

ALABAMA LEGISLATIVE COUNCIL SPECIAL COMMITTEE / SUBJECT FILES 8672
619 SCOMM18: HOUSE SPECIAL COMM. ON PERMANENT FUND 1978-80

approach, more than 90 percent (and probably 100 percent) of the loans would be to substantial numbers of persons representing the general public, loans to exempt persons (i.e., municipalities), and for housing units, and it would appear that the other requirements for a governmental program would be met. Because of the novelty of such a loan program, however, a ruling from the IRS on this point should be obtained.

Under a targeting approach, either complete or partial, the question is more difficult. In that circumstance, there is nothing in the regulations, published revenue rulings, or private letter rulings to indicate whether each series of Bonds that is targeted for a specific purpose would be considered separately or could nonetheless be "pooled" for purposes of determining whether the aggregation of all loans constituted a governmental program. If treated separately, some loans would not be treated as governmental program obligations (for example, individual loans under the small issue exemption, or one or a very few number of loans under the exempt activities exemption), while other loans probably would qualify (for example, housing loans, municipal loans, and large numbers of "leveraged" commercial loans). Although there is

nothing in the regulations to indicate that targeting for purposes of meeting the IDB requirements is incompatible with pooling for purposes of meeting the governmental program requirements, and while treating the entire program as a single program is certainly reasonable, there is simply no authority upon which to base a definitive answer to that question. A ruling from the IRS would be required.

Whether the entire loan program constitutes a single governmental program is significant because it determines the amount of yield spread that can be earned on the Fund's loans. If the loan program is treated as a single program, the Fund can earn an arbitrage profit up to 1-1/2 percent on its loans. Furthermore, in determining the yield on the loans, the Fund can exclude amounts representing repayments of certain administrative costs, such as costs of issuing Bonds. Whether after excluding such reimbursed costs, the possible 1.6 percent spread on the loans (cost of borrowing, plus 1 percent to Loss Reserve Account, plus optional 0.6 percent to Fire and Liability Reserve Account) would be within the 1-1/2 percent limit would require a detailed accounting.

The Fund could not charge a higher rate of

interest on its loans (i.e., higher than a 1-1/2 percent spread, after adjustment) if necessary to cover the costs of operating the program (e.g. staff expenses), because AS 45.96.180 provides that the Fund's operating budget is to be paid from other sources. See, Treas. Reg. § 1.103-13(b)(5)(ix).

If the loan program, or some part of it, is not a governmental program, those loans that are "outside" of the program will be limited to a yield spread of 1/8th of one percentage point and the costs attributable to that portion of the Fund, such as the costs of issuing and repaying Bonds to fund that portion, cannot be taken into account in determining the yield. If the one percent interest charge payable to the Loss Reserve Account and/or the 0.6 percent optional interest charge payable to the Fire and Liability Reserve Account were charged on such loans, the Bonds to which such loans were allocated would be arbitrage bonds and would not be tax exempt.

It should be pointed out that any excess yield problems can be solved under AS 45.96.420, which gives the Commissioner of Revenue the authority to reduce the interest rate on any loan to avoid Bonds being arbitrage bonds under Section 103(c).

2. You have asked "Under what conditions

would the Allocated Reserve Account, as proposed by this legislation, be considered 'an invested sinking fund?'"

Because the Capital Reserve Account, the Loss Reserve Account, and the Fire and Liability Reserve Account are pledged directly or indirectly as security for Bonds, and the State has no discretion over the expenditure of amounts held in such accounts unless there is a surplus, such accounts constitute sinking funds. However, to the extent that they do not exceed 15 percent of the original face amount of Bonds issued by the Fund and outstanding at any particular time (or such lesser amount determined under the 98 percent original proceeds rule), the three accounts mentioned will be within the minor portion exception and will not be subject to arbitrage yield restrictions.

The balance of the Allocated Reserve Account should not be treated as a sinking fund because the Legislature has the power to appropriate the excess over the amounts needed to fund the previously mentioned accounts (AS 45.96.120). Accordingly, there appears to be no reasonable assurance that such excess amounts held in the Allocated Reserve Account will be available if needed to pay debt service on the Bonds.

3. You have asked "What would be the impact of the replacement clause in Section 103(c)(2) have on an issue of this nature?"

The replacement clause in the arbitrage bond statute has no clear parameters. Treasury Regulations and IRS rulings clearly recognize that states, municipalities, and other entities need not spend every penny at their disposal before they may issue bonds. Under various circumstances, the IRS sanctions the issuance of bonds without risk of running afoul of the replacement clause notwithstanding the fact that the issuer maintains a permanent endowment fund or an investment account to enhance its general credit rating.

On the other hand, where a state or municipality, for example, issues bonds to finance general expenditures, while general revenues are invested, the replacement clause would have fairly clear application. That was the type of situation addressed in Rev. Rul. 78-302, the only known application of the replacement clause.

The IRS could raise the argument that amounts held in the Allocated Reserve Account, the Unallocated Reserve Account, and the Comprehensive Loan Program

Reserve Account should be used to fund the loan program before Bonds are issued for that purpose. It could even go so far as to argue that amounts held in the Permanent Fund should be used to make loans. However, amounts held in the various reserve accounts, and especially amounts held in the Permanent Fund, are more akin to an endowment fund, which is sanctioned by Treasury Regulations, than to the unusual application of funds presented in Rev. Rul. 78-302. Furthermore, although it is likely the IRS would agree with that proposition, because this point could have such a significant impact on the tax-exempt status of Bonds issued by the Fund (or the investment of Permanent Fund or other assets), a ruling confirming that point should be obtained.

This situation would be reversed if the Allocated Reserve Account and the other reserve accounts were the sole source of payment of debt service on the Bonds, and loan repayments were used to make additional loans, whether that situation arose by operation of the statute or through the economics of the loan program. In that event, although application of the replacement clause would still be doubtful, the IRS would have a much better argument that the usual appli-

cation of funds had been reversed in order to produce an arbitrage profit. Under that set of circumstances, a ruling that the replacement clause was not applicable might well be required.

4. Two other significant arbitrage questions are raised by the Bill. First, AS 45.96.320 provides that the Municipal Bond Capital Reserve Account shall be funded from the Unallocated Reserve Account in an amount equal to 5 percent of municipal obligations guaranteed or purchased by the Fund. It is not clear whether this reserve account is in substitution of, or in addition to, the amounts in the Capital Reserve Account (or perhaps the Loss Reserve Account) that would otherwise be applicable to such municipal obligations. If the 5 percent held in the Municipal Bond Capital Reserve Account is in addition to the amounts held in all other reserve accounts, there is a substantial likelihood that a combination of the Capital Reserve Account, Municipal Bond Capital Reserve Account, Loss Reserve Account, and Fire and Liability Reserve Account will exceed 15 percent of the face amount of Bonds to which such municipal obligations are allocated, which would require that the excess be limited to a yield spread of essentially zero.

Second, AS 45.96.130 provides that the Debt Service Reserve Account is to be funded directly with Bond proceeds up to the maximum amount permitted under Section 103(c) of the Code. Although that amount should never be more than 5 percent of the Bonds (because amounts in the Capital Reserve Account, Loss Reserve Account, and Fire and Liability Reserve Account would probably always total more than 10 percent of the amount of Bonds outstanding), if the amount deposited from a Bond issue in the Debt Service Reserve Account exceeds 5 percent, and such amount does not constitute a reasonably required reserve or replacement fund, there may be deliberate overissuance, and proceeds of that issue would also be subject to an arbitrage yield spread of zero.

VI. PROCEDURAL ASPECTS

You have asked "Would IRS rule prior to enactment of this legislation or must its provisions become law first? Can multiple IRS rulings be obtained or must all the issues raised by this legislation be addressed in one ruling? If the latter, would future rulings be precluded? Must the fund be in actual operation before a ruling can be obtained?" and "What time frame could be anticipated as necessary to obtain

the IRS rulings advisable for a program of this nature, with particular reference to the 'complete pooling' concept and the joint yield computation on two or more issues?"

The answers of these questions require a discussion of several different aspects of IRS ruling procedure in general and Section 103 rulings in particular.

First, the announced policy of the IRS with respect to ruling requests generally is that it will rule on the tax consequences only of specific transactions actually proposed (or on completed transactions before a return reporting such transactions should be reported is filed). Rev. Proc. 72-9, 1972-1 C.B. 719. The corollary of this policy is that the IRS will not rule on the tax consequences of so-called hypothetical transactions. In the Section 103 area, this policy ordinarily requires that a ruling request be predicated upon a particular "proposed" issuance of bonds.

Although an argument may be made to the contrary, it appears reasonable to conclude there can be no "proposed" bond issuance pursuant to legislation that has not yet been enacted. Coupled with the fact that the IRS often invokes the hypothetical transaction rationale to decline to issue any ruling in areas it

wishes to avoid, there is a substantial risk that the IRS would not accept a ruling request with respect to Bonds to be issued by the Fund until the proposed legislation is enacted.

The IRS does, however, occasionally issue so-called special rulings. These are sometimes issued with respect to admittedly hypothetical transactions but where there is substantial public interest and there is no other practical way of determining the tax consequences of a particular situation. Such a special ruling might be obtainable here, if the IRS were convinced of the public importance of the question.

Second, if the hypothetical transaction objection is overcome (which is problematical), it is probable that the IRS would accept a ruling request prior to enactment of the legislation or actual operation of the Fund. Experience over the past several months indicates that the IRS is not requiring an effective bond resolution prior to acceptance of a ruling request.

Even in this circumstance, however, unless a special ruling could be obtained, the IRS will rule only on whether a particular series of proposed obligations will carry tax-exempt interest under Section 103. For

this reason, documents relating to one or more series of Bonds proposed to be issued by the Fund would have to be drafted. In connection with the drafting of such documents, the State Bond Committee (or other appropriate State officials) would have to choose among their various alternatives under the Bill, especially with respect to the pooling versus targeting question.

However, if the IRS issued an adverse ruling, and you desired to utilize the declaratory judgment procedure in the Tax Court to challenge the IRS determination, Section 7478 of the Code would require a bond resolution. S. Rep. 95-1263, 95th Cong., 2nd Sess., 151. Such a resolution must be adopted "in accordance with State ... law authorizing the issuance," which would require that the legislation be enacted.

Third, if the ruling request were submitted by the State, Rev. Proc. 79-4, I.R.B. 1979-1, 31, requires that every issue raised under Section 103 with respect to the particular proposed Bond issuance be covered in the ruling request. This does not necessarily mean that every Section 103 issue raised by the legislation must be covered, however, if, because of its structure, the proposed Bond issue does not raise some of the issues.

If someone other than the State (for example, an underwriter) were to request a ruling with respect to a particular series of proposed Bonds, Rev. Proc. 79-12, I.R.B. 1979-8, 49, permits fewer than all of the issues to be addressed. Declaratory relief in the Tax Court is unavailable under this procedure. Whether this would be a desirable procedure in this circumstance would depend upon the nature of the issues that were left unaddressed.

Fourth, one of the factors to bear in mind, because of the pendency of the various mortgage revenue bond bills, is that the IRS might be reluctant to issue any ruling involving Bonds all or a portion of the proceeds of which might be used for residential mortgage subsidies. Alternatively, it might issue a ruling under current law that would, of necessity, be superseded by enactment of one of the mortgage revenue bond bills. To the extent that the ruling was inconsistent with the subsequent legislation, the ruling could be worthless. In this connection, you should be aware that most of the mortgage subsidy bond bills have April, 1979 effective dates.

Fifth, a ruling on one prospective issue of Bonds does not preclude submitting requests on subsequent

proposed issues. However, if the first ruling was adverse, and the second ruling raised essentially the same issues, there would be little point to submitting the second request unless you had reason to believe that the IRS had changed its position or the State was prepared to litigate the issue(s) in the courts.

Sixth, the average time taken by the IRS to issue a fairly standard ruling is currently about three to four months. An initial ruling request raising several of the more difficult issues raised by the Bill, however, would likely not be viewed as a standard ruling request. Such a ruling request very likely would take up to six months (the maximum time permitted the IRS before the State could invoke the declaratory judgment procedure) or even longer (if the State is not in a position to go to court). Subsequent ruling requests, such as for permission to compute yield jointly, which do not raise substantial new issues, could probably be handled with relative dispatch.

The State could request expedited treatment. However, prior to enactment of the legislation, which has been pending now for almost a year, it is unlikely that you could persuade the IRS that such treatment was appropriate. In any event, the novelty of the

issues probably dictates extensive review within the IRS, which would preclude speedy issuance of a ruling.

Finally, current IRS policy is not to issue rulings granting blanket permission to compute yield jointly on all obligations issued or to be issued with respect to a particular program. Accordingly, for every new Bond issue proposed by the Fund for which a joint yield computation with prior issues would be desired, a ruling permitting such computation will have to be obtained separately.

VIII. THE FUTURE

1. You have asked "Do the IDB provisions of 1968 prohibit the activity contemplated by this legislation? Is it likely that enactment of this legislation would provoke retaliatory legislation on the part of the U.S. Treasury?"

Whether Revenue Bonds issued by the Fund will be tax exempt under the IDB provisions of Section 103(b) of the Code depends, as explained above, on the approach that the State Bond Committee adopts in the issuance of such Bonds. Bonds the proceeds of which are specifically targeted to qualifying expenditures likely could be structured to qualify for the exempt activities, industrial park, and small issue exemptions. Bonds the

proceeds of which were completely or partially pooled would not be IDBs if the ratio of noncommercial loans to commercial loans was at least three to one.

As to the likelihood of retaliation, one can only look to history. In response to increased use of tax-exempt bonds to finance commercial activities in the early and middle 1960s, the Treasury Department published proposed regulations dealing with industrial development bonds, denying them tax-exempt status. 33 Fed. Reg. 4,950. The Congress, while not permitting such regulations to become effective, enacted the IDB provisions having a similar effect. Revenue & Expenditure Control Act of 1968, P.L. 90-364, 90th Cong., 2nd Sess., § 107 (1968); S. Rep. No. 1014, 90th Cong., 2nd Sess. (1968-2 C.B. 790, 794-795).

Similarly, the IRS responded to increased requests for rulings on arbitrage bonds with a stated policy of refusing to grant such rulings. T.I.R. 840 (1966). States and municipalities continued to issue such bonds without rulings, and the Congress responded with the arbitrage bond provisions now contained in Section 103(c) of the Code. Tax Reform Act of 1969, P.L. 91-130, 91st Cong., 1st Sess., § 601(a) (1969); H. Rep. No. 91-413 (Part I), 91st Cong., 1st Sess. (1969-3 C.B. 200, 308-309).

In response to the substantial increase in single family mortgage subsidy bonds in 1978 and early 1979, several bills have been introduced to prohibit tax exemption for such bonds. These have the support of the Treasury Department, and some form of restriction on such bonds likely will become law this year.

The Treasury Department has been active on its own to prohibit real or perceived abuses of Section 103. The succession of amendments to the proposed arbitrage bond regulations, until finally adopted in mid-1979, was in large part due to the imaginative methods of issuers, underwriters, and others to avoid arbitrage restrictions. Also, where issuers have found methods of complying with the letter, but not the spirit, of the IDB regulations, the Treasury has changed the regulations to prohibit future abuses.

