

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

6135 HOUSE STATE AFFAIRS

539

1 makes home mortgage loans with money provided to it by the State
2 Investment Board [COMMISSIONER OF REVENUE] from surplus state general
3 fund investments authorized by AS 37.10.070, or a state agency that
4 [WHICH] makes a direct home mortgage loan to an applicant, shall
5 include estimated heating and lighting costs as determined by an
6 energy audit in standard principal, interest, taxes and insurance
7 calculation of the cost of buying a housing unit. An applicant for a
8 home mortgage loan shall provide the financial institution or the
9 state agency with a copy of an energy audit.

10 * Sec. 30. TRANSITION. All litigation, hearings, investigations, and
11 other proceedings pending under a law amended or repealed by this Act, or
12 in connection with functions transferred by this Act, continue in effect
13 and may be continued and completed notwithstanding a transfer, amendment,
14 or repeal provided for in this Act. Orders and regulations issued or
15 adopted under authority of a law amended or repealed by this Act remain in
16 effect for the term issued, or until revoked, vacated, or otherwise mod-
17 ified under the provisions of this Act. All contracts, rights, liabilities
18 and obligations created by or under a law amended or repealed by this Act,
19 and in effect on the effective date of this Act, remain in effect notwith-
20 standing this Act's taking effect. Records, equipment, and other property
21 of agencies of the state whose functions are transferred under this Act
22 shall be transferred commensurate with the provisions of this Act.

23 * Sec. 31. The State Investment Board may hold organizational meetings
24 as soon as a quorum of the board has been appointed to or selected for the
25 board.

26 * Sec. 32. AS 37.10.210, 37.10.230, and 37.10.240, enacted by sec. 12
27 of this Act, and sec. 31 of this Act take effect immediately under AS 01.-
28 10.070(c).

29 * Sec. 33. Except for those sections that take effect under sec. 32 of

1 this Act, this Act takes effect January 1, 1991.

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faika, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



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

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee Members
FROM: Senator Pat Pourchot
RE: Wednesday, March 14 Committee Hearing
DATE: March 13, 1990

On Wednesday, March 14 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:
TELECONFERENCE; Limited Testimony from the Texas Trust Company only.

SB 509, An Act establishing the Alaska State Trust Company. This bill establishes a separate corporate structure for a State Trust Company, which would be governed by a board of professional investors and beneficiaries. The board would have the authority to directly access U.S. Federal Reserve bank services, which would establish the corporation as the singular entity in this state allowed this service. This bill transfers management of the PERS, TRS, Judicial and Military Retirement Funds, as well as the University of Alaska and the Public School Trust Fund, from the Commissioner of Revenue to the trust company. The bill allows the trust company to manage other public funds, including the General Fund and the SBS funds.

→ SB 417, An Act relating to management and investment of certain state funds. Introduced by Senator Kerttula, who serves as Chairman of the Legislative Budget and Audit Committee, this bill would establish a State Investment Board which would be responsible for managing the state's trust funds, the board would be composed of nine members: two from PERS, two from TRS, Commissioner of Revenue, Commissioner of Administration and three public members. The State Investment Board concept is based on a recommendation from the Legislative Auditor after completing an inquiry into the Department of Administration's investment strategy for SBS funds. SB 417, specifies oversight of the SBS and deferred compensation funds.

SB 197, An Act relating to management and investment of state retirement funds. This bill, as introduced by Senator Binkley, would transfer the management of the retirement trust funds and the Public School Trust funds from the Commissioner of Revenue to the Alaska Permanent Fund Corporation. It does not impact the management of University of Alaska Trust Fund, the General Fund nor the SBS, deferred compensation monies. Beneficiaries do not currently sit on the Alaska Permanent Fund Board.

MEMORANDUM

STATE OF ALASKA
DEPARTMENT OF REVENUE

TO: Milt Barker
Deputy Commissioner
Treasury Division

DATE: December 18, 1989

TELEPHONE: 465-2350

FROM: Michael Cheung *M.C.*
State Investment Officer
Treasury Division

RE: GIC Investment For SBS

Per your request, I have reviewed our SBS GIC investment. To summarize, the State should thoroughly examine the overall nature and purposes of the SBS. The State should determine a plan objective that can incorporate both short-term and long-term needs of the plan. An investment strategy should then be set up for accomplishing this objective. As for our current GIC investments, the State should be cautious about the current turmoil in the high yield securities market, as Executive Life's business structure has been severely affected and will continue to be. Finally, any future ITB should require financial information that will enable the State to properly evaluate the financial structure and its soundness of a potential GIC provider.

The State of Alaska is the annuity plan sponsor and the plan is qualified as a defined contribution plan under IRS code 401(a). It is critical for any plan sponsor to understand the nature of its plan and the strategy it takes to accomplish its objectives. A fiduciary has to act like a Prudent Expert in all related matters with primary responsibilities on reducing risk and secondarily on earning a reasonable return. Basically a plan must have:

- a. Competitive rate of return;
- b. Maintain sufficient liquidity for benefit payments; and
- c. Maintain the safeguards and diversification that is prudent in order to reduce risk on portfolio return.

Here are a few major factors that will influence the nature of a plan. A fiduciary should carefully evaluate each of them in order to determine the objectives of the plan and the necessary strategy to accomplish it.

Need for Current Income: Is the plan in a net cash outflow stage? This will be largely influenced by the characteristics of the plan participants.

Milt Barker
December 18, 1989
Page 2

Inflation Protection: Analyze how the minimum investment income requirement will change over time with inflation.

Capital Risk Tolerance: What are the probable emotional reactions to an adverse outcome? How much volatility can be comfortably accepted?

Liquidity Requirement: Assess the probability of forced sale.

After evaluating the above factors, an investment strategy needs to be set up. Asset allocation decisions must be made. The main reason for having various asset classes is that portfolio return risk can be reduced and in the long run, a sustainable growth can also be achieved.

Currently, the State of Alaska has its SBS monies invested only in GIC instruments. The longest maturity GIC is six years and a weighted average life of 3.3 years for the entire portfolio. However, the nature of the SBS plan is for long-term purposes. The plan is in a positive cash contribution stage as annual contribution will exceed annual annuity payments in 1990. Assuming this trend will continue in the foreseeable future, long-term returns will be more critical to the plan than current income. This means the investment strategy should be one that has a long time horizon with diversified assets in order to provide sustainable growth.

To satisfy both the current annuity payments and long-term growth needs of the plan, the portfolio should be divided into two sections. One portion of it should be set up with high quality fixed income securities. A dedicated cashflow strategy will be employed for this sector, whereby principal payments and interest payments from the bond portfolio will be used to fund annuity payments. A dedicated cashflow strategy is one of the methods a GIC insurer employs to match their assets and liabilities. Another method for asset/liability matching is a bond immunization strategy. An immunization strategy will try to match the duration of annuity payments with the duration of the bond portfolio. This technique permits the locking in of a yield, at the same time the reinvestment rate risk is minimized. Immunization requires three conditions be met:

1. Portfolio Duration = Liability Duration
2. Portfolio Value = Present Value of the Liability Stream
3. Dispersion of portfolio cashflows is equal or slightly greater than the dispersion of the liability stream.

Milt Barker
December 18, 1989
Page 3

After evaluating the long-term objectives of the fund, another section of the portfolio should be geared for the long-term inflation protected growth and benefits, and asset allocation decisions should be made. Investment strategy should encompass a long investment horizon with various assets that should contribute to a sustainable portfolio return and growth. To have the proper assets mix, risks (variability of return), and expected rates-of-return of different asset types should be evaluated with respect to various economic scenarios. This process will determine the proper asset allocation that is necessary to accomplish the plan objectives. As the economy and the plan characteristics change, plan sponsors should review the plan objectives and investment strategy. Therefore, a fiduciary can take proper actions to ensure the safety, returns, and value of the plan assets.

Within the context of our current GIC portfolio, the State has diversified its investments among various GIC insurers and has set up a ladder maturity schedule. The ability of an insurer to live up to its contractual agreement is dictated by its financial strength and assets quality. There are two levels of comfort an insurer can provide: 1) conservative investment management, which includes lending assets to solid borrowers, diversification of loans by geography and industry, and limiting the amounts invested in any one company, industry, or area; and 2) maintenance of a substantial contingency fund to cover losses of any sour investments. If an insurer does not invest prudently and realized losses occur, all it has to fall back on is its contingency reserve fund.

At present, approximately 25% of our GIC's is provided by Executive Life, a principal subsidiary of First Executive Corporation. First Executive has been known in the investment community as a major player in high yield fixed income securities. At the end of 1988 fixed income securities investments represented over 80% of total assets as compared with the industry's 50% average. Approximately 50% of its assets were invested in speculative-grade bonds and private placements, while industry average is less than 15%.

Executive Life competes in the GIC market by offering higher yields than some of its competitors. Executive Life has this ability because of its higher proportion of below-investment grade securities. This strategy involves some long-term risk. Although the company follows a policy of diversification by issuer and industry, any problems that arise from any bond issuer can affect the whole high yield industry. Presently, we are already witnessing the current shakeout in the high yield fixed income industry. Executive Life has already felt the turmoil in the high yield securities market. At year end 1988, the market value of the bond portfolio was below book value by over \$400 million. And a trading out of problem investments may result in a reduction of capital when realized losses are incurred in restructuring in portfolio.

Milt Barker
December 18, 1989
Page 4

Recently, a Wall Street Journal article stated that First Executive (parent company) was involved in restructuring its bond portfolio. By setting up six non-disclosed subsidiaries, First Executive was able to transfer \$750 million of its high yield bonds to its subsidiaries. (Any investments worth at least 10% of the net worth has to be publicly disclosed, and 10% of the net worth for First Executive was \$140 million. First Executive only invested \$128 million in each of the subsidiaries.) In return, First Executive received \$770 million notes issued by the subsidiaries. The interests and principal payments on the subsidiaries' notes will be supported by the high yield bonds that First Executive has swapped out. In other words, First Executive was able to unload these high yield securities to its subsidiaries without incurring any realized losses. The new notes issued by the subsidiaries also received a more favorable rating by the insurance regulators. Thus, First Executive was able to reduce an estimated \$120 million from its reserve for investment losses. Therefore, liability or insurance claim holders should not view their claims as supported by improved asset quality, because the only benefits realized was First Executive's ability to reduce its reserve account. With the continued turmoil in the high yield securities market. First Executive will be hard pressed to change its business and investment strategy. The State should closely monitor this situation and do any necessary actions to preserve the safety of the SBS assets. Currently, Moody's has placed Executive Life's A1 claims-paying rating on review. The review will focus on the shakeout in the high-yield bond market and its affect on Executive Life.

For any future GIC investment, the State should also request audited financial statements and 10 Q's, quarterly statements and 10K's. These statements are filed with the SEC by publicly traded companies. Insurers should also furnish various types of investment quality ratios: delinquent percent, foreclosed percent, and below investment grade percent. Other ratios on financial strength and capital structure should also be provided. These ratios will indicate the management style and profitability of an insurer. The ITB or contract should also include explicit language that an insurer has to act like a prudent expert in order to prevent the insurer from any actions that will jeopardize the plan assets and its ability to generate the contractual return.

MC/mem

M E M O R A N D U M

January 29, 1990

SUBJECT: Sectional summary of Work Order No. 6-1875A
(Management and investment of state funds)

TO: Senator Jalmar Kerttula, Chairman
Legislative Budget and Audit Committee

FROM: Teresa B. Cramer
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 substitutes the State Investment Board for the Commissioner of Revenue in reporting about the condition of the teachers' retirement trust fund and requires the State Investment Board to provide the Teachers' Retirement Board with an annual external performance review of the trust fund.

Sec. 2 makes the State Investment Board fiduciary of the teachers' retirement trust fund in place of the Commissioner of Revenue. The phrase "treasurer of the system" is removed as redundant to the remaining "fiduciary of the fund."

Sec. 3 substitutes the State Investment Board for the Commissioner of Revenue in management and investment of the University trust fund, which was established for revenues from the sale of federally granted lands.

Secs. 4 and 5 substitute the State Investment Board for the Commissioner of Revenue in the management and investment of the mortgage insurance fund of the Alaska Housing Finance Corporation.

Sec. 6 substitutes the State Investment Board for the Commissioner of Revenue in the management and investment of the judicial retirement trust fund.

Sec. 7 substitutes the State Investment Board for the Commissioner of Revenue in the management and investment of the Alaska National Guard and Alaska Naval Militia retirement fund.

Sec. 8 substitutes the State Investment Board for the Commissioner of Revenue in the management and investment of the funds cited, including the funds specifically amended in this bill and money held by the Alaska Student Loan Corporation (AS 14.42.200) including the student loan fund (AS 14.-42.210).

Sec. 9 substitutes the State Investment Board for the Commissioner of Revenue in the management and investment of the budget reserve fund.

Sec. 10 substitutes the State Investment Board for the Commissioner of Revenue in the management and investment of the money in the state treasury.

Sec. 11 substitutes the State Investment Board for the Commissioner of Revenue in the section that sets out the powers and duties of the entity that invests and manages state funds. In paragraph (a)(8), the bill also substitutes the phrase "in accordance with generally accepted accounting principles" for "in accordance with investment accounting principles."

