

Sponsor statement for SB 326

Background

[Alaska Statute 37.13.120](#) provides a list of investment guidelines for the Alaska Permanent Fund, and the Fund's Trustees make investment decisions within these guidelines. Sometimes it is necessary to update the Fund's statutes as investment practices evolve. Periodically the Trustees bring these proposed changes to the Legislature.

In 1999 the Legislature passed [HB 156](#), a bill that made a number of necessary changes to the statutes. One change was the creation of a "basket clause" in AS 37.13.120(k). This clause allows the Trustees to invest up to 5% of the Fund in investments not included in the allowed statutory list, but that are appropriate under the prudent investor rule. The basket clause may also be used for allowed investments in which the Fund has reached its statutory limitation.

However the alternative investments allowed under the basket clause may conflict with the investments not allowed under the statutory list. AS 37.13.120(e) prevents the Fund from borrowing money against assets other than real estate to leverage an investment. AS 37.13.120(h) restricts the situations in which Fund assets may be invested in futures contracts. AS 37.13.120(j) bars investing in any debt instrument on which an interest payment has been defaulted in the preceding five years.

Many alternative investments, such as hedge funds, use one or more of the methods restricted in (e), (h) and (j) as part of their overall investment strategy. The Permanent Fund could not make these investments under current statutes, despite the fact that they might represent sound investment opportunities.

Senate Bill 326

SB 326 achieves two objectives. The first is to provide clean-up language for AS 37.13.120(e) and (k), in part by explicitly stating that the investments restricted under AS 37.13.120(h) and (j) are allowed under the basket clause. According to transcripts of committee hearings, the Legislature was aware when it created the basket clause, that it would be used for these types of alternative investments. The change in this bill would clean up the discrepancy in language between the sections while still maintaining the original legislative intent.

The second would expand the basket clause from 5% to 15%. This is necessary because the 5% limit is too small to allow the Trustees enough flexibility to keep up with changes in investment practices. For example, the Trustees are planning on placing up to 3% of the Fund in private equity investments. If these are successful investments, the value will grow to 4% or more of the Fund, leaving less than 2% of the basket clause for other investments.