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Martin
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CONFERENCE CS FOR SENATE BILL NO. 26
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - SECOND SESSION

BY THE CONFERENCE COMMITTEE

Offered:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to an appropriation limit; relating to the budget responsibilities of the**
2 **governor; relating to the Alaska permanent fund, the earnings of the Alaska permanent**
3 **fund, and the earnings reserve account; relating to the mental health trust fund; relating**
4 **to deposits into the dividend fund; relating to the calculation and payment of permanent**
5 **fund dividends; and providing for an effective date."**

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

7 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
8 to read:

9 **LEGISLATIVE FINDINGS AND INTENT.** (a) The legislature finds that the

10 (1) language relating to appropriation of funds from the earnings reserve
11 account in secs. 9, 10, and 15 of this Act is necessary under the Alaska Supreme Court
12 decision in *Wielechowski v. State*, 403 P.3d 1141 (Alaska 2017); and

13 (2) changes made in secs. 9, 10, and 15 are technical and conforming in nature

1 to update statutes.

2 (b) It is the intent of the legislature in including secs. 9, 10, and 15 of this Act to make
3 necessary conforming and technical changes to statute.

4 * **Sec. 2.** AS 37.05.540(a) is amended to read:

5 (a) There is established as a separate fund in the state treasury the budget
6 reserve fund. The budget reserve fund consists of appropriations to the fund.
7 [MONEY RECEIVED BY THE STATE THAT IS SUBJECT TO THE
8 APPROPRIATION LIMIT UNDER (b) OF THIS SECTION AND THAT EXCEEDS
9 THAT LIMIT, MAY BE APPROPRIATED TO THE BUDGET RESERVE FUND.]

10 * **Sec. 3.** AS 37.05.550(b) is amended to read:

11 (b) The legislature may appropriate to the fund money received by the state as
12 Alaska marine highway system program receipts or from a settlement or final judicial
13 determination of the Dinkum Sands case (United States v. Alaska) and the North
14 Slope royalty case (State v. Amerada Hess, et al.) and not deposited into the Alaska
15 permanent fund under AS 37.13.010(a) [AS 37.13.010(a)(1) OR (2)] or into the public
16 school trust fund under AS 37.14.150.

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

18 (f) In addition to the budget and bills submitted under (a) of this section and
19 the fiscal plan submitted under (b) of this section, the governor shall submit a report
20 on how the budget prepared under (a) of this section complies with the appropriation
21 limit set out in art. IX, sec. 16, Constitution of the State of Alaska.

22 * **Sec. 5.** AS 37.13.010(a) is amended to read:

23 (a) Under art. IX, sec. 15, of the state constitution, there is established as a
24 separate fund the Alaska permanent fund. The Alaska permanent fund consists of

25 (1) 25 percent of all mineral lease rentals, royalties, royalty sale
26 proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue
27 sharing payments received by the state from mineral leases [ISSUED ON OR
28 BEFORE DECEMBER 1, 1979], and 25 percent of all bonuses received by the state
29 from mineral leases [ISSUED ON OR BEFORE FEBRUARY 15, 1980]; and

30 (2) [50 PERCENT OF ALL MINERAL LEASE RENTALS,
31 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; AND

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

* **Sec. 6.** AS 37.13.140 is amended to read:

Sec. 37.13.140. Income and market value. Net income of the fund includes income of the earnings reserve account established under AS 37.13.145. **The corporation shall determine the net** [NET] income of the fund [SHALL BE COMPUTED ANNUALLY AS OF THE LAST DAY OF THE FISCAL YEAR] in accordance with generally accepted accounting principles, excluding any unrealized gains or losses. Income available for distribution equals 21 percent of the net income of the fund for the last five fiscal years, including the fiscal year just ended, but may not exceed net income of the fund for the fiscal year just ended plus the balance in the earnings reserve account described in AS 37.13.145.

* **Sec. 7.** AS 37.13.140 is amended by adding a new subsection to read:

(b) Notwithstanding (a) of this section, the corporation shall determine the amount available for appropriation each year. The amount available for appropriation is 5.25 percent of the average market value of the fund for the first five of the preceding six fiscal years, including the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles. In this subsection, "the average market value of the fund" includes the balance of the earnings reserve account established under AS 37.13.145, but does not include that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District).

* **Sec. 8.** AS 37.13.140(b), added by sec. 7 of this Act, is amended to read:

(b) Notwithstanding (a) of this section, the corporation shall determine the amount available for appropriation each year. The amount available for appropriation is **five** [5.25] percent of the average market value of the fund for the first five of the

preceding six fiscal years, including the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles. In this subsection, "the average market value of the fund" includes the balance of the earnings reserve account established under AS 37.13.145, but does not include that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District).

* **Sec. 9.** AS 37.13.145(b) is amended to read:

(b) **Each** [AT THE END OF EACH] fiscal year, the **legislature may appropriate** [CORPORATION SHALL TRANSFER] from the earnings reserve account to the dividend fund established under AS 43.23.045, 50 percent of the income available for distribution under **AS 37.13.140(a)** [AS 37.13.140].

* **Sec. 10.** AS 37.13.145(c) is amended to read:

(c) After the **appropriations** [TRANSFER] under (b) of this section, the **legislature may appropriate** [CORPORATION SHALL TRANSFER] from the earnings reserve account to the principal of the fund an amount sufficient to offset the effect of inflation on principal of the fund during that fiscal year. However, none of the amount **appropriated may** [TRANSFERRED SHALL] be applied to increase the value of that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District) on July 1, 2004. The corporation shall calculate the amount to **appropriate** [TRANSFER] to the principal under this subsection by

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

(2) computing the percentage change between the first and second calendar year average; and

(3) applying that rate to the value of the principal of the fund on the last day of the fiscal year just ended, including that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District).

