
96	16,141	16,262	121
97	17,386	17,490	105
98	18,587	18,702	115
99	19,831	19,957	127
0	21,125	21,264	139
1	22,465	22,618	153
2	23,858	24,026	168
3	25,300	25,484	185
4	26,796	26,998	203
5	28,357	28,580	223



Alaska Permanent Fund Corporation

FINANCIAL PROJECTIONS (in millions)

as of February 28, 1991

GROWTH OF FUND PRINCIPAL						
FY	FY Begin Balance	Appropriations	Dedicated State Revenues*	Inflation Proofing	FY End Balance	Inflation Proofing Shortfall
78	0		54		54	
79	54		84		139	
80	139		344		483	
81	483	900	385		1,769	
82	1,769	800	400		2,969	
83	2,969	400	421	231	4,021	
84	4,021	300	365	151	4,838	
85	4,838	300	368	235	5,741	
86	5,741		323	216	6,281	
87	6,281	1,264 **	170	148	7,864	
88	7,864		418	303	8,585	
89	8,585		228	360	9,173	
90	9,173		267	454	9,894	
91	9,894		437	559	10,890	
92	10,890		228	556	11,674	
93	11,674		284	718	12,675	
94	12,675		304	779	13,757	
95	13,757		311	844	14,912	
96	14,912		315	914	16,141	
97	16,141		310	936	17,386	51
98	17,386		307	894	18,587	168
99	18,587		292	952	19,831	181
0	19,831		282	1,012	21,125	195
1	21,125		266	1,074	22,465	209
2	22,465		255	1,139	23,858	225
3	23,858		238	1,205	25,300	240
4	25,300		221	1,275	26,796	257
5	26,796		215	1,347	28,357	274
Cumulative Totals Projected For FY 1991 - 2005:			3,824	14,202		1,799

USE OF FUND INCOME					
Net Income	Distributions			Reserves	
	Dividends	Inflation Proofing	General Fund	Add (Delete)	FY End Balance
2			1		
8			7		
32	12		12		
150	28		28	59	59
368	71		71	185	244
471	108	231	110	110	354
530	175	151		203	557
650	217	235		206	763
1,021	303	216		501	1,264 **
1,069	391	148		529	529
789	424	303		62	591
868	460	360	4	44	635
916	487	454	4	(30)	605
928	481	659		(112)	493
1,021	477	556		(13)	480
1,159	514	718		(72)	408
1,247	553	779		(85)	323
1,342	598	844		(101)	222
1,441	652	914		(125)	98
1,545	707	936		(98)	
1,653	759	894			
1,765	813	952			
1,882	870	1,012			
2,003	929	1,074			
2,129	991	1,139			
2,260	1,054	1,205			
2,395	1,120	1,275			
2,535	1,189	1,347			
25,305	11,708	14,202			

REALIZED RATE OF RETURN ASSUMPTIONS:

	Nominal	Inflation	Real
FY 91:	8.50%	5.41%	3.09%
FY 92:	8.50%	5.00%	3.50%
FY 93-05:	9.00%	6.00%	3.00%

STATUS QUO

3/28/91

* SOURCE: Dedicated State oil revenue estimates are from the Department of Revenue (DOR) Fall 1990 Low-Case Revenue Forecast.

** The FY 86 Earnings Reserve Account end balance was appropriated by the legislature to the principal of the Permanent Fund effective July 1, 1986.

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Alaska Permanent Fund Corporation

FINANCIAL PROJECTIONS (in millions)

as of February 28, 1991

GROWTH OF FUND PRINCIPAL						
FY	FY Begin Balance	Appropriations	Dedicated State Revenues*	Inflation Proofing	FY End Balance	Inflation Proofing Shortfall
78	0		54		54	
79	54		84		139	
80	139		344		483	
81	483	900	385		1,769	
82	1,769	800	400		2,969	
83	2,969	400	421	231	4,021	
84	4,021	300	366	151	4,838	
85	4,838	300	368	235	5,741	
86	5,741		323	216	6,281	
87	6,281	1,264 **	170	148	7,864	
88	7,864		418	303	8,585	
89	8,585		228	360	9,173	
90	9,173		267	454	9,894	
91	9,894		437	559	10,890	
92	10,890	65	228	559	11,742	
93	11,742	6	284	722	12,754	
94	12,754	7	304	784	13,849	
95	13,849	8	311	850	15,018	
96	15,018	9	315	921	16,262	
97	16,262	10	310	909	17,490	86
98	17,490	11	307	894	18,702	175
99	18,702	12	292	952	19,957	189
0	19,957	13	282	1,012	21,264	203
1	21,264	14	266	1,074	22,618	219
2	22,618	16	255	1,138	24,026	235
3	24,026	17	236	1,205	25,484	252
4	25,484	19	221	1,274	26,998	270
5	26,998	21	215	1,346	28,580	288
Cumulative Totals Projected						
FY 1991 - 2005:		227	3,824	14,198		1,916