Sec. 12 adds new sections creating the State Investment Board, setting out its powers and duties, requiring that members of the State Investment Board comply with state conflict of interest provisions, and permitting the State Investment Board to adopt regulations under the Administrative Procedure Act.

Secs. 13 - 16 substitute the State Investment Board for the Commissioner of Revenue in the management and investment of the public school trust fund. Sec. 13 also substitutes "generally accepted accounting principles" for "investment accounting principles" as the standard that the board must use in accounting for the fund.

Secs. 17 and 18 substitute the State Investment Board for the Commissioner of Revenue in the management and investment of the Alaska Children's trust fund. Sec. 17 and paragraph (6) in sec. 18 also substitute "generally accepted accounting principles" for "investment accounting principles" as the standard that the board must use in accounting for the fund. In the beginning of sec. 18, the bill substitutes "fiduciary" of the fund for "treasurer" of the fund.

Sec. 19 substitutes the State Investment Board for the Commissioner of Revenue in the management and investment of the group health and life benefits fund, which provides for group life and health insurance for public employees and retirees.

Sec. 20 adds a new section to the supplemental benefit system (SBS) statutes, identifying the State Investment Board as the fiduciary of SBS receipts.

Secs. 21 and 22 substitute the State Investment Board for the Commissioner of Revenue in the management and investment of the public employees' retirement fund.

Sec. 23 substitutes the State Investment Board for the Commissioner of Revenue in the management and investment of the deferred compensation program funds.

Sec. 24 adds the members of the State Investment Board to coverage of the conflict of interest statutes.

Sec. 25 substitutes the State Investment Board for the Commissioner of Revenue in the management and investment of the permanent fund dividends held in trust by public agencies for individuals.

Sec. 26 substitutes the State Investment Board for the Commissioner of Revenue in the management and investment of the permanent fund dividend fund.

Sec. 27 amends the duties of the Department of Revenue to reflect the changes made by the bill. The department is directed to implement the investment and management policies and directives of the State Investment Board.

Sec. 28 substitutes the State Investment Board for the Commissioner of Revenue in the management and investment of the power development fund of the Alaska Energy Authority.

Senator Jalmar Kerttula
Page 4
January 29, 1990

Sec. 29 substitutes reference to the State Investment Board for reference to the Commissioner of Revenue as the manager of the surplus state general fund investments.

Sec. 30 is a transition section.

Sec. 31 permits the State Investment Board to hold organizational meetings as soon as a quorum of the board has been appointed.

Sec. 32 is an immediate effective date for sec. 31 and for those provisions of Sec. 12 of the bill which create the State Investment Board, require its members to comply with conflict of interest provisions, and permit the board to adopt regulations.

Sec. 33 sets January 1, 1991, as the effective date for the remainder of the bill.

If I may be of further assistance, please advise.

TC:lmb
L9/079

H B

586

Item 2

FISCAL NOTE

REQUEST:

Revision Date: March 23, 1990
Title: Exempt Service: Certain military employees of DMVA
Sponsor: House Jud.
Requestor: House State Affairs

Agency Affected: DMVA
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|--|--|--|--|--|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | | | | | |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS : (Attach a separate page if necessary)

This bill will have no fiscal impact on DMVA

Prepared by: Jeff Morrison, Director
Division: Administrative & Support Services, DMVA
Approved by Commissioner: MG John Schaefer
Agency: Department of Military & Veterans Affairs

Phone: 465-4600
Date: 3/23/90
Date: 3/23/90

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Item 3

State of Alaska

Committees

CO-CHAIR, HOUSE JUDICIARY
VICE-CHAIR, HOUSE LABOR AND COMMERCE
HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES



P.O. BOX V
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(907) 465-4712
465-4968/4986
(SESSION)
914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spennard, Upper Midtown Anchorage

MEMORANDUM

March 20, 1990

TO: Representative H.A. "Red" Boucher

FROM: Representative Max F. Gruenberg, Jr.

RE: Hearing Request for HB 586.

On behalf of Representative Ron Larson and myself, I would like to request a hearing for HB 586, "An act placing certain military employees of the Department of Military and Veterans' Affairs in the exempt service; and providing for an effective date."

This bill creates exempt positions in the DMVA for fire-fighters and security personnel who are required to be Alaska National Guardsmen. Through these positions, the DMVA will receive federal funding for 8 new crash-rescue fire-fighters at Kulis Air National Guard Base. The positions and all of their required support are fully funded by the federal government.

Since Kulis ANG base is located adjacent to Anchorage International Airport, these fire-fighters will provide a valuable addition to the existing airport crash-rescue capabilities.

I would greatly appreciate it if you would schedule a hearing for this bill at your earliest possible convenience.

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS
POSITION PAPER
HB 586

Summary of Bill: The bill would create new classes of exempt employees in the statutes. These new classes would be for security personnel and crash-rescue firefighters in DMVA who are required to be members of the Alaska National Guard.

Background: Exempt employees are not covered by the state merit system, personnel rules, or collective bargaining laws. Positions in DMVA which are required to be filled by members of the Alaska National Guard are subject to National Guard regulations and procedures concerning employment standards and performance, discipline, and other aspects covered by the state personnel system.

Impact of Bill on Department of Military and Veterans Affairs: The department has recently received federal funding for eight new full time state positions in the crash-rescue firefighting unit at Kulis Air National Guard Base. Because this new mission is a military mission, the DMVA will require that the individuals filling the positions be members of the Alaska National Guard.

Additional justification for requiring these positions to be filled by members of the National Guard is as follows: 1) the training required for these positions to obtain and maintain eligibility to perform the duties is available only on a military base and is available only to military personnel; 2) the work of the positions will be done under strict military guidelines and requirements, and will entail the high degree of risk associated with military personnel assigned to this mission; 3) the positions will be trained as backup security guards for Kulis ANG Base, requiring their familiarity with military weaponry; 4) the positions will be working with and for other military personnel on Kulis ANG Base, and will be expected to adhere to military standards, discipline, chain of command, and courtesy; 5) the positions will be required to obtain a military security clearance to perform some of their duties; 6) passage of annual physical fitness tests and random drug tests required under military regulations will be a condition for retention of the job.

Because the new positions to be created will be military, the department needs the freedom of appointment, discipline, and dismissal for the positions that can only be provided by creating the positions in the exempt service.

The inclusion of security guards in the language of the bill is in anticipation of the high probability that the National Guard Bureau will require the department to provide military security guards at Kulis ANG Base in the near future, to replace the contracted security guards now providing limited security service. The justification for these positions to be military is the same as for the firefighters.

A side benefit of passage of this legislation is that the flexibility it provides to the department would make it more able to compete successfully within the National Guard to attract more federally funded state positions.

Departmental Position on Bill: DMVA strongly supports this bill.

Approved: J. Morrison Date: 3/22/90
for MG John W. Schaeffer

STATE OF ALASKA

STEVE COWPER, GOVERNOR

**DEPARTMENT OF MILITARY
AND VETERANS AFFAIRS**

OFFICE OF THE ADJUTANT GENERAL

DIMOND CENTER TOWER
800 EAST DIMOND BLVD.
SUITE 3-450
ANCHORAGE, ALASKA 99515-2037
PHONE: (907) 249-1523
AUTOVON 628-1623

22 March 1990

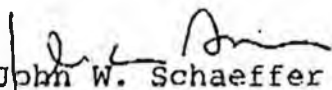
The Honorable Ronald Larson
Alaska State Representative
P.O. Box V
Juneau, AK 99811

Dear Representative Larson:

We feel that House bill 586 must be enacted this year if we are to take advantage of the opportunity to hire eight full time crash-rescue firefighters this year.

I have enclosed a position paper which details our positions. Please call should you need additional information.

Sincerely,


John W. Schaeffer
Major General
Alaska National Guard
The Adjutant General

Enclosure

H B

589

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF HB 589

Permanent Fund Technical Amendments

Received March 26, 1990
by the State Affairs Committee

Heard March 29, 1990

Adopted CSHB 589 (SA) March 29, 1990

Passed Out of Committee March 29, 1990
3 Do Pass
3 No Recommendation

TABLE OF CONTENTS

HB 589: Permanent Fund Technical Amendments

- Item 1:** HB 589 by the State Affairs Committee
CSHB 589 (SA)
- Item 2:** Fiscal Note by the House State Affairs Committee
- Item 3:** Letter and Sectional Analysis from the Alaska Permanent Fund Corporation, March 23, 1990
- Item 4:** *Alaskans on the Future of the Fund*, Final Report of the Commission on the Future of the Permanent Fund, January 31, 1990

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 26, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

HB 589

HOUSE BILL NO. 589

PERMANENT FUND TECHNICAL AMENDMENTS

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

RECOMMENDATIONS:

- be replaced with CS HB 589 the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note HSA
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Paul Johnston
W. B. Bush
Chris Munn

| | Do Not Pass | No Rec | Amend |
|----------------------|--------------------------|-------------------------------------|--------------------------|
| <i>Alice Hershey</i> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <i>Deed Douley</i> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <i>Jim Zavadski</i> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

W. B. Bush

 Chairman's Signature

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : _____
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Permanent Fund Technical
Amendments
Sponsor: House State Affairs
Requestor: _____

Agency Affected: _____
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 91 | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| | | | | | | |
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |
| | | | | | | |
| REVENUE | -0- | -0- | -0- | -0- | -0- | -0- |

FUNDING: (Thousands of Dollars)

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

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact.

Prepared by: House State Affairs
Division: _____
Approved by Commissioner: H. A. "Red" Foucher
Agency: _____

Phone: 465-4963
Date: March 28, 1990
Date: March 28, 1990

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

BY THE STATE AFFAIRS COMMITTEE

1 IN THE HOUSE

2

HOUSE BILL NO. 589

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the permanent fund, the Alaska
Permanent Fund Corporation, and disposition of income
from the permanent fund; and providing for an effective
date."

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

11

* Section 1. AS 37.13.020 is amended to read:

12

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

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

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21

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

22

23

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

24

25

26

* Sec. 2. AS 37.13.030 is amended to read:

27

Sec. 37.13.030. PURPOSE. It is the purpose of this chapter to provide a mechanism for the management and investment of those [PERMANENT] fund assets by [ALLOCATED TO] the Alaska Permanent Fund

28

29

1 Corporation in a manner consistent with the findings in AS 37.13.020.

2 * Sec. 3. AS 37.13.040 is amended to read:

3 Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is
4 established the Alaska Permanent Fund Corporation. The corporation is
5 a public corporation and government instrumentality in the Department
6 of Revenue managed by the board of trustees. The purpose of the
7 corporation [BOARD] is to manage and invest the assets of the perma-
8 rent fund and other funds designated by law [CORPORATION] in accor-
9 dance with this chapter.

10 * Sec. 4. AS 37.13.060 is amended to read:

11 Sec. 37.13.060. TERM OF OFFICE. The public members of the board
12 shall be appointed for terms of six [FOUR] years, and they may be
13 reappointed. The terms of the public members shall be staggered so
14 that no more than one term of a public member expires each year.

15 * Sec. 5. AS 37.13.110(b) is amended to read:

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

22 * Sec. 6. AS 37.13.120(a) is amended to read:

23 (a) The prudent-man rule shall be applied by the board in the
24 management and investment of [ALASKA PERMANENT] fund assets. The
25 prudent-man rule as applied to investments of the fund [CORPORATION]
26 means that in making investments the board shall exercise the judgment
27 and care under the circumstances then prevailing that an institutional
28 investor of ordinary prudence, discretion, and intelligence exercises
29 in the management of large investments entrusted to it not in regard

1 to speculation but in regard to the permanent disposition of funds,
2 considering probable safety of capital as well as probable income.

