

SB 38

SENATE FINANCE COMMITTEE REPORT

DATE: 5/6/91

FURTHER:

DATE TURNED INTO OFFICE: 5-13-91

The Finance Committee considered SENATE BILL NO. 39

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

and recommended:

[x] replace with CS SB 39 (R10)
[] or adopt CS

[x] same title
[] new title
[] technical title change (HB only)

[] attached amendment(s)
[] letter of intent adopted

[x] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to

ATTACHES NEW FISCAL NOTE(S): Dept/Date:

[] fiscal note(s)

[] zero fiscal note(s)

[] appropriation-no fiscal note

APPROVES PREVIOUS:

Dept/Date:

[x] fiscal note(s)

[x] zero fiscal note(s)
DWR 2-8-91
Al. Perm Fund 1-31-91

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Handwritten signatures of committee members.

Handwritten signature and recommendation: Bill... do pass

STATE OF ALASKA
1991 LEGISLATIVE SESSION

Bill Version: SB 39
(S) Publish Date: 2-13-91

Revision Date: _____ Department Affected: AK Permanent Fund Corporation
Title: An Act relating to the permanent fund and the Alaska Permanent Fund Corporation BRU: AK Permanent Fund Corporation
Component: #109 AK Permanent Fund Corporation
Sponsor: Senator Pourchot
Requestor: _____ COMPONENT SERIAL NO.

0	1	0	9
---	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: -0-

ANALY: Changes in <u>CS 9B39</u> (Jud) have no fiscal impact. This fiscal note is appropriate. <u>Mar 6, 91</u> date <u>DBail</u> Comte Aide (initial)	Changes in <u>CS 9B39</u> (LAC) have no fiscal impact. This fiscal note is appropriate.
---	---

Prepared By: Jim Kelly, Research & Liaison Officer Phone: 907/465-2047
Division: AK Permanent Fund Corporation Date: 1/31/91
Approved by Commissioner: [Signature]
Agency: Alaska Permanent Fund Corporation Date: 1/31/91

Distribution (by _____) Sponsor, Requestor, OMB, & Impacted Agency(ies).

Rev 10/90

Changes in CS 9B39 (FW) have no fiscal impact. This fiscal note is appropriate.

Page 1 of 1

5-13-91 date WJ Comte Aide (initial)

**STATE OF ALASKA
1991 LEGISLATIVE SESSION**

No. 2
Bill Version: SB 39
(S) Publish Date: 2-31-91

BILL NO

Revision Date: 8-Feb-91 Department Affected: Natural Resources
 Title: Permanent Fund Technical BRU: Management & Administration
 Revision: _____ Components: Administrative Services
 Sponsor: Senator Pourchot
 Requestor: Senate Labor & Commerce COMPONENT SERIAL NO. 424

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact:

Changes in <u>CS SB 39</u> <u>8 Feb 91</u> have no fiscal impact. This fiscal note is appropriate. <u>Mar 6, 91</u> date <u>OP</u> Comte Aide (initial)	Changes in <u>CS SB 39</u> <u>(LWC)</u> have no fiscal impact. This fiscal note is appropriate.
--	---

Prepared by: Sharon Barton Phone: 465-2400
 Division: Management and Administration Date: 8-Feb-91
 Approved by Commissioner: Harold Heinz Date: 8-Feb-91
 Agency: Department of Natural Resources

Distribution: _____

REV 1090 Changes in CS SB 39 (FIN) have no fiscal impact. This fiscal note is appropriate.
5-13-91 date WSP Comte Aide (initial)

CS FOR SENATE BILL NO. 39 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR POURCHOT

A BILL

FOR AN ACT ENTITLED

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

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

4 * Section 1. AS 37.13.010(a) is amended to read:

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.

5 * Sec. 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 the fund on the day the amount due to the fund reaches at least \$5,000,000 and at least once
8 each month.

9 * Sec. 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. 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. 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

1 other funds designated by law [CORPORATION] in accordance with this chapter.

2 * Sec. 6. AS 37.13.110(b) is amended to read:

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

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

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.

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

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. 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. 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. 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 * 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 * 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 * 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. However, income earned on money awarded after trial in
26 State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District) shall be
27 treated in the same manner as other income of the permanent fund, except that it is not available
28 for distribution to the dividend fund, and shall be annually deposited into the principal of the
29 permanent fund.

30 (c) After the transfer under (b) of this section, the corporation shall transfer from the
31 earnings reserve account to the principal of the fund an amount sufficient to offset the effect of

1 inflation on principal of the fund during that fiscal year. The corporation shall calculate the
2 amount to transfer to the principal under this subsection by

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

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

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

9 * Sec. 19. AS 37.13.150 is amended to read:

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

15 * Sec. 20. AS 37.13.160 is amended to read:

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

19 * Sec. 21. AS 37.13.170 is amended to read:

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

1 fund [CORPORATION] shall be published in at least one newspaper in each judicial district. The
2 income statement and balance sheet for the two fiscal years preceding the publication of the
3 election pamphlet under AS 15.58 shall be included in that pamphlet.