All of this should lead to the awareness that both the Congress and the Treasury Department are keenly aware of trends in the bond market and are responding ever more quickly with restrictive legislation or regulations to prohibit actual or apparent abuses. Applying this lesson to CSSSSB 1, if this legislation is enacted and successfully permits the raising of large amounts of capital at tax-exempt interest rates, to be reloaned to

commercial enterprises, two things must be recognized as distinct possibilities. First, the Treasury Department is likely to view it as outside the spirit of the IDB restrictions. Second, the omnibus loan program approach is likely to be copied in other states, thus magnifying any perceived "abuse." The combination of these two factors would undoubtedly produce calls for corrective legislation, which may or may not pass but certainly cannot be ignored.

2. You have asked "Would an increasing number of judicial decisions have an unsettling effect on the revenue bond legislation and/or regulatory climate? What is the value to a potential issuer of following customary practices?"

Prior to the adoption of the declaratory judgment procedure for state and municipal obligations as part of the Revenue Act of 1978, there were serious obstacles to bringing issues raised by Section 103 and the regulations thereunder into court. Because of the amounts of money involved, the traditional conservatism of the bond community, and the possible effects on the credit ratings of issuers of having outstanding bonds become taxable, issuers, underwriters, bond counsel, and investors were extremely reluctant to be involved

with a bond issuance that was contrary to published rules and regulations, or even where there might be a serious risk of litigation. For this reason, the vast majority of bond issues faithfully complied with published rules and regulations and known IRS policy. In the relatively few cases where bonds would be issued contrary to published rules and regulations, the chances of the unreported interest income being picked up on audits of individual taxpayers would be quite small. Accordingly, there are relatively few court decisions addressing issues that may arise under Section 103.

The new declaratory judgment procedure now permits issuers to go to court before bonds are issued, to seek a determination whether interest on such bonds will be exempt from tax. Although it cannot be known at this time how many issuers will utilize this procedure, some have announced their intention to challenge particular aspects of the Treasury Regulations, especially the arbitrage regulations. Others can be anticipated to follow suit. These cases will be decided by judges who have little or no familiarity with Section 103 and the oftentimes peculiar aspects of government finance. Lawyers representing the government are likely to be equally inexperienced in this area. Accordingly, as often happens

when judges delve into areas outside of their realm of knowledge, there are likely to be some surprising results in Section 103 cases, with ramifications extending beyond particular cases to issues that may not be raised or even thought of at the time.

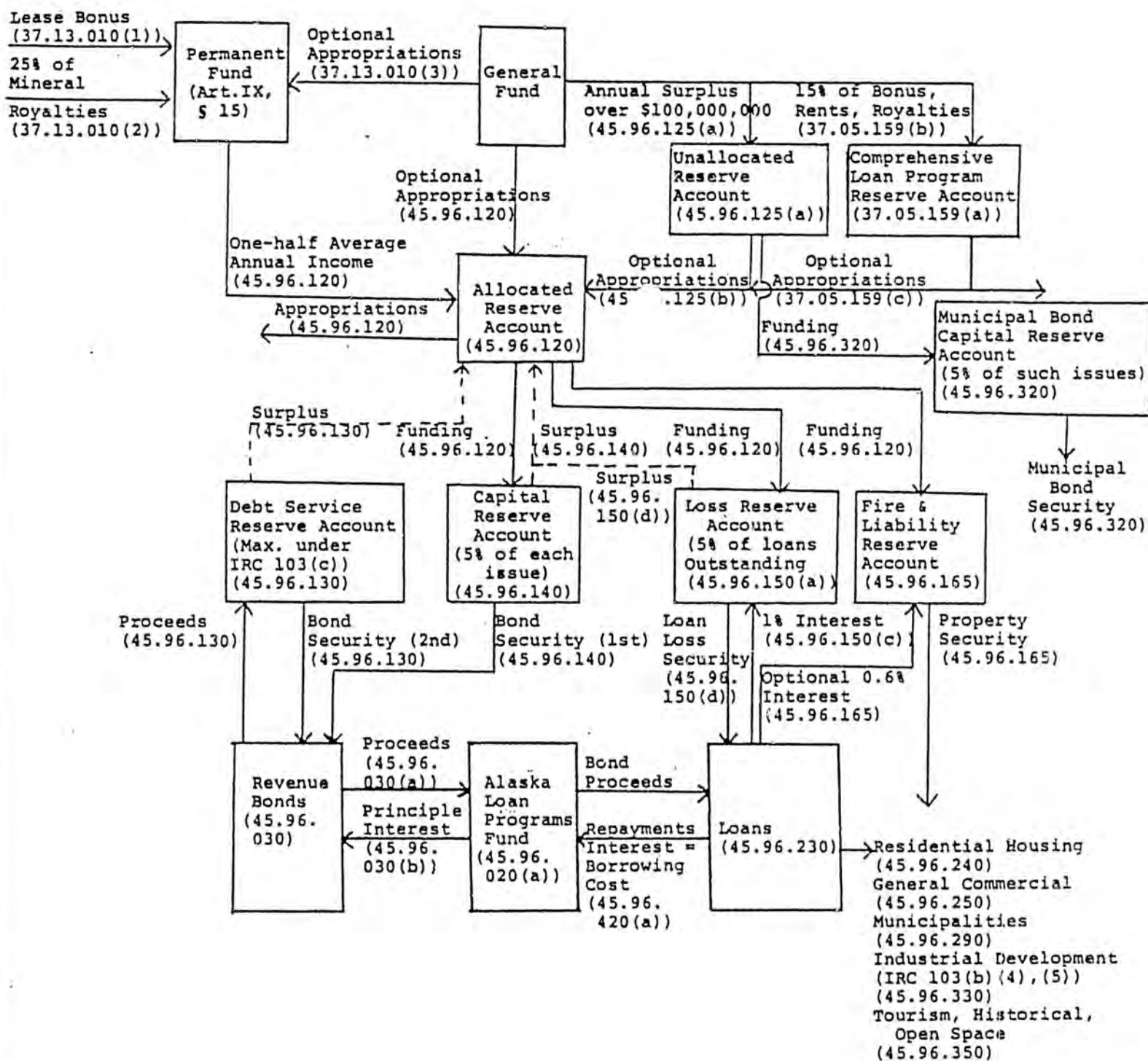
In addition, bond lawyers tend to take a rather technical view of Section 103 and the Treasury's regulations thereunder, strictly construing them against the government. In other areas of the tax law, however, lawyers and judges tend more broadly to apply doctrines such as "substance over form" to their analyses of whether a particular transaction complies with a particular statute or regulation. In Section 103 cases judges are likely to decide many cases in terms of the abuses that were sought to be prevented by the IDB and arbitrage provisions, which attitude may make a significant difference in close cases.

This may have a destabilizing effect on the law as it relates to tax-exempt bonds, which may in turn prompt adjustments by the Treasury to its regulations and policies as well as to prompt issuers and their advisors to make adjustments in the structure of bond transactions.

In this climate, the value of following

customary financial practices is difficult to assess. It is always better for one's transaction or practices to be materially similar to hundreds or thousands of others, first, because it is harder to pick a garden variety transaction out of a crowd, and second, because the Treasury Department is aware of the political risks of attempting to challenge a particular transaction when such a challenge could have enormous economic repercussions. Novelty invites scrutiny, and the consequences of challenge are relatively limited. By the same token, settled practices are generally those that have weathered the tests of time and administrative acceptance; changes proposed by the Treasury Department are almost invariably prospective in their application and often have generous transition periods. Judges also tend to be influenced by standard practice (especially in areas outside their expertise), a factor that can be quite important in deciding between two equally reasonable interpretations of an unclear statute or regulation.

On the other hand, there is certainly no prohibition against innovation. An omnibus loan program and permanent security fund that comply with both the letter and the spirit of the law and regulations should not be subject to serious challenge.



STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 21, 1979

SUBJECT: Permanent Fund
(Work Order No. 6582)

TO: Representative Hugh Malone

FROM: Kenneth E. Vassar, Legislative Counsel *KEV*

Enclosed is the bill you requested which duplicates SB 1.

Also enclosed is a memorandum delivered to me from Donna Spragg Pegues, our revisor of statutes, pointing out some technical and legal problems in the bill.

KEV:nem

Enclosures

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

M E M O R A N D U M

February 20, 1979

SUBJECT: The Permanent Fund Bill:
(Work Order No. 6582)

TO: Kenneth E. Vassar, Legislative Counsel

FROM: Donna Spragg Pegues, Revisor of Statutes 

This memorandum is written to outline:

1. Some problems of clarity encountered in my review where changes may need to be made;
2. A few legal problems with the bill.

I will discuss the last category first. Then I will simply move through the bill section by section outlining certain problems encountered.

The Title. You will recall that we discussed the problem involved in putting together the title for this bill which would:

1. Be confined to one subject; and
2. Express that subject,
(art II sec. 13, Alaska State Constitution).

In my opinion, the title does not meet the requirements of the Alaska constitution. But, if the legislation were challenged, the Alaska supreme court might well be more liberal than I seem to be. In the case of North Slope Borough v. Sohio Petroleum et. al, P.2d OPN. No. 1750 (October, 1978), the Court stated:

"[a]ll that is necessary is that the act should embrace some general subject; and by this is meant, merely, that all matters treated should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject. Johnson v. Harrison, 50 N.W. 923, 924 (minn. 1891)."

Perhaps here the "one general subject" required by the Court is the overall use of state revenues.

Local Hire. AS 45.96.450 establishes "employee practices" for a loan recipient who contracts for work to be done on the project financed by a loan. It requires that 90 to 95 percent Alaska resident hire on the project and calls for immediate foreclosure of the loan for a violation of the section. I think the constitutionality of this section is highly questionable in light of the United States Supreme Court opinion Hicklin v. Orbeck, (1978).

Confirmation of Members of Permanent Fund Corporation. AS 37.13.050 requires that the members appointed by the governor to the Permanent Fund Board of Trustees be confirmed by the legislature. It seems to me that this section is questionable under Bradner v. Hammond, 553 Pacific 21 (Alaska 1976). The Board of Trustees is not the head of a principal department under section 26 of the Alaska constitution. Likewise, it is not a regulatory or quasi-judicial board under section 26 of the Alaska constitution. However, I note that the legislature passed a similar provision when it enacted the Renewable Resource Corporation Act (Chapter 179, SLA 1979). I also note that there are other "independent" corporations in title 44 which include the same provision. The question is probably debatable and, none of the independent "corporations" has been challenged in court. I assume the legislature will want to let this one go through as drafted, but I did want to let you know of my concern about the constitutionality of the provision.

Removal of Board Members. In AS 37.13.070 the legislature is involved in the removal process. This is also a characteristic of the Alaska Renewable Resources Corporation which was enacted last session. The same comments apply as in the matter of confirmation.

Disposition of Permanent Fund Money. As you know, article IX, section 15 of the Alaska state constitution establishes the Alaska Permanent Fund. The final sentence of that section requires that "all income from the Permanent Fund shall be deposited in the General Fund unless otherwise provided by law."

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I do not see any disposition of income in this act. Is the income meant to go to the General Fund? Also, as I earlier noted, I do not observe any tie-in between money from the Permanent Fund and the resources of the loan fund. I assume none was intended in this version of the bill?

Perhaps the income tax rebate section was meant to be a disposition of the income of the Permanent Fund. However, that section does not actually require the disposition of any money. In effect, the section relating to taxes only allows for an increased credit when the income reaches a certain level. No actual disbursement of income is involved.

Unallocated Reserve Account. As you know, AS 45.96.125 sets up an "unallocated reserve account" which apparently consists of the General Fund unobligated balance. It is not clear to me just what is to happen to that balance (for example, is it subject to regular appropriation?) after it is swallowed up by this reserve account. The precise money flow here evades me. So, in your absence I took up the matter with Billy Berrier. He told me that he thought that the legislature intended to make the "unallocated reserve account" an account in the General Fund. However, in the context of the bill it reads as if it were an account in the Loan Fund. You may want to take up this question with Billy Berrier.

I will now go through the bill and list some of the technical questions encountered.

37.13.130(g)(1) I do not understand the exception in this subsection. I think it needs some redrafting and will be happy to discuss it with you.

37.13.130(i). In this subsection "secured loans" are mentioned which may be purchased under (h). But, (h) describes only "mortgages." Subsection (h) does not mention "secured loans." I find this somewhat confusing. It seems to me that only mortgages should be listed in (i). I have the same problem with AS 37.13.130(j).

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37.15.150(b). This is the section concerning the tax credit which we discussed earlier. It remains unclear. This is especially true because of the difficulty of tying a tax year into a fiscal year. The Permanent Fund is apparently on a fiscal year basis and the income tax is levied on a calendar year basis.

45.96.020(b). See the same language at 45.96.240 and 44.25.025. Because a salary and not a "range" is what is received by an individual, I think this section needs redrafting.

45.96.040. See the last sentence of this section where the "fund" is selling its assets. Here and there throughout the bill we find the "fund" doing particular things. David and I agree that a fund is inanimate and cannot actually do anything. Rather, things are done with the money in the fund. I also wonder who the "officer" is in 45.96.050. We have not had any officers of the fund identified at any point in the bill.

45.96.240. In the last line of this section the phrase "business practice" is used. I am not certain exactly what this means.

45.96.300. As I noted to you earlier, I have had some difficulty with this section on "public purpose" loans. I still believe that (a)(1) says the same thing as (a) in general, since both kinds of bonds are included in both places. It seems to me that this is one of the matters that should be taken up with the sponsor. Let's discuss. This section could also probably use some reworking for clarity.

As for (b), I cannot tell if this includes the municipalities which are already included in (a) or not. What do you think? I am just not certain what they are trying to do through these sections.

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As for (e) - is the "major" part 51 percent? I am not sure what they mean by "major" part. Also, I am not certain whether (e) limits all "public purpose" loans under 45.96.300 or just some of the subsections. What do you think?

45.96.440(c). I believe this subsection needs to be tied back to 45.96.430(b) as to which fund pays this additional difference.

45.96.470(c). I believe there is a statute setting the rate of interest. It should be cited here.

37.10.070(a)(14). I wonder how the state can purchase a "trading practice?"

45.25.025(c). The exception here is unclear to me and I think the subsection should be redrafted for clarity. I will, of course, be glad to explain my problem with it.

A few other notes follow.

David pointed out that he thinks we should change the system so that section numbers change on a count of five rather than ten. In other words, AS 45.96.050 would follow AS 45.96.050. This gives more room for additions to the statutes. I do not think it is necessary to attempt to change this bill to conform with this new approach, but I did want to call it to your attention for future reference.

There is a section in the bill which provides that the legislature has power to pass on the executive branch investment policy. That policy can be rejected by the legislature. I note that the issue of the legislature's power to annul an executive action is now before the Alaska Supreme Court and may be decided sometime during the next session. It is something to think about as this bill proceeds.

I also note that almost all of the provisions for loans in the bill have residence requirements and in one section the limitations on the amount of loans is tied to length of residence. These sections may at some point be subject to challenge because of the durational residence requirements.

DSP:nem

Introduced: 2/23/79
Referred: Commerce and
Finance

IN THE SENATE

BY HOHMAN

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 1
IN THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska loan programs fund, the Alaska permanent fund, and state investment policy and other state revenues; and providing for an effective date."