3 * Sec. 7. AS 37.13.120(b) is amended to read:

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

6 * Sec. 8. AS 37.13.120(e) is amended to read:

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

10 * Sec. 9. AS 37.13.120(g) is amended to read:

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

14 (1) obligations of, or obligations insured by or guaranteed
15 by, the United States or agencies or instrumentalities of the United
16 States;

17 (2) obligations secured by reserves paid in by the United
18 States or agencies or instrumentalities of the United States or obli-
19 gations of corporations in which the United States is a shareholder or
20 member;

21 (3) certificates of deposit and term deposits of United
22 States domestic banks that are members of the Federal Deposit Insur-
23 ance Corporation and that may be readily sold in a secondary market at
24 prices reflecting fair value or that are fully secured at all times as
25 to payment of principal and interest as described in (m) of this
26 section;

27 (4) [CERTIFICATES OF DEPOSIT AND TERM DEPOSITS OF FEDERALLY
28 CHARTERED SAVINGS AND LOAN ASSOCIATIONS IN ALASKA THAT MAY BE READILY
29 SOLD IN A SECONDARY MARKET AT PRICES REFLECTING FAIR VALUE OR THAT ARE

1 FULLY SECURED AT ALL TIMES AS TO PAYMENTS OF PRINCIPAL AND INTEREST AS
2 DESCRIBED IN (m) OF THIS SECTION;

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

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

13 (7) FIXED-TERM CERTIFICATES OF INDEBTEDNESS OF FEDERALLY
14 INSURED CREDIT UNIONS IN ALASKA THAT MAY BE READILY SOLD IN A SECON-
15 DARY MARKET AT PRICES REFLECTING FAIR VALUE OR THAT ARE FULLY SECURED
16 AT ALL TIMES AS TO PAYMENTS OF PRINCIPAL AND INTEREST AS DESCRIBED IN
17 (m) OF THIS SECTION;

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

21 (5) [(9)] short-term

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

24 or

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

28 (6) [(10)] bankers' acceptances drawn on and accepted by
29 United States banks each of which has a combined capital and surplus

1 aggregating at least \$200,000,000;

2 (7) [(11)] repurchase agreements, the securities underlying
3 the agreements being any of the items in (1) - (6) [(1) - (3) AND
4 (8) - (10)] of this subsection;

5 (8) [(12) THE GUARANTEED PORTION OF FEDERAL SMALL BUSINESS
6 ADMINISTRATION LOANS;

7 (13) THE PORTION OF FIRST LIEN REAL ESTATE MORTGAGES GUARAN-
8 TEED BY THE FEDERAL VETERANS ADMINISTRATION;

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

12 (9) [(15)] the guaranteed portion of Farmers Home Adminis-
13 tration loans;

14 (10) [(16)] notes secured by mortgages granting a first lien
15 on [commercial or] residential real estate improved by completed build-
16 ings if the mortgages are insured by a private mortgage insurance
17 corporation that is authorized to do business in this state [ALASKA]
18 and has combined capital and surplus aggregating at least \$20,000,000,
19 and if loan-to-value ratios do not exceed ~~75~~ ^{determined} percent for commercial

20 mortgages and 90 percent for residential mortgages; however,

21 (A) mortgage insurance is not necessary for commercial
22 loans having loan-to-value ratios of less than 50 percent and the
23 minimum coverage of other commercial loans shall be 10 percent
24 for those having a loan-to-value ratio of 50 - 60 percent and 15
25 percent for those having a loan-to-value ratio greater than 60
26 percent but no more than 75 percent; and]

27 (B) mortgage insurance is not necessary for residen-
28 tial loans having a loan-to-value ratio of less than 70 percent
29 and the minimum coverage of other residential loans shall be 10

ALASKA
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1 percent for those having a loan-to-value ratio greater than 70
2 percent but less than 90 percent and 20 percent for those having
3 a loan-to-value ratio of 90 percent;

4 (11) [(17) NOTES SECURED BY MORTGAGES GRANTING A FIRST LIEN
5 ON COMMERCIAL REAL ESTATE IMPROVED BY COMPLETED BUILDINGS IF THE
6 ORIGINATING FINANCIAL INSTITUTION RETAINS AT LEAST 25 PERCENT OF THE
7 MORTGAGE UNTIL MATURITY;

8 (18)] preferred and common stock of corporations incorpo-
9 rated in the United States;

10 (12) [(19)] certificates of deposit, term deposits, or
11 bankers' acceptances, that are issued by a United States or nondomes-
12 tic bank or trust company located outside of the United States and are
13 denominated in United States or nondomestic currency, if either (A)
14 they may be readily sold in a secondary market at prices reflecting
15 fair value, or (B) the issuing bank or trust company has capital,
16 surplus, and retained earnings at the date of issue equaling at least
17 \$500,000,000; investments made under this paragraph are not subject to
18 the collateral requirements for domestic certificates under (m) of
19 this section;

20 (13) [(20)] equity interests in, and debt obligations
21 secured by mortgages granting a first lien on, real estate improved by
22 completed and substantially rented buildings and located in the United
23 States, if these investments are made

24 (A) in a corporation, partnership, trust, or other
25 entity in which, at the conclusion of each investment trans-
26 action, at least 60 percent of the beneficial ownership interests
27 are held by other institutional investors, and which is organized
28 and operated for the purpose of making real estate investments by
29 a bank, insurance company, or other manager of institutional

1 funds that has had at least five years of experience in the
2 management of real estate investments of institutional investors;
3 or

4 (B) with corporations, partnerships, trusts, or en-
5 tities in which, at the conclusion of each investment trans-
6 action, at least 60 percent of the beneficial ownership interests
7 in the co-investing entity or entities as a whole are held by
8 institutional investors, if

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

12 (ii) the rights and obligations of the fund are
13 substantially similar to those of the other institutional
14 investors, except for the percentage interest in the proper-
15 ty; and

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

21 (14) [(21)] securities of non-domestic governments and
22 non-domestic government agencies, the principal of, or interest on,
23 which is payable in either United States dollars or non-domestic
24 currencies;

25 (15) [(22)] securities of non-domestic corporations, includ-
26 ing common and preferred stock, whose dividends, if any, may be pay-
27 able in either United States dollars or non-domestic currencies;

28 (16) taxable municipal or state debt securities that are
29 rated "AA" or better by a nationally recognized rating service.

1 * Sec. 10. AS 37.13.120(i) is amended to read:

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

10 (1) [MORTGAGES UNDER (g)(16) OF THIS SECTION - 15 PERCENT;

11 (2)] real estate investments under (g)(13) [(g)(20)] of
12 this section - 15 percent;

13 (2) [(3)] certificates of deposit, term deposit, or bank-
14 ers' acceptances under (g)(12) [(g)(19)] of this section - 20 percent;

15 (3) [(4)] securities of nondomestic governments, nondomes-
16 tic government agencies, and nondomestic corporations under (g)(4),
17 (14), and (15) [(g)(8), (21), AND (22)] of this section, domestic
18 corporate stocks and debt securities under (g)(4) [(g)(8)] and (11)
19 [(18)] of this section, and short-term nondomestic corporate promis-
20 sory notes under (g)(5)(B) [(g)(9)(B)] of this section - 50 percent.

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

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

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

28 (k) The board shall establish and from time to time as necessary
29 modify guidelines for the investment of the assets of the fund

1 [CORPORATION]. Before adoption of any guidelines the guidelines shall
2 be reported to the Legislative Budget and Audit Committee for review
3 and comment.

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

5 (1) The board shall invest the assets of the fund [CORPORATION]
6 in in-state investments to the extent in-state investments are avail-
7 able if the in-state investments

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

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

12 * Sec. 14. AS 37.13.120(m) is amended to read:

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

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

20 (2) [OR BY A PLEDGE AS COLLATERAL OF] obligations of the
21 state or instrumentalities of the state that are rated at least "A" by
22 a major bond rating service and have a demonstrated secondary market,
23 which investments or obligations have value at least equal to the face
24 value of the certificate of deposit;

25 (3) the guaranteed portion of Federal Small Business Admin-
26 istration loans;

27 (4) the portion of first lien real estate mortgages guaran-
28 teed by the federal Veterans Administration; or

29 (5) notes secured by mortgages granting a first lien on

OR RESIDENTIAL

1 commercial real estate improved by completed buildings if the origi-
2 nating financial institution retains at least 25 percent of the mort-
3 gage until maturity. [THE BOARD MAY REQUIRE SUBSTITUTION OF COLLATER-
4 AL IN ORDER TO ENSURE CONTINUED SATISFACTION OF THE REQUIREMENTS SET
5 OUT IN THIS SUBSECTION.]

6 * Sec. 15. AS 37.13.120 is amended by adding a new subsection to read:
7 (n) The board may require substitution of collateral in order to
8 ensure continued satisfaction of the requirements set out in (m) of
9 this section.

10 * Sec. 16. AS 37.13.140 is amended to read:
11 Sec. 37.13.140. INCOME. Net income of the fund includes income
12 of the earnings reserve account established under AS 37.13.145. Net
13 income [CORPORATION] shall be computed annually as of the last day of
14 the fiscal year in accordance with generally accepted accounting
15 principles, excluding any unrealized gains or losses. Income avail-
16 able for distribution equals 21 percent of the net income of the fund
17 [CORPORATION] for the last five fiscal years, including the fiscal
18 year just ended, or [BUT MAY NOT EXCEED NET INCOME OF THE CORPORATION
19 FOR THE FISCAL YEAR JUST ENDED PLUS] the balance in the earnings
20 reserve account, whichever is less [DESCRIBED IN AS 37.13.145].

21 * Sec. 17. AS 37.13.145 is repealed and reenacted to read:
22 Sec. 37.13.145. DISPOSITION OF INCOME. (a) The earnings re-
23 serve account is established as a separate account in the fund.
24 Income from the fund shall be deposited by the corporation into the
25 account as soon as it is received. Money in the account shall be
26 invested in investments authorized under AS 37.13.120.

27 (b) At the end of each fiscal year, the corporation shall trans-
28 fer from the earnings reserve account to the dividend fund 50 percent
29 of the income available for distribution under AS 37.13.140. However,

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- *because ERA*
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- *ET*
- *100M IN.*

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

7 (c) After the transfer under (b) of this section, an amount
8 equal to the principal of the permanent fund at the end of the fiscal
9 year multiplied by the inflation proofing percentage shall be trans-
10 ferred by the corporation from the earnings reserve account to the
11 principal of the fund to offset the effect of inflation. The in-
12 flation proofing percentage shall be calculated by

13 (1) computing the average of the monthly United States
14 Consumer Price Index for all urban consumers for each of the two
15 previous calendar years; and

16 (2) computing the percentage change between the first and
17 second calendar year average.

18 (d) If the amount in the earnings reserve account is not suffi-
19 cient to fully fund the transfer under (c) of this section, the amount
20 of the deficiency, together with an amount to offset the effect of
21 inflation on that deficiency, shall be transferred to the principal of
22 the permanent fund during the next or a subsequent fiscal year from
23 the account after the transfer under (b) of this section for that
24 fiscal year is made.

25 * Sec. 18. AS 37.13.150 is amended to read:

26 Sec. 37.13.150. CORPORATION BUDGET. The revenue generated by
27 the fund's [CORPORATION'S] investments must be identified as the
28 source of the operating budget of the corporation in the state's
29 operating budget under AS 37.07 (Executive Budget Act). The

15) (c) (b)
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1 unexpended balance of the corporation's annual operating budget does
2 not lapse at the end of the fiscal year but shall be treated as income
3 under AS 37.13.140.

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

5 Sec. 37.13.160. AUDITS. The Legislative Budget and Audit Com-
6 mittee may provide for an annual post audit and annual operational and
7 performance evaluations of the fund's [CORPORATION'S] investments and
8 investment programs.

9 * Sec. 20. AS 37.13.170 is amended to read:

10 Sec. 37.13.170. REPORTS AND PUBLICATIONS. By September 30 of
11 each year, the board shall publish a report of the fund [CORPORATION]
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 independent outside
15 auditors, a statement of the amount of money received by the [ALASKA
16 PERMANENT] fund from each investment during the period covered, a
17 statement of investments of the fund [CORPORATION] including an ap-
18 praisal at market value, a description of fund [CORPORATION] invest-
19 ment activity during the period covered by the report, a comparison of
20 the fund [CORPORATION] performance with the intended goals contained
21 in AS 37.13.020, an examination of the impact of the investment cri-
22 teria of this chapter on the fund [CORPORATION] portfolio with recom-
23 mendations of any needed changes, and any other information the board
24 believes would be of interest to the governor, the legislature, and
25 the public. The annual income statement and balance sheet of the fund
26 [CORPORATION] shall be published in at least one newspaper in each
27 judicial district. The income statement and balance sheet for the two
28 fiscal years preceding the publication of the election pamphlet under
29 AS 15.58 shall be included in that pamphlet.

1 * Sec. 21. AS 37.13.180 is amended to read:

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

7 * Sec. 22. AS 37.13.190 is amended to read:

8 Sec. 37.13.190. POLITICAL ACTIVITIES. The resources of the
9 corporation or the fund may not be used to finance or influence polit-
10 ical activities.

11 * Sec. 23. AS 37.13.210 is amended by adding a new paragraph to read:

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

14 * Sec. 24. AS 43.23.025(a) is amended to read:

15 (a) By October 1 of each year the commissioner shall give public
16 notice of the value of each permanent fund dividend for that year.
17 The public notice shall contain a statement disclosing the amount by
18 which each individual dividend has been reduced in order to pay the
19 costs of administering the program and the hold harmless provisions of
20 AS 43.23.075. The commissioner shall also include the statement on the
21 stub attached to each individual dividend check. The commissioner
22 shall determine the value of a permanent fund dividend by

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

25 (A) the amount of income of the Alaska permanent fund
26 transferred to the dividend fund under AS 37.13.145(b) [AS 43.-
27 23.045(b)] during the current year;

28 (B) plus the unexpended and unobligated balances of
29 prior fiscal year appropriations that lapse into the dividend

1 fund under AS 43.23.045(d);

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

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

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

11 (3) dividing the amount determined under (1) of this sec-
12 tion by the amount determined under (2) of this section.

13 * Sec. 25. AS 43.23.045(b) is repealed.

14 * Sec. 26. Notwithstanding AS 37.13.060, as amended in sec. 4 of this
15 Act, the members of the board of the Alaska Permanent Fund Corporation in
16 office on the effective date of this Act serve only the period of the term
17 of office to which they were appointed.

18 * Sec. 27. This Act takes effect July 1, 1990.



Alaska Permanent Fund Corporation

P.O. Box 4-1000 Juneau, Alaska 99802-4100
(907) 465-2047 Telex 099-46-323

March 23, 1990

Honorable H. A. "Red" Boucher
Chairman, House State Affairs Committee
P.O. Box V
Juneau, Alaska 99811

Dear Representative Boucher:

I am writing regarding the Permanent Fund bill which you have drafted to make certain technical and policy changes to the Alaska Permanent Fund Corporation enabling act, AS 37.13.

