



# LAWS OF ALASKA

1980

**Source**

FCCSSB 161

**Chapter No.**

18

## AN ACT

Relating to the Alaska permanent fund; to nonrenewable resource revenues; to legislative oversight; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: April 8, 1980  
Actual Effective Date: April 9, 1980 except for Section 10 which takes effect upon transfer of the Alaska permanent fund to the Alaska Permanent Fund Corporation.

AN ACT

Relating to the Alaska permanent fund; to nonrenewable resource revenues; to legislative oversight; and providing for an effective date.

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\* Section 1. FINDINGS. The legislature finds that there is a substantial need for oversight of the performance of those agencies of the state which perform lending or investment functions since those functions do not receive the detailed review to which other expenditures of public money are subject, and therefore the knowledge necessary for sound legislation in this area is not readily available. There is a need for legislative oversight which will provide information on the policy and performance of these agencies, the extent to which the agencies conform to statutory intent, and the impact of their performance on the economy and the state treasury.

\* Sec. 2. AS 24.20 is amended by adding new sections to read:

Sec. 24.20.156. PURPOSES. The purposes of the Legislative Budget and Audit Committee include

(1) monitoring and reporting

(A) the performance of the agencies of the state which perform lending or investment functions,

(B) the extent to which the performance of these agencies has contributed to the fiscal, financial, economic and social improvement of the state and its citizens,

(C) the extent to which these agencies and the executive have prepared and coordinated short-term and long-term economic,

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1           fiscal, investment and financial planning;

2           (2) holding these agencies accountable to statutory intent in  
3 their performance by recommending, where appropriate, changes in policy  
4 to the agencies or changes in legislation to the legislature;

5           (3) annually reviewing the extent of capitalization of the  
6 investment funds of the state and alternative investment policy for the  
7 general fund surplus and recommending needed legislation.

8           Sec. 24.20.206. DUTIES. The Legislative Budget and Audit Commit-  
9 tee shall

10           (1) report to the legislature its recommendations relating to  
11 the confirmation of appointees to the Board of Trustees of the Alaska  
12 Permanent Fund Corporation and the Board of Trustees of the Alaska  
13 Renewable Resources Corporation;

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

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

18           (4) present a complete report of investment programs, plans,  
19 performance, and policies of all agencies of the state which perform  
20 lending or investment functions to the legislature within 30 days after  
21 the convening of each regular session;

22           (5) present to the legislature within 30 days after the con-  
23 vening of each regular session a review of the report of the governor  
24 under AS 37.07.020(d) with recommendations for needed legislation;

25           (6) in conjunction with the finance committee of each house  
26 recommend annually to the legislature the investment policy for the  
27 general fund surplus and for the income from the permanent fund;

28           (7) provide for an annual post audit and annual operational  
29 and performance evaluation of the Alaska Permanent Fund Corporation in-

1 vestments and investment programs.

2 Sec. 24.20.209. RECORDS. The Legislative Budget and Audit Commit-  
3 tee shall keep a complete file of all reports presented to it and all  
4 reports presented by it to the legislature or to a legislative commit-  
5 tee.

6 \* Sec. 3. AS 24.20.201(a) is amended by adding new paragraphs to read:

7 (9) hold public hearings on the confirmation of the members  
8 of the Board of Trustees of the Alaska Permanent Fund Corporation, and  
9 the members of the Board of Trustees of the Alaska Renewable Resources  
0 Corporation;

1 (10) make recommendations to the legislature and to agencies  
2 of the state which perform lending or investment functions concerning  
3 the structure and operating practices of the agencies;

4 (11) enter into and enforce all contracts necessary or desira-  
5 ble for the functions of the committee.

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

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

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

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

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

5 CHAPTER 13. ALASKA PERMANENT FUND.

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

9 (1) 25 percent of all mineral lease rentals, royalties,

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

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

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

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

(c) The Alaska permanent fund shall be managed by the Alaska Permanent Fund Corporation established in this chapter.

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 Alaska Permanent Fund Corporation that

(1) the corporation should provide a means of conserving a portion of the state's revenues from mineral resources to benefit all generations of Alaskans;

(2) the corporation's goal should be to maintain safety of principal while maximizing total return;

(3) the corporation should be used as a savings device

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managed to allow the maximum use of disposable income from the corporation for purposes designated by law.

