

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 827

SB37

SENATE FINANCE COMMITTEE REPORT

DATE: 5/3/91

FURTHER:

DATE TURNED INTO OFFICE: 5/15/91

The Finance Committee considered SSSB 37

"An Act relating to food and housing for construction workers at remote construction sites on certain state construction projects; and providing for an effective date."

and recommended:

- replace with CS SSB 37 (FIN) same title
- or adopt CS _____ new title
- attached amendment(s) technical title change (HB only)
- _____ letter of intent adopted

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:

fiscal note(s) DOTPF 4-29-91

zero fiscal note(s) _____

SIGNING DO PASS:

[Signature]

[Signature]

[Signature]

[Signature]

OTHER RECOMMENDATIONS:

Al Adams - Do Not Pass

Lynn Hyman - Do Not Pass

[Signature] NO Rec

1. [Signature] 2. [Signature]
Co-Chairs: Signatures and Recommendations

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL

FISCAL NOTE

Revision Date: April 29, 1991 Department Affected: DOT&PF
 Title: An Act relating to food and housing for construction workers at remote construction sites on certain state construction projects; and providing for an effective date. BRU: Statewide Engineering & Operations Standards
 Sponsor: Menard, Rodey, Collins Component: Eng. & Oper. Standards
 Requestor: Menard Component Serial Number: 547

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY92	FY93	FY94	FY95	FY96	FY97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	3.0	0	0	0	0	0
CONTRACTUAL	15.0	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:	18.0	0	0	0	0	0
CAPITAL	400.0	400.0	400.0	400.0	400.0	400.0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	418.0	400.0	400.0	400.0	400.0	400.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	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: None.

ANALYSIS: (Attach a separate page if necessary)

Changes in C555B37 (Fix) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.
5-15-91 date bl Comte Aide (initial)

Prepared by: Jeffery C. Ottesen, Director

Phone: 465-2951

Division: Engineering and Operations Standards

Date: April 29, 1991

Approved by Commissioner: Frank G. Turpin

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: April 29, 1991

Distribution By Preparer: Legislative Finance, Legislative Sponsor, Requestor, OMB, Impacted Agency(ies).

**STATE OF ALASKA
1991 LEGISLATIVE SESSION**

BILL NUMBER: CSSSB 37 (245)

ANALYSIS (cont. from page 1):**Regulations**

There will be approximately \$18.0 in one-time administrative costs in FY 1992 due to the costs of implement regulations; these funds will be used for legal support, advertising, public hearings and travel to public hearings. Of this amount, \$15.0 is for contractual items (legal costs \$12.0, transcriptions \$2.0, advertising \$1.0) and \$3.0 is for travel and per diem to meetings.

Operating Costs

Administrative costs of establishing new contract specifications and having them reviewed by the Attorney General's office, regional staff and federal agencies will be borne by existing operating budgets.

Opportunity Costs: Federal-Aid Capital Programs

While not a new cost requiring an appropriation the bill has the effect of raising costs on certain federal-aid highway and aviation projects and thereby reducing buying power. This cost is essentially an opportunity cost to the program. It is estimated at \$2.0 to 3.0 million annually and will result in the delay of some projects as the schedule for highway and airport improvements will stretch out accordingly. It does appear as a cost on the fiscal note.

Capital Costs: General Funded Capital Programs

For the GF capital budget, we assumed that, on average, about \$4 million dollars of general funded construction would be defined as "remote" each year, and that the cost of a camp would contribute about 10% additional expense to these projects. This amount would vary with the size of the state's capital budget and the portion of the budget that is allocated to remote projects.

Final

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 37 (FINANCE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATORS MENARD, Rodey, Collins

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to food and housing for construction workers at remote construction sites
2 on certain state highway and airport construction projects; and providing for an effective
3 date."

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

5 * Section 1. AS 36.90 is amended by adding a new section to read:

6 Sec. 36.90.110. FOOD AND HOUSING AT REMOTE STATE CONSTRUCTION
7 SITES. (a) Except as provided in (b) and (c) of this section, the state shall require that a
8 contractor provide food and housing to an employee of the contractor working on a state highway
9 or airport construction project at a remote construction site. The contractor may not consider the
10 cost of the food and housing in setting wages for the employee or in meeting wage requirements
11 under AS 23.10.065 or AS 36.05.