USE OF FUND INCOME					
Net Income	Distributions			Reserves	
	Dividends	Inflation Proofing	General Fund	Add (Delete)	FY End Balance
2			1		
8			7		
32	12		12		
150	28		28	59	59
368	71		71	185	244
471	108	231	110	110	354
530	175	151		203	557
658	217	235		206	763
1,021	303	216		501	1,264 **
1,069	391	148		529	529
789	424	303		62	591
868	460	360	4	44	635
916	487	454	4	(30)	606
928	481	559	RIK Income	(112)	493
1,024	477	559	3	(16)	477
1,165	514	722	6	(76)	400
1,254	553	784	7	(90)	310
1,349	593	850	8	(107)	203
1,450	652	921	9	(132)	72
1,554	707	909	10	(72)	
1,663	759	894	11		
1,777	813	952	12		
1,895	870	1,012	13		
2,017	929	1,074	14		
2,144	991	1,138	16		
2,276	1,054	1,205	17		
2,413	1,120	1,274	19		
2,556	1,189	1,346	21		
25,465	11,708	14,198	165		

REALIZED RATE OF RETURN ASSUMPTIONS:

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FY 91:	8.50%	5.41%	3.09%
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* SOURCE: Dedicated State oil revenue estimates are from the Department of Revenue (DOR) Fall 1990 Low-Case Revenue Forecast.

** The FY 86 Earnings Reserve Account end balance was appropriated by the legislature to the principal of the Permanent Fund effective July 1, 1986.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

REPLY TO:

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- KEY BANK BUILDING
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FAX: (907) 456-1317
- P.O. BOX K— STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

March 27, 1991

The Honorable Pat Pourchot
Alaska State Senate
Co-Chairman Senate Finance Committee
P. O. Box V
Juneau, AK 99811-3100

Re: Requested information
regarding SB 213

Dear Senator Pourchot:

This letter is in response to your request this morning respecting the fiscal impact of SB 213 on the permanent fund dividend. The following chart, based on the Alaska Permanent Fund Corporation's model for calculation of dividends, sets forth the approximate impact on individual dividends, were all of the state's RIK claims (which SB 213 would exclude from the dividend stream) paid on January 1, 1992.

1991	\$ 0.00
1992	0.19
1993	1.52
1994	2.79
1995	4.01
1996	5.19
1997	6.32
1998	6.55
1999	6.77
2000	7.13
2001	7.33
2002	7.51
2003	7.69
2004	8.01
2005	8.16

With adoption of SB 213 the 15-year total loss to a permanent fund dividend recipient is approximately \$79.17, having a net present value of \$37.65.

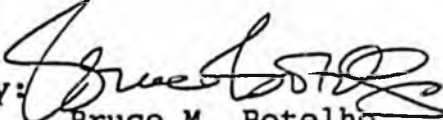
The Honorable Pat Pourchot
Alaska State Senate

March 27, 1991
Page 2

Should you wish further information, please do not
hesitate to contact my office.

Sincerely,

CHARLES E. COLE
ATTORNEY GENERAL

By: 
Bruce M. Botelho
Assistant Attorney General

BMB:tg

INTENT

MS worky draft

1. The legislature intends that the issue raised by the defendants' challenge for cause in State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District) be resolved by the Alaska Supreme Court as quickly as possible so that the trial set for November 4, 1991, is not ~~be~~ delayed. The legislature, therefore, respectfully requests the department of law to seek immediate review of the superior court ruling~~x~~ and also requests the Alaska Supreme Court ^{to} issue a decision as soon as possible, if necessary~~x~~ in advance of a formal opinion.

3. It is not the intent of the legislature in enacting AS 22.20.022 to allow the disqualification of a judge, if ~~the~~ judge has no financial interest in the outcome of the case other than that of a taxpayer or ~~an~~ Permanent Fund dividend recipient.

1. The legislature also requests that the State seek an early decision in this case on whether, in light of Alaska Civil Rule 47(c)(12), a juror must be disqualified, if the juror has no financial interest in the outcome of the case other than that of a taxpayer or a Permanent Fund dividend recipient.