At our Board meeting of March 21, the Trustees reviewed a draft of the legislation and the following motion was adopted by a vote of 4 to 1:

"It is resolved that the Board of Trustees of the Alaska Permanent Fund Corporation agrees with the technical changes proposed in this bill as well as the general intent of the policy changes, and directs Corporation staff to work with the Committee and assist the members in their efforts to advance the legislation. In addition, staff is directed to keep the Trustees informed on a timely basis of the progress of this bill and any substantive changes."

Red, let me make clear the Board's position:

First, the Board supports timely legislative action on the recommendations of the Commission on the Future of the Permanent Fund. We supported the process that the Commission used to come up with their recommendations, and we wish to be responsive to the legislature as it attempts to accomplish those recommendations.

Second, regarding this particular piece of legislation, there is full support for the technical changes being proposed. Although in our view, past Corporation practices have in every instance conformed to legislative intent, we agree that existing statutory language can be improved to make that conformity perfectly clear.

Representative Boucher
March 23, 1990
Page 2

Third, regarding the policy changes, there are three points in particular I would like to make on behalf of my colleagues on the Board:

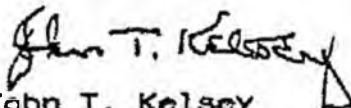
1) the Board supports "cumulative" inflation-proofing as an effective means to ensure that the purchasing power of Permanent Fund principal is fully preserved over the long term;

2) adoption of the sections amending the current list of authorized investments would not adversely affect either the Board's current asset allocation or its investment policies; and

3) the Board neither supports nor opposes the extension of the terms of Board members from four years to six years.

We would be pleased to provide additional testimony as requested.

With warm regards,


John T. Kelsey
Chairman,
Board of Trustees

cc: Members of the Board

SECTIONAL ANALYSIS

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

- Section 1: TECHNICAL -- Replaces [ALASKA PERMANENT FUND CORPORATION] with fund. In this case (and in all subsequent sections in which similar changes are made), the purpose is simply to clarify what was intended when the Alaska Permanent Fund Corporation Act was originally enacted in 1980. Specifically, the change makes clear the distinction between the "Alaska Permanent Fund" which comprises assets owned by the State of Alaska, and the "Alaska Permanent Fund Corporation" which is the government instrumentality created to manage and invest those assets.
- Section 2: TECHNICAL -- See Section 1.
- Section 3: TECHNICAL -- Recognizes that the purpose of the corporation is to manage and invest the assets of the permanent fund "and other funds designated by law"; for example, the Science and Technology Fund.
- Section 4: POLICY -- Extends the term of office for public members of the Board from [FOUR] years to six years.
- Section 5: TECHNICAL -- See Section 1.
- Section 6: TECHNICAL -- See Section 1.
- Section 7: TECHNICAL -- See Section 1.
- Section 8: TECHNICAL -- See Section 1.
- Section 9: TECHNICAL -- (1) See Section 1. (2) Replaces a sub-section relating to equity real estate investment which had little real meaning with

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Page 2

language which clearly spells out current Corporation policy.

POLICY -- (1) Removes from the Fund's list of authorized investments those investments which are not considered by the Corporation to be of trust-grade quality and which have never been made by the Corporation. These include: Certificates of Deposit issued by Alaska Savings & Loan Associations, Mutual Savings Banks and Credit Unions for which a readily-available secondary market exists; the guaranteed portions of Small Business Administration (SBA) and Veterans Administration (VA) loans; and commercial mortgages.

(2) Adds taxable municipal or state debt securities that are rated "AA" or better by a nationally-recognized rating service to the list of authorized investments.

Section 10: TECHNICAL -- (1) See Section 1. (2) Conforming amendments.

POLICY -- Would prohibit the Corporation from making any more Alaska home mortgages. The Board's current investment policy already excludes making any more of this type of investment.

Section 11: TECHNICAL -- See Section 1.

Section 12: TECHNICAL -- See Section 1.

Section 13: TECHNICAL -- See Section 1.

Section 14: TECHNICAL -- (1) See Section 1. (2) Conforming amendments. (3) Clarifies that the investments which are removed from the authorized list in Section 9 above may still be used as collateral under the Alaska Bank Certificate of Deposit program.

Section 15: TECHNICAL -- Conforming amendment.

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- Section 16: TECHNICAL -- (1) See Section 1. (2) Clarifies that income of the Fund includes income of the earnings reserve account as well as income of the principal.
- Section 17: TECHNICAL -- Rewrites AS 37.13.145: (1) to clarify original legislative intent and Corporation practice regarding the annual disposition of Fund income; (2) to bring (without substantive change) the section of law addressing the annual Permanent Fund Dividend transfer from AS 43.23 into AS 37.13; (3) to spell out the procedure used by the Corporation in the annual inflation-proofing transfer.
- POLICY -- (1) Provides that the annual inflation-proofing transfer shall be made from the earnings reserve account rather than from current year income as provided for in existing law.
- (2) Adds a new section providing "cumulative" inflation-proofing. Under this provision, if there is a shortfall in inflation-proofing in any one year, at the end of the next or subsequent year, -- after providing for that year's dividend and inflation-proofing transfers -- the Corporation shall transfer from the balance remaining in the earnings reserve account, the amount necessary to fully offset the effect of inflation on Fund principal since and including the shortfall.
- Section 18: TECHNICAL -- See Section 1.
- Section 19: TECHNICAL -- See Section 1.
- Section 20: TECHNICAL -- See Section 1.
- Section 21: TECHNICAL -- See Section 1.
- Section 22: TECHNICAL -- See Section 1.

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March 23, 1990
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- Section 23: TECHNICAL -- Conforming amendment.
- Section 24: TECHNICAL -- Conforming amendment.
- Section 25: TECHNICAL -- Conforming amendment.
- Section 26: TECHNICAL -- Provides transitional language for the change in Board members' terms.
- Section 27: EFFECTIVE DATE -- July 1, 1990.

-- Prepared by the Alaska Permanent Fund Corporation.

THE FOLLOWING DOCUMENT HAS
NOT BEEN FILMED BUT IS
AVAILABLE IN THE ORIGINAL
FILE



Alaskans on the Future of the Fund

Final Report
of the Commission
on the Future
of the Permanent Fund

January 31,
1990



Alaska State Legislature

House of Representatives
COMMITTEE ON STATE AFFAIRS

MEMORANDUM

TO: House State Affairs Committee Members

FROM: Representative H.A. "Red" Boucher, Chair
House State Affairs

DATE: March 26, 1990

RE: Draft Legislation: State Affairs

I would like the House State Affairs Committee to sponsor the attached draft legislation.

You should note this legislation is the result of extensive research by a working group which included staff from the Permanent Fund Corporation, Department of Revenue, and the Office of Management and Budget. A number of individuals and agencies such as Legislative Research provided assistance as well.

I would like to have the attached legislation introduced by March 26th, and would appreciate your support.

Thank you.

HB

596

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF HB 596

Legislative Ethics Act of 1990

Received April 9, 1990
by The State Affairs Committee

Heard April 9, 1990
Heard April 10, 1990
Heard April 11, 1990
Heard April 12, 1990
Heard April 17, 1990
Heard April 18, 1990
Heard April 19, 1990
Heard May 3, 1990
Heard May 5, 1990

Adopted CSHB 596 (SA) May 5, 1990

Passed Out of Committee May 5, 1990
1 Do Pass
2 No Recommendation
1 Amend

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by Legislators in Other States
- Item 13: Research on Ethics Codes: A Comparison

BY THE STATE AFFAIRS COMMITTEE

Concurrent decision

1 IN THE HOUSE

2

HOUSE BILL NO. 596

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act establishing a legislative ethics commission
7 and standards of conduct for legislators and legisla-
8 tive employees, former legislators and employees, and
9 lobbyists; amending legislators' compensation and
10 allowances; and providing for an effective date."

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

12 * Section 1. SHORT TITLE. This Act may be known as the Legislative
13 Ethics Act of 1990.

14 * Sec. 2. AS 24 is amended by adding a new chapter to read:

15 CHAPTER 61. LEGISLATIVE ETHICS ACT OF 1990.

16 ARTICLE 1. LEGISLATIVE FINDINGS AND ETHICAL PRINCIPLES.

17 Sec. 24.61.010. PURPOSE. This chapter is enacted to

18 (1) assure the integrity of representative government and
19 sustain the confidence and trust of the people of this state in their
20 representatives, the legislature as a whole, and the legislative
21 process;

22 (2) provide a comprehensive and unified statement of the
23 ethical principles, considerations, and obligations inherent in the
24 public trust theory of government service and establish specific
25 standards of conduct to ensure that those entrusted with public au-
26 thority avoid conduct that might undermine the people's respect for
27 the legislature; and

28 (3) establish a positive, effective, and comprehensive
29 ethical program that is clear, practical, and fair.

1 Sec. 24.61.015. LEGISLATIVE FINDINGS. The legislature finds
2 that

3 (1) high moral and ethical standards among public servants
4 in the legislative branch of government are essential to the conduct
5 of fair, open, and responsive representative government;

6 (2) the people of this state need and deserve a legislature
7 led by outstanding public servants whose devotion and commitment to
8 pursuing the public interest through established democratic processes
9 outweigh any competing personal or political considerations;

10 (3) state government relies heavily on part-time citizen
11 public servants; it is, therefore, essential to attract talented and
12 principled people willing to provide their time and energy to the
13 state, often with substantial personal and financial sacrifices;

14 (4) the best way to attract the right people is to ensure
15 that the government is respected for its honesty and integrity and
16 that the rules governing their conduct during and after leaving public
17 service are as clear, fair, and complete as possible; the rules,
18 however, should not impose unreasonable or unnecessary burdens that
19 will discourage citizens from entering or staying in government ser-
20 vice;

21 (5) the political culture of the state is the product of a
22 unique blend of history, geography, climate, population, and ethnic
23 influences that must be taken into account in the development of rules
24 and standards regulating the conduct of legislators, legislative
25 employees, and those who work regularly with the legislature;

26 (6) the state's commitment to the notion of a citizen
27 legislature requires that legislators be drawn from all parts of
28 society; they cannot and should not be without personal and financial
29 interests in the decisions and policies of government, and they are

1 expected and permitted to earn outside income;

2 (7) as a result of the state's small population and close
3 sense of community, most legislators and legislative employees have a
4 network of relationships in and outside the legislature that creates
5 potential conflicts of interest;

6 (8) the state's vast size requires frequent travel, usually
7 by air, which increases the expense and burden of public service;

8 (9) the state's cultural diversity is reflected in gift-
9 giving and hospitality customs that may clash with standards prohibit-
10 ing acceptance of gratuities;

11 (10) it is important to preserve the vitality of the state's
12 culture and citizen involvement by assuring that standards of conduct
13 acknowledge real and practical needs of individual legislators and
14 legislative employees without compromising vital universal notions of
15 public service ethics, including the principle that public office is a
16 public trust;

17 (11) upon taking the oath of office, legislators enter into
18 a sacred trust with the people of the state involving extraordinary
19 powers and equally extraordinary legal and moral obligations; one
20 aspect of these obligations requires that those entrusted with public
21 authority unfailingly demonstrate that they are worthy of the public's
22 respect and are devoted to maintaining the absolute integrity of
23 government;

24 (12) effective democratic government depends on the will-
25 ingness of the people to exercise responsible citizenship by voluntary
26 compliance with laws and by active participation in the democratic
27 process; when the public's trust in and respect for government is
28 high, citizens are more likely to fully participate by voting, becom-
29 ing better informed, and becoming more active in public debate and

1 discourse in a way that engenders civic pride and makes government
2 more representative, more responsive, and more effective;

3 (13) unethical or illegal behavior by a legislator or legis-
4 lative employee tends to diminish the stature of the legislature and
5 produce cynicism that erodes public confidence in government; thus,
6 all who serve the legislature have a solemn responsibility to avoid
7 improper conduct and prevent improper behavior by colleagues and
8 subordinates;

9 (14) the principles of public service ethics pervading this
10 chapter view the ethical obligations of public servants in a positive
11 way; high standards of conduct and specific regulations to enforce
12 them are not driven by negative assumptions about the character of
13 those who serve government, but as expressions of the need for clarity
14 and uniformity about the higher duties of public service and the noble
15 dimension of democracy;

16 (15) no code of conduct, however comprehensive, can antici-
17 pate all situations in which the principles and standards apply, nor
18 can it prescribe behaviors that are appropriate to those situations;
19 in addition, laws and regulations regarding ethical responsibilities
20 cannot legislate morality, eradicate corruption, or eliminate bad
21 judgment;

22 (16) legislators and legislative employees who are committed
23 to the ethical principles embodied in the public trust concept of
24 government must exercise considerable discretion and judgment so as to
25 adhere to the spirit of the rules and laws; in exercising this judg-
26 ment it is essential to recognize that an act is not ethical simply
27 because it is legal and that conduct is not proper simply because it
28 is permissible;

29 (17) legislative decisions must be made in a context of

1 clashing interests; the growing effect of state laws and regulations
2 creates incentives for competing special interests to seek to influ-
3 ence the election and policy-making processes through organized advo-
4 cacy and through the use of campaign contributions;

5 (18) the cost of running for office has risen dramatically
6 in recent years; as a result, many public officials, including legis-
7 lators, spend an increasing amount of time negotiating with special
8 interests in a way that may unduly enlarge the voice and power of
9 those interests;

10 (19) therefore, the state needs a comprehensive ethics
11 program that responds to the challenges of the contemporary political
12 climate, preserves and protects the integrity of the legislative
13 process, and respects the needs of those who serve the legislature.