12 (b) Before the award of a state highway or airport construction contract, the state shall
13 estimate the length of active, on-site workdays required to complete the project, and the number
14 of contractor employees required at peak employment periods. If the estimate indicates that the

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1 project will require fewer than 60 continuous calendar days of active on-site work or fewer than
2 15 contractor employees at peak employment periods, the project is exempt from the requirement
3 to provide food and housing set out in (a) of this section.

4 (c) A contractor who provides adequate transportation to employees is exempt from the
5 requirement to provide food and housing set out in (a) of this section for those employees for
6 whom the transportation is provided. Transportation is adequate under this subsection if it

7 (1) transports the employee from the departure point to the work site in 60
8 minutes or less or if the employer pays wages to the employee for time spent travelling to the
9 work site in excess of 60 minutes; return transportation shall be provided on the same basis;

10 (2) is available each workday at times reasonably close to the beginning and
11 ending of each work shift;

12 (3) begins from and returns to a departure point that is central to either a location
13 where commercially available food and lodging establishments exist or which is the domicile of
14 the employee; and

15 (4) meets applicable transportation safety standards.

16 (d) Unless a state construction contract for highway or airport construction is exempt
17 under (b) or (c) of this section, the specifications for the contract must contain a provision setting
18 out the requirement for providing food and housing at remote construction sites and the optional
19 provisions for transportation services. When this provision is required in a contract, the contract
20 must designate the site and include relevant permits for the housing.

21 (e) The Department of Transportation and Public Facilities shall implement this section
22 by regulation.

23 (f) In this section,

24 (1) "airport" means an area of land or water that is used or intended for use for
25 the landing and take-off, movement, or parking of aircraft, and the appurtenant areas that are used
26 or intended for use for airport buildings or other airport facilities or rights-of-way, together with
27 airport buildings and facilities located at the location;

28 (2) "domicile" means the principal place of residence of an individual during the
29 90 days before employment on the state construction project;

30 (3) "highway" includes a primary or secondary highway, road, street, trail, walk,
31 bridge, tunnel, drainage structure and other similar or related structure or facility, and

1 right-of-way thereof, and further includes a ferry system, whether operated solely inside the state
2 or to connect with a Canadian highway, and any related facility;

3 (4) "remote" means a work site that is either more than 50 road miles from or
4 inaccessible by two-wheel drive vehicles from a location that has commercial food and lodging
5 establishments adequate to accommodate the work force of the state construction project;

6 (5) "state construction" means the on-site field surveying, erection, rehabilitation,
7 alteration, extension, or repair, including painting or redecorating, of buildings, highways, or
8 other improvements to real property, under contract for the state.

9 * Sec. 2. This Act does not apply to a contract for a state highway or airport construction project that
10 was entered into before September 1, 1991.

11 * Sec. 3. This Act takes effect September 1, 1991.

5/14/91 em
AA mixed; w/d

WORK DRAFT

WORK DRAFT

WORK DRAFT

7-LS0373P
Cramer
5/11/91

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 37 ()

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS MENARD, Rodey, Collins

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to food and housing for construction workers at remote construction sites
2 on certain ^{high & airport} state construction projects; permitting waiver of the requirement to provide food
3 and housing or transportation and establishing an employment preference for those who
4 waive the requirement; and providing for an effective date."

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

6 * Section 1. FINDINGS. The legislature finds that

7 (1) the requirements that contractors provide food, housing and transportation to workers
8 on remote state construction contracts will increase the cost of state construction projects;

9 (2) it is in the state's best interest, to the extent possible, to reduce the cost of state
10 construction while meeting other public policy goals;

11 (3) employees at remote state construction projects should have food and housing
12 provided for them unless they are able to obtain them for themselves;

13 (4) those employees who waive the requirement that food, housing, and transportation
14 be provided under a state construction contract reduce the cost of state construction;

1 (5) those employees should be able to share in the advantage to the state that the waiver
2 brings and therefore an employment preference is appropriate.

