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**I) USE COMMITTEE REPORT**

(7)

Date Referred: May 17, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/10/92

The JUDICIARY 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 CSSB 39 (JUD)

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 DNR, PERMANENT FUND CORP.

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

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<u>Daniel Donley</u>	<input checked="" type="checkbox"/>				
<u>John Ellis</u>	<input checked="" type="checkbox"/>				
<u>William Paul Parnell</u>	<input checked="" type="checkbox"/>				
<u>Mike Miller</u>	<input checked="" type="checkbox"/>				
<u>Henry Martin</u>	<input checked="" type="checkbox"/>				
<u>Mark Stanley</u>	<input checked="" type="checkbox"/>				

Daniel Donley  
 CHAIRMAN'S SIGNATURE

**FISCAL NOTE**

**STATE OF ALASKA  
1992 LEGISLATIVE SESSION**

**BILL NO. CS SB 39**

Revision Date: \_\_\_\_\_ Department Affected: AK Permanent Fund Corporation  
 Title: An Act relating to the permanent fund and the AK Permanent Fund Corp.; and providing for an effective date. BRU: Alaska Permanent Fund Corporation  
 Sponsor: Senator Pat Pourchat Component: #109 AK Permanent Fund Corporation  
 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-
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
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<b>REVENUE FUND SOURCE:</b>	-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-
<b>TOTAL</b>	-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 Date: 1/23/92  
 Agency: Alaska Permanent Fund Corporation

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. CSSB 39(Fin)

Revision Date: 5-Feb-92 Department Affected: Natural Resources  
 Title: Permanent Fund Technical Revision BRU: Management & Administration  
 Components: Administrative Services  
 Sponsor: Senator Pourchot  
 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).

FISCAL NOTE

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

BILL NO. CSSB 39 (FIN)

Revision Date: \_\_\_\_\_ Department Affected: Department of Law  
 Title: "An Act relating to the Alaska BRU: Legal Services  
Permanent Fund Corporation..." Component: Operations  
 Sponsor: Senator Pourchot  
 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						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
FUND SOURCE:						
<b>TOTAL</b>						

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

**ANALYSIS: (Attach a separate page if necessary.)**

Please see the attached analysis.

Prepared By: Richard I. Pegues Director Phone: 465-3672  
 Division: Administrative Services Date: February 3, 1992  
 Approved by Commissioner: Charles E. Cole Attorney General  
 Agency: Department of Law Date: February 3, 1992

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 39 (FIN)

This bill makes numerous housekeeping changes to AS 37.13, the Alaska Permanent Fund statutes. Of particular note, Section 17 amends AS 37.13.140 to provide that the net income of the fund includes income of the reinvested earnings reserve account, which heretofore was excluded from determining the amount available for distribution under AS 37.13.145. Section 18 amends AS 37.13.145 to provide that income earned on money awarded after trial in State v. Amerada Hess shall be treated in the same manner as other income of the permanent fund, except that it is not available for distribution to the dividend fund, and shall be annually deposited into the principal of the fund. This change further clarifies changes already made in AS 43.23.045 to help protect the state from defendants' legal attacks in the North Slope royalty litigation. These change should not have a fiscal impact on the Department of Law.

7-LS0158M  
Cook  
2/5/92

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:

*Amnd. #1: New Sec. 1, AMEND AS 36.30.850 (b)(16) TO EXTEND procurement code exemption TO FIRMS WITH "Fiduciary duties" UNDER CONTRACT TO THE P.F. Corp.*

4 \* Section ~~17~~ AS 37.13.010(a) is amended to read:

*Re-number →*

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

7 (1) 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, net  
8 profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing payments  
9 received by the state from mineral leases issued on or before December 1, 1979, and 25 percent  
10 of all bonuses received by the state from mineral leases issued on or before February 15, 1980;

11 (2) 50 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 after December 1, 1979, and 50 percent of all  
14 bonuses received by the state from mineral leases issued after February 15, 1980;

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

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

AMND #2  
T

5 \* Sec. <sup>3</sup>2. AS 37.13.010(b) is amended to read:

6 (b) Payments due the Alaska permanent fund under (a) of this section shall be made to  
7 <sup>within Three banking days that</sup> the fund ~~on the day~~ the amount due to the fund reaches at least <sup>\$3,000,000</sup> ~~\$5,000,000~~ and at least once  
8 each month.

AMND #3  
↗

9 \* Sec. <sup>4</sup>3. AS 37.13.020 is amended to read:

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

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

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

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

22 \* Sec. <sup>5</sup>4. AS 37.13.030 is amended to read:

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

27 \* Sec. <sup>6</sup>5. AS 37.13.040 is amended to read:

28 Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is established  
29 the Alaska Permanent Fund Corporation. The corporation is a public corporation and government  
30 instrumentality in the Department of Revenue managed by the board of trustees. The purpose  
31 of the corporation [BOARD] is to manage and invest the assets of the permanent fund and

AMND. #4:

1 other funds designated by law [CORPORATION] in accordance with this chapter.  
2 \* Sec. <sup>7</sup>6. AS 37.13.110(b) is amended to read: <sup>NEW SEC. 6 (SEC. 7 IF AMND. #1 IS ADOPTED) AMEND AS 37.13.080 TO</sup>  
<sup>REQUIRE AN AFFIRMATIVE VOTE OF 4 BOARD MEMBERS</sup>  
<sup>TO TAKE ACTION.</sup>

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

8 \* Sec. <sup>8</sup>7. AS 37.13.120(a) is amended to read:

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

17 \* Sec. <sup>9</sup>8. AS 37.13.120(b) is amended to read:

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

20 \* Sec. <sup>10</sup>9. AS 37.13.120(e) is amended to read:

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

23 \* Sec. <sup>11</sup>10. AS 37.13.120(g) is amended to read:

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

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

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

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

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

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

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

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

22 *AMND. \* 1: P.F. Comp* [(7) [(8)] domestic corporate debt securities that are rated <sup>"A"</sup>~~AA~~ or better by a  
 23 *CAN INVEST DOWN TO "A" FROM "AA"* nationally recognized rating service, or nondomestic corporate debt securities of comparable  
 24 quality; *Provided that not more than 10% of the total investments of the fund are invested in "A" Corporate debt Securities.*

25 (8) [(9)] short-term

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

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

31 (9) [(10)] bankers' acceptances drawn on and accepted by United States banks

1 each of which has a combined capital and surplus aggregating at least \$200,000,000;

2 ~~(10)~~ [(11)] repurchase agreements, the securities underlying the agreements being  
3 any of the items in (1) - (6) [(1) - (3) AND (8) - (10)] of this subsection;

4 (11) [(12)] THE GUARANTEED PORTION OF FEDERAL SMALL BUSINESS  
5 ADMINISTRATION LOANS;

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

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

10 (12) [(15)] the guaranteed portion of Farmers Home Administration loans;

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

17 [(A)] MORTGAGE INSURANCE IS NOT NECESSARY FOR  
18 COMMERCIAL LOANS HAVING LOAN-TO-VALUE RATIOS OF LESS THAN 50  
19 PERCENT AND THE MINIMUM COVERAGE OF OTHER COMMERCIAL LOANS  
20 SHALL BE 10 PERCENT FOR THOSE HAVING A LOAN-TO-VALUE RATIO OF  
21 50 - 60 PERCENT AND 15 PERCENT FOR THOSE HAVING A LOAN-TO-VALUE  
22 RATIO GREATER THAN 60 PERCENT BUT NO MORE THAN 75 PERCENT; AND

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

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

1 <sup>Now</sup> ~~(18)~~ preferred and common stock of corporations incorporated in the United  
 2 States; <sup>(9)(14)</sup> (see Page 7, LW 28)

3 ~~(15)~~ [(19)] certificates of deposit, term deposits, or bankers' acceptances, that are  
 4 issued by a United States or nondomestic bank or trust company located outside of the United  
 5 States and are denominated in United States or nondomestic currency, if either (A) they may be  
 6 readily sold in a secondary market at prices reflecting fair value, or (B) the issuing bank or trust  
 7 company has capital, surplus, and retained earnings at the date of issue equaling at least  
 8 \$500,000,000; investments made under this paragraph are not subject to the collateral  
 9 requirements for domestic certificates under (m) of this section;

10 ~~(16)~~ [(20)] equity interests in, and debt obligations secured by mortgages granting  
 11 a first lien on, real estate improved by completed and substantially rented buildings and located  
 12 in the United States, if these investments are made

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

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

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

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

29 (iii) the property is managed and operated by an entity  
 30 that has had at least five years of experience in the management of real estate  
 31 investments of institutional investors [IN CONJUNCTION WITH AND ON

1 SUBSTANTIALLY THE SAME TERMS AS AN ENTITY DESCRIBED IN (A)  
2 OF THIS PARAGRAPH];

3 (17) [(21)] securities of non-domestic governments and non-domestic government  
4 agencies, the principal of, or interest on, which is payable in either United States dollars or non-  
5 domestic currencies;

6 (18) [(22)] securities of non-domestic corporations, including common and  
7 preferred stock, whose dividends, if any, may be payable in either United States dollars or non-  
8 domestic currencies;

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

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

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

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

- 22 (1) mortgages under (g)(13) [(g)(16)] of this section - 15 percent;
- 23 (2) real estate investments under (g)(16) [(g)(20)] of this section - 15 percent;
- 24 (3) certificates of deposit, term deposit, or bankers' acceptances under (g)(15)  
25 [(g)(19)] of this section - 20 percent;
- 26 (4) securities of nondomestic governments, nondomestic government agencies, and  
27 nondomestic corporations under (g)(7), (17), and (18) [(g)(8), (21), AND (22)] of this section,  
28 domestic corporate stocks and debt securities under (g)(7) [(g)(8)] and (14) [(18)] of this section,  
29 and short-term nondomestic corporate promissory notes under (g)(8)(B) [(g)(9)(B)] of this section  
30 - 50 percent.

