



Permanent Fund Law

June 19, 2019

Presented by Emily Nauman, Deputy Director, Legislative Legal Services

Permanent Fund Law

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Constitution of the State of Alaska

Article IX, Section 15

Section 15. Alaska Permanent Fund. At least twenty-five percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments. All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law.

Constitution of the State of Alaska

Article IX, Section 15: Principle Concepts:

At least twenty-five percent of all [mineral revenue] received by the State shall be placed in a permanent fund

the principal [of the fund] shall be used only for ... income-producing investments

All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law.

ALASKA STATE CAPITOL

AS 37.13: Alaska Permanent Fund and Corporation

Legal Services

2019 Permanent Fund Law // Permanent Fund Earnings Working Group

AS 37.13: Alaska Permanent Fund and Corporation

Sec. 37.13.010. Alaska permanent fund. (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

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

(b) Payments due the Alaska permanent fund under (a) of this section shall be made to the fund within three banking days after the day the amount due to the fund reaches at least \$3,000,000 and at least once each month.

(c) The Alaska permanent fund shall be managed by the Alaska Permanent Fund Corporation established in this chapter.

(§ 5 ch 18 SLA 1980; am § 2 ch 134 SLA 1992; am §§ 1 - 4 ch 22 SLA 2003)

AS 37.13: Alaska Permanent Fund and Corporation

Sec. 37.13.010(a): Principle Concepts:

This statute remains substantially the same as enacted in 1980

The Alaska permanent fund consists of

- (1) **25 percent** of all mineral revenue and bonuses from mineral leases issued on or before December 1, 1979/February 15, 1980;
- (2) **50 percent** of all mineral revenue and bonuses mineral leases issued after December 1, 1979/February 15, 1980; and
- (3) any other money appropriated to or otherwise allocated by law or former law to the Alaska permanent fund.

Article IX, Section 15, Constitution of the State of Alaska:

At least twenty-five percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund. . .

AS 37.13: Alaska Permanent Fund and Corporation

Sec. 37.13.020. Findings. Principle Concepts: The legislature finds with respect to the fund that

- (1) the fund should provide a means of conserving a portion of the state's revenue from mineral resources to benefit all generations of Alaskans;
- (2) the fund's goal should be to maintain safety of principal while maximizing total return;
- (3) the fund should be used as a savings device managed to allow the maximum use of disposable income from the fund for purposes designated by law.

(§ 5 ch 18 SLA 1980; am § 3 ch 134 SLA 1992)

This statute remains substantially the same as enacted in 1980

AS 37.13: Alaska Permanent Fund and Corporation

Sec. 37.13.030. Purpose. It is the purpose of AS 37.13.010 - 37.13.190 to provide a mechanism for the management and investment of those fund assets by the Alaska Permanent Fund Corporation in a manner consistent with the findings in AS 37.13.020.

(§ 5 ch 18 SLA 1980; am § 7 ch 66 SLA 1991; am § 4 ch 134 SLA 1992)

This statute remains substantially the same as enacted in 1980

AS 37.13: Alaska Permanent Fund and Corporation

Sec. 37.13.040. Establishes the Alaska Permanent Fund Corporation (APFC).

Sec. 37.13.050. Composition, qualifications of the Board of Trustees, APFC.

Sec. 37.13.060. Terms of office for the Board of Trustees of APFC.

Sec. 37.13.070. Removal of APFC board members; vacancy provisions.

Sec. 37.13.080. Quorum and voting of the APFC.

Sec. 37.13.090. Compensation of board members.

Sec. 37.13.100. Staff authorization.

Sec. 37.13.110. Conflicts of interest, APFC.

Sec. 37.13.120. Investment responsibilities.

AS 37.13: Alaska Permanent Fund and Corporation

Sec. 37.13.120. Investment responsibilities: Principle Concepts:

(a) The board shall . . . designat[e] the types of income-producing investments eligible for investment of fund assets. When . . . managing and investing fund assets, the prudent-investor rule shall be applied The prudent-investor rule . . . means that the corporation shall exercise the judgment and care under the circumstances . . . that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the designation and management of large investments entrusted to it, . . . , considering preservation of the purchasing power of the fund over time while maximizing the expected total return from both income and the appreciation of capital.

(b) The corporation may not borrow money or guarantee from principal of the fund . . .

Article IX, Section 15, Constitution of the State of Alaska:

the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments

alternate investment opportunities; and (2) are eligible for investment of fund assets under (a) . .

(§ 5 ch 18 SLA 1980; am §§ 5 - 7 ch 81 SLA 1982; am § 1 ch 83 SLA 1986; am §§ 1 - 6 ch 4 SLA 1989; am §§ 8 - 17 ch 134 SLA 1992; am § 1 ch 56 SLA 1994; am §§ 1 - 4 ch 104 SLA 1996; am §§ 1 - 7 ch 60 SLA 1999; am §§ 1, 2 ch 74 SLA 2004; am § 1 ch 46 SLA 2005)

AS 37.13: Alaska Permanent Fund and Corporation

Sec. 37.13.140. Income. (a) Net income of the fund includes income of the earnings reserve account established under AS 37.13.145. 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.