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

* Section 1. AS 24.20.151 is amended to read:

Sec. 24.20.151. LEGISLATIVE BUDGET AND AUDIT COMMITTEE ESTABLISHED. The Legislative Budget and Audit Committee is established as a permanent interim committee of the legislature. The establishment of the committee recognizes the need of the legislature for full-time technical assistance in accomplishing the fiscal analysis, budget review, investment oversight and post-audit functions.

* Sec. 2. AS 24.20.201(a) is amended by adding new paragraphs to read:

(8) make recommendations concerning the structure and operating practices of all agencies of the state which perform lending or investment functions;

(9) in conjunction with the finance committee of each house recommend annually to the legislature the investment policy for the general fund surplus and the income from the permanent fund.

* Sec. 3. AS 24.20 is amended by adding new sections to read:

Sec. 24.20.321. INVESTMENT OVERSIGHT DIVISION. The investment oversight division is established as a permanent staff agency responsible to the Legislative Budget and Audit Committee for the performance of oversight and review functions to provide information on the policy

1 and performance of all agencies of the state which perform lending or
2 investment functions.

3 Sec. 24.20.331. STAFF. (a) The committee shall hire and deter-
4 mine the salary of the division director who shall serve both at the
5 direction and pleasure of the committee. The director shall serve as
6 head of the investment oversight division and, within the limits of the
7 budget approved by the committee, shall employ and determine the com-
8 pensation of the professional and clerical staff of the division.

9 (b) The director and members of the professional and clerical
10 staff shall not join or support a partisan political organization. This
11 prohibition does not prevent the director or members of the staff from
12 joining social organizations, expressing private opinion, registering as
13 to party or voting.

14 Sec. 24.20.341. DUTIES. The investment oversight division shall

15 (1) annually review the long-range operating plans of all
16 agencies of the state which perform lending or investment functions;

17 (2) review periodic reports from all agencies of the state
18 which perform lending or investment functions;

19 (3) present a complete report of investment programs, plans,
20 performance, and policies of all agencies of the state which perform
21 lending or investment functions to the Legislative Budget and Audit
22 Committee at the time the committee directs;

23 (4) present to the committee within 30 days after the con-
24 vening of each regular session a review of the report of the governor
25 under AS 37.07.020(d);

26 * Sec. 4. AS 37.07.020 is amended by adding a new subsection to read:

27 (d) The governor shall annually, before the convening of the
28 legislature, report to the legislature through the Legislative Budget
29 and Audit Committee the long-range fiscal and economic consequences of

1 (1) alternate levels of capitalization of the investment
2 funds of the state; and

3 (2) alternative investment policy for the general fund sur-
4 plus.

5 * Sec. 5. AS 37 is amended by adding a new chapter to read:

6 CHAPTER 13. ALASKA PERMANENT FUND.

7 Sec. 37.13.010. ALASKA PERMANENT FUND. (a) Under art IX, sec. 15
8 of the state constitution, there is established as a separate fund the
9 Alaska permanent fund. The Alaska permanent fund consists of

10 (1) one hundred per cent of mineral lease bonuses after
11 deduction of amounts allocated

12 (A) to the Alaska Native Fund under the Alaska Native
13 Claims Settlement Act and implementing state legislation; and

14 (B) in AS 37.11.020 to the Alaska renewable resources
15 development fund;

16 (2) twenty-five per cent of all mineral lease rentals, royal-
17 ties, royalty sale proceeds, and federal mineral revenue sharing pay-
18 ments received by the state; and

19 (3) any other money appropriated or otherwise allocated by
20 law to the Alaska permanent fund.

21 (b) Payments due the Alaska permanent fund under (a) of this
22 section shall be made to the fund once each month.

23 Sec. 37.13.020. INVESTMENT OF THE PERMANENT FUND. (a) The
24 prudent-man rule is applicable to the management and investment of
25 permanent fund assets. The prudent-man rule as applied to investments
26 of the permanent fund means that in making investments the commissioner
27 of revenue shall exercise the judgment and care under the circumstances
28 then prevailing which an institutional investor of ordinary prudence,
29 discretion, and intelligence exercises in the management of large in-

1 vestments entrusted to it not in regard to speculation but in regard to
2 the permanent disposition of funds, considering the probable income from
3 them as well as probable safety of capital.

4 (b) The permanent fund assets may only be used for income-pro-
5 ducing investments.

6 (c) The commissioner shall seek to maintain a reasonable diversi-
7 fication among corporation investments unless under the circumstances it
8 is clearly prudent not to do so.

9 (d) The commissioner shall submit long-range and quarterly invest-
10 ment reports to the Legislative Budget and Audit Committee.

11 (e) Subject to (a) and (b) of this section, the commissioner may
12 invest permanent fund assets in obligations of, or obligations insured
13 or guaranteed by, the United States or agencies or instrumentalities of
14 the United States; corporate securities which under the Securities Act
15 of 1933 are freely marketable; and short-term investments which meet the
16 requirements of (a) and (b) of this section except for the term of the
17 investments.

18 (1) No portion of the assets of the permanent fund may be
19 used in the purchase of stock of a corporation which is not paying
20 dividends on that stock in cash at the time of purchase; nor in the
21 purchase of bonds of a corporation, upon which any regular interest
22 payment has been defaulted within five years before purchase, except
23 bonds never in default but which have been outstanding for less than
24 five years.

25 (2) No portion of the assets of the permanent fund may be
26 used in the purchase of stock if immediately following the purchase the
27 proportionate market value of all stocks held by the fund would exceed
28 30 per cent of the assets of the fund.

29 (f) Subject to (a) and (b) of this section, the commissioner may

invest permanent fund assets in

- (1) Federal Housing Administration mortgages;
- (2) Federal Veterans Administration mortgages;
- (3) conventional residential mortgages if the offering financial institution retains at least 25 per cent of the mortgage.

(g) To qualify as a mortgage or secured loan which may be purchased by the commissioner under (h) of this section, the mortgage or secured loan shall

- (1) be secured by real estate in the state;
- (2) have as a mortgagor an Alaska resident or a corporation in which at least 60 per cent of the stock is owned by Alaska residents;
- (3) be certified by the originating financial institution that the loan being sold has been made in compliance with law and that liens supporting the loan have been perfected;
- (4) have no initial closing fees or service fees which exceed one-half of one per cent, excluding closing costs.

(h) The commissioner may purchase loans provided for in (f) of this section only from financial institutions which are operating under the national banking laws, federal savings and loan laws, or under the provisions of AS 06.05, AS 06.15, AS 06.25 or AS 06.30.

(i) The commissioner shall establish and from time to time as necessary modify guidelines for the investment of permanent fund assets. Before adoption of any investment guidelines, the guidelines shall be reported to the Legislative Budget and Audit Committee for review and comment. Nothing in this section may be interpreted to preclude in-state investments that have a risk level and expected yield comparable to alternative investment opportunities.

Sec. 37.13.030. GAINS AND LOSSES. At the end of each fiscal year, the total amount of losses on the sales of securities, not offset by

1 gains on the sales of securities during that year, shall be computed,
2 with a portion of these losses to be deducted each fiscal year from the
3 interest and dividend income and the resulting amount of interest and
4 dividend income added to the principal of the fund. Losses taken on the
5 sales of bonds shall be accumulated over a period equal to the average
6 remaining life of the bonds sold, and losses taken on the sales of
7 stocks shall be accumulated within a period of five years, unless these
8 losses are offset by gains on future sales of securities. In any fiscal
9 year in which the gains on the sales of securities exceed the losses on
10 the sales of securities, the excess shall be added to the principal of
11 the fund.

12 Sec. 37.13.040. INCOME. The interest and dividends received in a
13 year are the income of the permanent fund for that year. The income
14 available for allocation to the allocated reserve account established in
15 AS 45.96.120 shall be determined on an averaging basis. For the first
16 five years, income will be the simple averaging of the annual current
17 return at cost. Subsequently, there will be a moving average current
18 return, in which the latest fiscal year will replace the oldest year.
19 The income available for allocation will be the lesser of the latest
20 fiscal year's income, or the average annual current income for the past
21 five fiscal years of the fund at cost, and after adjustment for capital
22 losses charged to that fiscal year.

23 Sec. 37.13.050. BUDGET. The operating budget is from the general
24 fund unless the legislature specifically appropriates from the unallo-
25 cated reserve and is subject to the Executive Budget Act (AS 37.07).

26 Sec. 37.13.060. ACCOUNTING. Accounting for the fund shall be
27 provided by the Department of Administration. Reports shall be made by
28 that department to the Department of Revenue, the Department of Commerce
29 and Economic Development, and the Legislative Budget and Audit Committee

1 on at least a monthly basis. These reports shall include an itemization
2 of each loan which has been in default for a period in excess of 30 days
3 and the measures taken for each to insure compliance with terms and
4 conditions of the loan. The Legislative Budget and Audit Committee
5 shall provide quarterly reports to the legislature summarizing the
6 information it receives under this section and under AS 37.13.020(d) and
7 (i) and including comments and suggestions the committee determines to
8 be of interest to the legislature relating to the administration of the
9 fund.

10 Sec. 37.13.070. REPORTS AND PUBLICATIONS. No later than Septem-
11 ber 30 of each year, the commissioner of revenue shall publish a report
12 for distribution to the governor, legislature, and the public. The
13 report shall be written in easily understandable language. The report
14 must include financial statements audited by the legislative audit
15 division, a statement of the amount of money received by the permanent
16 fund from each investment during the period covered, a statement of fund
17 investments including an appraisal at market value, a description of
18 fund investment activity during the period covered by the report, an
19 examination of the impact of the investment criteria of this chapter on
20 the fund portfolio with recommendations for any needed changes and any
21 other information the commissioner believes would be of interest to the
22 governor, the legislature, and the public. The annual income statement
23 and balance sheet of the fund shall be published in at least one news-
24 paper in each judicial district. The income statement and balance sheet
25 for the two fiscal years preceding the publication of the election
26 pamphlet under AS 15.57 shall be included in that pamphlet.

27 * Sec. 6. AS 45 is amended by adding a new chapter to read:

28 CHAPTER 96. ALASKA LOAN PROGRAMS FUND.

29 Sec. 45.96.010. PURPOSE. Efficient use of the capital resources

1 of the state will be promoted by creating a single loan fund to provide
2 a single source from which potential users can acquire a state loan and
3 obtain information about existing federal or private loan programs which
4 will better serve the needs of the user or which will complement a
5 proposed state loan. A single state source of lending will provide
6 strong assurance of repayment of its loans and thereby lower the cost of
7 borrowing to the state. The purpose of the loan programs fund is to
8 provide the lowest possible interest costs to Alaska borrowers con-
9 sistent with sound financial practices and to make available to all
10 sectors of the Alaska economy loans including long-term financing. A
11 strong, single loan source, by being available to secure interest rates
12 and terms better than those available to loan funds limited in size for
13 a specific purpose, will make a significant contribution to lowering
14 costs of living for Alaska residents and costs of operations in the
15 private and public sector.

16 Sec. 45.96.020. CREATION OF FUND AND DIVISION. (a) There is
17 created within the Department of Commerce and Economic Development a
18 special fund of the state known as the Alaska loan programs fund.

19 (b) There is established within the Department of Commerce and
20 Economic Development the division of Alaska loan programs. The director
21 of the division is in the classified service under AS 39.25 and shall
22 receive an annual salary within range 27 of the salary schedule estab-
23 lished in AS 39.27.011 or within one range below that on which the
24 highest paid deputy commissioner in the Department of Commerce and
25 Economic Development is paid if that range is higher than Range 27. In
26 order to qualify for the position of director, a person must be gradu-
27 ated from college and have at least eight years of supervisory or
28 administrative experience in loan management.

29 (c) The division of Alaska loan programs shall manage the loan

1 programs fund in accordance with AS 45.96.010 - 45.96.490.

2 Sec. 45.96.030. REVENUE BONDING AUTHORITY. (a) The state bond
3 committee may issue bonds and bond anticipation notes in order to pro-
4 vide funds to carry out the purposes of the fund.

5 (b) The principal and interest on these bonds or bond anticipation
6 notes are payable from assets of the fund. Bond anticipation notes may
7 be payable from the proceeds of the sale of bonds or from the proceeds
8 of sale of other bond anticipation notes or, if bond or bond anticipa-
9 tion note proceeds are not available, the bond anticipation notes may be
10 paid from other assets of the fund. Bonds or bond anticipation notes
11 may also be secured by a pledge of a grant or contribution from the
12 federal or state government, a corporation, association, institution or
13 person, or a pledge of money, income, or revenues of the fund from any
14 source.

15 (c) Bonds or bond anticipation notes may be issued as provided by
16 the state bond committee, in one or more series and shall (1) be dated;
17 (2) bear interest at the prescribed rate per year or within the maximum
18 rate; (3) be in a certain denomination or form, either coupon or regis-
19 tered; (4) carry the conversion or registration provisions; (5) have
20 rank or priority; (6) be executed in a certain manner and form; (7) be
21 payable from the sources in the medium of payment and place or places
22 inside or outside the state; (8) be subject to authentication by a
23 fiscal agent; and (9) be subject to terms of redemption, with or without
24 premium as the resolution of the bond committee may provide. Bond
25 anticipation notes mature at a time determined by the commissioner of
26 revenue. Bonds mature at a time determined by the state bond committee.
27 Before the preparation of definitive bonds or bond anticipation notes,
28 the state bond committee may issue interim receipts or temporary bonds
29 or bond anticipation notes, with or without coupons, exchangeable for

1 bonds or bond anticipation notes when the definitive bonds or bond
2 anticipation notes have been executed and are available for delivery.

3 (d) Bonds or bond anticipation notes may be sold in the manner, on
4 the terms, and at the price the state bond committee determines.

5 (e) If an officer whose actual or facsimile signature appears on
6 any bonds or notes or coupons attached to them ceases to be an officer
7 before the delivery of the bond, note or coupon, his signature is valid
8 as if he had remained in office until delivery.

9 (f) In authorizing or issuing bonds or bond anticipation notes,
10 the state bond committee may, with holders of the bonds or bond antici-
11 pation notes, make covenants as may be necessary or desirable, to better
12 secure bonds or notes or which, in the discretion of the committee, will
13 tend to make bonds or notes more marketable and shall, for each issue,
14 create a principal and interest account for repayment of the principal
15 and interest of that issue.

16 Sec. 45.96.040. VALIDITY OF PLEDGE. The pledge of assets or
17 revenues of the fund to the payment of the principal or interest of
18 obligations of the fund is valid and binding from the time the pledge is
19 made, and assets or revenues pledged are immediately subject to the lien
20 of the pledge without physical delivery or further action. The lien of
21 a pledge is valid and binding against all parties having claims of any
22 kind in tort, contract or otherwise against the fund, regardless of
23 whether those parties have notice of the lien of the pledge. Nothing
24 prohibits the fund from selling assets subject to a pledge, except that
25 a sale may be restricted by the resolution providing for the issuance of
26 the obligations.

27 Sec. 45.96.050. REMEDIES. A holder of obligations issued under
28 the provisions of this chapter or coupons attached to them if not re-
29 stricted by the resolution, either at law or in equity, may enforce all

1 rights granted under the coupons or under any other contract executed by
2 the fund under this chapter, and may enforce and compel the performance
3 of all duties required by this chapter to be performed by the fund or by
4 an officer of it.