*AMND. #1:  
Removes U.S. corp. debt  
(bonds) from  
50% limit on  
stocks and  
investments.  
All Non-U.S. Investments.*

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

*(g)(14) - See page 6, L.N. 1.*

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

5 \* Sec. <sup>14</sup>~~13~~ AS 37.13.120(k) is amended to read:

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

10 \* Sec. <sup>15</sup>~~14~~ AS 37.13.120(l) is amended to read:

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

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

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

16 \* Sec. <sup>16</sup>~~15~~ AS 37.13.120(m) is amended to read:

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

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

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

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

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

28 (5) notes secured by mortgages granting a first lien on commercial or  
29 residential real estate improved by completed buildings if the originating financial  
30 institution retains at least 25 percent of the mortgage until maturity [, WHICH  
31 INVESTMENTS OR OBLIGATIONS HAVE VALUE AT LEAST EQUAL TO THE FACE

1 VALUE OF THE CERTIFICATE OF DEPOSIT. THE BOARD MAY REQUIRE  
2 SUBSTITUTION OF COLLATERAL IN ORDER TO ENSURE CONTINUED SATISFACTION  
3 OF THE REQUIREMENTS SET OUT IN THIS SUBSECTION].

4 \* <sup>17</sup>Sec. ~~16~~. AS 37.13.120 is amended by adding a new subsection to read:

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

9 \* <sup>15</sup>Sec. ~~17~~. AS 37.13.140 is amended to read:

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

18 \* <sup>19</sup>Sec. ~~18~~. AS 37.13.145 is repealed and reenacted to read:

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

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

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

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

1 (2) computing the percentage change between the first and second calendar year  
 2 average; and  
 3 (3) applying that rate to the value of the principal of the fund on the last day of  
 4 the fiscal year just ended.

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

*Amerada Hess language  
 TO conform to SB213  
 AND moved from page 9.  
 Line 25.*

12 \* Sec. <sup>20</sup>~~19~~. AS 37.13.150 is amended to read:

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

18 \* Sec. <sup>21</sup>~~20~~. AS 37.13.160 is amended to read:

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

22 \* Sec. <sup>22</sup>~~21~~. AS 37.13.170 is amended to read:

23 Sec. 37.13.170. REPORTS AND PUBLICATIONS. By September 30 of each year, the  
 24 board shall publish a report of the fund [CORPORATION] for distribution to the governor,  
 25 legislature, and the public. The report shall be written in easily understandable language. The  
 26 report must include financial statements audited by independent outside auditors, a statement of  
 27 the amount of money received by the [ALASKA PERMANENT] fund from each investment  
 28 during the period covered, a statement of investments of the fund [CORPORATION] including  
 29 an appraisal at market value, a description of fund [CORPORATION] investment activity during  
 30 the period covered by the report, a comparison of the fund [CORPORATION] performance with  
 31 the intended goals contained in AS 37.13.020, an examination of the impact of the investment

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

7 \* Sec. <sup>23</sup>~~22~~ AS 37.13.180 is amended to read:

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

12 \* Sec. <sup>24</sup>~~23~~ AS 37.13.190 is amended to read:

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

15 \* Sec. <sup>25</sup>~~24~~ AS 37.13.210 is amended by adding a new paragraph to read:

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

18 \* Sec. <sup>26</sup>~~25~~ AS 43.23.025(a) is amended to read:

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

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

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

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

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

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

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

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

6 (3) dividing the amount determined under (1) of this section by the amount  
 7 determined under (2) of this section.

8 \* Sec. <sup>27</sup>~~26~~. AS 37.13.145(d), added by sec. <sup>19</sup>~~18~~ of this Act, is repealed on the day that the revisor of  
 9 statutes certifies to the legislature that the Alaska Supreme Court has made a final determination that,  
 10 in the absence of AS 43.23.045(e), repealed by sec. <sup>28</sup>~~27~~ of this Act, or AS 37.13.145(d), added by sec.  
 11 <sup>19</sup>~~18~~ of this Act, no judge or juror is disqualified from serving as judge or juror solely because the judge  
 12 or juror may qualify to receive a permanent fund dividend.

13 \* Sec. <sup>28</sup>~~27~~. AS 43.23.045(b) and (e), and sec. 4, ch. 18, SLA 1991, are repealed.

14 \* Sec. <sup>29</sup>~~28~~. This Act takes effect July 1, 1992.

\* IF AMND. \* 4 (Page 3, Line 1) IS ADOPTED, BILL SECTIONS  
 7-29 BECOME SECTIONS 8-30.

\* AMND. \* 1:  
 RE NUMBER TO  
 REFLECT NEW  
 SEC. 1

**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:

Delete "AA"

Insert "A"

Page 4, after line 24:

Insert "**provided that not more than 10% of the total investments of the Fund are invested in "A" corporate debt securities.**"

Page 7, line 28:

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 10% 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\AM  
Cook, 2/5/92

Page 2, line 7:

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:

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:

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.

# ALASKA STATE LEGISLATURE



SENATE FINANCE COMMITTEE,  
CO-CHAIR

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Senator Pat Pourchot

## Memorandum:

To: The Honorable Dave Donley, Chairman of the House  
Judiciary Committee, and members.

From: Senator Pat Pourchot

RE: CSSB 39 Relating to the Permanent Fund

Date: February 3, 1992

---

This legislation is the result of a 1990 Senate State Affairs Committee study of Permanent Fund statutes and represents a compilation of recommendations from the Office of Management and Budget, the Commission on the Future of the Permanent Fund, and the Permanent Fund Board of Directors.

## Substantive Provisions: reflecting current practices.

- Requires that interest earned on litigation revenue be treated as a deposit to the Permanent Fund
- Requires that inflation-proofing be calculated by multiplying the year-end balance by the CIP

## Housekeeping Provisions:

- Cleans up inconsistencies in use of the words "corporation" v. "fund"
- Adjusts the list of allowable investments to reflect current investment markets
- Establishes a timeline for transfer of royalty and lease income from DNR to the Permanent Fund.

## **CSSB 39 Summary Senator Pourchot**

**CSSB 39 (FIN), "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. **Section 10** of SB 39 makes it possible for the Corporation to take advantage of investment opportunities in "AA" rated or better municipal and state bonds. 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 18** 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 1** 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 2** of this proposal changes the process so that the Fund receives a transfer whenever \$5 million dollars owed the Fund accumulates at DNR or once a month, whichever is sooner. This will allow the Fund to gain the greatest possible benefit from the monies that have been constitutionally and statutorily dedicated for that purpose.

## CSSB 39 (FIN) 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.

2/3/92 **House Judiciary**

# ALASKA STATE LEGISLATURE

SENATE FINANCE COMMITTEE,  
CO-CHAIR



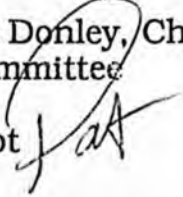
Senator Pat Pourchot

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JUNEAU, AK 99811  
(907) 465-3712

Memorandum:

To: The Honorable Dave Donley, Chair  
House Judiciary Committee

From: Senator Pat Pourchot 

RE: Hearing Request for CSSB 39

Date: November 27, 1991

-----

I am writing to request a Judiciary Committee hearing on CSSB 39 at your earliest convenience once the Legislature convenes for 1992.

CSSB 39 is in large part a housecleaning measure designed to clarify language in the permanent fund investment section of the statutes. The two more substantive sections of the bill relate to the treatment of interest earned on litigation revenue and the method in which the fund is inflation-proofed (Section 1 and Section 18, respectively). In short, Section 1 requires that interest earned on disputed oil taxes and royalties be deposited in the fund and Section 18 requires that inflation-proofing be calculated by multiplying the year-end balance by the CIP.

The legislation received wide-spread support during its preparation and the public hearing process. Many of the "housekeeping" measures are taken from the recommendations of the Commission on the Future of the Permanent Fund and the OMB Division of Policy report, "Permanent Fund Policy Issues." In addition, the Permanent Fund Corporation Board of Directors and the Legislative Budget Audit Committee are supportive of the investment procedure clarifications outlined in the bill.

I have attached back-up materials for your information and would be happy to answer any questions you may have regarding the legislation.

**Memorandum:**

To: Senate Members  
From: Senator Pat Pourchot  
RE: CSSB 39 Relating to the Permanent Fund  
Date: May 16, 1991

---

This legislation is the result of Senate State Affairs Committee study of Permanent Fund statutes and represents a compilation of recommendations from the Office of Management and Budget, the Commission on the Future of the Permanent Fund, and the Permanent Fund Board of Directors.

