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ATTORNEY GENERAL OF ALASKA

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Board of Trustees  
Alaska Permanent Fund Corporation  
P.O. Box 25500  
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Gentlemen:

I have the pleasure of transmitting to you a tax opinion prepared by Steptoe & Johnson LLP, a Washington, D.C.-based law firm ("Steptoe"). In its opinion Steptoe addressed three questions posed by us and reached the following conclusions:

1. The Alaska Permanent Fund (the "Fund"), as currently constituted, should not be subject to federal income tax under the doctrine of implied statutory tax immunity (a) because it is an asset of the State of Alaska and its income is earned directly by the State of Alaska or (b) in the alternative, because it is an integral part of the State of Alaska.
2. The Alaska Permanent Fund Corporation (the "Corporation"), as currently constituted, should not be subject to federal income tax (a) under the doctrine of implied statutory tax immunity because it is an integral part of the State of Alaska or (b) in the alternative, because its income, if any, is excluded from federal income tax under Section 115(1) of the Internal Revenue Code (the "Code").
3. The adoption of constitutional amendments incorporating into the Constitution a requirement for payment of the permanent fund dividend and a requirement that a portion of Fund earnings be used to defray the State's obligations to fund public education should not change the above conclusions.

Steptoe's opinion is more favorable than tax opinions on the federal income tax status of the Fund and the Corporation that we obtained from outside counsel in 1988. This change is attributable primarily to two factors.

1. When the earlier opinion was obtained in 1988, there was a lack of clarity regarding ownership of Fund assets. Specifically, certain language in the Alaska Statutes and the Corporation's Annual Reports raised questions as to whether the Fund's assets were held by the State of Alaska or by the Corporation. In the

intervening years, amendments to the Alaska Statutes and changes in the format of the Corporation's Annual Reports have clarified that the Fund is the property of the State and that the purpose of the Corporation is to manage the Fund. In 1988, there also was a lack of clarity concerning the independence of the Corporation. The Corporation had made statements emphasizing its independence. It is now clear that the Corporation operates independent of political considerations in making investment decisions but it is subject to state control in all respects, as outlined in Steptoe's opinion. These changes have strengthened the position that the Fund and the Corporation are not subject to tax.

2. The earlier opinion expressed some concern that the permanent fund dividend might be viewed as a private benefit and that such a view could cause the Fund to be taxable. Perhaps due to the benefit of another 15 years of Internal Revenue Service rulings, Steptoe concluded that private benefit is not a concern. First, Steptoe found no express requirement for a public purpose or lack of private benefit under the integral part test. Second, although there are some rulings that hold a particular fund is not an integral part of a state because it results in private benefit, Steptoe concluded that this result was unlikely where two critical factors are present -- state financial commitment and state control. Both of these factors are clearly satisfied by the Fund. Third, Steptoe found that many rulings held that funds making payments to private individuals were integral parts of a state where the aforementioned critical factors were present. Like the earlier tax opinion, Steptoe also noted the stated public purposes for the payment of the permanent fund dividend and that it was paid to all residents in their capacity as residents of the State of Alaska and not in their private capacities.

We had not previously requested an opinion from outside counsel on the impact of a constitutional amendment requiring payment of the permanent fund dividend. However, based on the concerns about the permanent fund dividend raised in the earlier tax opinion, we questioned whether requiring payment of the dividend by a constitutional amendment would exacerbate these concerns. As noted above, in Steptoe's opinion, payment of the permanent fund dividend is not a concern under the existing statute, and the adoption of a constitutional amendment requiring payment of the dividend should not change this result.

I would be happy to answer any questions you have about the opinion.

Sincerely,



Gregg D. Renkes  
Attorney General