(b) 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, "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).

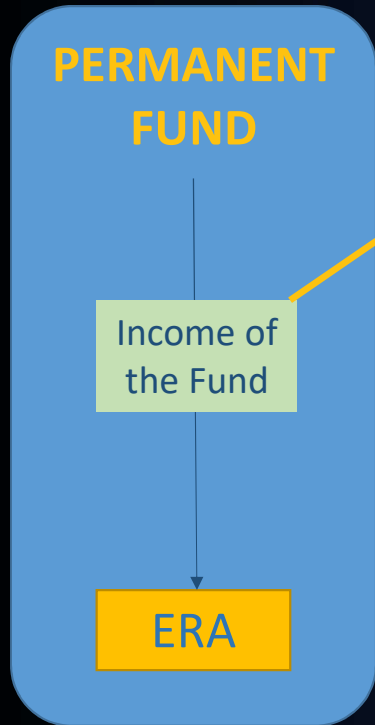
(§ 5 ch 18 SLA 1980; am § 8 ch 81 SLA 1982; am § 1 ch 28 SLA 1986; am § 18 ch 134 SLA 1992; am § 1 ch 16 SLA 2018)

AS 37.13: Alaska Permanent Fund and Corporation

Sec. 37.13.140(a): Principle Concepts:

- Income of the fund includes income of the earnings reserve account (ERA).
- Net income of the fund is 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% of the net income of the fund for the last five fiscal years, including the fiscal year just ended
 - but may not exceed the net income of the fund for the fiscal year just ended plus the balance in the ERA.

Putting it Together



Income available for distribution =
21% x (Net income of the fund for
the last 5 fiscal years)
(AS 37.13.140(a))



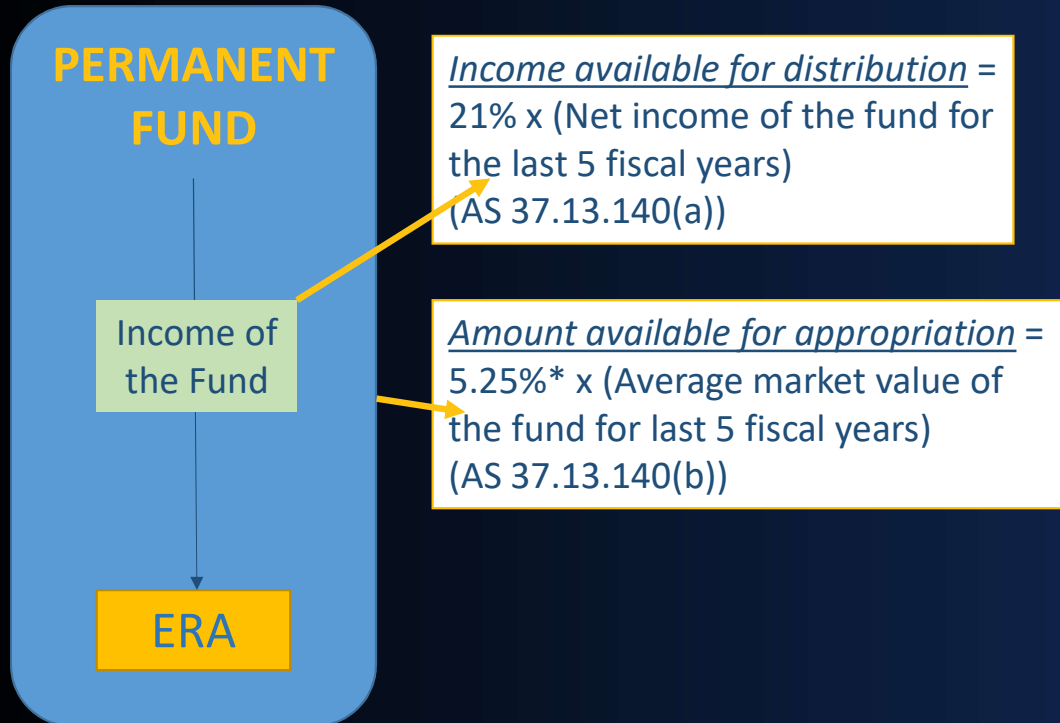
AS 37.13: Alaska Permanent Fund and Corporation

Sec. 37.13.140(b): Principle Concepts:

- The corporation shall determine the amount available for appropriation each year.
- The **amount available for appropriation** is 5.25%* 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
 - "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).
- *Under 2, ch. 16, SLA 2018, effective July 1, 2021, this will change to 5%.