**Substantive Provisions:**

- requires that interest earned on litigation revenue be treated as a deposit to the Permanent Fund
- requires that inflation-proofing be calculated by multiplying the year-end balance by the CIP

**Housekeeping Provisions:**

- cleans up inconsistencies in use of "corporation" v. "fund"
- adjusts the list of allowable investments to reflect real market
- establishes a timeline for transfer of royalty and lease income from DNR to the Permanent Fund

**Sources of Recommendations:**

- Report of the Commission on the Future of the Permanent Fund
- Division of Policy report, "Permanent Fund Policy Issues"
- Alaska Permanent Fund Board of Directors

Senator Pat Pourchot  
SB 39 Back up

***SB 39, "An Act relating to the permanent fund and the Alaska Permanent Fund Corporation; and providing for an effective date."***

Recent 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 Trustess have all identified several needed clarifications of statutory intent to ensure the legality of current Corporation practices. **Senate Bill 39** attempts to clean up many of the following inconsistencies, ambiguities and other confusing provisions currently in the statutes governing the Permanent Fund.

**Language Consistency:**

Currently 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 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 current state of financial markets. **Section 10** of SB 39 makes it possible for the Corporation to take advantage of investment opportunities in AA rated or better municipal and state bonds. This section also provides specific authorization for investments in money market instruments. This proposal also removes several investment instruments that have never been used, are not appropriate for the Fund, and have been prohibited by Board policy.

## 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 18** 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:

The Permanent Fund has received and will probably continue to receive hundreds of millions of dollars from settlements and awards from contested leasing and royalty issues. The money received by the Fund as a result of royalty and leasing litigation has two components, the original amount owed the fund and the interest that money has garnered during the dispute. Current statutes are silent on how these individual components are to be treated by the Corporation. Auditors have differed in their opinions on how such funds should be treated.

This confusion raises two important questions that require legislative clarification: 1) Should interest earned on monies due the Permanent Fund be included in the monies deposited in the Fund when the state eventually receives the funds? and 2) If interest is deposited in the fund, should it be counted as a contribution to principal or counted as income in the year in which the money was received?

The resolution could have a serious fiscal impact on the Fund. For example, the Fund could receive as much as \$385 million in disputed rents, bonuses and royalties from the Dinkum Sands and North Slope Royalty disputes. In the years since litigation was initiated those monies have earned \$386 million in interest (source: April 1990 OMB Report as altered by 1990 Arco Settlement). If the interest income is not dedicated to the Fund, then the interest funds would be general funds available for legislative appropriation. If the interest income is transferred to the Corporation, but is treated as income generated in the year it is received,

the income picture of the Corporation for that year could be dramatically skewed, affecting dividends in that year. The four subsequent years of dividends would be affected as well because of the averaging method currently used to calculate dividends.

The final alternative, treating all interest received as contributions to principal is the course of action currently being used by the Corporation. The legislature ratified this interpretation in the FY91 Operating Budget by mandating similar treatment for any litigation settlement interest monies in FY91.

**Section 1** of the proposed legislation clears up this uncertainty by ensuring 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 2** of this proposal changes the process so that the Fund receives a transfer whenever \$5 million dollars owed the Fund accumulates at DNR or once a month, whichever is sooner. This will allow the Fund to gain the greatest possible benefit from the monies that have been constitutionally and statutorily dedicated for that purpose.

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450

FAX (907) 465-2029

Mail Stop 3101

240 Main Street, Suite 500  
Juneau, Alaska 99801-2101

### MEMORANDUM

February 5, 1992

**SUBJECT:** Permanent Fund Corporation (SB 39)

**TO:** Representative Dave Donley, Chair  
House Judiciary Committee

**FROM:** Tamara Brandt Cook  
Director *TBC*

You have asked whether the Board of Trustees of the Alaska Permanent Fund Corporation may be subject to legislative confirmation in view of AS 24.20.206(1), which provides:

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

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

AS 24.20.206(1) was enacted as part of the 1980 Act, ch. 18, SLA 1980, establishing the permanent fund dividend corporation and providing for legislative oversight of the permanent fund. AS 37.13.050 originally contained the confirmation requirement also, but that was amended out in 1982 and, apparently, a conforming amendment to 24.20.206(1) was overlooked. With respect to the original 1980 legislation, our drafting file contains a note in the handwriting of the then-revisor of statutes, Donna Pegues, saying:

The appointment and removal provisions violate Bradner v. Hammond re confirmation. . . . This is not (1) a regulatory board [, or] (2) a bd. at head of department. Confirmation is unconstitutional. But I know no one (including the governor) cares.

I cannot find that we formally advised legislators of our conclusion on this point in 1980, but verbal advice may have been given at the time.

The Alaska Permanent Fund Corporation is established as a public corporation. AS 37.13.040. Our position is that legislative confirmation may not be required for the members of the board of directors of a public corporation. The basis for that was set out in a memorandum dated February 11, 1991 by Legislative Counsel Jerry Luckhaupt:

The constitutional convention proceedings are also helpful in determining whether a public corporation could be considered a "regulatory board." The convention specifically addressed the relationship between § 26 and the University of Alaska, a public corporation, and public corporations generally. Discussion of § 26 includes this statement by Delegate Sundborg:

This whole section applies only to three classes of agencies. It applies to principal departments of the state, to regulatory bodies and quasi-judicial bodies. It is inconceivable to me that no matter what the legislature did it could ever put the University of Alaska under one of those three headings, and I am very much afraid here that if we read in here an exception saying that it shall not apply to the University of Alaska, that it would apply or that it could be construed to apply to any other state corporation because we had not excepted that from the language.

ACCP, at p. 2257.

Delegate Walsh stated that after checking with a couple of attorneys he believed that the University of Alaska was not subject to the requirements of § 26 because it was a public corporation. ACCP, at p. 2246. Delegate Riley stated that he believed that the University of Alaska was clearly beyond the reach of § 26. ACCP, at p. 2248. A similar comment was made by Delegate V. Rivers while entertaining questions about the Committee on the Executive Branch's report. ACCP, at p. 2033-34.

From these examples it seems clear that a public corporation, established by the state, is not a § 26 board. It is also difficult to conceive how the state could delegate the responsibility of running a principal department or the exercise of the state's police powers through a regulatory or quasi-judicial agency to a public corporation, whose board owes a duty to the corporation and not necessarily to the state. Finally, the Alaska Supreme Court in Walker v. Alaska State Mortgage Authority, 416 P.2d 245 (Alaska 1966) held that ASMA, a public corporate authority of the state, was not at the head of a

Representative Dave Donley

February 5, 1992

Page 3

principal department of the state for purposes of triggering the confirmation requirement of § 26. The court did not discuss, but apparently assumed for purposes of that section that ASMA was not a "regulatory or quasi-judicial agency."

Therefore, I conclude that a "regulatory agency" for purposes of art. III, § 26 of the constitution, is an agency governed by a board or commission that adopts rules that govern, direct, or control the public, segments of the public (including professions or enterprises), or the use of the resources of the state. The term does not include public corporations created by the state.

If I can be of further assistance, please advise.

TBC:gc  
92-101.glc

Enclosure



**Alaska Permanent Fund Corporation**

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

(907) 465-2047

**MEMORANDUM**

**DATE:** February 3, 1992

**TO:** Representative Dave Donley  
Chairman, House Judiciary Committee

**FROM:** John Kelsey *J.K.*  
Chairman, Board of Trustees

**SUBJECT:** **Proposed Amendments to CS for Senate Bill No. 39 (Finance): "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, at their December 6, 1991 board meeting, expressed their continuing support for your bill, CS Senate Bill No. 39 (Finance), and asked for your support on the following three amendments:

**Amendment #1:**

AS 36.30.850(a)(16) is amended to read:

- (16) a contract that is a delegation, in whole or in part, of investment powers or fiduciary responsibilities of
- (A) the Board of Trustees of the Alaska Permanent Fund Corporation under AS 37.13;
  - (B) the Alaska Mental Health Trust Authority under AS 37.14.0001 - 37.14.099;

**Purpose:** 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.

**Amendment #2:**

AS 37.13.120(g)(8) is amended to read:

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

**Purpose:** By expanding the Corporation's list of authorized investments to include A-rated corporate bonds, this amendment would add measurable dollars to the Fund's income over time without, in the judgment of management, significantly raising the Fund's risk level. According to a November 8, 1990 Corporation analysis which compared market returns of A-rated bonds versus AA-rated and better over the past 5 years, the impact of the current statutory restriction was about .02 percent per year. A September 1989 Callan Associates study using similar data over the preceding 16.5 years estimated a .09 percent impact per year. At a .02 — .09 percent range, this amendment potentially translates into a gain of approximately \$1.5 — \$6.75 million of total return each year on the Fund's \$7.5 billion marketable debt portfolio. See also the attached memorandum from William L. Means dated February 19, 1991.

**Amendment #3:**

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)(16) of this section - 15 percent;
- (2) real estate investments under (g)(20) of this section - 15 percent;
- (3) certificates of deposit, term deposits, or bankers' acceptances under (g)(19) of this section - 20 percent;
- (4) securities of nondomestic governments, nondomestic government agencies, and nondomestic corporations under (g)(8), (21), and (22) of this section, domestic corporate stocks

[AND DEBT SECURITIES] under (g)[(8) AND](18) of this section, and short-term nondomestic corporate promissory notes under (g)(9)(B) of this section - 50 percent.

**Purpose:** There is a need to consider changes to the above statute which establishes statutory asset allocation limits on the investment of the Permanent Fund. In particular, the combined limit on U.S. corporate stocks and bonds and all non-U.S. investments which is currently set at 50 percent poses a problem. With 10.16 percent of the Fund (at cost) invested in U.S. corporate bonds as of November 30, 1991, staff finds itself legally prohibited from meeting the target asset allocation of 30% U.S. stock and 10% non-domestic stock adopted by the Board of Trustees last March. The Corporation recommends that this problem be solved by removing corporate debt securities from the limitation imposed by AS 37.13.120(i)(4).