* **Sec. 11.** AS 37.13.145(d) is amended to read:

(d) **Income** [NOTWITHSTANDING (b) OF THIS SECTION, INCOME]

1 earned on money awarded in or received as a result of State v. Amerada Hess, et al.,
2 1JU-77-847 Civ. (Superior Court, First Judicial District), including settlement,
3 summary judgment, or adjustment to a royalty-in-kind contract that is tied to the
4 outcome of this case, or interest earned on the money, or on the earnings of the money
5 shall be treated in the same manner as other income of the Alaska permanent fund,
6 except that it is not available for distribution or appropriation [TO THE DIVIDEND
7 FUND OR FOR TRANSFERS TO THE PRINCIPAL] under (b) or (e) [(c)] of this
8 section, and shall be annually deposited into the Alaska capital income fund
9 (AS 37.05.565).

10 * **Sec. 12.** AS 37.13.145 is amended by adding a new subsection to read:

11 (e) Total appropriations from the earnings reserve account in a fiscal year may
12 not exceed the amount available for appropriation under AS 37.13.140(b).

13 * **Sec. 13.** AS 37.13.150 is amended to read:

14 **Sec. 37.13.150. Corporation budget.** The revenue generated by the fund's
15 investments must be identified as the source of the operating budget of the corporation
16 in the state's operating budget under AS 37.07 (Executive Budget Act). The
17 unexpended balance of the corporation's annual operating budget does not lapse at the
18 end of the fiscal year but shall be treated as income and part of the market value of
19 the fund under AS 37.13.140.

20 * **Sec. 14.** AS 37.13.300(c) is amended to read:

21 (c) Net income from the mental health trust fund may not be included in the
22 computation of net income or market value available for distribution or
23 appropriation under AS 37.13.140.

24 * **Sec. 15.** AS 43.23.025(a) is amended to read:

25 (a) By October 1 of each year, the commissioner shall determine the value of
26 each permanent fund dividend for that year by

27 (1) determining the total amount available for dividend payments,
28 which equals

29 (A) the amount of income of the Alaska permanent fund
30 appropriated [TRANSFERRED] to the dividend fund under AS 37.13.145(b)
31 during the current year;

(B) plus the unexpended and unobligated balances of prior fiscal year appropriations that lapse into the dividend fund under AS 43.23.045(d);

(C) less the amount necessary to pay prior year dividends from the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and 43.23.055(3) and (7);

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

(E) less appropriations from the dividend fund during the current year, including amounts to pay costs of administering the dividend program and the hold harmless provisions of AS 43.23.075;

(2) determining the number of individuals eligible to receive a dividend payment for the current year and the number of estates and successors eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

(3) dividing the amount determined under (1) of this subsection by the amount determined under (2) of this subsection.

* **Sec. 16.** AS 43.23.055 is amended to read:

Sec. 43.23.055. Duties of the department. The department shall

(1) annually pay permanent fund dividends from the dividend fund, without further appropriation;

(2) subject to AS 43.23.011 and paragraph (8) of this section, adopt regulations under AS 44.62 (Administrative Procedure Act) that establish procedures and time limits for claiming a permanent fund dividend; the department shall determine the number of eligible applicants by October 1 of the year for which the dividend is declared and pay the dividends by December 31 of that year;

(3) adopt regulations under AS 44.62 (Administrative Procedure Act) that establish procedures and time limits for an individual upon emancipation or upon reaching majority to apply for permanent fund dividends not received during minority because the parent, guardian, or other authorized representative did not apply on

1 behalf of the individual;

2 (4) assist residents of the state, particularly in rural areas, who because
3 of language, disability, or inaccessibility to public transportation need assistance to
4 establish eligibility and to apply for permanent fund dividends;

5 (5) use a list of individuals ineligible for a dividend under
6 AS 43.23.005(d) provided annually by the Department of Corrections and the
7 Department of Public Safety to determine the number and identity of those
8 individuals;

9 (6) adopt regulations that are necessary to implement AS 43.23.005(d);

10 (7) adopt regulations that establish procedures for the parent, guardian,
11 or other authorized representative of a disabled individual to apply for prior year
12 permanent fund dividends not received by the disabled individual because no
13 application was submitted on behalf of the individual;

14 (8) adopt regulations that establish procedures for an individual to
15 apply to have a dividend disbursement under AS 37.25.050(a)(2) reissued if it is not
16 collected within two years after the date of its issuance; however, the department may
17 not establish a time limit within which an application to have a disbursement reissued
18 must be filed;

19 (9) provide any information, upon request, contained in permanent
20 fund dividend records to the child support services agency created in AS 25.27.010, or
21 the child support enforcement agency of another state, for child support purposes
22 authorized under law; if the information is contained in an electronic data base, the
23 department shall provide the requesting agency with either

24 (A) access to the data base; or

25 (B) a copy of the information in the data base and a statement
26 certifying its contents;

27 (10) establish a fraud investigation unit for the purpose of assisting the

28 (A) Department of Law in the prosecution of individuals who
29 apply for or obtain a permanent fund dividend in violation of a provision in
30 AS 11, by detecting and investigating those crimes; and

31 (B) commissioner to detect and investigate the claiming or

1 paying of permanent fund dividends that should not have been claimed by or
2 paid to an individual and to impose the penalties and enforcement provisions
3 under AS 43.23.035.

4 * **Sec. 17.** AS 37.05.540(b), 37.05.540(c), and 37.05.540(e) are repealed.

5 * **Sec. 18.** Section 8 of this Act takes effect July 1, 2021.

6 * **Sec. 19.** Except as provided in sec. 18 of this Act, this Act takes effect July 1, 2018.