3 * Sec. 2. AS 36.90 is amended by adding a new section to read:

4 Sec. 36.90.110. FOOD AND HOUSING AT REMOTE STATE CONSTRUCTION
5 SITES. (a) Except as provided in (b) - (d) of this section, the state shall require that a
6 contractor provide food and housing to an employee of the contractor working on a state
7 construction project at a remote construction site. The contractor may not consider the cost of
8 the food and housing in setting wages for the employee or in meeting wage requirements under
9 AS 23.10.065 or AS 36.05 or in determining gross weekly earnings under AS 23.30.220.

10 (b) Before the award of a state construction contract, the state shall estimate the length
11 of active, on-site workdays required to complete the project, and the number of contractor
12 employees required at peak employment periods. If the estimate indicates that the project will
13 require fewer than 60 continuous calendar days of active on-site work or fewer than 15 contractor
14 employees at peak employment periods, the project is exempt from the requirement to provide
15 food and housing set out in (a) of this section.

16 (c) A contractor who provides adequate transportation to employees is exempt from the
17 requirement to provide food and housing set out in (a) of this section for those employees for
18 whom the transportation is provided. Transportation is adequate under this subsection if it

19 (1) transports the employee from the departure point to the work site in 60
20 minutes or less or if the employer pays wages to the employee for time spent travelling to the
21 work site in excess of 60 minutes; return transportation shall be provided on the same basis;

22 (2) is available each workday at times reasonably close to the beginning and
23 ending of each work shift;

24 (3) begins from and returns to a departure point that is central to either a location
25 where commercially available food and lodging establishments exist or which is the domicile of
26 the employee; and

27 (4) meets applicable transportation safety standards.

28 (d) An applicant for employment or an employee may waive the requirements of this
29 section to provide food, housing, and transportation on a state construction project. The waiver
30 must be in writing and signed by the applicant or employee. The waiver may not be revoked.

31 An applicant or employee who waives the requirements of this section is entitled to an

1 employment preference on the project.

2 (e) Unless a state construction contract is exempt under (b) or (c) of this section, the
3 specifications for the contract must contain a provision setting out the requirement for providing
4 food and housing at remote construction sites, the provisions for waiver of the requirement, and
5 the optional provisions for transportation services. When these provisions are required in a
6 contract, the contract must designate the site and include relevant permits for the housing.

7 (f) The Department of Transportation and Public Facilities shall implement this section
8 by regulation.

9 (g) In this section,

10 (1) "domicile" means the principal place of residence of an individual during the
11 90 days before employment on the state construction project;

12 (2) "remote" means a work site that is either more than 50 road miles from or
13 inaccessible by two-wheel drive vehicles from a location that has commercial food and lodging
14 establishments adequate to accommodate the work force of the state construction project;

15 (3) "state construction" means the on-site field surveying, erection, rehabilitation,
16 alteration, extension, or repair, including painting or redecorating, of buildings, highways, or
17 other improvements to real property, under contract for the state.

18 * Sec. 3. This Act does not apply to a contract for a state construction project that was entered into
19 before September 1, 1991.

20 * Sec. 4. This Act takes effect September 1, 1991.

Alaska State Legislature

Al Adams
District L



Official Business

WHILE IN SESSION
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3707

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3245

3111 C Street
Anchorage, Alaska 99503
(907) 561-7622

TO: Senator Curt Menard, Sponsor of SB 37 and
Senate Finance Committee members

FROM: Senator Al Adams *AAK*

RE: Proposed Committee Substitute for Senate Bill 37

DATE: May 11, 1991

The proposed Committee Substitute for Senate Bill 37 addresses the sponsor's concern for living conditions on remote public construction projects and my concern for the adverse effect of increased costs of remote projects.

These goals are accomplished in two ways. First, food and housing or transportation will have to be provided for those employees who choose these amenities under the same project specifications as in the Labor and Commerce Committee substitute. However, those employees who choose not to avail themselves of these benefits can opt out. Since opt-out employees willingly absorb the costs of food and housing, there is a need for a corresponding benefit. That benefit is contained in the section of the bill which provides an employment preference. I have been advised by our legal advisors that this preference would be constitutional. A memorandum to that effect is forthcoming. Section 1 of the bill now includes a findings section to justify the changes.

These provisions would most probably result in contractors actively seeking employees who would choose to opt-out so that contractor bid projections could be lowered and thus more competitive. The end result would be reduced project costs to the state as opposed to the opposite effect if these measures were not in the bill. There is also a potential benefit in the selection of Alaska residents over non-residents since contractors might well be able to identify opt-out employees easier among the state's existing labor pool.