14 Sec. 24.61.020. PREAMBLE TO STATEMENT OF ETHICAL PRINCIPLES.
15 AS 24.61.025 - 24.61.060 state the overarching ethical principles of
16 legislative ethics. They are, by nature, broader and more philosoph-
17 ical than the standards of conduct and, therefore, somewhat less
18 amenable to strict enforcement. Their primary purpose is not to
19 provide additional bases of punishment, but to establish the theoret-
20 ical and moral foundation for the standards of conduct and to provide
21 explicit guidance and direction for those who wish to follow the
22 ethical high road, not simply out of fear of punishment but out of
23 commitment and conscience. These principles also establish criteria
24 for interpretation and enforcement of the principles themselves and
25 the standards of conduct that follow. The principles shall be re-
26 garded as an integral part of this chapter.

27 Sec. 24.61.025. PRINCIPLE OF GOOD FAITH. Each provision of this
28 chapter shall be construed and implemented with sincerity, integrity,
29 and a good faith commitment to advance rather than evade the purpose

1 and spirit of the provision.

2 Sec. 24.61.030. PRINCIPLE OF NONPARTISANSHIP. All actions,
3 decisions, and votes on matters relating to this chapter shall be made
4 purely on their merits. Decisions shall be made objectively and
5 independently, and without party, regional, or ideological partisan-
6 ship.

7 Sec. 24.61.035. PRINCIPLES OF PUBLIC TRUST. (a) Legislators
8 and legislative employees shall act so as to ensure the reality and
9 perception that the legislature is conducted according to the highest
10 principles of representative democracy and is worthy of public re-
11 spect, trust, and support.

12 (b) Legislators and legislative employees may not engage in
13 conduct that they know or reasonably should know is likely to create
14 in the minds of reasonable, objective, fair-minded observers the
15 perception that they have used their public position improperly or
16 otherwise have not conducted themselves in accordance with the ethical
17 principles and standards of conduct of this chapter.

18 Sec. 24.61.040. PRINCIPLES OF PUBLIC INTEREST. (a) Legislators
19 and legislative employees shall treat their government positions as a
20 public trust, using the powers and resources of public office only to
21 advance public interests, and not to attain personal benefits or
22 pursue other private interests incompatible with the public good.

23 (b) In pursuing the public interest, legislators and legislative
24 employees shall scrupulously observe and abide by the United States
25 and Alaska constitutions, all applicable laws, and democratic pro-
26 cesses.

27 (c) In pursuing the public interest, legislators and legislative
28 employees should

29 (1) put loyalty to democratic principles and to their

1 conscientious convictions about the overall public good above loyalty
2 to political party, narrow constituency, and individual interests that
3 are inconsistent with the general public interest;

4 (2) allocate public funds and formulate general public
5 policies only after evaluating information objectively and deciding
6 what is best for the public as a whole, not just for a narrow constit-
7 uency;

8 (3) take whatever steps are necessary to safeguard and
9 protect the reputation of state government and the integrity and
10 efficiency of their office, subordinating the interests of superiors,
11 colleagues, and friends to the interests of the state.

12 Sec. 24.61.045. PRINCIPLE OF ACCOUNTABILITY. Legislators and
13 legislative employees shall ensure that government is conducted open-
14 ly, efficiently, equitably, and honorably in a manner that permits the
15 citizenry to make informed judgments and hold government officials
16 accountable.

17 Sec. 24.61.050. PRINCIPLE OF DEMOCRATIC LEADERSHIP. Legislators
18 and legislative employees shall honor and respect the principles and
19 spirit of representative democracy and set a positive example of good
20 citizenship by scrupulously observing the letter and spirit of laws
21 and rules.

22 Sec. 24.61.055. PRINCIPLE OF RESPECTABILITY; CONDUCT BEFITTING
23 THE LEGISLATURE. Legislators and legislative employees shall safe-
24 guard public confidence in the integrity of government by not engaging
25 in conduct that demonstrates they are not fit for public office,
26 prevents them from carrying out their public duties, or that unrea-
27 sonably casts discredit on the legislature.

28 Sec. 24.61.060. PRINCIPLE OF INDEPENDENT JUDGMENT. Legislators
29 and legislative employees shall employ independent objective judgment

1 in performing their duties, deciding all matters on the merits, free
2 from conflicts of interest and both real and apparent improper influ-
3 ences.

4 ARTICLE 2. STANDARDS OF CONDUCT.

5 Sec. 24.61.100. MISUSE OF OFFICE FOR PRIVATE GAIN: GENERAL
6 PRINCIPLE. Inherent in the concept that public office is a public
7 trust is the principle that persons refrain from using or attempting
8 to use their government position to attain

9 (1) personal financial gain, other than official legisla-
10 tive compensation;

11 (2) undue personal benefits, advantages, or privileges not
12 available to the public at large, either for themselves or members of
13 their immediate families;

14 (3) undue private benefit for social or business associ-
15 ates, political contributors, corporations, or other organizations in
16 which the public servant is involved; or

17 (4) narrow political advantages where the use of office is
18 inconsistent with the obligation to use public office only to advance
19 the public interest.

20 ~~X~~ Sec. 24.61.110. IMPROPER BENEFIT FROM PERFORMANCE OF PUBLIC
21 DUTIES. (a) A legislator or legislative employee may not seek or
22 accept anything of value as a result of the proper performance of
23 public responsibilities. This subsection may not be construed to
24 prohibit solicitation for and acceptance of campaign contributions
25 under circumstances that are otherwise lawful.

26 (b) A legislator or legislative employee may not accept anything
27 of value under circumstances where the legislator or legislative
28 employee knows or reasonably should know that it is offered with the
29 intent to influence legislative, administrative, or political action.

* This is already in law.

1 conscientious convictions about the overall public good above loyalty
2 to political party, narrow constituency, and individual interests that
3 are inconsistent with the general public interest;

4 (2) allocate public funds and formulate general public
5 policies only after evaluating information objectively and deciding
6 what is best for the public as a whole, not just for a narrow constit-
7 uency;

8 (3) take whatever steps are necessary to safeguard and
9 protect the reputation of state government and the integrity and
10 efficiency of their office, subordinating the interests of superiors,
11 colleagues, and friends to the interests of the state.

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14 ly, efficiently, equitably, and honorably in a manner that permits the
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21 and rules.

22 Sec. 24.61.055. PRINCIPLE OF RESPECTABILITY; CONDUCT BEFITTING
23 THE LEGISLATURE. Legislators and legislative employees shall safe-
24 guard public confidence in the integrity of government by not engaging
25 in conduct that demonstrates they are not fit for public office,
26 prevents them from carrying out their public duties, or that unrea-
27 sonably casts discredit on the legislature.

28 Sec. 24.61.060. PRINCIPLE OF INDEPENDENT JUDGMENT. Legislators
29 and legislative employees shall employ independent objective judgment

1 (c) A person who violates this section is subject to the civil
2 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
3 misdemeanor.

4 Sec. 24.61.120. DUTY TO REPORT IMPROPER OFFERS. (a) Legisla-
5 tors and legislative employees who receive an offer that reasonably
6 appears to have been intended to improperly influence legislative,
7 administrative, or political action, shall firmly and unequivocally
8 reject the offer and caution the person making it about a possible
9 violation of undue influence and bribery laws.

10 (b) If the attempt to improperly influence is clear, the matter
11 shall be reported to law enforcement authorities.

12 (c) A person who violates this section is subject to the civil
13 sanctions authorized under AS 24.61.560(a).

14 * ~~Sec. 24.61.130. MISUSE OF STATE PROPERTY AND RESOURCES FOR~~
15 ~~PRIVATE GAIN OR PERSONAL ADVANTAGE. (a) A legislator or legislative~~
16 ~~employee may not use public funds, time, facilities, equipment, mail-~~
17 ~~ing lists, computer data, services, or any other government asset or~~
18 ~~resource for an unauthorized nongovernmental purpose or for the pri-~~
19 ~~ate gain or advantage of either the legislator, legislative employee,~~
20 ~~or another person unless authorized by law.~~

21 (b) A legislator or legislative employee may not seek, accept,
22 use, allocate, grant, or award public funds for a purpose other than
23 that approved by law, or make a false statement in connection with a
24 claim, request, or application for compensation, reimbursement, or
25 travel allowances from public funds.

26 (c) A legislator or legislative employee may not use or seek to
27 use a legislative employee on government time to perform personal
28 services or assist in a private activity not directly related to the
29 official duties of the legislator or legislative employee.

1 (d) A person who violates this section is subject to the civil
2 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
3 misdemeanor.

4 Sec. 24.61.140. MISUSE OF STATE PROPERTY AND RESOURCES FOR
5 POLITICAL PURPOSES. (a) It is the intent of this section to ensure
6 that public resources, including funds, facilities, and personnel are
7 used only for the good of the public at large and not to further
8 partisan campaign purposes or to influence the outcome of an election;
9 that elections are fair and open and not distorted by the use of
10 public resources to the advantage of individual candidates; and that
11 taxpayers are not forced to subsidize the campaign of an incumbent
12 legislator.

13 (b) A legislator or legislative employee may not use public
14 funds, time, facilities, equipment, mailing lists, computer data,
15 services, or another government asset or resource for the purpose of
16 political fund raising, campaigning, to influence the outcome of an
17 election, or other purely political purpose.

18 (c) A legislator or legislative employee may not use or seek to
19 use a legislative employee on government time to assist in political
20 party activities, campaigning, fund raising, or other partisan or
21 personal political activities.

22 (d) A legislator may not use public funds to produce or distrib-
23 ute a printed flyer, newsletter, or similar publication for mass
24 distribution to constituents unless at least one full page of the
25 publication contains a clear statement, in at least eight point type,
26 of the following information:

27 (1) a brief description of the nature of each bill intro-
28 duced by the legislator as a prime sponsor;

29 (2) a brief description of the nature of each committee

1 substitute or significant amendment offered by the legislator;

2 (3) a brief description of the nature of each bill voted on
3 by the legislative body and the vote of the legislator;

4 (4) the name of each contributor of \$250 or more.

5 (e) The information required under (d) of this section must
6 include all activity since the last mailing or, if a previous state-
7 paid mailing was not sent, during the last legislative session, up to
8 and including activity at the time the publication is prepared. This
9 provision does not affect the content of a publication prepared and
10 distributed with campaign funds.

11 (f) Unless superseded by comprehensive regulations relating to
12 the use of government resources for political purposes developed by
13 the legislature and adopted by the commission under AS 24.61.160, the
14 following prohibitions apply:

15 (1) a legislator may not use or authorize the use of public
16 funds, property, time, personnel, or other resources to produce,
17 print, photocopy, publish, broadcast, or otherwise disseminate ma-
18 terial intended to influence the result of an election; ~~this provision~~
19 ~~applies to newsletters and other constituent correspondence that by~~
20 ~~its nature, content, timing, or use clearly appears to be primarily~~
21 ~~intended to influence an election,~~ even if the materials do not make a
22 specific reference to the election;

23 (2) unless approved by the commission, public funds may not
24 be used to print or distribute a mass mailing from or about a legisla-
25 tor who is a candidate for reelection to the legislature or another
26 state office during the period beginning 90 days before the primary
27 election in which the legislator is a candidate, and ending the day
28 after the final election that year in which the legislator is a candi-
29 date;

1 (3) a legislator, or another person on behalf of the legis-
2 lator, or a campaign committee of the legislator, may not solicit or
3 accept a campaign contribution in a facility or office ordinarily used
4 to conduct state government business; this provision applies to tele-
5 phone conversations, personal meetings, and mail; if an unsolicited
6 contribution is offered or sent it shall be refused or returned
7 promptly;

8 (4) a legislator, or another person on behalf of the legis-
9 lator, or a campaign committee of the legislator, may not distribute
10 or post literature, placards, posters, or other communications de-
11 signed to influence the outcome of an election in a facility or office
12 ordinarily used to conduct state government business.

13 (g) A person who violates this section is subject to the civil
14 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
15 misdemeanor.

16 Sec. 24.61.150. OBLIGATION OF SUBORDINATES TO REFUSE TO PERFORM
17 IMPROPER TASKS. (a) A legislative employee who knows or reasonably
18 should know that the employee has been asked to perform improper
19 personal or political tasks shall refuse to perform them.

20 (b) If a legislator or legislative employee with supervisory
21 authority persists in requesting or demanding that a legislative
22 employee perform improper tasks, or if reprisals are threatened or
23 sanctions imposed as a result of the refusal to perform improper
24 tasks, the legislative employee subjected to the requests, threats, or
25 sanctions shall report the matter to the commission.

26 (c) A person who violates this section is subject to the civil
27 sanctions authorized under AS 24.61.560(a).