# STATE OF ALASKA

## Department of Revenue Treasury Division Cash Management

Facsimile Transmittal Form

Our Fax Number: (907) 465-4019

Addressed to: Jim Kelly  
Research & Liaison Officer

Fax Number: 586-2057

From:  Vern Voss, Cash Manager & Investment Officer  
 Bruce Smith, Investment Officer  
 Joe Meek, Accountant  
 Debbie Idone, Accounting Technician

Total number of pages (including transmittal sheet) 2

If problems are experienced with this transmission, please call (907) 465-2360.

Comments: \_\_\_\_\_  
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\_\_\_\_\_

Jim

1-31-92

Per our telephone conversation re proposed  
change to senate Bill NO 38.

Sec. 2 line 7

Delete: ON

Add: within three banking days after

Jim Law

THE FORD FOUNDATION  
320 EAST 43<sup>RD</sup> STREET  
NEW YORK, NEW YORK 10017

RECEIVED 1-30-1992

JOHN W. ENGLISH  
VICE PRESIDENT AND  
CHIEF INVESTMENT OFFICER

(212) 573-5050

January 30, 1992

Senator Pat Pourchot  
P.O. Box V  
Juneau, Alaska 99811

Dear Pat:

Enclosed as you requested is some information on bond ratings and what the ratings mean.

Please note that an "A" rating is considered "upper medium grade" with a possible "susceptibility to impairment sometime in the future."

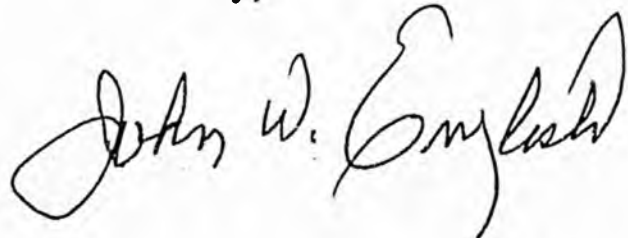
I'm also enclosing a copy of The Ford Foundation's Investment Policies and Guidelines which may be of interest.

As you know, there is a trade-off between risk and return.

My risk tolerance does not go any lower than "AA".

Please let me know if I can provide any additional assistance. I enjoy serving the State of Alaska in any way that I can.

Sincerely,



JWE:1f

Encs.

JOHN W. ENGLISH

VICE PRESIDENT AND  
CHIEF INVESTMENT OFFICER  
THE FORD FOUNDATION

320 EAST 43RD STREET  
NEW YORK, N. Y. 10017  
212-573-5050

INVESTMENTS FOR GROWING CHILDREN  
OF THE FORD FOUNDATION

As intended through September 24, 1991

INVESTMENT GUIDELINES\*

- (1) The Foundation should limit its investments to the following categories:
- (a) publicly traded securities; and
  - (b) securities not traded publicly and investments in real estate, provided that there shall exist adequate prospect of gain to compensate for (i) the limited marketability of such securities and investments, and (ii) the additional burden of investigation and administration inherent in such securities and investments.
- (2) The Foundation's Vice President and Chief Investment Officer is responsible for maintaining a diversified portfolio of investments within the two broad categories of Equities and Fixed Income. Each category includes both domestic and foreign investments. The Equities category includes stocks, real estate, venture capital, and any other permissible investments whose returns are linked to such investments. The Fixed Income category includes long-term bonds and cash investments. The asset mix ranges are outlined below:

<u>ASSET CLASS</u>	<u>ASSET MIX RANGE</u>	
	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>TOTAL EQUITIES</u>	30%	70%
Stocks (minimum: 30%)	<u>Maximum</u> 65%	
Real Estate	10%	
Venture Capital	5%	
<u>TOTAL FIXED INCOME</u>	30%	70%
<u>TOTAL INTERNATIONAL SECURITIES</u> (Stocks, Bonds, Cash)	0%	25%

- (3) Without prior Investment Committee approval, investments shall not be made in commodity futures (except financial futures), in working interests in oil and gas wells, or in "puts," "calls," "straddles" or other options (except covered call options, and other options including warrants granted in connection with an investment in other securities customarily acquired by institutional investors); nor without such approval shall securities be purchased on margin or "short sales" or "sales against the box" be made.

---

\* Initially adopted by the Finance Committee on June 23, 1971; and as amended through September 25, 1991.



## MOODY'S BOND RATINGS

The system of rating securities was originated by John Moody in

The purpose of Moody's Ratings is to provide the investors with a simple system of gradation by which the relative investment qualities of bonds may be noted.

**Rating Symbols:** Gradations of investment quality are indicated by rating symbols, each symbol representing a group in which the quality characteristics are broadly the same. There are nine symbols as shown below, from that used to designate least investment risk (i.e., highest investment quality) to that denoting greatest investment risk (i.e., lowest investment quality):

Aaa Aa A                      Baa Ba B                      Caa Ca C

For explanation of municipal rating symbols, in particular the A 1 and Baa 1 groups see page 328

**Absence of Rating:** Where no rating has been assigned or where a rating has been suspended or withdrawn, it may be for reasons unrelated to the quality of the issue.

Should no rating be assigned, the reason may be one of the following:

1. An application for rating was not received or accepted.
2. The issue or issuer belongs to a group of securities or companies that are not rated as a matter of policy.
3. There is a lack of essential data pertaining to the issue or issuer.
4. The issue was privately placed, in which case the rating is not published in Moody's publications.

Suspension or withdrawal may occur if new and material circumstances arise, the effects of which preclude satisfactory analysis; if there is no longer available reasonable up-to-date data to permit a judgment to be formed; if a bond is called for redemption; or for other reasons.

**Changes in Rating:** The quality of most bonds is not fixed and steady over a period of time, but tends to undergo change. For this reason changes in ratings occur so as to reflect these variations in the intrinsic position of individual bonds.

A change in rating may thus occur at any time in the case of an individual issue. Such rating change should serve notice that Moody's observes some alteration in the investment risks of the bond or that the previous rating did not fully reflect the quality of the bond as now seen. While because of their very nature, changes are to be expected more frequently among bonds of lower ratings than among bonds of higher ratings, nevertheless the user of bond ratings should keep close and constant check on all ratings—both high and low ratings—thereby to be able to note promptly any signs of change in investment status which may occur.

**Limitations to Uses of Ratings:** Bonds carrying the same rating are not claimed to be of absolutely equal quality. In a broad sense they are alike in position, but since there are a limited number of rating classes used in grading thousands of bonds, the symbols cannot reflect the fine gradations of risks which actually exist. Therefore, it should be evident to the user of ratings that two bonds identically rated are unlikely to be precisely the same in investment quality.

As ratings are designed exclusively for the purpose of grading bonds according to their investment qualities, they should not be used alone as a basis for investment operations. For example, they have no value in forecasting the direction of future trends of market price. Market price movements in bonds are influenced not only by the quality of individual issues but also by changes in money rates and general economic trends, as well as by the length of maturity, etc. During its life even the best quality bond may have wide price movements, while its high investment status remains unchanged.

The matter of market price has no bearing whatsoever on the determination of ratings which are not to be construed as recommendations with respect to "attractiveness." The attractiveness of a given bond may depend on its yield, its maturity date or other factors for which the investor may search, as well as on its investment quality, the only characteristic to which the rating refers.

Since ratings involve judgments about the future, on the one hand, and since they are used by investors as a means of protection, on the other, the effort is made when assigning ratings to look at "worst" potentialities in the "visible" future, rather than solely at the past record and the status of the present. Therefore, investors using the rating should not expect to find in them a reflection of statistical factors alone, since they are an appraisal of long term risks, including the recognition of many non-statistical factors.

Though ratings may be used by the banking authorities to classify bonds in their bank examination procedure, Moody's Ratings are not made with these bank regulations in view. Moody's Investors Service's own judgment as to desirability or non-desirability of a bond for bank investment purposes is not indicated by Moody's Ratings.

Moody's Ratings represent the mature opinion of Moody's Investors Service, Inc., as to the relative investment classification of bonds. As such, they should be used in conjunction with the description and statistics appearing in Moody's Manuals. Reference should be made to these statements for information regarding the issuer. Moody's Ratings are not commercial credit ratings. In no case is default or receivership to be imputed unless expressly so stated in the Manual.

## KEY TO MOODY'S CORPORATE RATINGS

## Aaa

Bonds which are rated Aaa are judged to be of the best quality. They carry the smallest degree of investment risk and are generally referred to as "gilt edge." Interest payments are protected by a large or by an exceptionally stable margin and principal is secure. While the various protective elements are likely to change, such changes as can be visualized are most unlikely to impair the fundamentally strong position of such issues.

## Aa

Bonds which are rated Aa are judged to be of high quality by all standards. Together with the Aaa group they comprise what are generally known as high grade bonds. They are rated lower than the best bonds because margins of protection may not be as large as in Aaa securities or fluctuation of protective elements may be of greater amplitude or there may be other elements present which make the long term risks appear somewhat larger than in Aaa securities.

## A

Bonds which are rated A possess many favorable investment attributes and are to be considered as upper medium grade obligations. Factors giving security to principal and interest are considered adequate but elements may be present which suggest a susceptibility to impairment sometime in the future.