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 allocated to the Alaska Permanent Fund Corporation in a manner consistent with the findings in AS 37.13.020.

Sec. 37.13.040. ALASKA PERMANENT FUND CORPORATION. There is established the Alaska Permanent Fund Corporation. The corporation is a public corporation and government instrumentality in the Department of Revenue managed by a board of trustees. The purpose of the board is to manage and invest the assets of the corporation in accordance with this chapter.

Sec. 37.13.050. COMPOSITION AND QUALIFICATIONS OF BOARD OF TRUSTEES. (a) The Board of Trustees of the Alaska Permanent Fund Corporation consists of six members appointed by the governor. Three of the members shall be heads of principal departments of state government, one of whom shall be the commissioner of revenue. Three members shall be appointed by the governor from the public and may not hold any other state or federal office, position or employment, either elective or appointive, except as a member of the armed forces of either the United States or of this state. Members other than the commissioner of revenue shall be separately confirmed by a majority of the members of the legislature in joint session.

(b) The three public members of the board shall have recognized competence and wide experience in finance, investments, or other business management-related fields.

(c) The board shall annually elect a chairman from among its members.

Sec. 37.13.060. TERM OF OFFICE. The members of the board shall be

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1 appointed for terms of three years, and they may be reappointed subject  
2 to confirmation by a majority of the members of the legislature in joint  
3 session. Terms shall be staggered. Initial terms for members other  
4 than the commissioner of revenue shall be two members serving for one  
5 year, two members serving for two years, and one member serving for  
6 three years.

7 Sec. 37.13.070. REMOVAL AND VACANCIES. (a) The governor may  
8 remove a member of the board from office. However, the removal of a  
9 member of the board is subject to disapproval by a vote of a majority of  
10 the members of the legislature at the first joint session held 10 or  
11 more days after the legislature receives notice of the removal from the  
12 governor. A removal by the governor shall be in writing and shall state  
13 the reason for the removal. A member who is removed by the governor may  
14 not participate in board business and may not be counted for purposes of  
15 establishing a quorum between the time he receives written notice of his  
16 removal from the governor and the time that the legislature's power to  
17 disapprove the removal under this subsection expires. If the legisla-  
18 ture disapproves the removal of a board member, the board member shall  
19 be reinstated.

20 (b) A vacancy on the board shall be promptly filled by appointment  
21 by the governor and confirmation by a majority of the members of the  
22 legislature in joint session. An appointee to a vacancy shall hold  
23 office for the balance of the term for which his predecessor on the  
24 board was appointed. If a vacancy arises on the board while the legis-  
25 lature is not in session, the governor may appoint an interim board  
26 member who shall exercise the powers of a board member until the legis-  
27 lature fails to confirm the appointment of the interim board member.

28 (c) A vacancy on the board does not impair the authority of a  
29 quorum of the board to exercise all the powers and perform all the

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duties of the board.

Sec. 37.13.080. QUORUM. Four members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board.

Sec. 37.13.090. COMPENSATION OF BOARD MEMBERS. Public members of the board receive an honorarium of \$400 for each meeting day if they attend the meeting. All members of the board are entitled to per diem and travel allowances as provided by law for members of state boards and commissions.

Sec. 37.13.100. CORPORATION STAFF. The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. No employee of the corporation, including the executive director, may be a member of the board. The executive director and the other employees of the board are in the exempt service under AS 39.25.

Sec. 37.13.110. CONFLICTS OF INTEREST. (a) Members of the board and the executive director are subject to the provisions of AS 39.50.

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

Sec. 37.13.120. INVESTMENT RESPONSIBILITIES OF THE BOARD. (a) The prudent-man rule shall be applied by the board in the management and investment of Alaska permanent fund assets. The prudent-man rule as applied to investments of the corporation means that in making investments the board shall exercise the judgment and care under the circumstances then prevailing which an institutional investor of ordinary

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1 prudence, discretion, and intelligence exercises in the management of  
2 large investments entrusted to it not in regard to speculation but in  
3 regard to the permanent disposition of funds, considering probable  
4 safety of capital as well as probable income.

5 (b) The corporation assets shall only be used for income-producing  
6 investments.