To protect contractors there is specific language that the waiver be in writing. In addition, the waiver is non-revokable so that employees would

Page 2

May 11, 1991

Proposed CS for Senate Bill 37

not abuse the preference benefit to secure employment and then attempt to change their status later regarding food and housing. Regulations overseeing the mechanisms of preference would be produced by the Department of Transportation as with the other regulations called for in this legislation.

There is one further change in the committee substitute found on page 2, line 9 by the addition of "or in determining gross weekly earnings under AS 23.30.220". This is to insure that food and housing costs are not included in the spendable weekly wage determinations for computing compensation of injured workers.

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 37 ^{FIN} (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 4/29/91
Referred: Transportation, Finance

Sponsor(s): SENATORS MENARD, Rodey, Collins

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to food and housing for construction workers at remote construction sites
2 on certain ~~highway and airport~~ state construction projects; and providing for an effective date."

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

4 * Section 1. AS 36.90 is amended by adding a new section to read:

5 Sec. 36.90.110. FOOD AND HOUSING AT REMOTE STATE CONSTRUCTION
6 SITES. (a) Except as provided in (b) and (c) of this section, the state shall require that a
7 contractor provide food and housing to an employee of the contractor working on a state
8 construction project at a remote construction site. The contractor may not consider the cost of
9 the food and housing in setting wages for the employee or in meeting wage requirements under
10 AS 23.10.065 or AS 36.05.

11 (b) Before the award of a state construction contract, the state shall estimate the length
12 of active, on-site workdays required to complete the project, and the number of contractor
13 employees required at peak employment periods. If the estimate indicates that the project will
14 require fewer than 60 continuous calendar days of active on-site work or fewer than 15 contractor

1 employees at peak employment periods, the project is exempt from the requirement to provide
2 food and housing set out in (a) of this section.

3 (c) A contractor who provides adequate transportation to employees is exempt from the
4 requirement to provide food and housing set out in (a) of this section for those employees for
5 whom the transportation is provided. Transportation is adequate under this subsection if it

6 (1) transports the employee from the departure point to the work site in 60
7 minutes or less or if the employer pays wages to the employee for time spent travelling to the
8 work site in excess of 60 minutes; return transportation shall be provided on the same basis;

9 (2) is available each workday at times reasonably close to the beginning and
10 ending of each work shift;

11 (3) begins from and returns to a departure point that is central to either a location
12 where commercially available food and lodging establishments exist or which is the domicile of
13 the employee; and

14 (4) meets applicable transportation safety standards.

15 (d) Unless a state construction contract is exempt under (b) or (c) of this section, the
16 specifications for the contract must contain a provision setting out the requirement for providing
17 food and housing at remote construction sites and the optional provisions for transportation
18 services. When this provision is required in a contract, the contract must designate the site and
19 include relevant permits for the housing.

20 (e) The Department of Transportation and Public Facilities shall implement this section
21 by regulation.

22 (f) In this section,

23 (1) "domicile" means the principal place of residence of an individual during the
24 90 days before employment on the state construction project;

25 (2) "remote" means a work site that is either more than 50 road miles from or
26 inaccessible by two-wheel drive vehicles from a location that has commercial food and lodging
27 establishments adequate to accommodate the work force of the state construction project;

28 (3) "state construction" means the on-site field surveying, erection, rehabilitation,
29 alteration, extension, or repair, including painting or redecorating, of buildings, highways, or
30 other improvements to real property, under contract for the state.

31 * Sec. 2. This Act does not apply to a contract for a state construction project that was entered into

1 before September 1, 1991.

2 * Sec. 3. This Act takes effect September 1, 1991.



Alaska State Legislature

Senator Curt Menard



While in
Session:
P.O. Box V
Juneau, Alaska
99811
(907)465-2679

Interim:
165 E. Parks
Highway
Wasilla, Alaska
99687
(907)373-2878

Senate
District
E

SPONOR STATEMENT:

(csss)SB 37: "An Act relating to food and housing for construction workers at remote construction sites on certain state construction projects."