28 Sec. 24.61.160. REGULATIONS CONCERNING USE OF PUBLIC RESOURCES.

29 (a) The legislative council shall develop and recommend for adoption

1 by the commission detailed regulations relating to the use of govern-
2 ment property, resources, and personnel to assure that the provisions
3 of AS 24.61.140 - 24.61.160 and regulations adopted by the commission
4 are interpreted uniformly and fairly and are consistent with the
5 spirit of this chapter. The legislative council shall annually review
6 the regulations and recommend necessary changes to the commission.

7 (b) If the legislative council fails to make recommendations for
8 the adoption or modification of regulations under (a) of this section,
9 the commission shall develop and adopt the regulations on its own
10 initiative.

11 Sec. 24.61.170. USE OF NONPUBLIC AND CONFIDENTIAL INFORMATION
12 FOR PRIVATE GAIN. (a) A legislator or legislative employee may not
13 use or disclose, other than in the performance of official duties or
14 as required by law, nonpublic or confidential information acquired in
15 the course of and by reason of legislative service to obtain private
16 gain for the legislator or employee or another person or business,
17 including a person or business with whom the legislator or legislative
18 employee is associated or has negotiated prospective employment.

19 (b) A person who violates this section is subject to the civil
20 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
21 misdemeanor.

22 Sec. 24.61.180. MISUSE OF TITLE OR PRESTIGE OF OFFICE FOR PRI-
23 VATE GAIN OR PERSONAL ADVANTAGE. (a) A legislator or legislative
24 employee may not use, or allow others to use, the authority, title, or
25 prestige of the legislator's or employee's office to obtain unwarrant-
26 ed private economic benefits for the legislator, legislative employee,
27 or another person. This provision includes, but is not limited to, a
28 prohibition against the use of authority, title, or prestige to obtain
29 employment, contracts for goods or services, clients, grants, or

1 ~~loans.~~

2 (b) A legislator or legislative employee may not use official
3 letterhead in private matters or refer to the legislator's or legisla-
4 tive employee's public position as a means of inducing or intimidating
5 persons to resolve disputes more favorably, provide preferential
6 treatment, or give free tickets, discounts, favors, or other advan-
7 tages.

8 (c) A legislator or legislative employee may not use, or allow
9 others to use, the authority, title, or prestige of the legislator's
10 or employee's office in the context of an endorsement of a commercial
11 product or service. Official letterhead may not be used in materials
12 endorsing a product, service, or candidate for office. This provision
13 may not be construed to prohibit the use of a

14 (1) legislator's or legislative employee's official title
15 or letterhead in the course of an otherwise proper recommendation of a
16 person for employment; or

17 (2) legislator's official title, used in a dignified manner
18 along with the name, as part of a political endorsement.

19 (d) A legislator or legislative employee may not solicit or
20 accept compensation of any sort under terms and conditions where the
21 compensation is not commensurate with the services performed or that
22 would otherwise create in the minds of reasonable objective observers
23 ~~the perception that the stature of office has been unduly exploited~~
24 ~~for private gain.~~

25 (e) A person who violates this section is subject to the civil
26 sanctions authorized under AS 24.61.560(a).

27 Sec. 24.61.190. POST-SERVICE RESTRICTIONS TO PREVENT MISUSE OF
28 PUBLIC OFFICE BY FORMER LEGISLATORS AND LEGISLATIVE EMPLOYEES. (a) A
29 legislative assistant or person who has served as a member of the

1 legislature may not, within one year after the expiration of the
2 person's legislative service, use or disclose nonpublic information
3 acquired in the course of and by reason of legislative service to
4 obtain private personal gain or for the gain of another, including a
5 person or business with whom the former legislator or legislative
6 employee is now associated. A person subject to this subsection may
7 not, at any time, use or disclose information that is by law confiden-
8 tial.

9 *Constitutional problem*
(b) Legislators and legislative assistants may not, for a period
10 of one year after leaving office, act on their own behalf or assist
11 another as a lobbyist, representative, consultant, advisor, or advo-
12 cate in seeking to influence a

13 (1) legislator or legislative employee to take or withhold
14 legislative, administrative, or political action;

15 (2) state agency, public official, or employee with respon-
16 sibility in an area in which the person, while a legislator or legis-
17 lative assistant, had special oversight or budgeting responsibility,
18 to take or withhold administrative action.

19 (c) A person is considered to have had special oversight or
20 budget authority over an agency if the person served, within the last
21 year of the person's legislative term, as the president of the senate,
22 speaker of the house, chair of the finance committee of either house,
23 or as chair of a committee directly concerned on a regular basis with
24 the agency's activities.

25 (d) A former legislator, within one year after leaving office,
26 may not solicit or accept compensation of any sort under terms and
27 conditions where the compensation is not commensurate with the ser-
28 vices performed or that would otherwise create in the minds of reason-
29 able objective observers the perception that the stature of office has

su
83-23

1 been unduly exploited for private gain.

2 (e) A person who violates this section is subject to the civil
3 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
4 misdemeanor.

5 Sec. 24.61.200. USE OF CAMPAIGN FUNDS: INTENT. Because the
6 right to solicit and accept funds from the public for the purpose of
7 supporting a person's campaign for office is purely an incident of our
8 democratic political system, the use that can properly be made of
9 campaign funds must be sharply limited to prevent actual misuse and
10 improper appearances of misuse of funds. Legislative campaign funds
11 are received, free of tax liability to the recipient, for the specific
12 purpose of assisting a candidate to get elected or reelected to of-
13 fice. Any other use of funds, whether for personal gain or other
14 purposes not closely related to bona fide campaign expenditures, is
15 improper.

16 Sec. 24.61.202. PROPER USES OF CAMPAIGN FUNDS. Campaign funds
17 may be properly expended for an otherwise lawful purpose intended to
18 influence voters to elect or reelect the legislative candidate to the
19 legislature including, but not limited to: payment of staff and
20 consultants; rental of space and equipment for a campaign office;
21 purchase of media time and space; design work; printing of campaign
22 materials; postage; taking polls and interpreting them; telephone
23 installation and usage; costs of distribution of materials; advertis-
24 ing in organizational and club bulletins or other brochures; inscribed
25 promotional materials, including buttons, pencils, pens, and items of
26 clothing; necessary intrastate travel and related expenses for the
27 candidate and a member of the candidate's staff or immediate family
28 provided that the travel and lodging are directly related to attempts
29 to influence voters; victory and thank you celebrations; and

1 newsletters and mass mailings promoting the candidate.

2 Sec. 24.61.205. PROHIBITED USES OF CAMPAIGN FUNDS. (a) A
3 candidate for the legislature may not

4 (1) use funds raised and designated as campaign funds for
5 personal economic benefit, to supplement personal income, or to en-
6 hance personal life style;

7 (2) convert surplus campaign funds or interest earned on
8 campaign funds to personal income;

9 (3) seek or claim a tax deduction or other economic benefit
10 for surplus funds disbursed to a charity under law.

11 (b) A legislative candidate may not borrow from campaign funds
12 or loan them to another person or group.

13 (c) Campaign funds may be used only as is reasonable and neces-
14 sary to advance the interests of the campaign. A person or company
15 providing goods or services to the campaign may not knowingly be paid
16 more than the fair market value of the goods or services purchased.

17 (d) Funds may not be used in a way that would create in the mind
18 of a reasonable objective observer the belief that the funds are for
19 the personal financial benefit of the candidate, the candidate's
20 immediate family, or another person. Campaign funds may not be paid
21 to a member of the candidate's immediate family as an employee or for
22 goods or services provided to the campaign unless the amounts paid are
23 reasonable and proper for the goods or services provided. Excess
24 amounts paid to family members shall be treated as an improper conver-
25 sion of campaign funds to personal use.

26 (e) Except for funds irrevocably pledged during a campaign or
27 campaign money sent before a final election, a legislative candidate
28 who has won office, and a committee related to the election, may not
29 accept campaign contributions. A post-election contribution shall be

1 treated as an illegal gratuity and must be returned.

2 (f) A legislative candidate and a committee controlled by a
3 legislative candidate may not use campaign funds to make a contribu-
4 tion to another candidate running for office or to a committee sup-
5 porting or opposing a candidate for office.

6 (g) Campaign funds may not be used to pay fines or other mone-
7 tary penalties or costs assessed against a candidate by a court or
8 other body, unless the fine, penalty, or cost is assessed as a result
9 of proscribed actions by a member or employee of a campaign committee
10 or another person acting on behalf of the candidate under circum-
11 stances where the candidate did not know of, have reason to know of,
12 acquiesce in, assent to, or direct those actions.

13 (h) A person who violates this section is subject to the civil
14 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
15 misdemeanor.

16 Sec. 24.61.210. DISBURSEMENT OF SURPLUS CAMPAIGN FUNDS. (a) If
17 a legislative candidate ceases to be a candidate or if there remains a
18 balance in the account of the candidate or the candidate's controlled
19 committee after the date of the election, unexpended funds in excess
20 of the amount allowed under (b) of this section may only be used as
21 provided in (1) - (5) of this subsection or to pay for a victory or
22 thank you party. Within 60 days after the end of the candidacy or the
23 election, unexpended funds shall be

24 (1) used to retire bona fide loans supported by appropriate
25 documentation including loans made to a campaign by the legislative
26 candidate or a member of the candidate's immediate family provided
27 that all other outstanding loans are paid first;

28 (2) returned on a pro rata basis to those who have made
29 contributions;

1 (3) paid promptly to the Department of Revenue for deposit
2 to the general fund;

3 (4) donated to one or more charitable organizations that
4 qualify for a federal tax exemption provided that the charity is not
5 one that is controlled by the candidate or a member of the candidate's
6 immediate family or in which the candidate or a member of the candi-
7 date's immediate family is personally involved as a director, trustee,
8 member of the board, officer, or other position of responsibility; or

9 (5) transferred to an ongoing political account controlled
10 by the candidate, but only in the amounts and according to the re-
11 quirements set out in (b) of this section.

12 (b) A maximum of \$2,500 for candidates for the house and \$5,000
13 for candidates for the senate of surplus campaign funds may be trans-
14 ferred to an ongoing political account controlled by the candidate.

15 (c) Funds carried over under this section may be expended for
16 any political purpose for which campaign funds can otherwise properly
17 be used, but they may not be used for a campaign for an office other
18 than the state legislature.

19 Sec. 24.61.220. PAYMENT OF LEGAL EXPENSES; SPECIAL EXPENSE
20 FUNDS. (a) Campaign funds may be used to defray attorney fees and
21 other legal costs incurred in the candidate's legal defense to a
22 civil, criminal, or administrative action arising directly out of the
23 conduct of the campaign or election process or the performance of
24 official action taken as part of the legislator's governmental activ-
25 ities and duties. Campaign funds may not be expended on defense costs
26 relating to legal or ethics charges based on nonofficial personal
27 conduct; however, those costs may be paid from a special defense fund
28 established under this section.

29 (b) A legislative candidate or legislator wishing to establish a

1 legal expense fund account shall file a statement of organization for
2 the legal expense fund with the commission. The statement of orga-
3 nization must identify the specific civil, criminal, or administrative
4 proceeding or proceedings for which the legal expense fund is estab-
5 lished.

6 (c) The legal expense fund shall establish a single account at
7 an office of a financial institution located in the state. A donation
8 to the candidate or legislator for legal expenses shall be deposited
9 into that account if the donation meets the requirements of (d) of
10 this section.

11 (d) Only a donation that is specifically designated by the donor
12 as being for the legal expense fund and is made payable to the legal
13 expense fund may be deposited in the legal expense fund account.

14 (e) Expenditures from the legal expense fund account may be made
15 only for legal costs directly related to the civil, criminal, or
16 administrative proceeding or proceedings for which the legal expense
17 fund is established. Expenditures from the legal expense fund account
18 may not be used to pay or reimburse fines, penalties, judgments, or
19 settlements in connection with a criminal prosecution or a civil or
20 administrative action in which the legislative candidate or legislator
21 is found to have committed, or admits to having committed an inten-
22 tional or negligent violation of the law.

23 (f) Funds may not be transferred from the legal expense fund to
24 another committee. Surplus funds remaining in the legal expense fund
25 account after the proceeding or proceedings for which the account is
26 established have concluded may not be used for another purpose and
27 shall be returned to donors on a pro rata basis or given to the De-
28 partment of Revenue for deposit in the general fund within six months
29 after the final conclusion of the proceeding or proceedings.

1 (g) This section constitutes the sole means for soliciting or
2 accepting donations for legal costs not subject to this chapter's
3 contribution limitations.

4 (h) Funds received from testimonial dinners or other fund rais-
5 ing events must be clearly designated in advance as either for cam-
6 paign purposes or for the legal expense fund and all proceeds shall be
7 dealt with accordingly.

8 (i) A person who violates this section is subject to the civil
9 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
10 misdemeanor.

11 Sec. 24.61.230. IMPROPER COERCION. (a) Legislators wield
12 substantial power and influence and it is essential that constituents
13 and others interested in their legislative, administrative, and polit-
14 ical actions have, and believe they have, a fair and adequate oppor-
15 tunity to express their concerns, grievances, and ideas without regard
16 to their willingness or ability to provide personal benefits, contrib-
17 ute to particular charitable causes favored by a legislator, or pro-
18 vide financial or other forms of political support.