INTRODUCTION

1
2 Defendants, North Slope oil producers who are being sued by the state in
3 a dispute over royalties owed on oil production with direct and indirect claims
4 in excess of two billion dollars, have moved this court to rule that no Alaska
5 judge or juror is qualified to decide this case because each has an interest in the
6 outcome of the case. That is so, the producers argue, because one quarter of
7 any amounts recovered will be deposited into the Alaska Permanent Fund, from
8 which direct payments in the form of dividends will be paid to all Alaska
9 residents. The state opposes the motion on several grounds, most prominently
10 that any direct financial interest which Alaska judges and jurors might have held
11 in the outcome of this case was removed by the amendment of AS 43.23.045(b)
12 in 1989 to provide that "income earned on money awarded after trial in State v.
13 Amerada Hess, et al. [now known as *In re ANS Royalty Litigation*] . . . is not
14 available for distribution to the dividend fund"

RULING

21 Having reviewed the voluminous briefs and exhibits submitted by the
22 parties and the arguments presented orally in court on February 21, 1991, the
23 court rules as follows:
24

- 25 1. AS 43.23.045(b) removes most, but not all, of the sources of

revenue flowing to the Permanent Fund Dividend fund as a result of any judgment in this case.

2. While the motions for disqualification would be ruled untimely if the basis for disqualification could be waived, the basis for disqualification cannot be waived in the present case.
- 3.a. This court and any Alaska court has a financial interest in the outcome of this case, as a result of the failure of AS 43.23.045(b) to include additional monies going to the Alaska Permanent Fund as a result of "Amerada Hess price adjustment clauses" in royalty-in-kind (RIK) contracts, which requires disqualification, if not cured.
- 3.b. Even if this or any Alaska court's financial interest resulting from the failure of AS 43.23.045(b) to exclude RIK income is not a direct interest, it is an "other interest" which strongly resembles a direct interest and hence any amount² is sufficient to disqualify, if the statute is not amended.
- 3.c. The impartiality of this or any Alaska court in this litigation might reasonably be questioned as a result of the failure of AS 43.23.045(b) to exclude RIK income. This appearance requires disqualification, if the statute is not amended.
4. The rule of necessity does not mandate denial of the motion for disqualification. There has been no showing that there

²The precise amount by which the annual dividend might be augmented as a result of increased RIK obligations is disputed. The court agrees with the producers' position that it is unnecessary to quantify that amount with precision. In reaching the decision announced today it is sufficient for the court to note that such an increase would not be so insubstantial as to be *de minimis*. In their briefing and at oral argument the producers alleged that RIK contract adjustments would result in an increase of \$81.03 in the dividend during the years 1990 through 2005; the present value of that increase was given as \$35.87. The state failed to rebut these contentions. Compare *Alaska Oil Co. v. State of Alaska*, 45 B.R. 358 (D. Alaska 1985) (disqualification not warranted where possible increase in dividend a mere \$1.78 annually). The amounts in question are even greater when the interests of the judge's "spouse or minor children residing in his household", Code of Judicial Conduct, Canon 3.C.(1)(c), are considered.

is no other forum available for trial of this case.

EXPLANATION

1
2 These conclusions will be discussed very briefly, with particular attention to the
3 perceived flaw in the amendment to AS 43.23.045(b).
4

- 5 1. AS 43.23.045(b) removes most, but not all, of the sources of
6 revenue flowing to the Permanent Fund Dividend fund as a
7 result of any judgment in this case.

8 As a piece of curative legislation, AS 43.23.045(b) is unique. Not only
9 was it passed in response to a particular case, but it has application only to that
10 case.³ In these circumstances, the intent of the legislature must be interpreted
11 broadly, for it is clear that the legislature intended to and made a good faith
12 effort to cure the problem posed by this case and this case alone. It might well
13 be thought that the legislature intended to do whatever was necessary to cure
14 whatever problem gave rise to the need to disqualify Alaska residents from
15
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18 ³While legislatures on occasion pass legislation in response to particular
19 cases, this court is unaware of any such legislation which had application only
20 to that one case. The closest example located by the court is H.R. 3054, 78th
21 Cong., 2nd Sess. (1944), 58 Stat. 272 (1944) amending 32 Stat. 823., (1903) 15
22 U.S.C. §29 (1940). That legislation was also passed in regard to a problem
23 involving disqualification of judges. A federal law provided that six justices
are required for a quorum of the Supreme Court. In an important antitrust case
disqualification by four justices made it impossible for the Court to act.
Congress adopted the statute cited above, which provided that in any case where
the Supreme Court was unable to act because of inability to convene a quorum of
the Court, the case would be certified to the circuit court of appeals from the
originating circuit, and that the senior circuit judge and next two judges in
seniority should comprise the court which would hear and finally decide the case.
There would be "no review of such decision by appeal or certiorari or otherwise."
The application of the legislation was limited to "every case pending before the
Supreme Court of the United States on the date of its enactment."