7 (c) The board shall maintain a reasonable diversification among  
8 investments unless under the circumstances it is clearly prudent not to  
9 do so.

10 (d) The board shall submit long-range and quarterly investment  
11 reports to the Legislative Budget and Audit Committee.

12 (e) The corporation may not borrow funds or guarantee from princi-  
13 pal of the Alaska permanent fund the obligations of others.

14 (f) The board may enter into and enforce all contracts necessary,  
15 convenient or desirable for purposes of the corporation.

16 (g) Subject to the limitations in (h) and (i) of this section, the  
17 board may invest corporation assets in

18 (1) obligations of, or obligations insured by or guaranteed  
19 by, the United States or agencies or instrumentalities of the United  
20 States;

21 (2) obligations secured by reserves paid in by the United  
22 States or agencies or instrumentalities of the United States or obliga-  
23 tions of corporations in which the United States is a shareholder or  
24 member;

25 (3) certificates of deposit issued by United States domestic  
26 banks which are members of the Federal Deposit Insurance Corporation for  
27 which a generally recognized secondary market exists or which are fully  
28 secured at all times as to payment of principal and interest by invest-  
29 ments described in (1) - (2), (8) or (12) - (16) of this subsection; th

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security pledged under this paragraph shall be at least equal to the face value of the deposit and the board may require substitution of collateral;

(4) shares of federally chartered savings and loans associations in Alaska which are fully secured at all times as to payments of principal and interest by investments described in (1) - (2) of this subsection;

(5) savings certificates issued by state chartered savings and loan associations in Alaska which are fully secured at all times as to payments of principal and interest by investments described in (1) - (2) of this subsection;

(6) deposits with mutual savings banks in Alaska which are fully secured at all times as to payments of principal and interest by investments described in (1) - (2) of this subsection;

(7) fixed-term certificates of indebtedness of federally insured credit unions which are fully secured at all times as to payments of principal and interest by investments described in (1) - (2) of this subsection;

(8) corporate debt securities which are rated AA or better by a nationally recognized rating service;

(9) short-term corporate promissory notes of the highest ratings assigned by a nationally recognized rating service;

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

(11) repurchase agreements, the securities underlying the agreements being any of the items in (1) - (3) and (8) - (10) of this subsection;

(12) the guaranteed portion of Federal Small Business Adminis-

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1       tration loans;

2               (13) the portion of first lien real estate mortgages guaran-  
3       teed by the Federal Veterans Association;

4               (14) the portions of business and industrial loans made under  
5       the Rural Development Act of 1972 which are guaranteed by the Farmer's  
6       Home Administration;

7               (15) the guaranteed portion of Farmer's Home Administration  
8       loans;

9               (16) notes secured by mortgages of residential real estate if  
10       the mortgages are insured by a private mortgage insurance corporation  
11       which is authorized to do business in Alaska and has combined capital,  
12       surplus and reserves aggregating at least \$20,000,000; the minimum  
13       coverage shall be 10 percent for loans having a loan-to-value ratio of  
14       less than 90 percent, and the minimum coverage shall be 20 percent for  
15       loans having a loan-to-value ratio of 90 percent or more.

16              (h) The board may enter into future contracts for the sale of  
17       investments purchased under (g) of this section only for the purpose of  
18       hedging an existing equivalent ownership position in these securities.

19              (i) Investments under (g)(8) of this section may not exceed 25  
20       percent of the total investments of the Alaska permanent fund. Invest-  
21       ments under (g)(16) of this section may not exceed in the aggregate 15  
22       percent of the total investments of the Alaska permanent fund.

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

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

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Before adoption of any guidelines the guidelines shall be reported to the Legislative Budget and Audit Committee for review and comment.

(1) The board shall invest the assets of the corporation in in-state investments to the extent in-state investments are available if the in-state investments

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

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

Sec. 37.13.130. GAINS AND LOSSES. At the end of each fiscal year, the total amount of losses on the sales of securities, not offset by gains on the sales of securities during that year, shall be computed, with a portion of these losses to be deducted each fiscal year from the income and the resulting amount of income added to the principal of the Alaska permanent fund. Losses taken on the sales of securities shall be accumulated over a period equal to the average remaining life of the securities sold, unless these losses are offset by gains on future sales of securities. In any fiscal year in which the gains on the sales of securities exceed the losses on the sales of securities, the excess shall be added to the principal of the Alaska permanent fund.

