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Wallace/Martin
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HOUSE CS FOR CS FOR SENATE BILL NO. 128(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FOURTH SPECIAL SESSION

BY THE HOUSE FINANCE COMMITTEE

**Offered:
Referred:**

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

A BILL

FOR AN ACT ENTITLED

"An Act relating to the Alaska Permanent Fund Corporation, the earnings of the Alaska permanent fund, and the earnings reserve account; relating to management of the budget reserve fund (art. IX, sec. 17, Constitution of the State of Alaska) by the Alaska Permanent Fund Corporation; relating to the mental health trust fund; relating to deposits into the dividend fund; relating to the calculation of permanent fund dividends; and providing for an effective date."

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

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

LEGISLATIVE INTENT. It is the intent of the legislature that the legislature evaluate this Act in three years.

*** Sec. 2.** AS 37.10.430(a) is amended to read:

(a) The Alaska Permanent Fund Corporation shall manage and invest the

1 assets of [DEPARTMENT OF REVENUE MAY TRANSFER MANAGEMENT
2 RESPONSIBILITY OVER ALL OR A PORTION OF] the budget reserve fund (art.
3 IX, sec. 17, Constitution of the State of Alaska) in the manner set out for the
4 management and investment of the assets of the Alaska permanent fund under
5 AS 37.13.120 [TO THE ALASKA PERMANENT FUND CORPORATION].

6 * **Sec. 3.** AS 37.10.430(b) is amended to read:

7 (b) By March 15 of each year, the Alaska Permanent Fund Corporation
8 [DEPARTMENT OF REVENUE] shall [, AFTER CONSULTING WITH THE
9 ALASKA PERMANENT FUND CORPORATION,] prepare a report setting out the
10 balance in the budget reserve fund (art. IX, sec. 17, Constitution of the State of
11 Alaska) on July 1 [JANUARY 1] and on June 30 [DECEMBER 31] of the previous
12 fiscal [CALENDAR] year. The report shall state the nominal, real, and realized return
13 on the budget reserve fund compared to the nominal, real, and realized return on the
14 permanent fund and the general fund during the previous fiscal [CALENDAR] year.

15 * **Sec. 4.** AS 37.13.010(a) is amended to read:

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

18 (1) 25 percent of all mineral lease rentals, royalties, royalty sale
19 proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue
20 sharing payments received by the state from mineral leases [ISSUED ON OR
21 BEFORE DECEMBER 1, 1979,] and 25 percent of all bonuses received by the state
22 from mineral leases [ISSUED ON OR BEFORE FEBRUARY 15, 1980;

23 (2) 50 PERCENT OF ALL MINERAL LEASE RENTALS,
24 ROYALTIES, ROYALTY SALE PROCEEDS, NET PROFIT SHARES UNDER
25 AS 38.05.180(f) AND (g), AND FEDERAL MINERAL REVENUE SHARING
26 PAYMENTS RECEIVED BY THE STATE FROM MINERAL LEASES ISSUED
27 AFTER DECEMBER 1, 1979, AND 50 PERCENT OF ALL BONUSES RECEIVED
28 BY THE STATE FROM MINERAL LEASES ISSUED AFTER FEBRUARY 15,
29 1980]; and

30 (2) [(3)] any other money appropriated to or otherwise allocated by
31 law or former law to the Alaska permanent fund.

1 * **Sec. 5.** AS 37.13.140 is amended to read:

2 **Sec. 37.13.140. Income.** Net income of the fund includes income of the
3 earnings reserve account established under AS 37.13.145. **The corporation shall**
4 **determine the net** [NET] income of the fund [SHALL BE COMPUTED
5 ANNUALLY AS OF THE LAST DAY OF THE FISCAL YEAR] in accordance with
6 generally accepted accounting principles, excluding any unrealized gains or losses.
7 [INCOME AVAILABLE FOR DISTRIBUTION EQUALS 21 PERCENT OF THE
8 NET INCOME OF THE FUND FOR THE LAST FIVE FISCAL YEARS,
9 INCLUDING THE FISCAL YEAR JUST ENDED, BUT MAY NOT EXCEED NET
10 INCOME OF THE FUND FOR THE FISCAL YEAR JUST ENDED PLUS THE
11 BALANCE IN THE EARNINGS RESERVE ACCOUNT DESCRIBED IN
12 AS 37.13.145.]

13 * **Sec. 6.** AS 37.13.140 is amended by adding new subsections to read:

14 (b) The corporation shall determine the amount available for distribution each
15 year. The amount available for distribution equals five and one-quarter percent of the
16 average market value of the fund for the first five of the preceding six fiscal years,
17 including the fiscal year just ended, computed annually for each fiscal year in
18 accordance with generally accepted accounting principles. In this subsection, "average
19 market value of the fund" includes the balance of the earnings reserve account
20 established under AS 37.13.145, but does not include that portion of the principal
21 attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ.
22 (Superior Court, First Judicial District).

23 (c) In accordance with AS 37.13.146(a)(1), 20 percent of the amount available
24 for distribution under (b) of this section shall be reserved for dividends. The remainder
25 of the amount available for distribution under (b) of this section shall be reduced by 80
26 cents for each dollar by which the amount calculated under (1) of this subsection
27 exceeds the amount under (2) of this subsection:

28 (1) the total amount of oil and gas production taxes under
29 AS 43.55.011 - 43.55.180, mineral lease rentals, royalties, royalty sale proceeds, net
30 profit shares under AS 38.05.180(f) and (g), federal mineral revenue sharing
31 payments, and bonuses received by the state from mineral leases that are deposited

into the general fund in the current fiscal year, less the amount under AS 37.13.146(a)(2);

(2) the sum of \$1,200,000,000.