1 acting as judge or jurors in this case. Cases and authorities supporting the
2 proposition that it is the court's duty to determine the legislature's intent and
3 then carry it out support this very expansive argument.⁴ It is persuasive with
4 regard to past royalty payments, future payments affected by any declaratory
5 judgment of this court, and to interest on interest, and the court concludes that
6 the phrase "money awarded after trial" is broad enough to cover these items.

7
8 Yet any determination of legislative intent must ultimately be based on the
9 words of the statute, and must consider the entire legislative history of the
10 document.⁵ Neither the words of the statute -- principally, "money awarded
11 after trial in State v. Amerada Hess, et al." -- nor the legislative history -- which
12 contains no mention at all of the effect of a decision in this case on the third-
13 party royalty-in-kind contracts -- is sufficient to establish that the curative
14 legislation extends to the royalty-in-kind contracts with third parties. While
15 remedial statutes are generally to be liberally construed, nevertheless words and
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19 ⁴See generally *United States v. Hardcastle*, 10 Alaska 254 (D.Alaska [First
20 Division, Ketchikan] 1942) (fundamental rule of statutory construction is to
21 ascertain and give effect to the expressed intention of the legislature); *Tosoro*
22 *Alaska Petroleum Co. v. Kenai Pipe Line Co.*, 746 P.2d 896 (Alaska 1987); *Kenai*
23 *Penninsula Borough v. Andrus*, 436 F.Supp. 288 (D.Alaska 1977) (literal reading
which would be contrary to legislative purpose to be avoided if the statute can
be read in a manner consistent with its words and purposes). The legislature
does not always "speak cogently", *Blackard v. City National Bank*, 16 Alaska 344,
142 F.Supp. 753 (D.Alaska [Third Division, Anchorage] 1956).

24 ⁵That history ought to include the antecedent historical conditions in
25 which the legislation was proposed, as well as any letter of transmittal from the
governor, the committee work and floor debates, and related materials.

1 phrases are to be given their common, ordinary meaning where a statute contains
2 such word or phrase without defining it. AS 01.10.040; *State v. Lambert*, 694
3 P.2d 791 (Alaska App. 1985). And while it is true that "words are inexact tools
4 at best", *Harrison v. Northern Trust Co.*, 317 U.S. 476 (1943), it is also true
5 that liberal statutory construction should not result in "the exercise of the
6 legislative power of amendment under the mask of so-called interpretation".
7 *State v. Baker*, 102 N.E. 732, 734 (Ohio 1913). While the court believes that
8 the words of the statute may fairly be read to encompass any monies received
9 within the framework of the Amerada Hess/ANS case, the same cannot be said
10 as to any increased liability by nonparty RIK purchasers. The court has
11 carefully reviewed all legislative history available to it, but has located not a
12 single reference to the royalty-in-kind question, either by a legislator or by any
13 of the bill's sponsors. Mindful that its role is to apply statutes and not to write
14 (or rewrite) them, the court must defer to the legislature to deal with this
15 question as it sees fit.

- 16
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20 2. While the motions for disqualification would be ruled untimely
21 if the basis for disqualification could be waived, the basis
22 for disqualification cannot be waived in the present case.

23
24 As to untimeliness generally, *see United States v. Patrick*, 542 F.2d 381,

1 390 (7th Cir. 1976), *cert den.* 430 U.S. 931 (1977) (well settled that party must
2 raise disqualification of judge at earliest moment). However, some bases for
3 disqualification are not waivable in Alaska. AS 22.20.020(b) (only certain bases
4 for disqualification may be waived, direct financial interest is not one of those
5 listed).

6 3.a. This court and any Alaska court has a financial interest
7 in the outcome of this case, as a result of the failure of
8 AS 43.23.045(b) to include additional monies going to
9 the Alaska Permanent Fund as a result of "Amerada Hess price
10 adjustment clauses" in RIK contracts, which requires dis-
11 qualification.