5 Sec. 45.96.060. NEGOTIABLE INSTRUMENTS. All obligations and
6 interest coupons attached to the obligations are negotiable instruments
7 under the laws of this state, subject only to applicable registration
8 provisions.

9 Sec. 45.96.070. OBLIGATIONS ELIGIBLE FOR INVESTMENT. Obligations
10 issued under the provisions of this chapter are securities in which all
11 public officers and public bodies of the state and its political sub-
12 divisions, all insurance companies, trust companies, banking associ-
13 ations, investment companies, executors, administrators, trustees and
14 other fiduciaries may properly and legally invest funds, including
15 capital in their control or belonging to them. These obligations may be
16 deposited with the state or municipal officer of an agency or political
17 subdivision of the state for any purpose for which the deposit of bonds,
18 notes or obligations of the state is authorized by law.

19 Sec. 45.96.080. REFUNDING OBLIGATIONS. (a) The fund may provide
20 for the issuance of refunding obligations for the purpose of refunding
21 outstanding obligations issued under the provisions of this chapter, or
22 bonds issued by the state, political subdivisions of the state, or
23 agencies or instrumentalities of the state, including the payment of
24 redemption premium on them and interest accrued or to accrue to the date
25 of redemption of the obligations. The issuance of the obligations, the
26 maturities and other details of them, the rights of the holders of them,
27 and the rights, duties and obligations of the fund in respect of them
28 are governed by the provisions of this chapter which relate to the
29 issuance of appropriate obligations.

1 (b) Refunding obligations may be sold or exchanged for outstanding
2 obligations issued under this chapter. If sold, the proceeds may be
3 applied, in addition to other authorized purposes, to the purchase,
4 redemption or payment of the outstanding obligations. Pending the
5 application of the proceeds of refunding obligations, with any other
6 available funds, to the payment of the principal (accrued interest and
7 any redemption premium on the obligations being refunded, and if so
8 provided or permitted in the authorization for issuance of the refunding
9 obligations, to the payment of any interest on the refunding obligations
10 and any expenses in connection with the refunding), the proceeds may be
11 invested in direct obligations of, or obligations the principal of and
12 the interest on which are unconditionally guaranteed by, the United
13 States of America which mature or which will be subject to redemption,
14 at the option of the holders of them, not later than the respective
15 dates when the proceeds, together with the interest accruing on them,
16 will be required for the purposes intended.

17 Sec. 45.96.090. CREDIT OF STATE NOT PLEDGED. Obligations issued
18 under the provisions of this chapter are not a debt, liability or obli-
19 gation of the state but are payable solely from the revenues or assets
20 of the fund. Each obligation issued under this chapter shall contain on
21 its face a statement that the fund is not obligated to pay it nor the
22 interest on it except from the revenues or assets pledged for it and
23 that neither the faith and credit nor the taxing power of the state or
24 of a political subdivision of the state is pledged to the payment of the
25 principal of or interest on the obligation.

26 Sec. 45.96.100. TAX EXEMPTION. All property of the fund is public
27 property devoted to an essential public and governmental function and
28 purpose and is exempt from all taxes of the state or a political sub-
29 division of the state. All bonds issued under this chapter are issued

1 by a body corporate and public of this state and for an essential public
2 and governmental purpose, and the bond and the interest and income on
3 and from the bonds and all income of the fund are exempt from taxation
4 except for transfer, inheritance and estate taxes.

5 Sec. 45.96.110. SALE OF BONDS. (a) The state bond committee may
6 sell bonds at public or private sale until July 1, 1984. After July 1,
7 1984, the state bond committee may sell bonds only at public sale.

8 (b) Before selling an issue or series of bonds at public sale, the
9 state bond committee shall give notice inviting sealed bids in such
10 manner as it may prescribe. If satisfactory bids are received, the
11 bonds offered for sale shall be awarded to the highest responsible
12 bidder. If the state bond committee determines that the bids received
13 are not satisfactory as to price or responsibility of the bidders, it
14 may reject all bids received.

15 Sec. 45.96.120. ALLOCATED RESERVE ACCOUNT. For the purpose of
16 securing obligations of the fund, a special account within the general
17 fund called the allocated reserve account is established. The income
18 from the Alaska permanent fund established in AS 37.13.010 is allocated
19 to the account. Other money may be appropriated to the account. The
20 amounts necessary to fund the capital reserve account established under
21 AS 45.96.140, the fire insurance and liability reserve account under AS
22 45.96.160, and the loss reserve account under AS 45.96.150 are allocated
23 to those accounts from the allocated reserve account. All other expen-
24 ditures from the allocated reserve account shall be in accordance with
25 annual appropriations.

26 Sec. 45.96.125. UNALLOCATED RESERVE ACCOUNT. (a) For the purpose
27 of securing obligations of the fund, a special account within the general
28 fund called the unallocated reserve account is established. The un-
29 allocated reserve account consists of any amounts remaining in the

1 general fund at the end of a fiscal year which have not been obligated.

2 (b) The legislature may, by appropriation, fund the allocated
3 reserve account created in AS 45.96.120 from funds in the unallocated
4 reserve account.

5 Sec. 45.96.130. DEBT SERVICE RESERVE ACCOUNT. For the purpose of
6 securing each issue of its obligations, the fund shall establish a
7 special account called the debt service reserve account and shall pay
8 into the account from the proceeds of the sale of that issue of its
9 obligations the maximum amount permissible under federal law and regu-
10 lations for tax exempt obligations which may be invested without limi-
11 tation as to yield. All money held in a debt service reserve account
12 may be used as required, when money is not available from the principal
13 and interest account or the capital reserve account, solely for (1) the
14 payment of the principal of obligations, (2) the purchase or redemption
15 of obligations, (3) the payment of interest on obligations, or (4) the
16 payment of any redemption premium required to be paid when those obli-
17 gations are redeemed before maturity. Any amount remaining in a debt
18 service reserve account when the issue the account secures is fully
19 retired shall be paid to the allocated reserve account.

20 Sec. 45.96.140. CAPITAL RESERVE ACCOUNT. For the purpose of se-
21 curing each issue of its obligations, the fund shall establish a special
22 account called the capital reserve account. The commissioner of revenue
23 shall pay into the capital reserve account from the allocated reserve
24 account upon establishment an amount equal to five per cent of the
25 principal amount of the obligations issued and sold and upon subsequent
26 sales, if any, of obligations of the issue secured, an additional amount
27 equal to five per cent of the principal amount of the obligations sold.
28 At the end of each fiscal year the commissioner of revenue shall with-
29 draw from each capital reserve account and pay to the allocated reserve

1 account any amount in the capital reserve account in excess of five per
2 cent of the remaining principal balance of the obligations secured or,
3 if the amount in the account is less than five per cent of the remaining
4 principal balance of the obligations secured, pay into the account from
5 the allocated reserve account the amount necessary to bring the reserve
6 to five per cent. All money held in a capital reserve account may be
7 used as required, when money is not available from the principal and
8 interest account, solely for (1) the payment of the principal of obliga-
9 tions, (2) the purchase or redemption of obligations, (3) the payment of
10 interest on obligations or (4) the payment of any redemption premium
11 required to be paid when those obligations are redeemed before maturity.
12 Income or interest earned by a capital reserve account shall be paid to
13 the allocated reserve account established by AS 45.96.120. Any amount
14 remaining in a capital reserve account when the issue the account se-
15 cures is fully retired shall be paid to the allocated reserve account.

16 Sec. 45.96.150. LOSS RESERVE ACCOUNT. (a) For the purpose of
17 protecting the financial integrity of the fund, a special account called
18 the loss reserve account is established. The commissioner of revenue
19 shall pay into the loss reserve account from the allocated reserve
20 account an amount equal to five per cent of the estimated total amount
21 of all loans to be made by the fund during the first fiscal year of
22 operation. At the first of the succeeding fiscal year and each fiscal
23 year thereafter, the commissioner shall pay into the loss reserve
24 account from the allocated reserve account the amount necessary to bring
25 the balance of the loss reserve account to five per cent of the total
26 amount of loans projected to be outstanding during that fiscal year.

27 (b) If during the fiscal year the total amount of loans outstand-
28 ing exceeds the amount projected to be outstanding, the commissioner of
29 revenue shall pay into the loss reserve account from the allocated

1 reserve account the amount needed to bring the balance of the loss
2 reserve account to five per cent of the amount of loans outstanding.

3 (c) The one per cent difference between the rate of interest paid
4 by a borrower and the rate of interest paid by the fund required by
5 sec. 430 of this chapter shall be allocated to the loss reserve account.

6 (d) Money in the loss reserve account may only be used for losses
7 realized from loans made under this chapter, except when, at the begin-
8 ning of a fiscal year, the balance of the loss reserve account exceeds
9 five per cent of the remaining principal balance of the total amount of
10 loans projected to be outstanding during the fiscal year, the amount in
11 excess of five per cent shall be paid to the allocated reserve account
12 until all amounts paid to the loss reserve account and the capital
13 reserve account have been paid and then to the earned income account of
14 the loan programs fund.

15 Sec. 45.96.160. FIRE INSURANCE AND LIABILITY RESERVE ACCOUNT. The
16 fund may issue loans without requiring proof of insurance against fire
17 and liability if an additional charge of six-tenths of one per cent per
18 year is made. The receipts from this charge shall be deposited in the
19 fire insurance and liability reserve account and may only be used to
20 reimburse the fund for losses which occur on property for which the
21 charge provided by this section was in effect at the time of loss.

22 Sec. 45.96.170. INVESTMENT OF RESERVE ACCOUNTS. (a) The director
23 of the division of treasury in the Department of Revenue shall invest
24 money in the reserve accounts established by this chapter, other than
25 funds in the debt service reserve account, only in

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

28 (2) obligations secured by reserves paid in by the United
29 States or agencies or instrumentalities of the United States or obliga-

1 tions of corporations in which the United States is a shareholder or
2 member; or

3 (3) corporate bonds rated "A" or better by a nationally
4 recognized rating service.

5 (b) Funds in the debt service reserve account may only be invested
6 in obligations described in (a)(1) or (2) of this section.

7 Sec. 45.96.180. INVESTMENTS. (a) All investments of the fund
8 cash balances and of reserves for specific bond issues or statutorily
9 required reserves are managed for the fund by the director of the divi-
10 sion of treasury in the Department of Revenue. The director shall
11 determine investment policy and manage the investments of the fund under
12 the same criteria applicable to other state investments he manages.

13 (b) The director of the division of treasury shall provide monthly
14 reports to the Legislative Budget and Audit Committee relating to the
15 investment of funds described in (a) of this section, including

16 (1) a summary of long-range and short-term investment policy;
17 (2) a list of investments made during the previous month;
18 (3) an evaluation of the performance of investments made;
19 (4) other information requested by the budget and audit
20 committee.

21 Sec. 45.96.190. BUDGET. The operating budget is by appropriation
22 from the general fund unless the legislature specifically appropriates
23 from the unallocated reserve account. The operating budget is subject
24 to the Executive Budget Act (AS 37.07).

25 Sec. 45.96.200. ACCOUNTING AND REPORTS. Accounting for the fund
26 shall be provided by the Department of Administration. Reports shall be
27 made by that department to the Department of Revenue, the Department of
28 Commerce and Economic Development, and the Legislative Budget and Audit
29 Committee at least once a month. These reports shall include an itemi-

1 zation of each loan which has been in default for a period in excess of
2 30 days and the measures taken for each to insure compliance with terms
3 and conditions of the loan. The Legislative Budget and Audit Committee
4 shall provide quarterly reports to the legislature summarizing the
5 information it receives under this section and under AS 45.96.180(b) and
6 45.96.240(b) and including comments and suggestions the committee deter-
7 mines to be of interest to the legislature relating to the administra-
8 tion of the loan program. Other reports shall be made as prescribed by
9 the Department of Commerce and Economic Development.

10 Sec. 45.96.210. LOAN PROCEDURES. (a) The director of the divi-
11 sion of Alaska loan programs shall establish district loan offices in
12 Juneau, Fairbanks, and Anchorage and may establish other loan offices as
13 necessary which shall be headed by district directors. The office shall
14 provide information concerning the loan programs under this chapter,
15 other state loan programs, state grant programs, federal loan or grant
16 programs, and, to the extent feasible, private loans.

17 (b) Each district loan office shall include a veterans' loans
18 section. The veterans' loans section shall process loan applications
19 from applicants who meet the eligibility requirement of AS 45.96.440.
20 The veterans' loan section shall also provide information and assistance
21 to veterans relating to loan applications under this chapter, other
22 state loan programs or state grant programs, federal loan or grant
23 programs, and to the extent feasible, private loans.

24 Sec. 45.96.220. ALASKA LOAN PROGRAMS EVALUATION COMMITTEE. (a)
25 There is established in the Department of Commerce and Economic De-
26 velopment the Alaska Loan Programs Evaluation Committee consisting of
27 the directors, or their designees, of the following divisions: (1) the
28 division of economic enterprises in the Department of Commerce and
29 Economic Development, (2) the division of collections in the Department

1 of Revenue, and (3) the division of Alaska loan programs in the De-
2 partment of Commerce and Economic Development.

3 (b) The committee shall notify recipients of loans under the pro-
4 visions of this chapter who have been delinquent in their loan repay-
5 ments for a period in excess of 30 days. Upon notification of delin-
6 quency, the borrower may request reevaluation and technical assistance
7 from the committee. If the borrower requests reevaluation, the com-
8 mittee shall consider the terms and conditions of the loan as well as
9 all other pertinent information to determine whether there are feasible
10 alternative terms and conditions which will protect the interest of the
11 state and prevent the default of the loan.

12 (c) In performing the duties described in (b) of this section, the
13 committee shall have access to all nonconfidential records, data, in-
14 formation, and statistics of all departments, boards, commissions,
15 agencies, and institutions of the state. The committee shall also have
16 access to any records or other information of the borrower which are
17 pertinent to its investigation. Failure on the part of the borrower to
18 provide the records or information shall be grounds for refusal to
19 reevaluate.

20 (d) If the committee determines that alternative terms and con-
21 ditions are available which will protect the interest of the state and
22 prevent default of the loan, it may renegotiate the loan in accordance
23 with those terms.

24 Sec. 45.96.240. COLLECTIONS; DIVISION OF COLLECTIONS. (a) There
25 is established within the Department of Revenue the division of col-
26 lections. The director of the division is in the classified service
27 under AS 39.25 and shall receive an annual salary within range 27 of the
28 salary schedule established in AS 39.27.011 or within one range below
29 the range on which the highest paid deputy commissioner in the depart-

1 ment is paid if that range is higher than range 27. In order to qualify
2 for the position of director, a person must be an attorney licensed to
3 practice in this state with at least four years of practice in business
4 law and business practices.

5 (b) If a borrower who has received notification of delinquency in
6 accordance with AS 45.96.220 does not request reevaluation, or if the
7 evaluation committee determines that renegotiation of the existing terms
8 and conditions is not feasible or justified, and the loan is not brought
9 current within 30 days after the notification of delinquency is sent,
10 the loan shall be transferred to the loss reserve account and trans-
11 mitted for collection to the division of collections. A monthly report
12 of the status of the collection effort shall be made to the Legislative
13 Budget and Audit Committee. The total principal and interest due shall
14 be transferred from the loss reserve account to the fund upon assignment
15 of each loan.