(d) The reduction of the amount available for distribution under (c) of this section may not be made in any fiscal year in which, after the amount appropriated under AS 37.13.145(e), the balance of the earnings reserve account exceeds the amount available for distribution under (b) of this section multiplied by four.

* **Sec. 7.** AS 37.13.145(d) is amended to read:

(d) **Income** [NOTWITHSTANDING (b) OF THIS SECTION, INCOME] earned on money awarded in or received as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District), including settlement, summary judgment, or adjustment to a royalty-in-kind contract that is tied to the outcome of this case, or interest earned on the money, or on the earnings of the money shall be treated in the same manner as other income of the Alaska permanent fund, except that it is not available for distribution [TO THE DIVIDEND FUND OR FOR TRANSFERS TO THE PRINCIPAL] under **AS 37.13.140(b) - (d)** [(c) OF THIS SECTION], and shall be annually deposited into the Alaska capital income fund (AS 37.05.565).

* **Sec. 8.** AS 37.13.145 is amended by adding new subsections to read:

(e) Each year, the legislature may appropriate from the earnings reserve account to the general fund an amount that does not exceed the amount available for distribution under AS 37.13.140(b) - (d).

(f) Each year, the legislature may appropriate from the earnings reserve account to the principal of the fund an amount by which the balance of the earnings reserve account exceeds the amount available for distribution under AS 37.13.140(b) multiplied by four, less the amount appropriated under (e) of this section.

* **Sec. 9.** AS 37.13 is amended by adding a new section to read:

Sec. 37.13.146. Appropriations to the dividend fund. (a) The legislature may appropriate to the dividend fund established in AS 43.23.045 the following amounts from the general fund:

(1) 20 percent of the amount calculated under AS 37.13.140(b); and

(2) an amount equal to 22 percent of the money deposited in the general fund during the fiscal year just ended from all mineral lease rentals, royalties, royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), federal mineral revenue sharing payments, and bonuses received by the state from mineral leases.

(b) In addition to the appropriation authorized under (a) of this section, if the total amount of revenue collected from oil and gas production taxes under AS 43.55 in the preceding calendar year was \$2,300,000,000 or more, the legislature may appropriate from the general fund to the dividend fund

(1) the additional amount necessary to pay a dividend of \$1,500 to each eligible individual; and

(2) 10 percent of the amount over \$2,300,000,000.

(c) Nothing in this section creates a dedicated fund.

* **Sec. 10.** AS 37.13.300(c) is amended to read:

(c) Net income from the mental health trust fund may not be included in the computation of [NET] income available for distribution under **AS 37.13.140(b)** [AS 37.13.140].

* **Sec. 11.** AS 43.23.025(a) is amended to read:

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

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

(A) the amount **appropriated** [OF INCOME OF THE ALASKA PERMANENT FUND TRANSFERRED] to the dividend fund under **AS 37.13.146** [AS 37.13.145(b)] 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. 12.** AS 43.23.025 is amended by adding new subsections to read:

(c) Notwithstanding (a) of this section, the amount of each permanent fund dividend for fiscal years 2017 and 2018 shall be \$1,500.

(d) Notwithstanding (a) of this section, the amount of each permanent fund dividend may not exceed \$2,000, adjusted annually for inflation from calendar year 2018 using the Consumer Price Index for all urban consumers for Anchorage prepared by the Bureau of Labor Statistics, United States Department of Labor.

* **Sec. 13.** AS 43.23.045(a) is amended to read:

(a) The dividend fund is established as a separate fund in the state treasury. **The fund consists of money appropriated to it under AS 37.13.146.** The dividend fund shall be administered by the commissioner and shall be invested by the commissioner in the same manner as provided in AS 37.10.070.

* **Sec. 14.** 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 behalf of the individual;

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

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

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

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

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

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

(A) access to the data base; or

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

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

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

5 (B) commissioner to detect and investigate the claiming or
6 paying of permanent fund dividends that should not have been claimed by or
7 paid to an individual and to impose the penalties and enforcement provisions
8 under AS 43.23.035.

9 * **Sec. 15.** AS 37.10.430(c); AS 37.13.145(b), and 37.13.145(c) are repealed.

10 * **Sec. 16.** AS 43.23.025(c) is repealed June 30, 2019.

11 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 TRANSITION. The commissioner of revenue and the Alaska Permanent Fund
14 Corporation may adopt regulations, policies, and procedures necessary to implement this Act.
15 The regulations, policies, or procedures may not take effect before the effective date of the
16 law implemented by the regulation, policy, or procedure.

17 * **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 RETROACTIVITY. If secs. 4 - 11, 13 - 15, and AS 43.23.025(c), enacted by sec. 12
20 of this Act, take effect after July 1, 2016, secs. 4 - 11, 13 - 15, and AS 43.23.025(c), enacted
21 by sec. 12 of this Act, are retroactive to July 1, 2016.

22 * **Sec. 19.** Sections 17 and 18 of this Act take effect immediately under AS 01.10.070(c).

23 * **Sec. 20.** AS 43.23.025(d), enacted by sec. 12 of this Act, takes effect July 1, 2019.

24 * **Sec. 21.** Except as provided in secs. 19 and 20 of this Act, this Act takes effect July 1,
25 2016.