The legislation before you seeks to eliminate the deplorable living conditions that workers currently endure on remote state construction projects. The unsanitary living conditions have not only resulted in sickness for workers but environmental damage as well.

The Department of Transportation and Public Facilities, organized labor, and the Associated General Contractors have worked together and the bill version before you represents significant compromises on all sides in an effort to resolve the problem.

The provisions of the bill apply to state construction projects but contains a number of limiting factors:

- . The project must be at least 60 continuous days of active on-site work and require more than 15 contractor employees at peak employment periods.
- . A contractor, as an alternative to food and housing, may provide transportation as specified.
- . "Remote" is defined as more than 50 road miles or inaccessible by two-wheel drive from adequate commercial food and lodging facilities.

An added benefit of this proposed legislation is that it serves to encourage local hire. It is in the state's best interest, as well as the contractor's to hire workers from the area where the project is being built.

It is imperative that this bill be passed this session, our Alaskan workers should not be forced to spend two more construction seasons enduring deplorable living conditions on remote state construction projects. I appreciate your support of this legislation.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

May 11, 1991

SUBJECT: CSSSSB 37 () (Food & housing on remote state construction projects - P version dated 5/11/91)

TO: Senator Al Adams

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have asked whether the enclosed draft raises constitutional issues because of the employment preference given to those construction workers who waive the requirement that food and housing or transportation be provided. In my opinion, the waiver probably is not unconstitutional as an impermissible employment preference.

The preference applies to anyone who waives the requirement that the construction contractor provide food and housing. Those who reside close to the project will be in a better position to waive that requirement, since they are more likely to have food and housing available to them, but nothing in the bill prevents anyone from securing local housing and providing for their own meals. Nor is a contractor prohibited from offering, for free or at a price, room and board to those who waive the requirement.

The most recent Alaska case to consider regional hiring preferences is State v. Enserch Alaska Construction, Inc., 787 P.2d 624 (Alaska, 1989). In that case the court held that the opportunity to obtain employment on public construction contracts was an important right under state equal protection analysis. Therefore, state statutes that interfered with the right would be subject to close scrutiny. The law under examination in the case required a regional preference for 50 percent of the jobs in particular trades on projects located in regions found to be economically depressed. The preference created by CSSSSB 95 () is not directly based on residence. It is available to anyone, resident or nonresident. Therefore, it is more likely to survive challenge under the state's equal protection clause than the statute in Enserch. However, given that the practical application will favor local residents, there is some possibility that a court would find that the law violated the rights of those not from the area of the project. However, it applies to projects in all remote areas of the state so it potentially offers benefits to a wider number of workers than the preference in Enserch.

Senator Al Adams
May 13, 1991
Page 2

The statutory requirement is skeletal only, and the department must implement it by regulation. How the preference is implemented may give rise to issues which are too speculative to examine in the time available for this memorandum.

If I may be of further assistance, please advise.

TC:lmb
91-186.lmb



*Department of Transportation
and Public Facilities*

POSITION PAPER

BILL NO: SSSB 37

APPROVED: *[Signature]*

DATE: April 16, 1991

TITLE: An Act relating to food and housing for construction workers at remote construction sites on certain state construction projects; and providing for an effective date.

This bill represents a compromise between the department and labor unions regarding a statutory provision for camps on remote construction projects. While we are not enthusiastic about this bill, neither do we oppose it. Our position is neutral.

As background, camps were at one time required thru negotiated labor agreements. With the rise of non-union contractors, the cost of camps made union contractors less competitive, and in order to ensure union contractors could secure projects this provision was eliminated by negotiations. At remote projects unsanitary living conditions occurred as employees camped wherever they could find a site, without regard for trash disposal and basic sanitary requirements. In 1990, in response to the problem, the department adopted a contractual requirement for a contractor furnished campground at remote projects. Under this arrangement, the employee must provide the tent or camper and cook his/her own meals; the contractor provides, free of charge, a full-service camp site complete with power, water and a central lavatory, shower and laundry facility.

While we believe that mandatory campgrounds are a cost effective solution, union representatives have continued to stress their preference for contractor furnished housing and meals. Aside from the policy question of whether camps or campgrounds are appropriate, the original version of the bill was unworkable for practical reasons.