16 Sec. 45.96.250. LOAN PURPOSES. Loans may be made from the fund
17 for residential housing, commercial purposes, public purposes, and
18 education.

19 Sec. 45.96.260. RESIDENTIAL HOUSING. In addition to other powers
20 granted in this chapter, the director of the division of Alaska loan
21 programs may, for the purpose of providing housing for persons who meet
22 the eligibility requirements of AS 45.96.370,

23 (1) make or participate in the making of construction loans
24 from the fund to sponsors, developers, and builders of residential
25 housing;

26 (2) make or participate in the making of mortgage loans from
27 the fund to sponsors, developers, builders, and purchasers of residen-
28 tial housing;

29 (3) purchase or participate in the purchase of mortgage loans

1 made from the fund to sponsors, developers, builders, owners, and pur-
2 chasers of residential housing;

3 (4) acquire real property, or any interest in real property,
4 in its own name, by purchase, transfer or foreclosure, when the acqui-
5 sition is necessary or appropriate to protect any loan in which the fund
6 has an interest; sell, transfer and convey any such property to a buyer;
7 and, if the sale, transfer or conveyance cannot be effected with rea-
8 sonable promptness or at a reasonable price, rent or lease the property
9 to a tenant pending the sale, transfer or conveyance;

10 (5) sell, at public or private sale, to any purchaser, in-
11 cluding the Federal National Mortgage Association, all or any part of a
12 mortgage or other instrument or document securing a construction, land
13 development, mortgage or temporary loan of any type permitted by this
14 section;

15 (6) purchase, in order to meet the requirements of the sale
16 of its mortgages to the Federal National Mortgage Association, stock of
17 the Federal National Mortgage Association;

18 (7) sell all or any part of a mortgage or other instrument or
19 document securing a construction, land development, mortgage or tempo-
20 rary loan of any type permitted by this section to the teachers' re-
21 tirement system (AS 14.25) if the borrower is a teacher subject to the
22 provisions of AS 14.25 or to the public employees' retirement system
23 (AS 39.35) if the borrower is a public employee included in the system;
24 however, the security instrument shall be fully guaranteed as to payment
25 of principal and interest by the fund.

26 Sec. 45.96.270. COMMERCIAL LOANS. (a) In addition to other
27 powers granted in this chapter, the director of the division of Alaska
28 loan programs may make loans from the fund to

29 (1) individual farmers, homesteaders, and partnerships or

1 corporations composed of farmers and homesteaders, for development of
2 farms, storage and processing of farm produce, livestock, machinery and
3 equipment, and farm irrigation;

4 (2) individual commercial fishermen who have had a commercial
5 fishing license for at least one of the previous five years, for the
6 repair, restoration or upgrading of existing vessels and gear and for
7 the purchase of entry permits and gear and the construction and purchase
8 of vessels; loans made under this paragraph are subject to the provi-
9 sions of AS 45.96.295 and 45.96.297;

10 (3) local development companies to assist the new financing
11 of industrial and manufacturing plant construction, conversion or ex-
12 pansion, including the acquisition of land, to the extent necessary to
13 secure a loan for a portion of the cost by the Small Business Adminis-
14 tration under 15 U.S.C. sec. 696 (Section 502 of the Act of Congress
15 entitled "Small Business Investment Company Act of 1958" as amended);

16 (4) develop, rehabilitate, and expand business activities in
17 the state;

18 (5) child care facilities in the state to comply with the
19 appropriate licensing standards for child care facilities or to comply
20 with the requirements for certification by the Department of Education
21 subject to the following conditions:

22 (A) the applicant shall submit to the fund a plan for
23 the use of the loan funds which is approved by the commissioner of
24 commerce and economic development;

25 (B) the applicant shall demonstrate that the proposed
26 loan will enable the child care facility to obtain a license from
27 the Department of Health and Social Services or a certificate from
28 the Department of Education;

29 (C) the applicant shall apply to the Department of

1 Community and Regional Affairs for and receive a certificate of
2 need;

3 (6) small businesses to acquire, finance or refinance or
4 equip businesses;

5 (7) loggers and forest products manufacturers and processors
6 for logging operations and equipment, forest products manufacturing or
7 processing plants, and for working capital for logging operations and
8 forest products manufacturing or processing;

9 (8) other businesses for equipment and operations related to
10 harvesting, manufacturing and processing other renewable or nonrenewable
11 resources in the state.

12 (b) Notwithstanding the provisions of AS 45.96.410 and 45.96.420,
13 a loan under (a)(2) of this section may not run longer than 15 years or
14 exceed 90 per cent of the appraised value of the collateral used to
15 secure the loan.

16 Sec. 45.96.280. CERTIFICATE OF NEED FOR CHILD CARE FACILITIES.

17 (a) The Department of Community and Regional Affairs shall determine
18 whether to award a certificate of need to child care facilities applying
19 for a loan under AS 45.96.270(5) on the basis of the following criteria:

20 (1) the number of existing slots in licensed child care
21 facilities in the geographic area of the applicant;

22 (2) the number of children in the geographic area who need
23 child care;

24 (3) the proposed capacity of the applicant facility;

25 (4) other factors which are determined to be relevant by the
26 department and are set out in regulations adopted by the Department of
27 Community and Regional Affairs.

28 (b) The Department of Community and Regional Affairs shall submit
29 its decision and the reasons for it to the applicant within 60 days of

1 receipt of the application.

2 Sec. 45.96.295. LOANS MADE TO COMMERCIAL FISHERMEN. A loan under
3 AS 45.96.270(2) shall be secured by a first lien and appropriate
4 security agreements, except that a lien in favor of the state is not
5 required for loans guaranteed fully by the federal government under the
6 Federal Ship Financing Act of 1972 (46 U.S.C. secs. 1271 - 1279b; 86
7 Stat. 909), as amended. In the case of a security agreement given to
8 secure a loan made under AS 45.96.270(2) and covering a vessel docu-
9 mented under the laws of the United States and so long as the Ship
10 Mortgage Act of 1920 (46 U.S.C. secs. 911 - 984; 41 Stat. 1000), as
11 amended, and the Shipping Act of 1916 (46 U.S.C. secs. 801 - 842; 39
12 Stat. 728), as amended, remain ambiguous with respect to whether or not
13 a state or state agency qualifies as a citizen of the United States for
14 purposes of those Acts, the first lien requirement of this section may
15 be satisfied by the recordation and endorsement of a first preferred
16 ship mortgage under the Ship Mortgage Act of 1920, and by perfection of
17 a security interest under the Uniform Commercial Code - Secured Trans-
18 actions (AS 45.05.690 - 45.05.794), if the approval of the Secretary of
19 Commerce is obtained under 46 U.S.C. sec. 839 for the transfer to the
20 department of the interest in a vessel documented under the laws of the
21 United States. In the case of a security agreement given to secure a
22 loan made under AS 45.96.270(2) and covering a vessel documented under
23 the laws of the United States, the first lien requirement of this sec-
24 tion may also be satisfied by use of a trust deed and bond issue under
25 it, if the trustee is a citizen of the United States and obtains a first
26 preferred ship mortgage on the vessel under the Ship Mortgage Act of
27 1920, and the approval of the Secretary of Commerce is obtained under 46
28 U.S.C. secs. 839 and 961 for the transfer of the bond or bonds to the
29 department if the trustee is not a trustee approved by the Secretary of

1 Commerce under 46 U.S.C. secs. 808, 835 and 961.

2 Sec. 45.96.297. LOANS FOR PURCHASE OF LIMITED ENTRY PERMITS. (a)
3 Loans under AS 45.96.270(2) for the purchase of a limited entry permit
4 may be made only upon certification by the Alaska Commercial Fisheries
5 Entry Commission (AS 16.43.020) that the fisherman is a person who
6 qualifies as a transferee for the permit under AS 16.43 and the regula-
7 tions adopted by the commission.

8 (b) Upon approval by the director of the division of Alaska loan
9 programs, the permit to be purchased may be pledged as security for a
10 loan under (a) of this section, if

11 (1) the certificate for the pledged permit lists the director
12 as the legal owner of the permit;

13 (2) the certificate for the pledged permit lists the debtor
14 as the equitable owner of the permit;

15 (3) all annual permit cards issued under the pledged permit
16 list the name of the debtor;

17 (4) all obligations and responsibilities of a permit owner
18 are assumed by the debtor;

19 (5) co-signers or other sureties for performance under the
20 note are not vested with any rights in the pledged permit and their
21 obligation is limited to satisfaction of the note and payment of costs
22 directly incurred by the division in administering the loan.

23 (c) The director of the division of Alaska loan programs is not
24 liable for any act or omission resulting from permit ownership nor will
25 that act or omission affect his title to the permit or his rights under
26 it.

27 (d) Upon satisfaction of the note by the debtor, the director of
28 the division of Alaska loan programs shall certify to the Alaska Commer-
29 cial Fisheries Entry Commission that the note has been satisfied.

1 (e) Upon certification as provided in (d) of this section, the
2 Alaska Commercial Fisheries Entry Commission shall amend the permit
3 certificate to list the debtor as the legal owner.

4 Sec. 45.96.300. PUBLIC PURPOSES. (a) The director of the divi-
5 sion of Alaska loan programs shall lend money to municipalities with
6 populations of less than 5,000 according to the most recent survey
7 conducted by the United States Census Bureau and to those corporations
8 eligible under (d) of this section. Loans to municipalities shall be
9 made through the purchase by the fund of municipal bonds. Loans to
10 nonprofit corporations shall be made through purchase by the fund of
11 revenue bonds issued on behalf of the corporation by the municipality in
12 which the project to be financed by the loan is constructed. If the
13 loan to a nonprofit corporation is for construction outside a munici-
14 pality, the revenue bonds to be purchased by the fund shall be issued by
15 the state bond committee on behalf of the nonprofit corporation. The
16 cost of a loan made under this subsection shall be the same as the cost
17 of borrowing to the fund. Loans made under this subsection may not
18 exceed \$5,000,000 and are subject to the following conditions:

19 (1) The borough or city attorney shall certify that all legal
20 requirements relating to required bond elections, if necessary, and to
21 bond issuance have been met, or if the bonds are issued outside a muni-
22 cipality, certification shall be made by the Department of Law.

23 (2) The bonds shall be prepared by the municipality's attor-
24 ney, approved by the attorney general and need not be in definitive
25 form.

26 (3) The bonds shall be for a term commensurate with purpose,
27 but in no event for more than 30 years average life.

28 (b) The director of the division of Alaska loan programs shall
29 submit a bid for all general obligation bonds offered on a competitive

1 basis by a home rule borough or city or general law borough or city of
2 any class incorporated under the laws of the state if the borough or
3 city provides its bid form to the director at least 10 days before the
4 opening of the bid. The request for bids and the bid proposal shall
5 provide for issuing all or a portion of the bonds based upon the best
6 combination of bids. The bid shall be determined on the basis of the
7 Daily Bond Buyer 20 bond average as follows:

8 (1) For general obligation bonds with a rating of "A" or
9 higher, the bid shall be

10 (A) 100 points under the average for the first five
11 years maturity;

12 (B) 75 Points under the average for the next five years
13 maturity;

14 (C) 50 points under the average for the next five years
15 maturity;

16 (D) 25 points under the average for the next five years
17 maturity;

18 (E) 0 points under the average for the next five years
19 maturity;

20 (F) 25 points above the average for the next five years
21 maturity.

22 (2) For general obligation bonds with a rating of "Baa" or
23 lower or which are unrated, the bid shall be

24 (A) 50 points under the average for the first five years
25 maturity;

26 (B) 25 points under the average for the next five years
27 maturity;

28 (C) 0 points under the average for the next five years
29 maturity;

1 (D) 25 points above the average for the next five years
2 maturity;

3 (E) 50 points above the average for the next five years
4 maturity;

5 (F) 75 points above the average for the next five years
6 maturity.

7 (c) The director of the division of Alaska loan programs shall
8 submit a bid for all revenue bonds offered on a competitive basis by a
9 home rule borough or city or general law borough or city of any class or
10 on behalf of a nonprofit corporation performing any of the functions
11 described in AS 29.48 for which revenue sharing is received directly or
12 indirectly by the corporation or on behalf of those nonprofit corpora-
13 tions described in (d) of this section if the borough, city, or non-
14 profit corporation provides its bid form to the director at least
15 10 days before the opening of the bid. The request for bids and the bid
16 proposal shall provide for issuing all or a portion of the bonds based
17 upon the best combination of bids. The bid shall be determined on the
18 basis of the Daily Bond Buyer 20 bond average as follows:

19 (1) 50 points under the average for the first five years
20 maturity;

21 (2) 25 points under the average for the next five years
22 maturity;

23 (3) 0 points under the average for the next five years
24 maturity;

25 (4) 25 points above the average for the next five years
26 maturity;

27 (5) 50 points above the average for the next five years
28 maturity;

29 (6) 75 points above the average for the next five years

1 maturity;

2 (d) A nonprofit corporation is eligible for a loan under this
3 section if

4 (1) it is designated as tax exempt under sec. 501(c)(3) and
5 (4) of the Internal Revenue Code of 1954;

6 (2) it is a public corporation or other municipal instru-
7 mentality under AS 29.59.010; or

8 (3) it is created by statute and performs a state function.

9 (e) The major part of the proceeds of any bond issue purchased by
10 the fund under this section shall be used for purposes which are tax
11 exempt under federal law and regulation in effect at the time the bonds
12 are issued.

13 (f) The limitations in AS 45.96.400 - 45.96.430 do not apply to
14 loans or purchases made under this section.

15 Sec. 45.96.310. DEFAULT ON MUNICIPAL BONDS. (a) Notwithstanding
16 any provision of law, to the extent that a department or agency of the
17 state is the custodian of money payable to a municipality, at any time
18 after written notice to the department or agency head from the commis-
19 sioner of revenue that the municipality is in default on the payment of
20 principal or interest on municipal bonds held or owned by the fund, the
21 department or agency shall withhold the payment of that money from that
22 municipality and pay over the money to the fund for the purpose of
23 paying principal of and interest c bonds of the fund.

24 (b) If money is not available to make any payment of principal and
25 interest when due on a bond issue, the chief executive officer of the
26 municipality which issued the bonds shall notify the commissioner of
27 revenue at least 20 days in advance of the pending default that a de-
28 fault is pending. Failure to give the notice of pending default is
29 grounds for removal of the chief executive officer from office and, if

1 default occurs, the office is forfeited and is filled as provided by law
2 for filling vacancies.

3 Sec. 45.96.320. MUNICIPAL BOND CAPITAL RESERVE ACCOUNT. For the
4 purpose of securing each tax exempt bond issue of municipalities of the
5 state and those bonds on behalf of nonprofit corporations guaranteed or
6 issued under this chapter there is established a special account called
7 the municipal bond capital reserve account. The commissioner of revenue
8 shall pay into that account from the unallocated reserve account upon
9 establishment an amount equal to five per cent of the obligations issued
10 and sold after July 1, 1979 and upon subsequent sales, if any, of obli-
11 gations of the issue secured an additional amount equal to five per cent
12 of the obligations sold. At the end of each fiscal year the commis-
13 sioner of revenue shall withdraw from the municipal bond capital reserve
14 account and pay to the unallocated reserve account any amount in the
15 account in excess of five per cent of the obligations secured or, if the
16 amount in the account is less than five per cent of the obligations
17 secured, pay into the account from the unallocated reserve account the
18 amount necessary to bring the reserve to five per cent. All money held
19 in a municipal bond capital reserve account shall be used as required,
20 when money is not available from the principal and interest account,
21 solely for (1) the payment of the principal of obligations, (2) the
22 purchase or redemption of obligations, (3) the payment of interest on
23 obligations, or (4) the payment of any redemption premium required to be
24 paid when those obligations are redeemed before maturity. Any income or
25 interest earned by the account shall be paid to the unallocated reserve
26 account. Any amount remaining in a municipal bond capital reserve ac-
27 count when the issue the account secures is fully retired shall be paid
28 to the unallocated reserve account.