## Baa

Bonds which are rated Baa are considered as medium grade obligations, i.e., they are neither highly protected nor poorly secured. Interest payments and principal security appear adequate for the present but certain protective elements may be lacking or may be characteristically unreliable over any great length of time. Such bonds lack outstanding investment characteristics and in fact have speculative characteristics as well.

## Ba

Bonds which are rated Ba are judged to have speculative elements; their future cannot be considered as well assured. Often the protection of interest and principal payments may be very moderate and thereby not well safeguarded during other good and bad times over the future. Uncertainty of position characterizes bonds in this class.

## B

Bonds which are rated B generally lack characteristics of the desirable investment. Assurance of interest and principal payments or of maintenance of other terms of the contract over any long period of time may be small.

## Caa

Bonds which are rated Caa are of poor standing. Such issues may be in default or there may be present elements of danger with respect to principal or interest.

## Ca

Bonds which are rated Ca represent obligations which are speculative in a high degree. Such issues are often in default or have other marked shortcomings.

## C

Bonds which are rated C are the lowest rated class of bonds and issues so rated can be regarded as having extremely poor prospects of ever attaining any real investment standing.

**Note:** Moody's applies numerical modifiers, 1, 2 and 3 in each generic rating classification from Aa through B in its corporate bond rating system. The modifier 1 indicates that the security ranks in the higher end of its generic rating category; the modifier 2 indicates a mid-range ranking; and the modifier 3 indicates that the issue ranks in the lower end of its generic rating category.

Moody's bond ratings, where specified, are applied to senior bank obligations with an original maturity in excess of one year. Obligations relying upon support mechanisms such as letters-of-credit are excluded unless explicitly rated. Obligations of a branch of a bank are considered to be domiciled in the country in which the branch is located. Unless noted as an exception, Moody's rating on a bank's ability to repay senior obligations extends only to branches located in countries which carry a Moody's sovereign rating. Such branch obligations are rated at the lower of the bank's rating or Moody's sovereign rating for the bank deposits for the country in which the branch is located. When the currency in which the obligation is denominated is not the same as the currency of the country in which the obligation is domiciled, Moody's ratings do not incorporate an opinion as to whether payment of the obligation will be affected by the actions of the government controlling the currency of denomination. In addition, risk associated with bilateral conflicts between an investor's home country and either the issuer's home country or the country where an issuer branch is located are not incorporated into Moody's ratings. Moody's makes no representation that rated bank obligations are exempt from registration under the U.S. Securities Act of 1933 or issued in conformity with any other applicable law or regulation. Nor does Moody's represent any specific bank obligation is legally enforceable or a valid senior obligation of a rated issuer.

## PERMANENT FUND POLICY ISSUES

April 1990

In the past four years, public policy makers in Alaska have increasingly focused their attention on the Permanent Fund. Literally hundreds of Permanent Fund bills and resolutions have been proposed since 1986, and many public hearings have been held. In part, the debate is provoked by the fiscal uncertainty which Alaska now faces with the downturn of Prudhoe Bay oil production - - an era in which the Permanent Fund is likely to play a fundamental, if as yet undefined, role. In part, however, the debate results from unresolved questions about the Permanent Fund's ultimate purpose, or purposes. These unresolved questions are likely to plague policy makers in the coming years as they grapple with the prospect of a diminishing revenue base and the task of defining the Permanent Fund's future use.

Now is therefore an opportune time to identify major policy issues surrounding the Permanent Fund for further consideration by policy makers. Although some of the issues appear technical at first glance, they each contain the elements of policy. If left to the technicians, policy will be set by default rather than by the state's policy makers through public discussion and healthy debate.

## 1. *Fundamental Issues*

### Purpose(s) Of The Permanent Fund

Although current uses of Permanent Fund income are defined in statute, no agreement seems to exist about the ultimate purpose or purposes of the Fund's earnings. What role should the Permanent Fund play in the state's long-term fiscal policy? For example: are the earnings intended to support state government services in Alaska's post-oil era? or to avoid fiscal calamity if oil prices suddenly collapse? or to directly distribute Alaska's resource wealth to residents? or to provide some of Alaska's current oil wealth to future generations? or serve as an investment fund for infrastructure? or several of the above? or anything additional?

Inferring the purpose of the Fund's principal from the existing statutory scheme for allocating the fund's annual investment earnings forces one to conclude that the Permanent Fund exists solely to provide dividends. Inflation-proofing, from this perspective, simply insures the purchasing integrity of future-year dividend checks. While some espouse this interpretation, others believe the Permanent Fund was established as some kind of ultimate fiscal or economic insurance policy for Alaska. When the Alaska public voted favorably to approve the establishment of the Permanent Fund in 1976, the dividend program was not yet even in existence. (The dividend program would not be created until the 1980 legislative session.) Thus, considerations of individual "reward" were not part of the voters' decision-making in establishing the Fund or in envisioning its intended purpose.

The divergence of current interpretations reveals both the need to clarify the Permanent Fund's purposes, as well as the wisdom of doing so before events such as the Prudhoe Bay production downturn or another world oil price collapse force a hurried, ill-considered decision. With Prudhoe Bay production projected to fall to two-thirds of today's level by 1995, the time for public debate about the Fund's purpose clearly is at hand. Almost any use of earnings other than the status quo will require statutory changes, requiring dialogue and a much deeper understanding of the Fund's intricacies than now exists.

revenues) over the next fifteen to twenty years. These trends are shown in Figures 1 and 2.

Figure 1

**PRINCIPAL END BALANCE IN REAL DOLLARS  
3% REAL RATE OF RETURN, MIDCASE REVENUES**

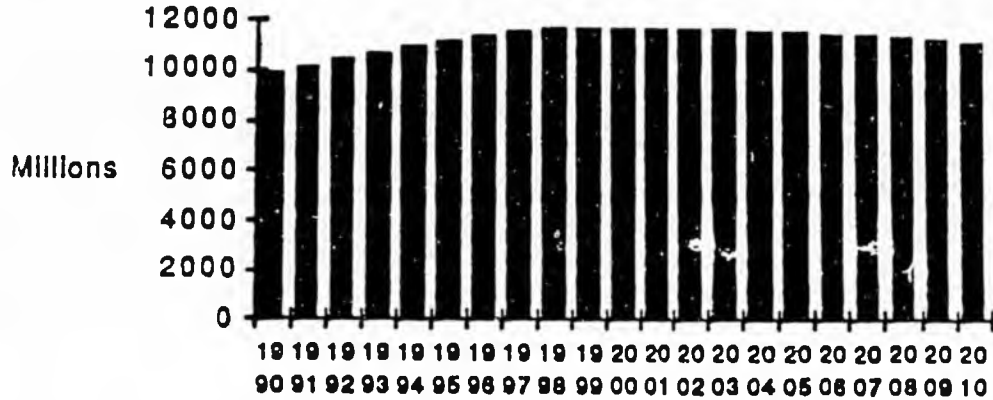
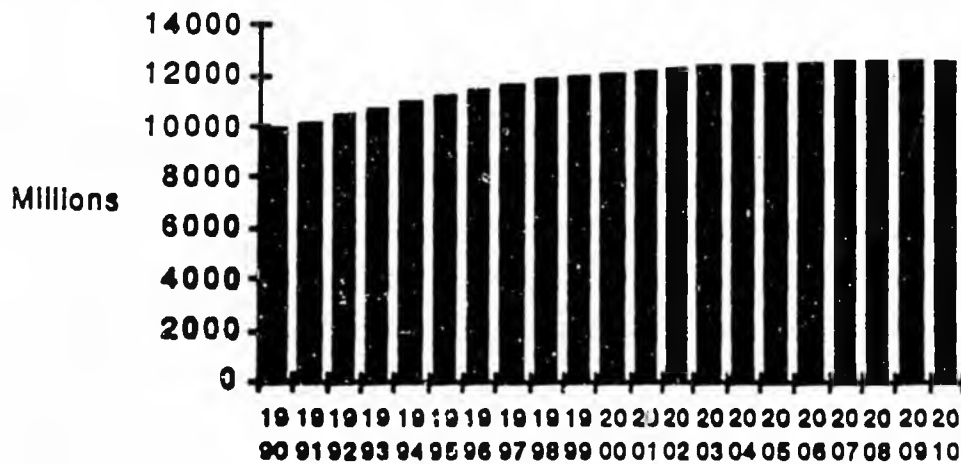


Figure 2

**PRINCIPAL END BALANCE IN REAL DOLLARS  
4% REAL RATE OF RETURN, MIDCASE REVENUES**



This expected slowdown in the Fund's growth begs the question of the Permanent Fund's ultimate purposes, including the use of its earnings. It also complicates the dynamics of discussions about the Fund, because people

Any appropriation of money from the Permanent Fund's earnings reserve account, or any establishment of additional uses for Permanent Fund earnings (e.g., to supplement general fund appropriations), will compound the existing competition for Fund earnings and accelerate the reserve account's depletion. This would result in larger inflation-proofing shortfalls, and reduce the real value of the Fund's principal unless there is a change in the priority placed on inflation-proofing vis-a-vis dividends or other uses of earnings, or a fundamental structural change, such as establishment of a payout rule for Fund management.<sup>4</sup>

The complexities of inflation-proofing cease to be an issue if a fundamentally different approach to earnings is taken. A new approach, under initial consideration by the Trustees, is to fix an annual payout, based on the total market value of the Fund and other considerations. Under this approach, the Fund would retain its annual earnings, both realized and unrealized gains and losses, minus a percentage equivalent to real growth over time. Put simply, the amount paid out is not more than the long-term real earnings of the Fund, thus protecting the principal over time. Similar strategies have been used by various endowment funds, such as the Harvard Endowment. This approach and any other proposals, such as that proposed in House Bill 249, which preserve the real value of the Fund over time deserve active consideration by policymakers.