The sponsor substitute has effectively addressed the impracticalities. The requirement for camps will not apply to small or short duration projects. There is also a clear point of decision before the project is let, making it clear to all bidders as to what is required contractually. Finally, a contractor may weigh the cost of a camp

For Further Information contact Katy McHugh at 465-3900.

BILL NO: SSSB 37

TITLE: An Act relating to food and housing for construction workers at remote construction sites on certain state construction projects; and providing for an effective date.

DATE: April 16, 1990

against the cost of compensated transportation time in order to make the most economical decision.

While we are neutral toward the bill, we must point out the opportunity costs. Camps will in essence add to a contractor's overhead thus raising the cost of remote projects. As we operate with a fixed amount of federal money for airport and highway improvements, we will lose some purchasing power. On state-funded projects, remote projects will also require an incrementally larger appropriation. Estimates of these costs are found in our Fiscal Note.

Finally, we would like to offer a nominal amendment. The Association of General Contractors has requested that it be made explicit that when a camp is required, the state take steps to provide the site and secure necessary permits. It has always been our intent that we do so, because it removes the possibility of "sweetheart" deals regarding a site and prevents undue delays while the contractor seeks permits; we endorse a statutory requirement. Recommended is the following:

Section 1, paragraph (d) Unless a state construction contract is exempt under (b) or (c) of this section, the specifications for the contract must contain a provision setting out the requirement for providing food and housing at remote construction sites and the optional provisions for transportation services. When this provision is required the contract must include a designated site and relevant permits for the placement of contractor furnished housing.

STATE OF ALASKA
1991 LEGISLATIVE SESSION

FISCAL NOTE

No.

B Bill Version: SSSA 37

(S) Publish Date: 4/29/91

Revision Date: 4/5/91 Department Affected: DOT&PF
 Title: An Act relating to food and housing for construction workers at remote construction sites on certain state construction projects; and providing for an effective date. BRU: Statewide Engineering & Operations Standards
 Sponsor: Menard, Rodey, Collins Component: Eng. & Oper. Standards
 Requestor: Menard Component Serial Number: 547

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY92	FY93	FY94	FY95	FY96	FY97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	3.0	0	0	0	0	0
CONTRACTUAL	15.0	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:	18.0	0	0	0	0	0

CAPITAL	400.0	400.0	400.0	400.0	400.0	400.0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS	418.0	400.0	400.0	400.0	400.0	400.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL FUNDING:	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: None.

ANALYSIS: (Attach a separate page if necessary)

See Attachment.

Changes in SSSA 5837 (LYC)
 reflect NO FISCAL CHANGE from the original
 fiscal note. This fiscal note is appropriate.

4-26-91 JL
 date Comte Aide (initial)

Prepared by: Jeffery C. Ottesen, Director

Phone: 465-2951

Division: Engineering and Operations Standards

Date: April 16, 1991

Approved by Commissioner: Frank G. Turpin

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: April 16, 1991

Distribution By Preparer: Legislative Finance, Legislative Sponsor, Requestor, OMB, Impacted Agency(ies).

ANALYSIS--(cont. from page 1):

Regulations

There will be approximately \$18.0 in one-time administrative costs in FY 1992 due to the costs of implement regulations; these funds will be used for legal support, advertising, public hearings and travel to public hearings. Of this amount, \$15.0 is for contractual items (legal costs \$12.0, transcriptions \$2.0, advertising \$1.0) and \$3.0 is for travel and per diem to meetings.

Operating Costs

Administrative costs of establishing new contract specifications and having them reviewed by the Attorney General's office, regional staff and federal agencies will be borne by existing operating budgets.

Opportunity Costs: Federal-Aid Capital Programs

While not a new cost requiring an appropriation the bill has the effect of raising costs on certain federal-aid highway and aviation projects and thereby reducing buying power. This cost is essentially an opportunity cost to the program. It is estimated at \$2.0 to 3.0 million annually and will result in the delay of some projects as the schedule for highway and airport improvements will stretch out accordingly. It does not appear as a cost on the fiscal note.

Capital Costs: General Funded Capital Programs

For the GF capital budget, we assumed that, on average, about \$4 million dollars of general funded construction would be defined as "remote" each year, and that the cost of a camp would contribute about 10% additional expense to these projects. This amount would vary with the size of the state's capital budget and the portion of the budget that is allocated to remote projects.