29 Sec. 45.96.330. INDUSTRIAL DEVELOPMENT LOANS. (a) The director

1 of the division of Alaska loan programs may lend money from the fund to
2 businesses conducting exempt activities under sec. 103(b)(4) and (5) of
3 the Internal Revenue Code of 1954 for those activities either directly
4 or through purchase by the fund of industrial development bonds issued
5 on behalf of the business by the state bond committee.

6 (b) A loan may be made under this section only if upon payment of
7 the loan the project financed by the loan will be the property of

8 (1) the municipality in which the activity is conducted,
9 unless the municipality has provided otherwise by a resolution adopted
10 before approval of the loan; or

11 (2) the state if the activity is not conducted within a
12 municipality.

13 (c) Any corporation, partnership, or firm doing business in the
14 state is eligible for a loan under this section if

15 (1) the governing body of the municipality in which the
16 activity is performed has been given notice of the project and the
17 application for loan or purchase and has approved the project and ap-
18 plication, or has not within 60 days of receipt of notice notified the
19 director in writing that it disapproves the loan; or

20 (2) when the activity to be financed by the loan is not
21 performed within a municipality, the commissioner of community and
22 regional affairs approves the project.

23 (d) A corporation, partnership, or firm which requests a loan of
24 greater than \$5,000,000 for a project under this section may request a
25 special series of bonds for its project. The director of the division
26 of Alaska loan programs may request the state bond committee to issue
27 the special series of bonds on behalf of the corporation, partnership,
28 or firm in place of making a direct loan. A corporation, partnership,
29 or firm is eligible for a special bond series for its project if it has

1 a credit rating of "A" or better.

2 Sec. 45.96.340. PROJECT COSTS ELIGIBLE FOR BONDING. In addition
3 to costs directly related to a project, the sum total of all costs of
4 financing and carrying out a project are eligible for bonding under AS
5 45.96.300 - 45.96.330. These include, but are not limited to, the costs
6 of all necessary studies, surveys, plans and specifications, architec-
7 tural, engineering or other special services, acquisition of real pro-
8 perty, site preparation and development, purchase, construction,
9 reconstruction and improvement of real property and the acquisition of
10 machinery and equipment as may be necessary in connection with a pro-
11 ject; an allocable portion of the administrative and operating expenses
12 of the issuer; the cost of financing the project, including interest on
13 bonds issued to finance the project; and the cost of other items, in-
14 cluding any indemnity and surety bonds and premiums on insurance, legal
15 fees, fees and expenses of trustees, depositaries, financial advisors,
16 and paying agents for the bonds issued as the issuer considers neces-
17 sary.

18 Sec. 45.96.350. EDUCATION. (a) In addition to other powers
19 granted in this chapter, the director of the division of Alaska loan
20 programs may make scholarship loans from the fund to students selected
21 under (b) - (g) of this section.

22 (b) Proceeds from scholarship loans may only be used for trans-
23 portation, books, tuition and required fees, and for room and board.
24 The loans may only be used to attend a career education program approved
25 by the Alaska Commission on Postsecondary Education or a college or
26 university accredited by the accreditation association for the region in
27 which the college or university is located or approved by the commis-
28 sion.

29 (c) To maintain a loan the student must continue to be enrolled as

1 a full-time student in good standing in a work study program approved by
2 the Department of Education, in a career education program, or in a
3 college or university designated under (b) of this section.

4 (d) Loans are noninterest bearing while a student is enrolled
5 under (c) of this section or is receiving a deferment of payments under
6 (g) of this section if appropriated funds are available for payment to
7 the fund of the interest.

8 (e) The repayment period for student loans is 10 years. Unless a
9 deferment of payments has been granted under (g) of this section, re-
10 payment shall commence when the student terminates his studies. In case
11 of hardship, the Alaska Loan Programs Evaluation Committee may extend
12 repayment of a loan for an additional period of up to five years.

13 (f) If, upon completion of the course of study for which the loan
14 was granted, the borrower repays 60 per cent of the principal amount of
15 the loan with interest with no delinquency, the remaining 40 per cent
16 owing shall be forgiven if appropriated funds are available for payment
17 to the fund of the amount forgiven.

18 (g) The Alaska Loan Programs Evaluation Committee shall defer
19 repayment of a loan during any of the following:

20 (1) the first year after a student terminates his studies;

21 (2) return by the student to student status as provided in
22 (c) of this section;

23 (3) performance by the student of military or required alter-
24 native service; or

25 (4) 50 per cent or greater disability of the student, as
26 certified by competent medical authority.

27 Sec. 45.96.360. TOURISM, HISTORICAL AND OPEN SPACE LOANS. (a) In
28 addition to other powers granted in this chapter, the director of the
29 division of Alaska loan programs may make loans from the fund to a

1 business directly involved in the tourist industry.

2 (b) Upon endorsement and plan approval by a local historical
3 district commission established under AS 29.48.108 and the recommend-
4 ation of a majority of the members of the Historic Sites Advisory Com-
5 mittee, loans may be made from the fund to a person, firm, business or
6 municipality subject to applicable laws for the restoration, improve-
7 ment, rehabilitation, or maintenance of a structure which is

8 (1) within the boundaries of an historical district estab-
9 lished under AS 29.48.110;

10 (2) identified as important in state or national history as
11 provided for in AS 29.48.110(b); or

12 (3) another building or structure within an historical dis-
13 trict, and suitable for superficial modification so that it can conform
14 to the period or motif of the surrounding buildings or structures that
15 are the reason for the area's designation as an historical district.

16 (c) Loans may be made from the fund for the nonfederal share of
17 costs of projects to acquire, develop, or extend outdoor recreation
18 sites and facilities.

19 Sec. 45.96.370. ELIGIBILITY. In order to be eligible for a loan
20 under this chapter, other than a loan made under AS 45.96.350, a person
21 must have been a resident of the state for at least five years on the
22 date of application for the loan and must be 18 years of age or older.
23 Except for loans made under AS 45.96.330, a corporation is eligible for
24 a loan if more than 60 per cent of its shareholders have been residents
25 of the state for at least five years on the date of the application for
26 the loan, the chief executive officer and all members of the governing
27 board of the corporation have been residents of the state for at least
28 five years on the date of application for the loan, and the chief
29 executive officer and members of the governing board assume full indi-

1 vidual liability for repayment of the loan. A loan to a corporation is
2 immediately due and payable if it ceases to meet these eligibility
3 requirements. An individual is ineligible for a loan under this chapter
4 if an earlier loan to the individual from the state or an agency of the
5 state has been discharged in bankruptcy unless the defaulted loan has
6 been repaid in full and 10 years have elapsed from the date of repay-
7 ment.

8 Sec. 45.96.380. MAXIMUM LOAN AMOUNTS. (a) Loans made under the
9 authority of AS 45.96.260 for the purchase or construction of residen-
10 tial housing may not exceed: (1) \$90,000 for a single family dwelling;
11 (2) \$130,000 for a duplex; (3) \$170,000 for a triplex; (4) \$210,000 for
12 a fourplex. A loan made for the purchase or construction of residential
13 facilities in excess of four units shall be treated as a commercial
14 building loan subject to the limitations placed on such loans in (b)(1)
15 of this section.

16 (b) Commercial loans made under the authority of AS 45.96.270 may
17 not exceed:

18 (1) \$500,000 per individual for business activities; farm
19 development; agricultural irrigation systems; purchase, construction,
20 renovation, or repair of commercial buildings; fish manufacturing and
21 processing; fishing vessels and gear; logging operations and equipment;
22 timber manufacturing and processing; nonrenewable resource extraction;
23 or any other activity not otherwise specifically provided for in this
24 section;

25 (2) \$350,000 per individual for farm chattel other than for
26 irrigation systems.

27 (c) Loans for a single project under (b)(1) of this section may
28 exceed \$500,000 but may not exceed \$3,000,000 if

29 (1) the loan is made to more than one but not more than 10

1 individuals participating in the project and the loan to each individual
2 does not exceed the maximum limit under (b)(1) of this section; or

3 (2) the loan is made to a corporation and no more than 10
4 individuals owning stock in that corporation assume personal liability
5 for the loan in an amount which as to each individual does not exceed
6 the maximum limit under (b)(1) of this section.

7 (d) Educational loans made under the authority of AS 45.96.350 may
8 not exceed:

9 (1) \$4,000 per individual per year for undergraduate studies;

10 (2) \$8,000 per individual per year for graduate studies;

11 (3) \$4,000 per individual per year for vocational studies;

12 (4) \$4,000 per individual per year for work studies.

13 (e) No more than three loans may be made to any person for other
14 than educational purposes under this chapter. A loan to an associate of
15 the borrower is considered to be a loan to the borrower. For the pur-
16 poses of this section, "associate of the borrower" means

17 (1) a corporation or other organization of which the borrower
18 is an officer, director or partner, or is, directly or indirectly, the
19 beneficial owner of 10 per cent or more of any class of equity securi-
20 ties;

21 (2) a person who is, directly or indirectly, the beneficial
22 owner of 10 per cent or more of any class of equity securities of the
23 borrower;

24 (3) a trust or other estate in which the borrower has a
25 substantial beneficial interest or as to which the borrower serves as
26 trustee or in a similar fiduciary capacity;

27 (4) a relative or spouse of the borrower or a relative of the
28 spouse, who has the same home as the borrower;

29 (5) a person directly or indirectly controlling, controlled

1 by, or under common control with, the borrower.

2 (f) The maximum loan amounts established in (a) - (d) of this
3 section shall increase in proportion to increases in the consumer price
4 index for Anchorage. The consumer price index for Anchorage for July 1,
5 1979 shall be the basis for determining annual percentage increases in
6 the maximum loan amounts.

7 Sec. 45.96.390. AREA COST DIFFERENTIAL. (a) The maximum loan
8 amounts established in AS 45.96.380(a) and (b) shall be increased by the
9 area cost differential (ACD) determined by the formula $ACD = LCC/BCC \times$
10 $LCOL/BCOL$ where

11 (1) LCC is the cost of construction in the area in which the
12 facility to be financed by the loan is located;

13 (2) BCC is the cost of construction in the city or borough
14 having the lowest cost of construction in the state;

15 (3) LCOL is the cost of living in the area in which the
16 facility to be financed by the loan is located;

17 (4) BCOL is the cost of living in the city or borough having
18 the lowest cost of living in the state.

19 (b) For purposes of this section the Department of Transportation
20 and Public Facilities shall annually determine the cost of construction
21 and the cost of living in each area of the state under regulations
22 promulgated by the department establishing standards for the determi-
23 nation.

24 Sec. 45.96.400. ADDITIONAL LOAN LIMITATIONS. The maximum loan
25 amounts established in AS 45.96.380(b) and 45.96.390 shall be further
26 limited, based upon the actual technical and managerial experience of
27 the borrower relating to the project or activity for which the loan is
28 made, as follows:

29 (1) If the borrower's experience is less than two years, he

1 may receive up to 50 per cent of the maximum amount;

2 (2) if the borrower's experience is two to three years, he
3 may receive up to 70 per cent of the maximum amount;

4 (3) if the borrower's experience is three to four years, he
5 may receive up to 80 per cent of the maximum amount;

6 (4) if the borrower's experience is four to five years, he
7 may receive up to 90 per cent of the maximum amount;

8 (5) if the borrower's experience is five years or more, he
9 may receive 100 per cent of the maximum amount.

10 Sec. 45.96.410. VALUE LIMITATION. The provisions of AS 45.96.-
11 380 - 45.96.400 notwithstanding, no loan made under this chapter, unless
12 it is a loan made under the provisions of AS 45.96.330, may exceed

13 (1) 90 per cent of the appraised value of real property
14 pledged as security for the loan;

15 (2) 95 per cent of the appraised value of real property
16 pledged as security for the loan if the loan is for residential housing
17 in an area where Federal Housing Administration mortgage insurance is
18 not available; or

19 (3) 80 per cent of tangible personal property pledged as
20 security for the loan.

21 Sec. 45.96.420. MAXIMUM TERMS OF LOANS. The term of a loan made
22 under this chapter may not exceed the useful life of the property
23 pledged as security for the loan nor

24 (1) 30 years on a loan secured by real property;

25 (2) 15 years or the life of the equipment on a loan secured
26 by equipment used for production of income;

27 (3) seven years on a loan secured by tangible personal pro-
28 perty.

29 Sec. 45.96.430. RATE OF INTEREST. (a) The rate of interest

1 charged to borrowers under this chapter shall be the amount determined
2 by the commissioner of revenue to be sufficient to cover anticipated
3 cost of money to the fund and, for borrowers other than municipalities,
4 one per cent over the anticipated cost for the loss reserve account plus
5 the amount required for any necessary insurance, but the rate of in-
6 terest charged may be lower if necessary to prevent bonds issued under
7 this Act from being arbitrage bonds under the provisions of and regula-
8 tions under section 103(c) of the Internal Revenue Code of 1954, as
9 amended. The determination of the anticipated cost by the commissioner
10 is conclusive. Rates of interest less than that, except as provided in
11 (b) of this section, may be charged if the renewable resource develop-
12 ment fund or another state fund agrees to pay the difference between
13 cost and the interest rate to be charged or if appropriation for the
14 purpose of paying the difference has been made.

15 (b) The rate of interest determined in accordance with (a) of this
16 section shall be reduced by one per cent if the loan is made to a vet-
17 eran or is made for agricultural purposes. If the loan is made to a
18 veteran, the World War II veterans' revolving fund, created in AS 26.-
19 15.090, shall pay the difference between the rate determined in (a) of
20 this section and the rate charged to the borrower. If the loan is made
21 for agricultural purposes, the agricultural revolving loan fund, created
22 in AS 03.10.040, shall pay the the difference between the rate deter-
23 mined in (a) of this section and the rate charged to the borrower. If
24 the loan is made to a veteran and for agricultural purposes, the rate of
25 interest shall be reduced by two per cent and each fund shall pay one-
26 half the difference.

27 (c) When the World War II veterans' revolving fund's assets become
28 depleted so that it can no longer pay the difference, the provisions of
29 (b) of this section relating to loans made to veterans apply only if

1 appropriation is made for the purpose of paying the difference. When
2 the agricultural revolving loan fund's assets become depleted so that it
3 can no longer pay the difference, the provisions of (b) of this section
4 relating to loans made for agricultural purposes apply only if appro-
5 priation is made for the purpose of paying the difference.