19 (b) A legislator may not, directly or through others acting on
20 the legislator's behalf, engage in conduct that the legislator knows
21 or reasonably should know is likely to create the belief or impression
22 in another that persons and the causes they represent will receive
23 more or less favorable consideration, or that they will be given more
24 or less opportunity to personally state their case, or otherwise be
25 benefited or disadvantaged as a direct result of their willingness to
26 provide

27 (1) funds for a campaign contribution or another cause
28 favored by the legislator; or

29 (2) the legislator with personal benefits or political

1 support.

2 (c) A legislator may not directly or through others acting on
3 the legislator's behalf,

4 (1) agree to, or threaten to take or withhold a legisla-
5 tive, administrative, or political action, including but not limited
6 to support or opposition to a bill, employment, nominations, and
7 appointments, as a result of a person's decision to provide or not
8 provide a political contribution;

9 (2) state or imply that the legislator will perform or
10 refrain from performing a lawful constituent service as a result of a
11 person's decision to provide or not provide a political contribution;

12 (3) participate in a discussion, scheme, or plan clearly
13 designed to evade the plain spirit and purpose of campaign and contri-
14 bution regulations or financial disclosure provision of state law; or

15 (4) knowingly accept a contribution given or offered in
16 violation of law.

17 (d) A person who violates this section is subject to the civil
18 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
19 misdemeanor.

20 Sec. 24.61.240. FUND RAISING LIMITATIONS. (a) Because the
21 process of campaign fund raising involves activities that take great
22 amounts of time and energy and that tend to place legislators in
23 situations rife with the potential for conflicts of interest, it is
24 the intent of this section that fund raising should be limited in ways
25 that permit legislators to concentrate their attention on public
26 matters.

27 (b) A legislator may not, either directly, through a campaign
28 committee, or other means, solicit or accept a campaign contribution
29 or a promise or pledge to make a contribution while the legislature is

1 in session, nor may a legislator otherwise be involved in a fund
2 raising activity for the legislator's own campaign or for another
3 person or cause while the legislature is in session.

4 (c) A legislator may not, either directly, through a campaign
5 committee, or other means, solicit or accept a campaign contribution
6 or a promise or pledge to make a contribution relating to candidacy
7 for the legislature except during the following periods:

8 (1) legislators and other incumbent elected public offi-
9 cials intending to run for the legislature may raise funds from June 1
10 until December 31 in the year before the year of an election in which
11 they intend to be a candidate, and from June 1 through the final
12 election in November in the year of the election;

13 (2) candidates for the legislature who are not in public
14 office at the time of their candidacy may raise funds from June 1 in
15 the year before the year of an election in which they intend to be a
16 candidate through the final election in November in the year of the
17 election.

18 (d) A person who violates this section is subject to the civil
19 sanctions authorized under AS 24.61.560(a), and is guilty of a class A
20 misdemeanor.

21 Sec. 24.61.250. GENERAL OBLIGATION TO AVOID CONFLICTS OF INTER-
22 EST AND PRESERVE ABILITY TO MAKE INDEPENDENT IMPARTIAL JUDGMENTS.
23 Legislators and legislative employees shall safeguard their ability to
24 make independent, objective, fair, and impartial judgments by scrupu-
25 lously seeking to avoid financial, social, and political relationships
26 and transactions that may compromise or give the appearance of com-
27 promising their objectivity, independence, or honesty.

28 Sec. 24.61.255. FINANCIAL CONFLICTS OF INTEREST DEFINED. A
29 financial conflict of interest exists when a person or a member of

1 that person's immediate family has substantial financial interests
2 that may be materially affected by an official action or decision they
3 might make. The interest must be so substantial and the potential
4 effect on that interest must be so material that a reasonable objec-
5 tive person is likely to believe that the ability of the person with
6 the financial interest to make an objective, fair, and impartial
7 professional judgment will be impeded by self-interest. It is not a
8 conflict of interest as to a specific matter if

9 (1) the person's economic interest is not substantial;

10 (2) the person's authority in relation to the interest is
11 such that an action or decision is not likely to materially affect the
12 financial interest; or

13 (3) the economic effect an official action or decision
14 might have on a person's private financial interests is no greater
15 than the effect on a substantial class of persons to which the person
16 belongs as a member of a profession, occupation, industry, or region.

17 Sec. 24.61.260. SUBSTANTIAL INTEREST IN LEGISLATIVE, ADMINISTRA-
18 TIVE, OR POLITICAL ACTION DEFINED. Conflicts of interest arise most
19 often and are most serious when a legislator or legislative employee
20 has a financial or personal relationship with other persons, including
21 governmental entities, that have a substantial interest in legisla-
22 tive, administrative, or political action. Persons, including govern-
23 mental entities, have a substantial interest if they

24 (1) are regulated by the legislature;

25 (2) provide goods or services to the legislature for com-
26 pensation or profit;

27 (3) seek employment in the legislative branch or a govern-
28 ment agency or in a private organization in which a legislator or
29 legislative employee is likely to have, or reasonable appears to have,

1 the ability to influence an employment decision;

2 (4) will be directly and substantially affected, either
3 financially or personally, by a contemplated legislative, administra-
4 tive, or political action in a way that is greater than the effect on
5 a substantial class of persons to which the person belongs as a member
6 of a profession, occupation, industry, or region;

7 (5) have or seek contracts for goods or services with an
8 agency of state government;

9 (6) are registered lobbyists;

10 (7) employ registered lobbyists; or

11 (8) represent, with or without compensation, a person or
12 organization described in (1) - (7) of this section.

13 Sec. 24.61.265. CLOSE ECONOMIC ASSOCIATION DEFINED. "Close
14 economic association" refers to a financial relationship between two
15 or more persons that creates economic interests in a legislator or
16 legislative employee that either (1) conflict with public duties and
17 the obligation to exercise objective independent judgment; or (2)
18 create the appearance that the person may have undue access to confi-
19 dential information or otherwise receive favored treatment regarding
20 public actions. "Close economic association" includes, but is not
21 limited to, relationships involving compensation as an employee,
22 agent, representative, counselor, adviser, or consultant, including
23 professional services as between a lawyer and client or a financial
24 planner and a client; a financial interest resulting from an invest-
25 ment, business enterprise, or interest in real property as a partner,
26 investor, associate, or major stockholder; a landlord and tenant or
27 co-tenants sharing housing expenses; a debt, loan, or loan guarantee;
28 or another relationship in which a legislator or legislative employee
29 has a substantial economic involvement with another person. In this

1 section, "person" includes governmental entities.

2 Sec. 24.61.270. DEALING WITH FINANCIAL CONFLICTS. Except in the
3 relatively few cases in which certain conflict-laden transactions or
4 relationships are banned by this chapter or where divestiture will be
5 ordered by the commission, conflicts of interest are dealt with pri-
6 marily as a matter of required public disclosure and voluntary re-
7 straint.

8 Sec. 24.61.275. PERSONAL RELATIONSHIP CONFLICTS OF INTEREST
9 DEFINED. A personal relationship conflict of interest exists when a
10 legislator or legislative employee is involved in a close personal
11 relationship with another person who is likely to be substantially
12 affected by an official action or decision the legislator or legisla-
13 tive employee might make. A close personal relationship is a special
14 relationship between a legislator or legislative employee and another
15 person that creates strong bonds of loyalty, friendship, or love that
16 could potentially conflict with public duties and the obligation to
17 exercise objective independent judgment or create the appearance that
18 the person may have undue access to confidential information or other-
19 wise receive favored treatment regarding public actions. A close
20 personal relationship includes, but is not limited to, immediate
21 family, long-term personal friends, or former business associates, and
22 persons with whom the legislator or legislative employee has a signif-
23 icant and continuous romantic relationship.

24 Sec. 24.61.280. DEALING WITH PERSONAL RELATIONSHIP CONFLICTS OF
25 INTEREST. Except in the very few cases where certain relationships
26 give rise to specific legal limitations, such as the ban on nepotism,
27 personal relationship conflicts are not restricted or subject to
28 mandatory disclosure. However, this makes them no less damaging to
29 public trust. Legislators and legislative employees shall avoid,

1 where reasonably possible, getting into situations where they have
2 personal relationship conflicts of interest. Where the situations are
3 not reasonably avoidable, legislators and legislative employees shall
4 take affirmative steps to disclose the conflicts that are not apparent
5 and refrain, where reasonably possible, from making decisions or
6 taking actions affected by the conflict.

7 Sec. 24.61.290. RESTRICTED RELATIONSHIPS: NEPOTISM. (a) A
8 member of the immediate family of a legislator may not be employed for
9 compensation

10 (1) in the house of which the legislator is a member during
11 the legislative session;

12 (2) in either house in the interim between legislative
13 sessions; or

14 (3) by the commission, whether for compensation or not, at
15 any time.

16 (b) A member of the immediate family of a legislative employee
17 may not be employed for compensation in a position over which the
18 employee has supervisory authority.

19 (c) In cases where a relative of a legislator or legislative
20 employee is uniquely qualified to perform a task, or another extraor-
21 dinary circumstance exists under which it would be in the state's
22 interest to waive the limitation of this section, an exemption may be
23 sought from the commission.

24 (d) For purposes of this section, a legislator is not an employ-
25 ee of the legislature.

26 (e) A person who violates this section is subject to the civil
27 sanctions authorized under AS 24.61.560(a).

28 Sec. 24.61.300. RESTRICTED RELATIONSHIPS: LOBBYISTS, LEGISLA-
29 TORS, AND LEGISLATIVE EMPLOYEES. (a) A registered lobbyist may not

1 serve as a campaign manager or director, serve as a campaign treasurer
2 or deputy campaign treasurer on a finance or fund-raising committee,
3 host a fund-raising event, or otherwise engage actively in the fund-
4 raising activity of a legislative campaign or for a legal expense fund
5 under AS 24.61.220. Although this subsection prohibits a lobbyist
6 from engaging in all forms of fund raising, it may not be construed to
7 prohibit a lobbyist from making personal contributions to or person-
8 ally advocating on behalf of a candidate.

9 (b) Legislators and legislative employees who have a close
10 economic association or a close personal relationship with a regis-
11 tered lobbyist shall make a written disclosure of the relationship in
12 confidence to the commission. The disclosure shall be made during the
13 first week of each session. If a legislator or legislative employee
14 is not in office during the first week of the session, the disclosure
15 shall be made within 30 days after taking office. If the relationship
16 did not exist during the first week of the session, the disclosure
17 shall be made no later than 45 days after formation of the relation-
18 ship.

19 (c) The written disclosure must state the name of the persons
20 involved, the nature of the relationship, and a brief narrative of the
21 matters the legislator or legislative employee is working on or rea-
22 sonably might work on in the future that could create an actual con-
23 flict of interest. If the commission requests additional information
24 it shall be promptly provided.

25 (d) The commission shall make a determination as to whether the
26 relationship creates a conflict of interest that requires restrictions
27 or disclosure. After making the determination, the commission may
28 elect to

29 (1) keep the matter confidential;

- 1 (2) order some restriction in the activities;
2 (3) order disclosure in the journal of the appropriate
3 body; or
4 (4) order a combination of (1) and (2) or (2) and (3) of
5 this subsection.

6 (e) A legislator or legislative assistant may not provide per-
7 sonal services for compensation for or on behalf of a registered
8 lobbyist, lobbying firm, or another organization or firm that regular-
9 ly engages in lobbying the legislature or state agencies, boards, or
10 commissions, nor may a legislator or legislative assistant have a
11 financial interest in a business that receives a substantial part of
12 its income from lobbyists, lobbying firms, or another organization or
13 firm that regularly engages in lobbying the legislature or state
14 agencies, boards, or commissions.

15 (f) A person required to make a disclosure under this section
16 may not knowingly make a false, deliberately misleading or incomplete,
17 or unreasonably delayed disclosure to the commission.

18 (g) A person who violates this section is subject to the civil
19 sanctions authorized under AS 24.61.560(a) and other penalties au-
20 thorized under AS 24.45 (regulation of lobbying).

21 Sec. 24.61.310. RESTRICTED RELATIONSHIPS: BOARD MEMBERSHIPS.

22 (a) A legislator or legislative employee may not serve on a governing
23 or advisory board of an organization that regularly has a substantial
24 interest in the legislative, administrative, and political actions of
25 the legislator or legislative employee.

26 (b) In extraordinary situations where the criteria for an ex-
27 emption exists, a legislator or legislative employee may seek a waiver
28 of the provisions of this section or a modified order from the commis-
29 sion.

1 (c) A person who violates this section is subject to the civil
2 sanctions authorized under AS 24.61.560(a).

3 Sec. 24.61.320. RESTRICTED FINANCIAL INTERESTS. (a) A legisla-
4 tor or legislative employee may not participate in legislative, admin-
5 istrative, or political action if the legislator or legislative em-
6 ployee has an equity or ownership interest in a business, investment,
7 real property, lease, or other enterprise if the interest has a fair
8 market value of \$25,000 or more and the effect of the action on that
9 interest is greater than the effect on a substantial class of persons
10 to which the legislator or legislative employee belongs as a member of
11 a profession, occupation, industry, or region.

12 (b) In extraordinary situations where the criteria for an ex-
13 emption exists, a legislator or legislative employee may seek a waiver
14 of the provisions of this section.