4 * Sec. 22. AS 37.13.180 is amended to read:

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

9 * Sec. 23. AS 37.13.190 is amended to read:

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

12 * Sec. 24. AS 37.13.210 is amended by adding a new paragraph to read:

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

15 * Sec. 25. AS 43.23.025(a) is amended to read:

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

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

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

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

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

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

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

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

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

5 * Sec. 26. AS 43.23.045(b) is repealed.

6 * Sec. 27. This Act takes effect July 1, 1991.

Alaska State Legislature

Sen. Pat Pourchot, Co-Chairman
Sen. Jay Kerttula, Co-Chairman

Sen. Al Adams
Sen. Jim Duncan
Sen. Lyman F. Hoffman
Sen. Dick Shultz
Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate Finance Committee

Proposed Finance Amendments to CSSB 39(JUD)

Legislative Budget and Audit has reviewed SB39 and offered three suggestions. The sponsor considers two of the three suggestions to be friendly amendments and has drafted the attached amendment to accommodate their inclusion in a Finance CS. The third suggestion would change the method of inflation-proofing from that which is currently used by the Permanent Fund Corporation, resulting in less growth of the principal. The sponsor does not accept this suggestion.

Briefly, the amendment does two things. First, the changes to page 2, lines 1 and 2 will clarify that the intent of Section 1 is to permanently establish the policy that interest earnings on amounts due the state go to permanent fund principal rather than income. The current language may be incorrectly interpreted to mean that interest earned by the state after the receipt of such money but before deposit in the permanent fund is to be deposited in the permanent fund.

Second, the amendment to page 8, lines 26 and 27 will replace a general requirement for collateral that was inadvertently eliminated in the original bill.



MITT & Jay

Alaska Permanent Fund Corporation

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

(907) 465-2047

MEMORANDUM

DATE: February 20, 1991

TO: Representative Ron Larson
Chairman, Legislative Budget & Audit Committee

FROM: David A. Rose *DR*
Executive Director

SUBJECT: Proposed Amendments to CS SB 39 (L&C)

I have reviewed your letter dated February 15 and the attached memorandum regarding CS SB 39 (L&C). I have no objection to the two proposed amendments. I do not agree, however, with Mr. Barker's comment that the current method of inflation-proofing over-compensates for inflation.

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,⁶ 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

⁶ 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.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CSSB 39

Revision Date: May 10, 1991
Title: Alaska Permanent Fund Corporation Technical Re-
vision
Sponsor: Pourchot
Requestor: _____

Department Affected: Revenue
BRU: Revenue Operations
Component: Treasury

Component Serial No.

	1	2	1
--	---	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	10.0	10.0	10.0	10.0	10.0	10.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	10.0	10.0	10.0	10.0	10.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE	(1,765.0)	(1,765.0)	(1,765.0)	(1,765.0)	(1,765.0)	(1,765.0)
---------	-----------	-----------	-----------	-----------	-----------	-----------

FUNDING: (Thousands of Dollars)

GENERAL FUND	1,775.0	1,775.0	1,775.0	1,775.0	1,775.0	1,775.0
FEDERAL FUNDS						
OTHER						
TOTAL	1,775.0	1,775.0	1,775.0	1,775.0	1,775.0	1,775.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: Loss of general fund unrestricted investment earnings of \$1,765.0 plus personal service costs of \$10.0 to separately administer and account for the funds and earnings while in transit to Permanent Fund Corporation.

Prepared by: Brian C. Andrews Phone: 465-2350
Division: Treasury Division Date: May 10, 1991
Approved by Commissioner: [Signature]
Agency: Revenue

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

Rev 10/90

Page 1 of 3

Disregard. If new CS(Fin) is adopted, this note does not apply.

Analysis of Bill/Program Effects - CSSB 39

The Department of Revenue views the operational problems and fiscal impact associated with amendment 37.13.010 (a)(3) with concern. This amendment requires the State to calculate and pay interest on contributions due the Permanent Fund while they reside in the State's General Fund. Current statute allows the State's Departments of Natural Resources (DNR) and Revenue up to 30 days to account for and distribute royalty and other revenue due to the Permanent Fund. It takes the DNR approximately 10 to 15 days to calculate the correct percentage of revenues due the Permanent Fund from the State's various mineral leases and bonuses. Because the Permanent Fund's revenues are commingled with other General Fund revenues, it would be a very difficult job to determine what proportion of earnings on these amounts would belong to the Permanent Fund.

From May of 1990 through April of 1991, Treasury transferred, at the request of DNR, to the Permanent Fund a total of \$353.034 million. The annual amount of \$353.034 million divided by 12 equals an average monthly disbursement of \$29.420 million. This monthly amount is in the General Fund for approximately three weeks or 75% of the time before it is disbursed. 75% of \$29.420 million is \$22.065 million. Annualized earning calculated at 8% on \$22.065 million is \$1.765 million. Approximately \$1.765 million annually would be lost from the unrestricted investment revenue flow of the State's General Fund.