### Investment Strategies

As dedicated revenues diminish, investment strategies, particularly "asset allocation" plans, chosen by the Corporation will become increasingly important in determining the health and ongoing power of the Permanent Fund. To date, the Trustees have been extremely conservative in their approach to diversification, with almost 80% of the portfolio in fixed income securities and very little in equities. As a result, the Fund's earnings performance has been adequate, but may not be in the future unless the investment strategy responds to changing financial markets.

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<sup>4</sup> Protecting the integrity of the Fund may be achieved through "a payout rule, developed at Harvard in the 1980s and since adopted in one form or another by various endowments and trusts. In its simplest form, a payout rule involves spending or "paying out" each year a percentage of the market value of the assets." Appendix C, *Final Report of the Commission on the Future of the Permanent Fund*, January 31, 1990, page 39.

any other uses of earnings. With the transition to more stocks in the portfolio, a basic management question will become balancing the need for current earnings versus growth in unrealized capital gains. The new asset allocation will probably generate a much more uneven cash flow than in the past. Thus, it may raise public concerns about short-term fund performance, as reflected in fluctuating dividend checks.

At this time, neither the Trustees nor the Legislature have set forth a policy about when to convert capital gains into realized returns. So far the Permanent Fund Corporation indicates it has resisted any pressures to increase realized earnings by selling securities that have an unrealized capital gain, except in appropriate market conditions. But an uneven cash flow and fluctuating dividend checks may tend to politicize fund management, especially at fiscal year-end.

The underlying policy question is the appropriate balancing of Fund benefits between current and future generations. Again, the lack of goals or priorities clearly defined in statute may well result in policy being set on a de facto basis. The lack of clear policy on conversion of capital gains into realized returns means that actual practice could change dramatically and inconsistently with legislative or gubernatorial desire, given a different Board of Trustees and/or staff.

## ***2. Fiscal & Statutory Issues***

### **Inflation-Proofing: More Dilemmas**

(1) **Statutory Schizophrenia:** The statutory inflation-proofing procedures hinder the goal of protecting the Fund's principal. The formula for inflation-proofing requires that the inflation-proofing deposits be taken out of each year's cash earnings. This cash mandate calls for the Corporation to invest in short-term fixed-income, interest-bearing instruments. These instruments provide lesser yield than would equities over time. Thus, ironically, the procedures currently used to meet inflation-proofing requirements contribute to lesser

wise to err on the side of assuming the constitution means what it says in Article IX, Section 13. Accordingly, this year the Governor's proposed FY91 budget amendments include language providing an appropriation from annual earnings for inflation-proofing. From FY83 through FY89, \$1,644 million was transferred "automatically."

A second, related inflation-proofing issue is that an appropriation is clearly required in cases where funds are transferred out of the earnings reserve account to avoid an inflation-proofing shortfall; *i.e.*, in cases where the dividend distribution leaves too little residual net income to fully inflation-proof the fund's principal.

(4) **Conflicting Statutes:** Current law seems to require full inflation-proofing each year, rather than as much inflation-proofing as possible. AS 37.13.145 says that an amount "sufficient" for inflation-proofing "shall be transferred" (*emphasis added*) each year from the Permanent Fund's net income to the fund's principal. It does not say that the amount transferred for inflation-proofing shall depend on the amount of net income remaining after the dividend distribution, or on the size of the cumulative balance in the fund's earnings reserve account.

Yet, AS 37.13.145 and AS 43.23.045(b) (the statute specifying the size of the annual dividend distribution), can conflict with each other because AS 43.23.045(b) can leave too little net income available after dividends for the inflation-proofing requirements of AS 37.13.145 to be met. AS 43.23.045(b) takes precedence because it states, "Notwithstanding contrary provisions of the law...." As described earlier, the first inflation-proofing shortfall could occur as early as this fiscal year.

Also, the statutes reflect differing timelines: income available for distribution is calculated on a five year basis, while inflation requirements are calculated on an annual basis, thus increasing the potential for eventual conflict between the two provisions.

difference between "net income" and "Income available for distribution." Also alternative ways of structuring the statutes could be explored so that the entire distribution of Fund earnings is not dependent on a changing and not publicly reviewed formula.

#### Unclear "Income" Definitions": Impact on the General Fund

First, the Alaska constitution requires that "All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law." But, the Corporation's calculations of "net income" do not include all income; instead, they exclude unrealized capital gains from securities. Thus, an argument can be made that current statute does not fully recognize "all income," and subsequently does not transfer to the general fund appropriate amounts.

Second, the Earnings Reserve Account may have received funds which actually belong to the General Fund - - potentially as much as \$335 million of the \$635 million FY89 ending balance. "Net income" is sometimes larger than "income available for distribution." Under the constitutional mandate and given the lack of a statutory disposition of the "net income" residual, it arguably should go to the General Fund. Instead, it has been retained in the earnings reserve account by the Corporation.

These possibly inappropriate allocations of earnings have resulted from the confusion arising over "net income" and "Income available for distribution." Inflation-proofing deposits are taken from "net income," leaving a residual. Dividend appropriations, however, are taken from "Income available for distribution," leaving a different residual. AS 37.13.145 then calls for the residual from "Income available for distribution" to be transferred to the earnings reserve account. But current statutes are silent on the disposition of any remaining net income. When "net income" is larger than "Income available for distribution," monies are left over.

This occurred in FY87, as follows:

million of interest earnings would go to the Permanent Fund, along with \$385 million in principal. The table below presents maximum distributions based on the "best of all possible worlds" outcomes for the state. Noteworthy is that interest earnings now rival the principal amount in both cases.

Maximum Possible Distributions to Permanent Fund of Dinkum Sands and North Slope Royalty-related Proceeds\*

Dinkum Sands

\$ 194,797,625	Bonuses	244,126,432	Bonus Interest
<u>990,991</u>	Rents	<u>1,167,879</u>	Rent Interest
\$ 195,788,616	Total Rents/Bonuses	245,294,311	Total Interest

North Slope Royalty Case

\$ 131,249,721	RIV Deficiencies	101,117,831	RIV Interest
<u>58,266,680</u>	RIK Deficiencies	<u>39,747,053</u>	RIK Interest
\$ 189,516,401	Total Deficiencies	140,864,884	Total Interest

		<u>Principal</u>	<u>Interest</u>
Dinkum Sands	\$	195,788,616	245,294,311
North Slope		<u>189,516,401</u>	<u>140,864,884</u>
Total	\$	385,305,017	386,159,195
<hr/>			
Total Permanent Fund Distributions	\$	771,464,212	

\* Dinkum Sands proceeds calculations based on Minerals Management Service data of 12/31/89; North Slope Royalty proceeds calculations based on estimated deficiencies plus interest as of 3/90; Hellen Partnow, and Condon.

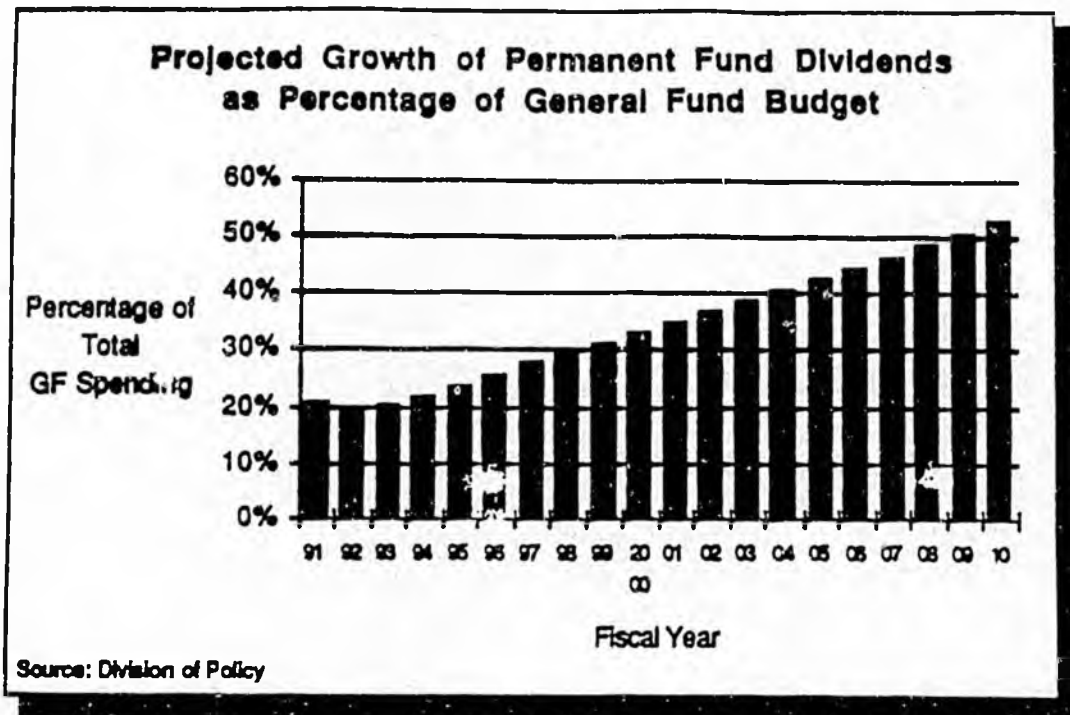
mineral lease rentals, royalties, royalty sale proceeds, certain net profit shares, and federal mineral revenue sharing payments from leases issued after December 1, 1979, and all bonuses received from mineral leases issued after February 15, 1980 to go to the Permanent Fund principal. This section was enacted in 1980, before Alaska court rulings on continuing appropriations, such as State v. Trustees for Alaska (Alaska 1982). On a first reading, the section appears to establish a dedicated fund, binds future legislatures, and effectively creates a continuing appropriation. That defect could be remedied by enacting a separate appropriation each time monies are received which would fall under the section. Without a companion appropriation, however, the section appears to be similar to AS 37.11.020 (requiring that not less than five percent of state mineral revenues be placed in the Alaska renewable resources development fund) which the Department of Law opined was unconstitutional. Nonetheless, in 1988, a transfer from the general fund was made of revenues received from a partial resolution of the Dinkum Sands case which included about \$80 million allocated to the Permanent Fund under AS 37.13.010(a)(2). Adding the following language to the FY91 and subsequent budgets would reaffirm the legislature's power of appropriation: "Amounts received by the state to which AS 37.13.010(a)(2) applies, shall be deposited into the principal of the Alaska permanent fund."