6 Sec. 45.96.440. ELIGIBILITY FOR VETERANS' INCENTIVE. (a) The
7 following persons are eligible for special interest rates for veterans
8 established in AS 45.96.430(b);

9 (1) a person who served in the armed forces of the United
10 States for 90 days or more, or whose service was for less than 90 days
11 because of injury or disability incurred in the line of duty, between
12 April 6, 1917 and November 11, 1918, and beginning September 16, 1940 to
13 six months after termination of hostilities involving United States
14 forces in Indo-China, or in a combat zone during any period of armed
15 conflict, who was separated from the armed forces with a discharge other
16 than dishonorable, and

17 (A) who at the time of induction into the service was a
18 resident of the territory or state, who had been a resident for not
19 less than one year immediately before his induction, and who re-
20 turned to the territory or state after discharge as a resident with
21 the intention of remaining in the territory or state; or

22 (B) who, not being a bona fide resident of the territory
23 or state before his entry into the service, has been a resident of
24 the territory or state for five or more years;

25 (2) a person who was dependent on a member of the armed
26 forces or a veteran of World War II at the time of the member's or
27 veteran's death if

28 (A) the member or veteran was a resident of the terri-
29 tory for one year before induction into the service;

1 (B) he served in the armed forces for at least 90 days
2 between September 16, 1940, and July 25, 1947, but no benefits for
3 loans accrue to dependents of an enlistee or reenlistee for time
4 served after November 1, 1945, regardless of whether the enlistment
5 or reenlistment was before or after November 1, 1945;

6 (C) he died before the official date of the termination
7 of that war; and

8 (D) his discharge was not dishonorable;

9 (3) a person who has served in the Alaska Army National
10 Guard, the Alaska Air National Guard, or the Alaska Naval Militia for
11 not less than six years and who has not received a discharge other than
12 honorable.

13 (b) The provisions of AS 45.96.430(b) are extended to persons who
14 served other than dishonorably on active duty between June 25, 1950, and
15 January 31, 1955, who served other than dishonorably on active duty
16 between August 4, 1964, and six months after termination of hostilities
17 involving forces of the United States, and to dependents of those per-
18 sons, subject to the following provisions and eligibility qualifica-
19 tions:

20 (1) a discharge other than dishonorable from the armed forces
21 of the United States or release to a reserve component;

22 (2) at the time of entry into the service residency in the
23 territory or state for not less than one year before entry into the
24 service, and return to the territory or state within a reasonable length
25 of time after discharge or separation with the intention of remaining in
26 the territory or state; or lacking residency before entry into the
27 service, residency in the territory or state for at least five years
28 following release from active military service; and

29 (3) service in the armed forces of the United States for

1 90 days or more, or service for a lesser period because of injury or
2 disability incurred in line of duty, between June 25, 1950, and Janu-
3 ary 31, 1955, or service in the armed forces of the United States for
4 90 days or more or service for a lesser period because of injury or
5 disability incurred in line of duty, between August 4, 1964, and July 1,
6 1977.

7 (c) A person who is eligible under more than one of the qualifi-
8 cation provisions of (a) and (b) of this section shall have the rate of
9 interest on his loan reduced by one and one-half per cent.

10 Sec. 45.96.450. EMPLOYMENT PRACTICES. (a) In the performance of
11 contracts let by a recipient of a loan under this chapter for construc-
12 tion, repair, preliminary surveys, engineering studies, consulting,
13 maintenance work or any other retention of services necessary to com-
14 plete any project for which the loan was made, 95 per cent residents
15 shall be employed if they are available and qualified. If 10 or fewer
16 persons are employed under the contract, then 90 per cent residents
17 shall be employed if they are available and qualified.

18 (b) The commissioner of commerce and economic development shall
19 incorporate into all lending instruments issued under this chapter the
20 provisions of (a) of this section and a provision calling for immediate
21 foreclosure of the loan for violation of the provisions of (a) of this
22 section.

23 (c) In addition to immediate foreclosure of his loan, as provided
24 in (b) of this section, a borrower who violates the provisions of (a) of
25 this section is ineligible for any loan under this chapter for 10 years
26 following the violation.

27 (d) Municipalities and state agencies and departments when con-
28 tracting for services concerning any aspects of administration and
29 financing of the fund shall comply with AS 36.10.

1 Sec. 45.96.460. COOPERATION WITH OTHER AGENCIES. All departments,
2 agencies and public corporations of the state shall provide information,
3 services and facilities to the fund on its request. The fund shall
4 reimburse the department, agency or corporation for expenses reasonably
5 incurred on the fund's behalf.

6 Sec. 45.96.470. BANK PARTICIPATION. (a) Loans made under the
7 authority of this chapter may be made in participation with financial
8 institutions. The participating financial institution may act as agent
9 for the division of Alaska loan programs in the initial processing of
10 applications for loans. Fees for such services shall be mutually agreed
11 upon.

12 (b) If a financial institution participates in a loan, the fund
13 and the participating institution shall share the same ratable interest
14 in the collateral securing the loan. Loan payments made by the borrower
15 shall be distributed between the financial institution and the fund on a
16 pro rata basis.

17 (c) The participating financial institution shall fix the rate of
18 interest charged by it but may not exceed the legal contract rate of
19 interest prescribed by law.

20 (d) The maximum service fee for administering a loan which may be
21 charged by a participating financial institution shall be set by the
22 director of the division of Alaska loan programs.

23 Sec. 45.96.480. ASSURANCE REQUIRED. (a) For each loan made from
24 the fund the loan agreement shall include an assurance by the borrower
25 that no person who provides services to the borrower in preliminary
26 phases of a project for which the loan is made, including all studies
27 made in connection with the project,

28 (1) may participate in the implementation stages of that
29 project; or

1 (2) may represent more than one interest in connection with
2 the project.

3 (b) A list of all persons performing preliminary services for a
4 loan applicant shall be furnished to the division of Alaska loan pro-
5 grams as part of the loan application, and a list of all persons with
6 whom the borrower has contractual relations in respect to the project
7 after the application for loan shall be submitted to the division at
8 intervals set by the division of Alaska loan programs.

9 Sec. 45.96.490. DEFINITIONS. For purposes of this chapter, "the
10 fund" and "the loan programs fund" mean the Alaska loans program fund
11 created in AS 45.96.020.

12 * Sec. 7. AS 03.10.050 is repealed and re-enacted to read:

13 Sec. 03.10.050. ADMINISTRATION OF FUND. The commissioner shall
14 administer the loan fund.

15 * Sec. 8. AS 14.40.751(a) is amended to read:

16 (a) There is created a scholarship revolving loan fund. [THE FUND
17 SHALL BE USED TO MAKE SCHOLARSHIP LOANS TO STUDENTS SELECTED UNDER
18 AS 14.40.751 - 14.40.806. ALL REPAYMENTS OF PRINCIPAL AND INTEREST ON
19 SCHOLARSHIP LOANS SHALL BE PAID INTO THE SCHOLARSHIP REVOLVING LOAN FUND
20 AND SHALL BE USED TO MAKE NEW SCHOLARSHIP LOANS. IF ESTIMATED FUNDS
21 AVAILABLE FROM SCHOLARSHIP LOAN REPAYMENTS ARE INADEQUATE TO FULLY FUND
22 ESTIMATED SCHOLARSHIP LOANS FOR ANY FISCAL YEAR, ADDITIONAL FUNDING FROM
23 THE GENERAL FUND MAY BE REQUESTED AND APPROPRIATED FOR THAT YEAR.]

24 * Sec. 9. AS 14.40.755(b) is amended to read:

25 (b) A person whose [LOAN OR] grant application is not recommended
26 or presented to the committee by the executive secretary may appeal to
27 the committee through the chairman of the committee and the committee
28 shall consider the application.

29 * Sec. 10. AS 18.100.050 is amended to read:

1 Sec. 18.100.050. ELIGIBILITY FOR GRANTS [LOANS]. Only public or
2 nonprofit private corporations are eligible for grants [LOANS] under
3 this chapter. The nonprofit corporations must be designated as tax
4 exempt under sec. 501(c)(3) and (4) [501(e)(3) AND (4)] of the Internal
5 Revenue Code of 1954.

6 * Sec. 11. AS 18.100.070(a) is amended to read:

7 (a) There is created within the Department of Community and Re-
8 gional Affairs a senior citizens housing development fund. Subject to
9 direct appropriation [OR THROUGH PROCEEDS OF A BONDING ISSUE] the de-
10 partment shall make grants [OR LOANS] to municipalities or to corpora-
11 tions designated as tax exempt under sec. 501(c)(3) and (4) of the
12 Internal Revenue Code of 1954 [ELIGIBLE FOR LOANS UNDER AS 18.100.050]
13 for the purpose of developing senior citizen housing. [A GRANT FROM THE
14 PROCEEDS OF A BOND ISSUE MAY BE MADE ONLY TO MUNICIPALITIES.]

15 * Sec. 12. AS 18.100.070(b) is amended to read:

16 (b) Application for a grant [OR LOAN] under (a) of this section
17 shall be in the form prescribed by the department. The application
18 shall demonstrate the need for senior citizen housing in the area to be
19 served, the feasibility of the proposed project, and an adequate manage-
20 ment plan which shall demonstrate the ability of the eligible recipient
21 to sustain the proposed project.

22 * Sec. 13. AS 29.13.100 is amended by adding a new paragraph to read:

23 (39) AS 29.58.290 (industrial development bonds)

24 * Sec. 14. AS 29.58 is amended by adding a new section to read:

25 Sec. 29.58.290. INDUSTRIAL DEVELOPMENT BONDS. No municipality,
26 home rule or otherwise, may issue a revenue bond which is an industrial
27 development bond under the provisions of the Internal Revenue Code of
28 1954 (26 U.S.C. 103).

29 * Sec. 15. AS 37.10.050 is amended to read:

1 Sec. 37.10.050. ACCOUNTING FOR STATE MONEY AND PAYMENT TO DIVISION
2 OF TREASURY [DEPARTMENT OF REVENUE] FOR DEPOSIT IN PROPER FUND. (a)

3 Each office, board, commission, or bureau authorized to collect or
4 receive fees, licenses, taxes or other money belonging to the state
5 shall account for and pay the fees, licenses, taxes or other money, less
6 fees to which he is entitled by law to the division of treasury of the
7 Department of Revenue at least once each month.

8 (b) Money collected for the state shall be deposited by the col-
9 lector in the nearest bank to the account of the division of treasury
10 [DEPARTMENT OF REVENUE] when the division of treasury [DEPARTMENT OF
11 REVENUE] directs this to be done.

12 (c) The division of treasury [DEPARTMENT OF REVENUE] in June and
13 December of each year shall publish in at least one newspaper of general
14 circulation in each of the four judicial districts a detailed report in
15 display advertising form of the amount of state money deposited in each
16 named bank or other financial institution. A copy of the semiannual
17 report on bank deposits shall also be sent to the Legislative Affairs
18 Agency for distribution of copies to the members of the legislature.
19 The terms of the deposit may be obtained upon a written request.

20 * Sec. 16. AS 37.10.070(a) is amended to read:

21 (a) When the commissioner of revenue determines that there is in
22 the state treasury a surplus above an amount sufficient to meet current
23 cash expenditure needs, he shall direct the director of the division of
24 treasury to invest the surplus. The director may invest the surplus
25 [THE SURPLUS SHALL BE INVESTED] in any of the following:

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

28 (2) obligations secured by reserves paid in by the United
29 States or agencies or instrumentalities of the United States or obli-

gations of corporations in which the United States is a shareholder or member;

(3) notes issued by Farmer's Home Administration;

(4) bank certificates of deposit which are secured as to the payment of principal and interest in accordance with Alaska law;

(5) corporate obligations of prime or equivalent quality, as rated by a nationally recognized rating organization;

(6) other securities, including corporate securities;

(7) Federal Housing Administration mortgages;

(8) Federal Veterans Administration mortgages;

(9) loans made under the provisions of the Alaska loan programs fund (AS 45.96) [AS 03.10 AND AS 26.15];

(10) conventional residential mortgages if the offering financial institution retains at least 25 per cent of the mortgage;

(11) other secured loans, if the offering financial institution retains at least 33 1/3 per cent of the mortgage;

(12) mortgages of the Alaska Rural Rehabilitation Corporation which secure agricultural loans, agricultural business loans and agricultural processing loans;

(13) bankers acceptances drawn on and accepted by banks with a combined capital and surplus aggregating at least \$200,000,000;

(14) repurchase agreements, reverse repurchase agreements, or any trading practice or instrumentalities that may evolve investment management.

* Sec. 17. AS 37.10.070(f) is repealed and re-enacted to read:

(f) Investment policy shall be formulated by the director of the division of treasury of the Department of Revenue subject to the approval of the commissioner of revenue. In formulating investment policy the director of the division of treasury shall consider maximum income

1 and safety as governed by the prudent-man rule. The investment policy
2 shall be proposed to the legislature during the first 10 days of any
3 regular session. Investment policy only becomes effective 60 days after
4 presentation to the legislature or at the end of that session, whichever
5 is earlier, unless disapproved by a resolution concurred in by a major-
6 ity of the members of each house.

7 * Sec. 18. AS 37.10.070(g) is amended to read:

8 (g) The director of the division of treasury [COMMISSIONER OF
9 REVENUE, WITH THE CONSENT OF THE COMMITTEE,] may enter into contracts
10 for services providing investment advice, custody of securities, and
11 execution of transactions, in or out of Alaska.

12 * Sec. 19. AS 37.10.070(i) is amended to read:

13 (i) The director of the division of treasury [COMMISSIONER] shall
14 purchase notes and mortgages under (a) of this section at a rate con-
15 ducive to develop and benefit Alaska and Alaska residents and this rate
16 may be less than the market rate.

17 * Sec. 20. AS 37.10.070 is amended by adding a new subsection to read:

18 (k) In making investments under (a) of this section, the director
19 of the division of treasury may pool the surplus assets of the state
20 funds but shall maintain separate accounts for each fund.

21 * Sec. 21. AS 37.10.075(a) is amended to read:

22 (a) When the commissioner of revenue determines that there are
23 funds in the state treasury which are not being used for the purposes
24 provided for in AS 37.10.070, he may direct the director of the divi-
25 sion of treasury to deposit the funds [THEY MAY BE DEPOSITED] in finan-
26 cial institutions in the state which offer the highest bid for the
27 state funds. Collateral may be required by the commissioner to secure
28 state deposits provided for under this section.

29 * Sec. 22. AS 39.25.120(2) is amended to read:

1 (2) the directors, division of personnel, division of public
2 health, division of medical assistance, and those other directors of the
3 major divisions of the principal departments of the executive branch as
4 are specifically designated by the governor, except the directors of the
5 division of Alaska loan programs, division of treasury and division of
6 collections are in the classified service and may not be designated as
7 partially exempt;

8 * Sec. 23. AS 41.22.020(a) is amended to read:

9 (a) In addition to uses of fund money authorized in sec. 10 of
10 this chapter, money of the fund shall be utilized to make grants to
11 municipalities, of up to one-half the nonfederal share of costs of pro-
12 jects described in AS 41.22.010 which are initiated by a municipality [,
13 AND LOANS OF AMOUNTS NECESSARY TO ENABLE MUNICIPALITIES TO MAKE OPTION
14 PAYMENTS ON PARKS AND OPEN SPACE LAND FOR THE ACQUISITION OF WHICH
15 FEDERAL FUNDS ARE ANTICIPATED].