SENATE BILL 37
Testimony by
Don Rouleau, Business Agent
for
Alaska District Council of Laborers

* Camps were always included in the construction of the state's remote construction projects until it was discovered by a few non-union outside contractors that they could underbid Alaskan union contractors on jobs by deleting the costs of providing food and housing for their workers.

* Unfortunately, for construction workers non-union and union alike, the union contractors demanded that the contractual provisions be removed from the construction labor agreements. The unions reluctantly agreed. The contractors were then put on an even footing with the outside non-union contractors.

* The result has been a continual degradation of living conditions where there are no facilities within a reasonable distance to the jobsites. Union and non-union workers alike have been living in tents, visqueene lean-tos, the back seats of cars, and some have even built their own teepees. The lucky individuals who can afford a camper or motorhome have been fortunate enough to live off the ground and are staying dry.

* Unsanitary conditions have been the normal living environment for quite a few. Those who have campers have dug shallow holes and put their sewer hoses into barrels with holes punched into them to leach out both their grey and sewer water. Sometimes they let their sewer drain onto the ground or just drive down the road and put the hose into the ditch to empty it. Those less fortunate individuals who live in their cars and tents have been using any place that's convenient to relieve themselves.

* Imagine yourself working 12 hours a day to come home to a tent that has no facilities nearby. You've been working seven 12's for weeks and you haven't had a shower for almost as many. You then pull out the cookstove and warm up some soup and try to make a sandwich for something to eat before you fall asleep in the same clothes you woke up in that morning. You then wake up early around 4 am to make something for breakfast and something to take to the jobsite for lunch. Now imagine this in the rain, or the snow that sometimes falls in the latter part of the construction season.

* How long would you last under those conditions?

* If you had to work to support your family and you couldn't leave the job for fear of losing your home to the bank because you couldn't make your payments, you would have to stick it out even if it meant getting sick and living in misery.

* One of the big problems we've found is that the average construction worker can't afford to buy a camper to stay dry and warm. That worker finds a big flaw in the system because he can't afford not to work. If he refuses the job that is offered to him that day, he doesn't know if he'll get another that season. The poorer workers are discriminated against because of their financial status.



* Some people have claimed that this bill will work against local hire because it will be easier for outside workers to come up and be fed and housed by the contractor. The exact opposite is true - the more people a contractor hires near the actual jobsite, the less he will have to provide food and housing for.

* Furthermore, contractors who come up from outside and successfully bid on a job tell a lot of their people to get up to Alaska early and they often drive up in their campers ready to go to work. The the leave with out spending much of their money inside Alaska.

* The draft CS you have before you is the result of a few years of negotiations with DOTPF and the AGC. I hope you will find it in your hearts to alleviate the deplorable working conditions remote construction workers have to live with at the job site.

SB 39

HOUSE COMMITTEE REPORT

(11)

Date Referred: February 12, 1992

FURTHER REFERRALS:

Date of Committee Action: 5/9/92

The FINANCE Committee considered:

CSSB 39(FIN)

CS FOR SENATE BILL NO. 39 (FINANCE)

PERMANENT FUND TECHNICAL REVISIONS

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

RECOMMENDATIONS:

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

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note LAW

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

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

Mike Stavare ^{NAVARRE} *Maclean*
 (10) CHAIRMAN'S SIGNATURE Maclean

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HCS CSSB 39 (HJD)

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

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

COMPONENT 93

Expenditures/Revenues: (Thousands of Dollars)

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

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

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

POSITIONS:

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

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)

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

Richard I. Pegues

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

Phone: 465-3672

Date: February 21, 1992

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

Date: February 21, 1992

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

FISCAL NOTE

No. 4

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill Version HCS CSSB 39 (JUD)

(H) Publish Date: 2/12/92

Revision Date: _____ Department Affected: AK Permanent Fund Corporation

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

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

Sponsor: Senator Pat Pourchoi

Requestor: House Judiciary Committee COMPONENT SERIAL NO.