Sec. 37.13.140. INCOME. The interest received in a year is the income of the corporation for that year. The income available for disbursement shall be determined on an averaging basis. For the first five years, income will be the simple averaging of the annual current return at cost. Subsequently, there will be a moving average current return, in which the latest fiscal year will replace the oldest year. The income available for disbursement will be the lesser of the latest fiscal year's income, or the average annual current income for the past five fiscal years of the Alaska permanent fund at cost, and after

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1 adjustment for capital losses charged to that fiscal year.

2 Sec. 37.13.150. BOARD BUDGET. The operating budget of the board  
3 is from the general fund and is subject to the Executive Budget Act  
4 (AS 37.07).

5 Sec. 37.13.160. AUDITS. The Legislative Budget and Audit Commit-  
6 tee shall provide for an annual post audit and annual operational and  
7 performance evaluations of the corporation's investments and investment  
8 programs.

9 Sec. 37.13.170. REPORTS AND PUBLICATIONS. By September 30 of each  
10 year, the board shall publish a report of the corporation for distribu-  
11 tion to the governor, legislature, and the public. The report shall be  
12 written in easily understandable language. The report must include  
13 financial statements audited by independent outside auditors, a state-  
14 ment of the amount of money received by the Alaska permanent fund from  
15 each investment during the period covered, a statement of investments of  
16 the corporation including an appraisal at market value, a description of  
17 corporation investment activity during the period covered by the report,  
18 a comparison of the corporation performance with the intended goals  
19 contained in AS 37.13.020, an examination of the impact of the invest-  
20 ment criteria of this chapter on the corporation portfolio with recom-  
21 mendations of any needed changes, and any other information the board  
22 believes would be of interest to the governor, the legislature, and the  
23 public. The annual income statement and balance sheet of the corpora-  
24 tion shall be published in at least one newspaper in each judicial  
25 district. The income statement and balance sheet for the two fiscal  
26 years preceding the publication of the election pamphlet under AS 15.57  
27 shall be included in that pamphlet.

28 Sec. 37.13.180. TAX EXEMPTION. The corporation is exempt from all  
29 taxes and assessments in the state. All security instruments issued by

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the corporation, their transfer, and their income are exempt from all taxes and assessments in the state.

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

Sec. 37.13.200. PUBLIC ACCESS TO INFORMATION. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

Sec. 37.13.210. DEFINITIONS. In this chapter,

(1) "board" means the Board of Trustees of the Alaska Permanent Fund Corporation;

(2) "corporation" means the Alaska Permanent Fund Corporation.

\* Sec. 6. AS 38.05.180(g) is amended to read:

(g) The share of the net profit derived from a lease reserved to the state under (f) of this section is royalty sale proceeds for the purposes of the Alaska permanent fund under AS 37.13.010 [AS 37.10.065] and the Alaska renewable resources development fund under AS 37.11.020.

\* Sec. 7. AS 39.25.110 is amended by adding a new paragraph to read:

(22) members of the board of trustees, the executive director, and staff of the Alaska Permanent Fund Corporation.

\* Sec. 8. AS 39.50.200(9) is amended by adding a new subparagraph to read:

(SS) Board of Trustees and executive director of the

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1 Alaska Permanent Fund Corporation.

2 \* Sec. 9. TRANSITION. The commissioner of revenue shall transfer the  
3 Alaska permanent fund to the Alaska Permanent Fund Corporation established by  
4 this Act after request for transfer is made by the board of trustees of the  
5 corporation. Notwithstanding AS 37.10.065(a), the commissioner of revenue  
6 may invest the money in the Alaska permanent fund in the investments de-  
7 scribed in AS 37.13.120(g) subject to the limitations of AS 37.13.120(h) and  
8 (i).

9 \* Sec. 10. AS 37.10.065 is repealed.

10 \* Sec. 11. Section 10 of this Act takes effect upon transfer of the  
11 Alaska permanent fund to the Alaska Permanent Fund Corporation as provided in  
12 sec. 9 of this Act. The remainder of this Act takes effect immediately in  
13 accordance with AS 01.10.070(c).