A similar situation occurs under AS 43.23.045, which calls for the annual earnings of any deposits received as a result of the North Slope Royalty case (formerly known as Amerada Hess) to be deposited back into the principal of the Fund. In order for this deposit to occur legally, a separate appropriation needs to be placed in the operating budget. As settlement monies were received in FY90, such language needs to be in the FY91 budget in order to cover the earnings at the end of FY90. The following language would be appropriate: "Interest earnings from deposits made to the Alaska permanent fund under AS 43.23.045 shall be deposited into the principal of the permanent fund."

#### **Dividends As A Percentage of Expenditures: Policy Considerations**

Appropriations for the Permanent Fund dividend program have been increasing steadily each year, as the table below shows:

Figure 3



Over time, dividends will account for an ever increasing percentage of state government expenditures, and, as a consequence, the competition between dividends and other public programs, already sensed by legislators, will become more explicit. Significantly from a policy perspective, the entire purchasing power of Permanent Fund earnings is now tied up in dividends. Any alternative use(s) of earnings, for whatever purpose, will impact the size of future dividends, both in nominal and real terms. The existence and size of the dividend program are also quite likely to complicate the probable future debate over re-establishment of an individual income tax. Some, undoubtedly, will debate with vigor that the re-imposition of a personal income tax is inappropriate, if not ludicrous, when the State is distributing about half a billion dollars annually in dividends. Others will see the dividend as insurance that any eventual income tax will probably be very progressive in nature.

**Dividends: Impacted by Earnings Reserve Account**

Though available for appropriation for any use under current law, the balance of the Permanent Fund's earnings reserve account (ERA) also is regarded as a

**policymakers without resources to provide for inflation-proofing in the case of a shortfall, unless they are willing to make inflation-proofing the first priority.**

### **Dividends: Economic Impact**

One of the most universally accepted "truths" in Alaska economics, but one that seems to rest on a very narrow base of empirical evidence, is that Permanent Fund dividends provide a substantial stimulus to Alaska's economy.

Establishing the veracity of this claim is a surprisingly difficult task, and has not been rigorously undertaken to date. Two factors, in particular, need to be evaluated before basing future policy decisions on this conclusion.

First, there does not exist, as many may suppose, a large body of research findings directly addressing this issue. To date, only a single study (thrice revised) exists, conducted by the University of Alaska's Institute for Social and Economic Research. Secondly, many of the economic benefits that result from the expenditure of dividend money are exported directly to other states in the form of profits, and have their ripple effects outside instead of within the Alaska economy. In spite of much anecdotal evidence that dividend money is "exported" in many cases, no study to date has addressed this issue directly, or measured the proportion of the dividend's economic benefits that occur outside of Alaska.

In view of these factors, it would seem especially prudent to establish the dividend program's in-state economic impact more carefully before accepting it as a given and basing future policy decisions on it.

### **Budgetary Use Of Permanent Fund Earnings**

While the debate continues about whether or how to use Permanent Fund earnings differently from the present statutory allocation scheme, the annual use of the Fund's earnings already has reached significant levels.

### 3. Management Issues

#### Lack Of Oversight Of The Permanent Fund

Neither the executive branch nor the legislative branch of Alaska state government has institutionalized or possesses an adequate capacity for consistent oversight of the Permanent Fund; *i.e.*, the financial expertise to understand or assess activity occurring in large capacity investment functions. The trustees have called for outside audits and performance reports; these, however, seldom receive sustained or thorough attention by the legislative branch.<sup>7</sup> One minor remedy would be the widespread distribution of performance reports, such as those recently made by Callan Associates.

This lack of a detailed understanding of portfolio management concepts, market dynamics and realty investments, effectively means that little knowledgeable external review of Permanent Fund operations occurs. Such a situation creates an almost tangible jeopardy regarding public accountability for the Fund. This is especially noteworthy in view of the fact that many Alaskans, in one way or another, are implicitly counting on the Permanent Fund as Alaska's future fiscal security. At a minimum, regular oversight hearings on key topics would keep policymakers familiar with fund basics. Legislators spend hundreds and hundreds of hours on the expenditure of \$2 billion, but comparatively little time on the management of \$10 billion. The scrutiny brought to bear on the state's budget could be applied productively to Fund policies.

The Corporation's investment strategies, for example, may significantly alter the continuity and size of earnings which, in turn, could dramatically affect the state's fiscal policies and the legislature's choices in the future. With the current statutory vagueness, much is left to the discretion of the Corporation staff. The practices, so far largely beneficial to preservation and improvement of the Fund's principal, could change dramatically with a different Board and/or staff, and without legislative awareness of the changes. But legislators and the

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<sup>7</sup> For more detail, see *Alaska's Permanent Fund: Legislative History, Intent, and Operations*, Alaska Senate Rural Research Agency, January 1986, pp. 105-106, 143-144.

and for making major fiscal policy decisions, especially during legislative sessions.

The Corporation's model also possesses some significant technical flaws that should be reviewed and corrected. They include but are not limited to the following:

- the lack of a link in the model between national inflation rates and the projected amounts of dedicated oil revenue deposits to the Fund (such that when future inflation rate assumptions in the model are changed, which in reality would change the flow of oil revenue to the State, the model's projected amount of dedicated oil revenue expected to be deposited annually into the Fund in the future does not change);
- a fundamental ambiguity about whether realized capital gains are included or excluded in the model's projections of future net income.<sup>11</sup>
- the use of two conflicting inflation factors, 4.5% for the dedicated revenue stream and 6% for fund earnings. Either the projections understate revenues, or overstate nominal earnings. A single inflation factor should be used, preferably that provided by the Dept. of Revenue so that general fund revenue projections are comparable to Permanent Fund earnings projections.

As the fiscal importance of the Permanent Fund performance increases in the future, policymakers would be well advised to establish a performance forecasting process rather than relying on a limited, mechanically driven technique.

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<sup>11</sup> The Permanent Fund Corporation has traditionally taken the position that their projections exclude any estimate of realized capital gains, due to the difficulty of predicting complex market movements and managers' reactions to those movements. If the Corporation's future income projections are based on the Trustees' formally stated performance goal of a three percent real (inflation-adjusted) average annual rate of return, which the Corporation confirms, however, then realized capital gains (like all other forms of future income) are included in that three percent. This question is still unresolved by the Corporation.

## Appendix A

### Unclear "Income" Definitions: Impact on Inflation-Proofing and on Earnings Reserve Account

The statutory definitions of the dividend amount and the inflation-proofing amount are inconsistent and confusing, and the cash flows they imply are not reflected in current Permanent Fund Corporation accounting practice.

#### (1) Impact on Inflation-Proofing

The dividend amount is defined in terms of "Income available for distribution" (AS 43.23.045(b)), whereas the inflation-proofing amount is defined in terms of "net income" (AS 37.13.145). Since these two terms refer to different quantities, interpretation of the annual cash flows from income allocations as outlined in statute is problematic. For example, based on the December 31, 1989 Corporation earnings estimates for FY91 through FY95, the money available for inflation-proofing varies considerably if the statute is applied literally. Using the following abbreviations

NI	=	Net Income
IAFD	=	Income Available For Distribution
PFD	=	Permanent Fund Dividend
IP	=	Inflation-Proofing

the calculations would be:

#### STEP ONE: Calculation of Net Income For Five-Year Period

Yr/NI	
FY91	937
FY92	1,057
FY93	1,131
FY94	1,209
<u>FY95</u>	<u>1,291</u>
Total	5,625

(2) Impact on Earnings Reserve Account

The wording of AS 37.13.140 and AS 37.13.145 may have led to inappropriate deposits in the Earnings Reserve Account. Again, this possibility arises because of the confusing usage of the terms "Income", "net income" and "Income available for distribution" in the two statutes referenced above. The following example, using the last five years of Permanent Fund earnings, illustrates the problem of identifying the amount of money that goes to the earnings reserve account under AS 37.13.145:

Again, the following abbreviations apply:

- NI = Net Income
- IAFD = Income Available For Distribution
- PFD = Permanent Fund Dividend
- IP = Inflation-Proofing

Step One: Calculation of Net Income

FY/NI	
FY 85	658
FY 86	1,021
FY 87	1,069
FY 88	789
<u>FY 89</u>	<u>868</u>
Total:	4,405

STEP TWO: Calculation of Income Available for Distribution (AS 37.13.140)

$$\text{IAFD}_{\text{FY89}} = .21 \times \text{Total NI} = .21 \times 4,405 = 925.05$$

STEP THREE: Calculation of Dividend Amount (AS 43.23.045(b))

$$\text{PFD}_{\text{FY89}} = .50 \times \text{IAFD} = .50 \times 925.05 = 462.525$$

By **Mary Halloran** and **Jack Fagnoli**. With help from **Jetta Whittaker**, **Brad Pierce**, **Jack Kreinheder**, and **Steve Cole**.