16 * Sec. 24. AS 41.35.180(5) is repealed and re-enacted to read:

17 (5) consult with local historical district commissions re-
18 garding the establishment of historical districts under AS 29.48.108 -
19 29.48.110 and recommend, if appropriate, the formulation of additional
20 criteria for the designation of historical districts under AS 29.48.-
21 110(b).

22 * Sec. 25. AS 44.21.020 is amended by adding new paragraphs to read:

23 (13) provide accounting services for the permanent fund (AS
24 37.13.010), the Alaska loan programs fund (AS 45.96), the renewable re-
25 sources development fund (AS 37.11), and all other state funds;

26 (14) provide detailed accounting of state loans outstanding and
27 securities held by the state.

28 * Sec. 26. AS 44.25 is amended by adding a new section to read:

29 Sec. 44.25.025. DIVISION OF TREASURY. (a) There is established

1 within the Department of Revenue the division of treasury. The director
2 of the division is in the classified service under AS 39.25 and shall
3 receive an annual salary within range 27 of the salary schedule estab-
4 lished in AS 39.27.011 or within one range below that on which the
5 highest paid deputy commissioner in the Department of Revenue is paid if
6 that range is higher than range 27.

7 (b) In order to qualify for the position of director of the divi-
8 sion, a person must

9 (1) be graduated from an accredited college with major course
10 work in business administration, accounting, finance, banking, econ-
11 omics, or another closely related field;

12 (2) have 10 years of experience in banking or investment
13 management involving review, analysis, purchase and sell recommenda-
14 tions, and responsibility for performance with at least four of the
15 years in a managerial capacity.

16 (c) The director of the division of treasury shall collect, ac-
17 count for, have custody of, invest, and manage all state funds and all
18 revenues of the state except revenues incidental to a program of licen-
19 sing and regulation carried on by another state department, except that
20 the division shall issue fish and game licenses, collect fish and game
21 license revenues, and do all other acts incidental to the performance of
22 these functions.

23 * Sec. 27. AS 44.33.020 is amended by adding a new paragraph to read:

24 (22) administer the Alaska loan programs fund (AS 45.96).

25 * Sec. 28. AS 18.56.110(a) is amended to read:

26 (a) The corporation, by resolution, may issue bonds and bond
27 anticipation notes in order to provide funds to carry out and effectuate
28 its purposes only if the state bond committee finds that the issuance
29 is consistent with the bond program of the Alaska loan programs fund.

1 * Sec. 29. All state agencies, departments, commissions, corporations,
2 divisions or other instrumentalities administering or having authority over
3 or control of a loan program or loan fund affected by secs. 7 - 12, 23 - 24,
4 and 30 of this Act shall cease accepting applications for loans no later than
5 January 1, 1980. The division of Alaska loan programs shall begin to accept
6 applications for loans from the Alaska loan programs fund no later than
7 January 1, 1980.

8 * Sec. 30. The following laws are repealed: AS 03.10.010; 03.10.020(1),
9 (4), and (5); 03.10.030; 03.10.054; AS 14.40.751(c), 14.40.759 - 14.40.771;
10 AS 16.10.300; 16.10.310(a)(1), (4), (5); 16.10.320; AS 18.100.030(1) and (4),
11 18.100.040 - 18.100.060; AS 26.15.010(b) - (d), 26.15.040 - 26.15.060,
12 26.15.110 - 26.15.160; AS 41.22.020(b) - (c); AS 41.30.010 - 41.30.080;
13 AS 44.33.020(5), 44.33.245(a)(1), 44.33.245(b), 44.33.250 - 44.33.260;
14 AS 44.59.140(7) - (14), 44.59.170, 44.59.190 - 44.59.410, 44.59.430; AS
15 44.60.010, 44.60.130(7) - (13), 44.60.160 - 44.60.260, 44.60.310 - 44.60.320;
16 AS 44.61.010 - 44.61.220; AS 45.86.010 - 45.86.030, 45.86.040(b) - (c),
17 45.86.050 - 45.86.060; AS 45.88.010 - 45.88.040; AS 45.90.020(a)(1), (4),
18 45.90.030; AS 45.95.020 - 45.95.030, 45.95.070; AS 45.98.020 - 45.98.040,
19 45.98.060.

20 * Sec. 31. AS 37.10.065, 37.10.075(b) - (d), 37.10.079; and AS 44.25.-
21 020(2) are repealed.

22 * Sec. 32. Sections 1 - 6, 13 - 22, 25 - 29, and 31 of this Act take
23 effect June 30, 1979. The unobligated general fund surplus as of June 30,
24 1979 shall lapse into the unallocated reserve account created in AS 45.96.125
25 on June 30, 1979.

26 * Sec. 33. Sections 7 - 12, 23, 24 and 30 of this Act take effect June
27 30, 1980.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

ALASKA COMMISSION ON POSTSECONDARY EDUCATION

POUCH F - STATE OFFICE BUILDING
JUNEAU, ALASKA 99811
(907) 465-2855

February 28, 1979

The Honorable Hugh Malone
Chairman, Special Permanent
Fund Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Malone:

I have read with interest HB 279; "an act relating to the Alaska loan programs fund, the Alaska permanent fund, and state investment policy and other state revenues," and I would like to submit the following comments for your consideration and the consideration of your committee.

The Alaska Loan Programs Fund proposes to combine existing loan programs into one administrative loan structure. The purpose is to improve service, to secure better interest rates and terms, and ostensibly, to provide more efficient management. I do not believe that abolishing the current student loan program and creating a new student loan program as described in SSSB 1 and HB 279 accomplishes any of the stated purposes.

Improved Service. After seven years of program operation, the student loan program, as administered by the Alaska Commission on Postsecondary Education, is providing excellent service to the student borrowers of Alaska. An automated system has finally been developed and is currently being implemented. During this spring, all collections will be on our automated system, and by next winter, all awards will also be converted. As an educational agency which handles other student assistance programs, we are able to advise students of other available sources of aid and to thereby keep indebtedness at a minimum. I do not feel that moving the loan program into another agency, which does not have responsibility for other educational programs and which does not interface with educational institutions and organizations both locally and nationally, will improve client service. It could, in fact, prove to have the opposite effect.

Better Interest Rates and Terms. The current interest rate for student loans is five percent. Under the proposed plan, the interest rate would be set by the commissioner of revenue at a level sufficient to cover anticipated costs to the fund plus one percent for a loss reserve account. It is highly doubtful that this interest rate would be as low as five percent. I recognize that five percent is a very low interest rate, but I believe the foregone interest which might be collected by a higher rate, to be an excellent investment in the youth of Alaska.

I do not feel the terms of the loan program as described in SSSB 1 and HB 279 are an improvement over the existing program. In fact, I feel the terms are not as desirable as those currently in law. The new program changes the terms in essentially four ways. Each of these will be briefly discussed.

1. transportation: Under the new terms, transportation expenses would be an allowable loan item. This is not currently the case. The current philosophy is to provide assistance for room, board, books, and tuition. If a student wishes to attend out-of-state, the transportation costs to and from that school are borne by the student. I believe this to be justifiable and do not feel these expenses should be allowable loan items.

2. cancellation benefits: The new loan terms provide for 40 percent of a loan to be cancelled (considered a grant) as long as a borrower has remained current in repaying the first 60 percent of what was borrowed. The current loan program provides for up to 40 percent of a loan to be cancelled if, upon completion of a course of study, the borrower lives and works in Alaska. This is an incentive for the student to remain here upon graduation, or return to the state if educated "outside".

First, I believe strongly in the provision of this incentive for working in the state, and I would encourage its continuation. Second, I consider the student loan a legal debt and obligation. A person who meets this obligation is simply complying with the law. Those who do not meet the obligation are penalized through interest charges. I do not endorse a system which has its sole basis for reward (through cancellation), the simple meeting of one's legal responsibility.

3. loan limits: The current program provides \$3,000 and \$5,000 per year as maximum loans for undergraduate and graduate student, respectively. The new program provides \$4,000 and \$8,000. I have no evidence to warrant increasing the loan limits to these higher levels at the current time.

4. collateral: Security is required for all loans under the new program (except certain industrial development loans). Further, the provisions set loan limits based upon that security (or its appraised value). This is currently not required, and we feel it is inappropriate for student loans.

Efficient Management. The Alaska Commission on Postsecondary Education is an educational agency. It administers the student loan program, the WICHE student exchange program, the memorial scholarship loan programs, the guaranteed student loan program, and the state educational incentive grant program. Additionally, it works with educational institutions, agencies, and associations at the local, state, and national levels and administers a number of non-student aid programs.

In determining a student loan, a student aid "package" is developed in cooperation with the institution of attendance. All of our aid programs are coordinated. If a WICHE grant is awarded, the loan need is adjusted; if an incentive grant is

The Honorable Hugh Malone
February 28, 1979
Page 3

awarded, the loan is adjusted; and so on. The benefit of one office handling all these closely related educational aid programs are many. To pull out one educational aid program and combine it with other loan programs simply because they all provide funds to people in the form of loans, does not guarantee management efficiency.

I do not believe the student loan program can operate with fewer people than currently required (17 full-time and 2 temporary) regardless of where it is operated. We have a division with four supervisory personnel (Range 14). We do not have a director; those duties are shared by commission staff. The structure as described in SSB 1 and HB 279 does not appear to provide any personnel savings. In fact, the other aid programs which are operated by the Commission would require additional personnel if total aid packaging is no longer possible.

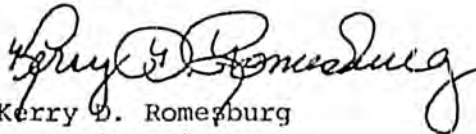
Conclusion and Recommendations

I do not believe the student loan program should be incorporated into a state loan division. I recommend that the program be left substantially as it currently exists, both administratively and programmatically. If it is desired that the permanent fund be utilized as the funding source for student loans, this can be accomplished under the present structure.

If the state loan division is established, excluding the student loan program, I would recommend that the student loan division be able to utilize the collection services for those defaulted loans which are currently processed through the Attorney General's office. Routine collections could continue to be handled in the current manner, but those chronic default accounts could beneficially be channeled through a central office.

If you have any questions, or if I can be of any assistance, please let me know.

Sincerely,



Kerry D. Romeburg
Executive Director

cc: Representative C. V. Chatterton
Representative Sam Cotten
Representative Oral Freeman
Representative Phillip Guy
Representative E. J. Haugen
Representative Joe Hays
Representative Brian Rogers
Representative Leo Schaeffer

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH 5 - JUNEAU 99811

February 28, 1979

The Honorable Hugh Malone
Chairman
House Special Permanent Fund
Committee
Room 647 - Court Building
Juneau, Alaska

Re: House Bill No. 279

Dear Mr. Malone:

House Bill No. 279, an Act relating to the Alaska loan programs fund, the Alaska permanent fund, and statement investment policy and other state revenues, was introduced in the House on February 22, 1979 and was referred to the House Special Permanent Fund and Finance Committees.

For the consideration of the House Special Permanent Fund Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Peter Bushre, Deputy Commissioner, Department of Revenue concerning the proposed legislation.

Sincerely,



R. D. Stevenson
Special Assistant

cc: The Honorable Russ Meekins
Chairman
House Finance Committee

John Messenger
Commissioner
Department of Revenue

Peter Bushre
Deputy Commissioner
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB279 - An Act relating to the Alaska loan programs fund, the Alaska Permanent Fund, and state investment policy and other state revenues; and Title providing for an effective date.
Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Department of Revenue, Department of Commerce & Economic Development

Program Category Affected General Government

BRU, Program, or Subprogram(s) Affected Treasury Management

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		2667.7	2667.7	2667.7	2667.7	2667.7
200 TRAVEL		210.7	21.0	21.0	21.0	21.0
300 CONTRACTUAL		1481.7	1481.7	1481.7	1481.7	1481.7
400 COMMODITIES		48.3	48.3	48.3	48.3	48.3
500 EQUIPMENT		111.8	6.0	3.5	2.0	1.5
600 LAND & STRUCTURES		248.1	167.1	167.1	167.1	167.1
700 GRANTS, CLAIMS, ETC.						
TOTAL		4768.3	4662.5	4660.0	4658.5	4658.0

FUNDING (Thousands of Dollars)

GENERAL FUND		3329.2	2961.7	2959.2	2958.7	2958.2
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Permanent Fund		1439.1	1430.1	1430.1	1429.1	1429.1
Total		4768.3	4391.8	4389.3	4387.8	4387.3

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

All costs represented herein are incremented and pertain only to those charges added by the subject legislation. Existing agency budgets remain in effect. See attached for analysis.

	<u>Total</u>	<u>Loan Programs</u>	<u>Collections</u>	<u>Investment Oversight</u>	<u>Permanent Fund Corp.</u>	<u>Treasury</u>
100 - Personal	\$2,667,703	\$ 768,576	\$ 917,814	\$ 287,892	\$ 510,102	\$ 183,319
200 - Travel	210,750	57,800	40,000	21,050	80,460	11,440
300 - Contractual	1,481,700	86,500	369,500	115,900	776,400	133,400
400 - Commodities	48,300	15,000	10,000	4,100	16,000	3,200
500 - Equipment	111,800	50,000	35,800	6,500	10,000	9,500
600 - Office Space	<u>248,100</u>	<u>75,000</u>	<u>81,000</u>	<u>31,000</u>	<u>46,100</u>	<u>15,000</u>
	<u>\$4,768,353</u>	<u>\$1,052,876</u>	<u>\$1,454,114</u>	<u>\$466,442</u>	<u>\$1,439,062</u>	<u>\$ 355,859</u>

DIVISION OF ALASKA LOANS

100 - Personal

	<u>Per Position (wages)</u>	<u>Employer Charges</u>	<u>Annualized</u>
(1) Director - Range 27	\$ 3,752	\$ 669.05	\$ 53,052
(1) Secretary - Range 10	1,254	274.16	18,348
(1) Comptroller - Range 24	3,401	623.82	48,300
(2) Loan Examiner - Range 19	2,355	468.18	67,764
(1) Bond Specialist - Range 23	3,161	588.10	45,000
(1) Muni. Finn. Analyst - Range 18	2,186	443.03	31,560
(4) Loan Examiner II - Range 17	2,031	419.96	117,648
(2) Ind. Dev. Specialist - Range 16	1,888	588.10	59,436
(5) Loan Examiner I - Range 15	1,751	378.29	127,764
(3) Ed. Loan Specialist - Range 14	1,629	360.15	71,616
(7) Process Clerk - Range 10	1,254	270.78	128,088
	<u>\$ 24,662</u>	<u>\$5,083.62</u>	<u>\$ 768,576</u>

200 - Travel

12 trips per year for 1 Director in Alaska	\$ 2,400
4 trips per year outside Alaska for 1 Director	2,400
12 trips per year for loan examiner in Alaska	26,400
6 trips per year for muni. Finn Analyst	1,200
12 trips per year for 2 Indus. Dev. Specialists in Alaska	4,800
4 trips per year for Bond Specialist outside Alaska	<u>2,400</u>

364 day per diem at \$50 per day	18,200
	<u>\$ 57,800</u>

300 - Contractual

Telephone	\$ 30,000
Postage	3,500
Printing/Production	15,000
Auditing	20,000
Equipment Rental	15,000
Miscellaneous	3,000
	<u>\$ 86,500</u>

400 - Commodities

\$ 15,000

500 - Equipment

\$ 50,000

600 - Office Space

\$ 75,000