12 *See also In re Cement Antitrust Litigation*, 688 F.2d 1297, 1308 (9th Cir.
13 1982), *aff'd* 459 U.S. 1191 (1983). *Cf. Beattie ex rel. Beattie v. United States*,
14 635 F.Supp. 481, 492 (D. Alaska 1986) *aff'd sub nom. Greisen ex rel. Greisen*
15 *v. United States*, 831 F.2d 916 (9th Cir. 1987), *cert den. sub nom. Beattie v.*
16 *United States*, 485 U.S. 1006 (1988) (while analogy imperfect, Alaska
17 Permanent Fund dividends not substantially different from corporate dividend).
18
19

20
21 3.b. Even if this or any Alaska court's financial interest result-
22 ing from the failure of AS 43.23.045(b) to exclude RIK income
23 is not a direct interest, it is an "other interest" which
24 strongly resembles a direct interest and hence any amount
25 is sufficient to disqualify.

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Alaska Code of Judicial Conduct, Canon 3.C.(1)(c); *In re Virginia Electric & Power Co.*, 539 F.2d 357, 368 (4th Cir. 1976); Note, *Disqualification of Judges and Justices in the Federal Courts*, 86 Harv. L. Rev. 736 (1973).

3.c. The impartiality of this or any Alaska court in this litigation might reasonably be questioned as a result of the failure of AS 43.23.045(b) to exclude RIK income. This appearance requires disqualification.

Alaska Code of Judicial Conduct, Canon 3.C.(1). *Cf. Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847 (1988) (construing similar federal statute).

4. The rule of necessity does not mandate denial of the motion for disqualification. There has been no showing that there is no other forum available for trial of this case.

Hudson v. Johnstone, 660 P.2d 1180 (Alaska 1983). United States Constitution, Article III, Section 2, Clause 1; 28 U.S.C. §1251(b)(3) (original jurisdiction of United States Supreme Court).

CONCLUSION

AS 43.23.045(b) removes all sources of revenue flowing from the Permanent Fund to the dividend fund but one: money received in respect of RIK

1 contract adjustment clauses. As a result of this failure, Alaska judges who
2 receive Permanent Fund dividends have a direct financial interest or an other
3 interest which strongly resembles a direct interest in the outcome of this case.
4 The impartiality of any Alaska judge in this litigation might reasonably be
5 questioned, requiring disqualification.

6 The motion for disqualification is not untimely, because the conflict arising
7 from a financial interest cannot be waived.

8 The doctrine of necessity does not apply in this case.

9
10 The court's decision will become final, unless, within 75 days of the date
11 of this order, the legislature enacts curative legislation; that is, legislation which
12 clearly and explicitly precludes Alaska Permanent Fund monies realized by the
13 state as a result of "Amerada Hess contract adjustments" in RIK contracts, or
14 interest earned on such monies, or on the earnings of such monies, from being
15 placed in the dividend fund.⁶
16
17

18 **IT IS SO ORDERED.**
19

20
21 ⁶This order only gives notice of the court's intent to grant the
22 disqualification motion in the event of the State of Alaska's failure to amend
23 the statute. The court retains jurisdiction of the case, and the Fourth Amended
24 Case Management and Scheduling Order remains in effect. Given plaintiff's
25 request to seek curative legislation if necessary, see n.1, and this court's
commitment to bring this case to resolution within the time set out in the Fourth
Amended Case Management and Scheduling Order, the court would not view with favor
a motion for continuance brought by any party where it appeared that that party
had failed to make diligent preparation during the 75-day period.

DONE at Juneau this 14th day of March, 1991.

Walter L. Carpeneti

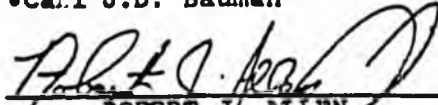
**WALTER L. CARPENETI
SUPERIOR COURT JUDGE**

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CERTIFICATE OF SERVICE

1 The undersigned certifies that on March 14, 1991
2 the foregoing Order was transmitted
3 to the following attorneys via telecopier:

- Wilson L. Condon
- Carl J.D. Bauman

4 
5 _____
6 ROBERT J. ALLEN
7 STAFF ATTORNEY

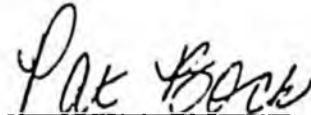
8 The undersigned certifies that on March 15, 1991
9 a true copy of the foregoing was served upon the
10 following counsel of record:

VIA JUNEAU COURTHOUSE BOX:

- Bruce Botelho
- Michael L. Lessmeier
- William B. Rozell

VIA FIRST-CLASS MAIL:

- Wilson L. Condon
- Carl J.D. Bauman
- James P. Murphy
- Robert E. Jordan III/F. Michael Kail
- John C. Held
- Julian L. Mason
- Paul R. Griffin

15 

16 _____
17 Secretary to Judge Carpeneti