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Gardner
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CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 114(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR MCGUIRE

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 the mental health trust fund; relating to deposits into the dividend fund; relating to the duties of the commissioner of revenue; and providing for an effective date."

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

* **Section 1.** AS 37.13.010(a) is amended to read:

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

(1) 25 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 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]; and

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

* **Sec. 2.** AS 37.13 is amended by adding a new section to read:

Sec. 37.13.015. Appropriations to the dividend fund. The legislature may appropriate to the dividend fund established in AS 43.23.045, 74.5 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 and 74.5 percent of all bonuses received by the state from mineral leases. Nothing in the section creates a dedicated fund.

* **Sec. 3.** AS 37.13.140 is amended to read:

Sec. 37.13.140. Income. (a) 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 unrealized gains or losses.

(b) The corporation shall determine the amount available for distribution under this subsection, computed annually for each fiscal year, following the conclusion of the fiscal year. The amount [, EXCLUDING ANY UNREALIZED GAINS OR LOSSES. INCOME] available for distribution may not be less than zero and equals four and one half [21] percent of the average market value [NET INCOME] of the fund, including the earnings reserve account established in AS 37.13.145, for the [LAST] five fiscal years immediately preceding [, INCLUDING] the fiscal year just ended, reduced by the portion of production taxes and 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 and deposited into the general fund in the fiscal year just ended that exceeds \$1,000,000,000 [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. 4.** AS 37.13.145(a) is amended to read:

(a) The earnings reserve account is established as a separate account in the fund. **Except for income deposited into the general fund under (e) of this section, income** [INCOME] from the fund shall be deposited by the corporation into the account as soon as it is received. Money in the account shall be invested in investments authorized under AS 37.13.120.

* **Sec. 5.** AS 37.13.145(c) is amended to read:

(c) **The** [AFTER THE TRANSFER UNDER (b) OF THIS SECTION, THE] corporation **may** [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 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. **On July 1, the** [THE] corporation shall calculate the amount to transfer to the principal under this subsection by **multiplying the amount available for distribution for the previous fiscal year under AS 37.13.140(b) by four and subtracting the product of that calculation from the balance of the earnings reserve account on June 30 of the previous fiscal year**

[(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

1 THE SETTLEMENT OF STATE v. AMERADA HESS, ET AL., 1JU-77-847 CIV.
2 (SUPERIOR COURT, FIRST JUDICIAL DISTRICT)].

3 * **Sec. 6.** AS 37.13.145(d) is amended to read:

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

13 * **Sec. 7.** AS 37.13.145 is amended by adding new subsections to read:

14 (e) Under art. IX, sec. 15, Constitution of the State of Alaska, subject to
15 legislative appropriation, the corporation shall deposit funds from the earnings reserve
16 account into the general fund until the amount available for distribution for that fiscal
17 year under AS 37.13.140(b) has been deposited into the general fund. On the last day
18 of a fiscal year, if the actual net income of the fund for that fiscal year is less than the
19 amount of income available for distribution under AS 37.13.140(b) for that fiscal year,
20 the corporation shall deposit into the general fund the amount from the earnings
21 reserve account necessary to satisfy the amount of income available for distribution
22 for that fiscal year or the balance of the earnings reserve account, whichever is less.

23 (f) Each year, on or before January 30, the commissioner of revenue may,
24 after consultation with the board, recommend an adjustment to the percentages of
25 money appropriated under AS 37.13.015, based on a review of the assets of the fund.

26 (g) Each year, on or before January 30, the commissioner of revenue shall
27 provide to the legislature a report evaluating the sufficiency of the assets in the
28 earnings reserve account and the amount the commissioner projects to be distributed
29 under AS 37.13.140(b). The commissioner shall deliver the report to the senate
30 secretary and the chief clerk of the house of representatives and notify the legislature
31 that the report is available.

1 * **Sec. 8.** AS 37.13.300(c) is amended to read:

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

5 * **Sec. 9.** AS 37.14.031(c) is amended to read:

6 (c) The net income of the fund shall be computed annually [DETERMINED]
7 by the Alaska Permanent Fund Corporation as of the last day of the fiscal year in
8 accordance with generally accepted accounting principles, excluding any
9 unrealized gains or losses [IN THE SAME MANNER THE CORPORATION
10 DETERMINES THE NET INCOME OF THE ALASKA PERMANENT FUND
11 UNDER AS 37.13.140].

12 * **Sec. 10.** AS 43.23.025(a) is amended to read:

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

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

17 (A) the amount appropriated [OF INCOME OF THE
18 ALASKA PERMANENT FUND TRANSFERRED] to the dividend fund
19 under AS 37.13.015 [AS 37.13.145(b)] during the current year;

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

23 (C) less the amount necessary to pay prior year dividends from
24 the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and
25 43.23.055(3) and (7);

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

30 (E) less appropriations from the dividend fund during the
31 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. 11.** AS 43.23.025 is amended by adding a new subsection to read:

(c) If the value of each permanent fund dividend calculated under (a) of this section results in a dividend for each eligible individual that is less than \$1,000, then the legislature may appropriate from the earnings reserve account established in AS 37.13.145 an amount necessary to pay each eligible individual a permanent fund dividend of \$1,000.

*** Sec. 12.** AS 43.23.045(d) is amended to read:

(d) Unless specified otherwise in an appropriation act, the unexpended and unobligated balance of an appropriation to implement this chapter lapses into the dividend fund on June 30 of the fiscal year for which the appropriation was made and may [SHALL] be used in determining the amount of and paying the subsequent year's dividend as provided in AS 43.23.025(a)(1)(B).

*** Sec. 13.** AS 37.13.145(b) is repealed.

*** Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION. (a) Notwithstanding AS 43.23.025(a), as amended by sec. 10 of this Act, AS 43.23.025(c), added by sec. 11 of this Act, and AS 43.23.045(d), as amended by sec. 12 of this Act, the commissioner of revenue shall determine the value of each permanent fund dividend for the 2016 dividend year under AS 43.23.025 and 43.23.045(d), as those sections read on the day before the effective date of secs. 10 - 12 of this Act.

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

*** Sec. 15.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 RETROACTIVITY. If secs. 1 - 14 of this Act take effect after July 1, 2016, secs. 1 -
3 14 of this Act are retroactive to July 1, 2016.

4 * **Sec. 16.** Sections 14 and 15 of this Act take effect immediately under AS 01.10.070(c).

5 * **Sec. 17.** Except as provided in sec. 16 of this Act, this Act takes effect July 1, 2016.