15 (c) A person who violates this section is subject to the civil
16 sanctions authorized under AS 24.61.560(a).

17 Sec. 24.61.330. RESTRICTED ACTIVITIES AS AN ATTORNEY OR REP-
18 RESENTATIVE. (a) A legislator or legislative assistant may not
19 professionally represent a person in a legal action against the state
20 where the state is the real party in interest, or receive compensation
21 or any other benefit for acting as an informal representative, advi-
22 sor, or consultant to persons regarding their actions against the
23 state. This provision may not be construed to prevent a legislator or
24 legislative assistant who is an attorney from representing a criminal
25 defendant or clients in competency, commitment, delinquency, support,
26 or Child in Need of Aid cases or similar proceedings where the state
27 is not the real party in interest.

28 (b) A legislator or legislative assistant may not professionally
29 represent either formally or informally as an advocate, advisor, or

1 consultant, a person in a matter involving an agency, board, or com-
2 mission of the state or a local government unless the matter involves
3 a proceeding that is adjudicatory in nature and there is no reasonable
4 basis to conclude that the side represented by the legislator or
5 legislative employee has an unfair advantage. A matter is considered
6 to be adjudicatory in nature where opposing sides are separately
7 represented. This provision does not prohibit an attorney from repre-
8 senting a client in an otherwise permissible action before a criminal
9 or civil court or prevent a legislator or legislative assistant from
10 representing personal interests in an otherwise proper proceeding.
11 This provision shall be construed to prohibit formal and informal
12 professional representation for purposes of obtaining or retaining a
13 state or local license, permit, franchise, grant, loan, or other
14 entitlement, whether or not other parties contending for the benefit
15 are represented. If, however, the granting of the benefit is a purely
16 ministerial matter requiring little or no discretion, this provision
17 does not prohibit representation.

18 (c) Notwithstanding any other law to the contrary, a legislator
19 or legislative employee, acting as an attorney or representative of
20 another, may not seek or accept special treatment, privileges, rights,
21 or concessions solely by reason of service in the legislature. This
22 shall include the seeking and granting of legislative stays.

23 (d) This section may not be construed to prohibit a legislator
24 or legislative assistant from informally advising a constituent about
25 the procedures or appropriateness of bringing an action against the
26 state or a local government. If a legislator or legislative assistant
27 in an otherwise proper manner advises a constituent or another in an
28 action against the state or a local government or before a state or
29 local government agency, the legislator or legislative employee may

1 not reveal nonpublic or confidential information.

2 (e) If an attorney is disqualified under this provision, in
3 accordance with the attorney's code of professional responsibility the
4 firm of the legislator or legislative assistant is also disqualified.

5 (f) In extraordinary situations where the criteria for an ex-
6 emption exists, a legislator or legislative assistant may seek a
7 waiver of this section.

8 (g) A person who violates this section is subject to the civil
9 sanctions authorized under AS 24.61.560(a).

10 Sec. 24.61.340. RESTRICTED TRANSACTIONS: INTEREST IN STATE
11 CONTRACTS OR LEASES. (a) A legislator, a legislative assistant, or a
12 member of the immediate family of a legislator or legislative assis-
13 tant may not be a party to, or have a financial interest in, a state
14 contract or lease unless the contract or lease is permitted under (b),
15 (c), or (d) of this section.

16 (b) A contract is permissible if the contract is let through
17 competitive sealed bidding under AS 36.30 (State Procurement Code) and
18 the legislator or legislative assistant has filed a statement with the
19 commission at the time the bid is made certifying under penalty of
20 unsworn falsification that the legislator or legislative assistant did
21 not have (1) ~~access to inside, nonpublic, or confidential information~~
22 ~~that reasonably could appear to provide an advantage; or (2) dis-~~
23 ~~cussions or contacts with state officials involved in letting the~~
24 ~~contract about the contract that could unduly influence the decision.~~
25 The statement must also specify the nature of the legislator or legis-
26 lative assistant's personal or immediate family interest, including
27 the percentage or share of profits that will be realized. If the
28 commission requests additional information, it shall be promptly
29 provided. If the commission believes the nature or circumstances of

* define

1 the contract raise impermissible conflicts of interest, it may void
2 the contract or order restrictions. The statement filed by the legis-
3 lator or legislative assistant regarding the contract shall be made
4 part of the public record and published in the journal of the appro-
5 priate house.

6 (c) A contract or lease is permissible if the total amount of
7 the contract or lease over the course of a year is less than \$1,000
8 and it was let under circumstances that raise no substantial question
9 as to the use of undue influence.

10 (d) A contract or lease is permissible if the contract or lease
11 was developed and standardized under published guidelines and the
12 benefits and rights conferred are widely available to the general
13 public under the same terms and conditions.

14 (e) A legislator or legislative assistant may not seek or accept
15 compensation, whether in the form of a commission, bonus, retainer,
16 kickback, or other form, on a state contract, nor may a legislator or
17 legislative assistant receive similar compensation for services relat-
18 ing to recommending, supporting, or advocating a contract between a
19 person and an entity of state government, an entity of local govern-
20 ment that receives substantial state subsidy, or a private enterprise
21 that does a substantial portion of its business with state government.

22 (f) A legislator, legislative assistant, or former legislator or
23 legislative assistant, within one year of leaving legislative service,
24 may not seek or accept a contract for goods or personal services, or
25 other compensation concerning a matter on which the legislator or
26 legislative assistant worked extensively within the last year of
27 service.

28 (g) A person required to make a disclosure under this section
29 may not knowingly make a false, deliberately misleading or incomplete,

1 or unreasonably delayed disclosure to the commission.

2 (h) A person who violates this section is subject to the civil
3 sanctions authorized under AS 24.61.560(a).

4 Sec. 24.61.345. PARTICIPATION IN GENERAL STATEWIDE PROGRAMS
5 PERMISSIBLE. (a) A legislator or legislative employee may properly
6 participate in statewide benefit programs or receive a loan from the
7 state if the program or loan is generally available to members of the
8 public, is subject to fixed, objective eligibility standards, and
9 requires minimal discretion in determining qualification.

10 (b) The commission shall review annually state programs and
11 state loans and publish a list of programs and loans, designating
12 which ones meet the qualifications stated.

13 (c) A legislator or legislative employee who participates in a
14 program or receives a loan that does not qualify under this section
15 shall file a written report with the commission by the first Monday in
16 February of each year stating the amounts of the loans or other bene-
17 fits received during the preceding calendar year from nonqualifying
18 programs. The commission shall promptly compile a list of the state-
19 ments indicating the loans and programs and amounts and send it to the
20 presiding officer of each house who shall have it published in the
21 supplemental journals within three weeks of the filing date. If the
22 commission requests additional information it shall be promptly pro-
23 vided.

24 (d) If loan proceeds or other program benefits are received from
25 nonqualifying programs or loans after January 15, the legislator or
26 legislative employee shall file a statement with the commission within
27 30 days after the beginning of participation in the state program or
28 receipt of proceeds from the state loan. The statement shall be
29 promptly forwarded to the presiding officer of the appropriate house

1 who shall cause it to be published in the supplemental journal.

2 (e) If the commission determines that the nature and circum-
3 stances under which the legislator or legislative employee received a
4 state benefit or loan raises an undue appearance of impropriety or was
5 in fact the result of unfair or improper influence it shall be treated
6 as a violation of this chapter and the commission may order whatever
7 authorized remedies are suitable.

8 (f) The commission shall annually identify the programs and
9 loans to be audited by the division of legislative audit during the
10 following year, including the scope of the audit. The records of the
11 relevant state agencies shall be made available to the division of
12 legislative audit. The division of legislative audit shall prepare a
13 report to the commission on its findings. The report is confidential
14 until it is released by the commission.

15 (g) In extraordinary situations where the criteria for an ex-
16 emption exists, a legislator or legislative employee may seek a waiver
17 of this section.

18 (h) A person required to make a disclosure under this section
19 may not knowingly make a false, deliberately misleading or incomplete,
20 or unreasonably delayed disclosure to the commission.

21 (i) A person who violates this section is subject to the civil
22 sanctions authorized under AS 24.61.560(a).

23 Sec. 24.61.350. RESTRICTED TRANSACTIONS: GRATUITIES. (a)
24 Public servants must be extremely cautious and circumspect about
25 accepting a gratuity or favor, especially from persons or entities
26 that have a substantial interest in their legislative, administrative,
27 or political actions. Even where there is a genuine personal friend-
28 ship, the acceptance of personal benefits from those who could gain
29 advantage by influencing official actions raises suspicions that tend

1 to undermine public trust. It is the intent of this section to dis-
2 courage all gratuities, but prohibit only those that create unaccept-
3 able conflicts of interest or appearances of impropriety.

4 (b) A legislator or legislative employee may not solicit, ac-
5 cept, or receive, directly or indirectly, a benefit as a gratuity from
6 a person or entity except as provided in this section. Over the
7 course of a year, a legislator or legislative employee may accept
8 gratuities in the form of personal gifts, free or subsidized travel,
9 tickets to entertainment or sporting events, lodging, and any other
10 benefit, provided that the aggregate value is not in excess of \$100
11 from a single source and provided that the gifts are reported as to
12 source and amount. However, a benefit of any amount may not be ac-
13 cepted under circumstances in which it could be reasonably inferred
14 that the gift is intended to influence the performance of official
15 duties, actions, or judgments.

16 (c) The following benefits may be accepted as gratuities without
17 regard to the \$100 limit of (b) of this section and they need not be
18 reported except as noted within the appropriate paragraph:

19 (1) gifts from immediate family members;

20 (2) birthday, wedding, anniversary, and similar ceremonial
21 gifts from personal friends, but only if the donor does not have a
22 substantial interest in the legislative, administrative, or political
23 action of the recipient;

24 (3) gifts of sample merchandise, promotional items such as
25 pens, calendars, and the like, and appreciation tokens such as candy,
26 fruit baskets, or flowers provided they are of nominal or moderate
27 value, are given to customers or potential customers in the ordinary
28 course of business, and there are no special facts creating a conflict
29 of interest or the appearance of impropriety;

1 (4) unsolicited tokens or awards of appreciation or recog-
2 nition with a value of less than \$150 in the form of a plaque, trophy,
3 clock, desk item, wall memento, and similar items; more valuable
4 awards such as watches, rings, and works of art may be accepted only
5 if the organization making the award does not have a substantial
6 interest in the legislative, administrative, or political action of
7 the recipient or the award has been approved by the commission upon a
8 finding that the gift does not create an impermissible conflict of
9 interest;

10 (5) informational material, brochures, pamphlets, and unso-
11 licited publications, including newspapers and magazines, with a
12 market value of less than \$100 on an annual basis;

13 (6) food or foodstuffs indigenous to the state, such as
14 walrus and caribou, that are shared generally as a cultural or social
15 norm, and meals and beverages provided and consumed at social or
16 fund-raising events, conferences, or professional meetings, at a
17 restaurant or club, provided that the cost is not lavish or excessive,
18 or as part of personal hospitality at the residence or place of busi-
19 ness of the host; this paragraph may not be construed to permit gifts
20 of packaged liquor, wine, or foodstuffs, nor does it permit the accep-
21 tance of a restaurant meal not consumed with the person providing the
22 gift, for example if a lobbyist arranges to have a dinner for you and
23 your spouse billed to the lobbyist;

24 (7) a gift presented by a representative of a foreign
25 government may be accepted on behalf of the state, provided that if it
26 is worth more than \$100 it must be turned over to the presiding offi-
27 cer of either house for purposes of displaying the gift in public
28 areas of the Capitol or being sold at auction, the proceeds to go to
29 charity or the general fund; if the gift is worth less than \$100, and

1 it was intended as a personal gift, it may be kept provided that the
2 gift is properly reported;

3 (8) reasonable and necessary expenses including reimburse-
4 ment for travel and related food and lodging are not gratuities when
5 they are incidental to a trip paid for by a government agency or a
6 bona fide nonprofit educational or charitable institution for govern-
7 mental or educational purposes, provided that lodging expenses are
8 limited to the day preceding and the day or days of the event; if the
9 institution paying the expenses does not have a substantial interest
10 in the legislative, administrative, or political action of the recipi-
11 ent, expenses may also be paid for a spouse or other companion, in-
12 cluding a member of the legislator or legislative employee's family,
13 if the value of the gift is reported on required disclosure forms;
14 this paragraph does not permit acceptance of free travel from a person
15 or nongovernmental entity with a substantial interest in the legisla-
16 tive, administrative, or political action of the recipient even if the
17 purpose of the travel is related to matters of legislative concern;

18 (9) hospitality including overnight lodging, food, and
19 beverages at the residence or second home of the host provided the
20 host is present; if the host is a personal friend and has no substan-
21 tial interest in the legislative, administrative, or political actions
22 of the recipient and there are no other facts that create a conflict
23 of interest, there is no limit to the number of days stayed; if the
24 host has a substantial interest in the legislative, administrative, or
25 political actions of the recipient, the exempt stay may not exceed two
26 nights and the gratuity shall be reported on financial disclosure
27 forms; this paragraph may not be construed to permit the use of a
28 summer home, company retreat, resort facility, condominium or apart-
29 ment, or other lodging where the host is not personally present or,