0	1	0	9
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EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

POSITIONS:

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

Estimate of current year impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

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

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

Approved by Commissioner: Darrel Rexwinkel, Department of Revenue

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

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

STATE OF ALASKA
1992 LEGISLATIVE SESSION

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

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL						
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REVENUE						
Funding Source:						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact:

ANALYSIS: (Attach a separate page if necessary)

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

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

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

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS POURCHOT, Sturgulewski, Menard

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Adopted

AMENDMENT 5

POURCHOT

HCSCSSB 39 (JUDICIARY)

7-IS0158\M

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

Delete all material.

Renumber sections accordingly.

RATIONALE FOR AMENDMENT TO 3B 39:

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

HCS CSSB 39 (JUD) Bill History

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

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

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

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

HOUSE ACTION:

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

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

HCS CSSB 39 Summary

Senator Pourchot

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

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

Language Consistency:

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

Adjustments to the Legislated List of Investments:

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

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

Inflation-proofing Deposits:

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

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

Litigation Revenue:

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

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

Timely Transfers from DNR:

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

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

Asset Allocation:

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

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

House Judiciary CS includes these amendments.

AMENDMENT #1

2/10/92

OFFERED IN THE HOUSE

BY SENATOR POURCHOT

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

Page 1, after line 3:

Insert the following new bill section to read:

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

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

Page 1, line 4:

Delete "**Section 1.**"

Insert "**Sec. 2.**"

Renumber the following bill sections accordingly.

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

Delete "AA"

Insert "A"

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

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

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

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

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

AMENDMENT #1 (cont.)

Page 12, line 8:

Delete "sec. 18"

Insert "sec. 19"

TO CONFORM TO SECTION
RENUMBERING

Page 12, line 10:

Delete "sec. 27"

Insert "sec. 28"

Page 12, line 11:

Delete "sec. 18"

Insert "sec. 19"

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

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

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

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

AMENDMENT # 2

2/10/92

OFFERED IN THE HOUSE

BY SENATOR POURCHOT

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

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

Delete "**on the day**"

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

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

AMENDMENT # 3

2/10/92

OFFERED IN THE HOUSE

BY SENATOR POURCHOT

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

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

Delete "\$5,000,000"

Insert "\$3,000,000"

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

AMENDMENT # 4

2/10/92

OFFERED IN THE HOUSE

BY SENATOR POURCHOT

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

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

Insert the following new bill section to read:

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

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

Renumber the following bill sections accordingly.

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

2/10/92

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): SENATORS POURCHOT, Sturgulewski, Menard

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Interest on Litigation \$

Timely Transfers from DNR

Language

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

deletes
Non
existent
Less
Secure
INVEST

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

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

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

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

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

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

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

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

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

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

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

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

*Deletes
Now Trust
Grade*

*High Risk
Prohibited
by board
policy.*

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

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

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

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

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

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

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

1 Comprehensive
2 Replacement
3 Language -
4 AS 37.13.120

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

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

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

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

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

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

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

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

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

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

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

Remember

L

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

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

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

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

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

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

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

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

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

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

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

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Allowable collateral

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

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

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

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

Department of Veterans Affairs; or

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

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

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

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

Clarify Net Income

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

PFD Fund Transfer

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

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

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

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

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

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

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

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

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

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

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

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

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

1 [CORPORATION'S] investments and investment programs.

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

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

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

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

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

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

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

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

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

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

PFD FUND

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

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

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

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

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



Alaska Permanent Fund Corporation

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

(907) 465-2047

MEMORANDUM

DATE: February 20, 1992

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

FROM: David A. Rose
Executive Director

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

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

Amendment #1:

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

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

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

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

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




Alaska Permanent Fund Corporation

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

MEMORANDUM

DATE: May 5, 1992

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

FROM: Jim Kelly 
Research & Liaison Officer

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

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

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

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

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

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

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

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

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

MEMORANDUM

State of Alaska

Office of the Governor
Division of Policy

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

DATE: March 7, 1988

88F-891

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

PHONE: 465-3568

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

RECEIVED
ALASKA DEPARTMENT OF REVENUE

AUG 1 1988

OFFICE OF THE COMMISSIONER

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

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

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

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

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

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

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

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

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

Garrey Peska, Chief of Staff
Office of the Governor

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
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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.
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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 5839 (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						
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REVENUE						
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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>OPail</u> Comte Aide (initial)	Changes in <u>CS SB 39</u> (LWC) have no fiscal impact. This fiscal note is appropriate.
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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;