And thanks to all those who reviewed the work or otherwise provided comments, including **Marla Berg**, staff to **Senator Adams**; **Peter Bushre**, **Alaska Permanent Fund Corporation**; **Scott Goldsmith**, **ISER**; **Mike Greany**, **Director, Legislative Finance**; **Gordon Harrison**, **Director, Legislative Research**; **Jay Hogan**, staff to **Representative Larson**; **Representative Steve Rieger**; **Jim Rhode**, **Special Assistant, Dept. of Revenue**; **Robert Newton**; **Jerry Schilz**, staff to **Representative Grussendorf**; **Randy Welker**, **Legislative Auditor**; and **Permanent Fund Trustees Hugh Malone** and **Byron Mallott**.

## Educational endowment

The Governor's proposed education endowment engendered lengthy comment and healthy debate before the Commission. People discussed the issues of the Permanent Fund's role, government spending in general, and specifically the level and method of funding education. This issue is now before the Legislature and this appears to be the appropriate forum for deciding upon any proposal to be placed before the voters.

Recommendation: The Commission forwards no specific recommendation on the proposed educational endowment.

## Clean up the statutory language

The Legislature should re-examine all of the current statutes involving the Permanent Fund for consistency and clarity. A clear and precise definition and method of calculating net income should be adopted (in the absence of the adoption of a payout method). There appears to be less than precise use of the terms "fund", "principal", and "Corporation".

For example, A.S. 37.13.010(a) discusses the Permanent Fund and is generally cited as the statutory definition of the principal of the Fund. It is often stated that the balance in the earnings reserve account (ERA) is not part of the principal. However, a reading of A.S. 37.13.010(a)(3) and 37.13.145 "allocates" the ERA which is "in the Alaska Permanent Fund". If the ERA is not part of the "fund", i.e. principal, why are the earnings from the ERA used to calculate dividends? Also A.S. 37.13.140 addresses "net income of the corporation" and A.S. 37.13.040 discusses the "assets of the corporation", while neither of these phrases is defined.

Recommendation: The ambiguities in the existing statutes regarding the Permanent Fund should be clarified.

income for the Fund over time and, hence, lesser principal. The current inflation-proofing procedure (converting investments into cash which can then be deposited into the principal) may actually be robbing the Fund of real growth over time.

**(2) Maximizing Deposits:** In the past, the Corporation has calculated annual inflation-proofing requirements so as to produce the maximum possible deposit for inflation-proofing each year. The Corporation assumes that the dedicated mineral revenue deposits are included in the fund's principal for the entire fiscal year, when in fact dedicated revenue deposits into the Fund occur continuously throughout the year, and their actual inflation-proofing requirements are less than the inflation-proofing deposits made. With the statute silent on this point, the Corporation has chosen an approach unusual by accounting practices, but designed to produce maximum contributions to the fund's principal. The Corporation sought legislative approval for this approach through Legislative Budget and Audit, albeit after the fact. After one unsuccessful attempt (October 24, 1983 meeting, where action was tabled), Legislative Budget and Audit approved the methodology at its January 12, 1984 meeting. But it remains a matter of policy, not statute nor regulation, and with a different Board of Trustees or Corporation staff, the outcome could be different.

**(3) Inflation-proofing Transfers:** Inflation-proofing transfers used to occur automatically under AS 37.13.145, but arguably require an appropriation. In an April 11, 1979 memorandum, the Dept. of Law examined the clause concerning disposition of permanent fund income: "all income from the permanent fund shall be deposited in the general fund unless otherwise provided by law." and concluded that the clause does not exempt the fund's income from the prohibition against dedicated funds. Further, the constitution provides that "No money shall be withdrawn from the treasury except in accordance with appropriations made by law" (Art. IX, Sec. 13). Furthermore, the Alaska courts have subsequently ruled that continuing appropriations are not constitutional. The counter argument is that the statutory dedication is arguably required to achieve the basic goal for which the fund was established, i.e. provide permanence, and hence is allowable. If that argument were carried to its logical conclusion, however, then inflation-proofing would be automatically the first priority for Fund earnings, which it clearly is not. If there is ambiguity, it seems

Net Income of \$1.069 billion, minus Permanent Fund Dividends (PFD) of \$391 million, minus Inflation-Proofing of \$148 million, leaves a Net Income residual of \$530 million.

Income Available for Distribution of \$787 million, minus PFD of \$391 million, minus Inflation-Proofing of \$148 million,<sup>6</sup> leaves an Income Available for Distribution residual of \$248 million.

The difference between the two residuals is \$282 million, which has since earned interest of about \$54 million, for a total of about \$335 million.

The statute calls for only the residual from "income available for distribution" to be transferred to the earnings reserve account, or \$248 million. Instead, the entire "net income" residual of \$530 million was retained in the earnings reserve account. The statutory confusion has resulted in the disposition of over \$300 million taking place without due legislative consideration. The policy consequences are to increase the size of the dividend and keep money out of the general fund which should be there as a matter of constitutional requirement. A clarification of the statute is warranted to establish legislative intent.

#### Treatment of Royalty Litigation Interest Earnings - - 8(g) or Dinkum Sands and North Slope Royalty Funds

When funds placed in escrow during royalty litigation generate interest earnings, should the interest that eventually goes to the Permanent Fund be treated upon receipt by the Corporation as principal or as earnings? If the latter, the money representing the interest component would be distributable and available for appropriation. As oil revenues dwindle in the future, the availability or non-availability of royalty litigation interest earnings will have significant fiscal and possible program implications for the state. Legal proceeds from both the North Slope Royalty and Dinkum Sands cases may be large, as much as \$2.3 billion. Of that combined total, approximately \$386

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<sup>6</sup> The statutes do not speak to subtracting Inflation-Proofing from Income Available for Distribution, but from Net Income. The practice, however, is as represented in the example. If one relies solely on the statutory construction, the numbers never add up.

million of interest earnings would go to the Permanent Fund, along with \$385 million in principal. The table below presents maximum distributions based on the "best of all possible worlds" outcomes for the state. Noteworthy is that interest earnings now rival the principal amount in both cases.

Maximum Possible Distributions to Permanent Fund of Dinkum Sands and North Slope Royalty-related Proceeds \*

Dinkum Sands

\$ 194,797,625	Bonuses	244,126,432	Bonus Interest
<u>990,991</u>	Rents	<u>1,167,879</u>	Rent Interest
\$ 195,788,616	Total Rents/Bonuses	245,294,311	Total Interest

North Slope Royalty Case

\$ 131,249,721	RIV Deficiencies	101,117,831	RIV Interest
<u>58,266,680</u>	RIK Deficiencies	<u>39,747,053</u>	RIK Interest
\$ 189,516,401	Total Deficiencies	140,864,884	Total Interest

		<u>Principal</u>	<u>Interest</u>
Dinkum Sands	\$	195,788,616	245,294,311
North Slope		<u>189,516,401</u>	<u>140,864,884</u>
Total	\$	385,305,017	386,159,195
<hr/>			
Total Permanent Fund Distributions	\$	771,464,212	

\* Dinkum Sands proceeds calculations based on Minerals Management Service data of 12/31/89; North Slope Royalty proceeds calculations based on estimated deficiencies plus interest as of 3/90; Hellen Partnow, and Condon.

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1 for distribution under AS 37.13.140. [HOWEVER, INCOME EARNED ON MONEY  
2 AWARDED AFTER TRIAL IN STATE V. AMERADA HESS, ET AL., 1JU-77-847 CIV.  
3 (SUPERIOR COURT, FIRST JUDICIAL DISTRICT) SHALL BE TREATED IN THE SAME  
4 MANNER AS OTHER INCOME OF THE ALASKA PERMANENT FUND, EXCEPT THAT  
5 IT IS NOT AVAILABLE FOR DISTRIBUTION TO THE DIVIDEND FUND, AND SHALL  
6 BE ANNUALLY DEPOSITED INTO THE PRINCIPAL OF THE ALASKA PERMANENT  
7 FUND.]

8 \* Sec. 3. AS 43.23.045 is amended by adding a new subsection to read:

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

16 \* Sec. 4. AS 43.23.045(e), added by sec. 3 of this Act, is repealed on the day that the revisor of  
17 statutes certifies to the legislature that the Alaska Supreme Court has made a final determination that,  
18 in the absence of AS 43.23.045(e), added by sec. 3 of this Act, no judge or juror is disqualified from  
19 serving as judge or juror solely because the judge or juror may qualify to receive a permanent fund  
20 dividend.

21 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).