(§ 5 ch 18 SLA 1980; am § 8 ch 81 SLA 1982; am § 1 ch 28 SLA 1986; am § 18 ch 134 SLA 1992; am § 1 ch 16 SLA 2018)

Putting it Together



Amerada Hess: A Detour

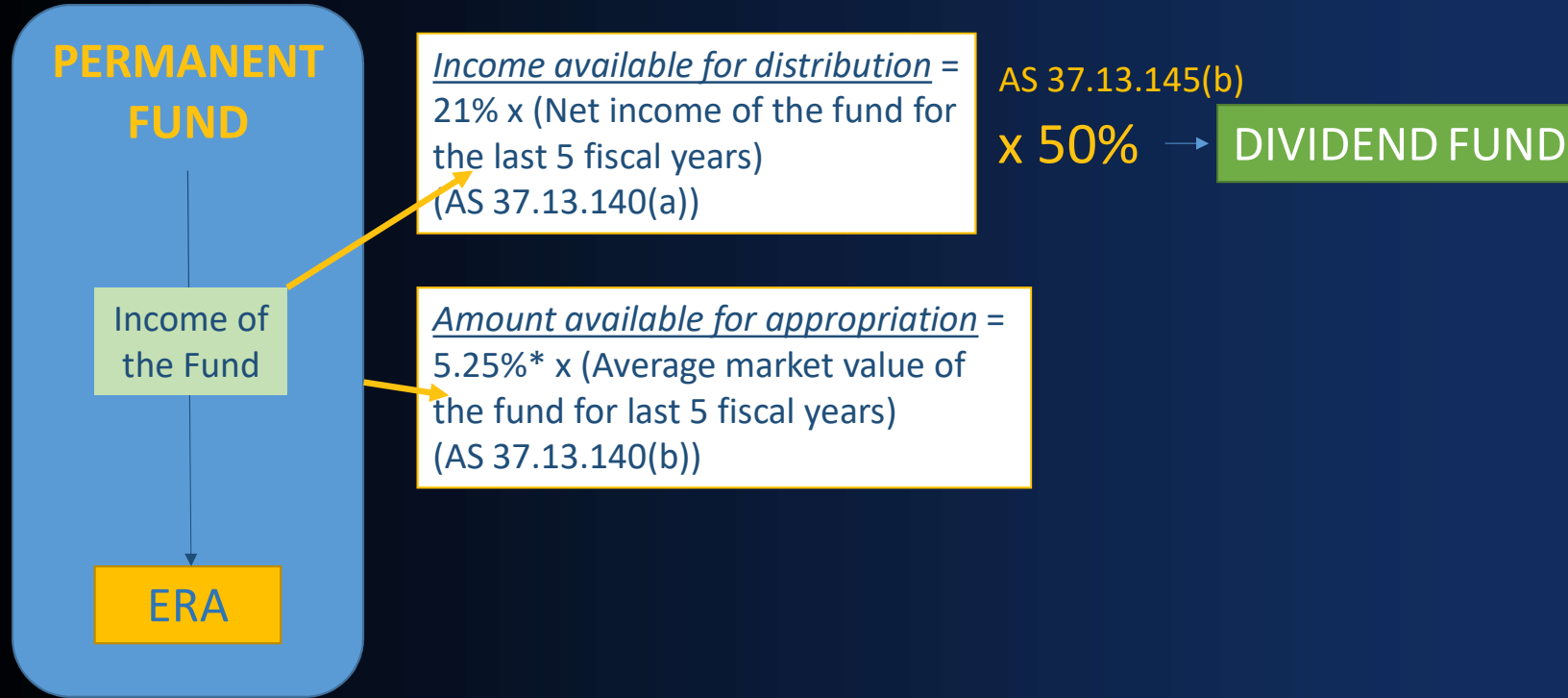
- *Amerada Hess* concerned the value of oil for purposes of the state's in-value and in-kind royalty.
- Special provisions for *Amerada Hess* were made in the dividend statutes to cut off the argument that judges and jurors should be disqualified from hearing *State v. Amerada Hess* because the case could result in increasing permanent fund dividends, creating a conflict of interest for the judges and jurors.
- The special statutory accommodation for *Amerada Hess* is no longer needed; the matter was resolved through settlement.
- *Additional Consideration:* Under AS 37.13.145(d) and AS 37.05.565, income on money received as a result of *Amerada Hess* is deposited into the Alaska Capital Income Fund.

AS 37.13: Alaska Permanent Fund and Corporation

Sec. 37.13.145. Disposition of income: Principle Concepts:

- (a) The earnings reserve account is established.
- (b) At the end of each fiscal year, the corporation shall transfer from the earnings reserve account to the dividend fund, 50 percent of the income available for distribution under AS 37.13.140.

Putting it Together

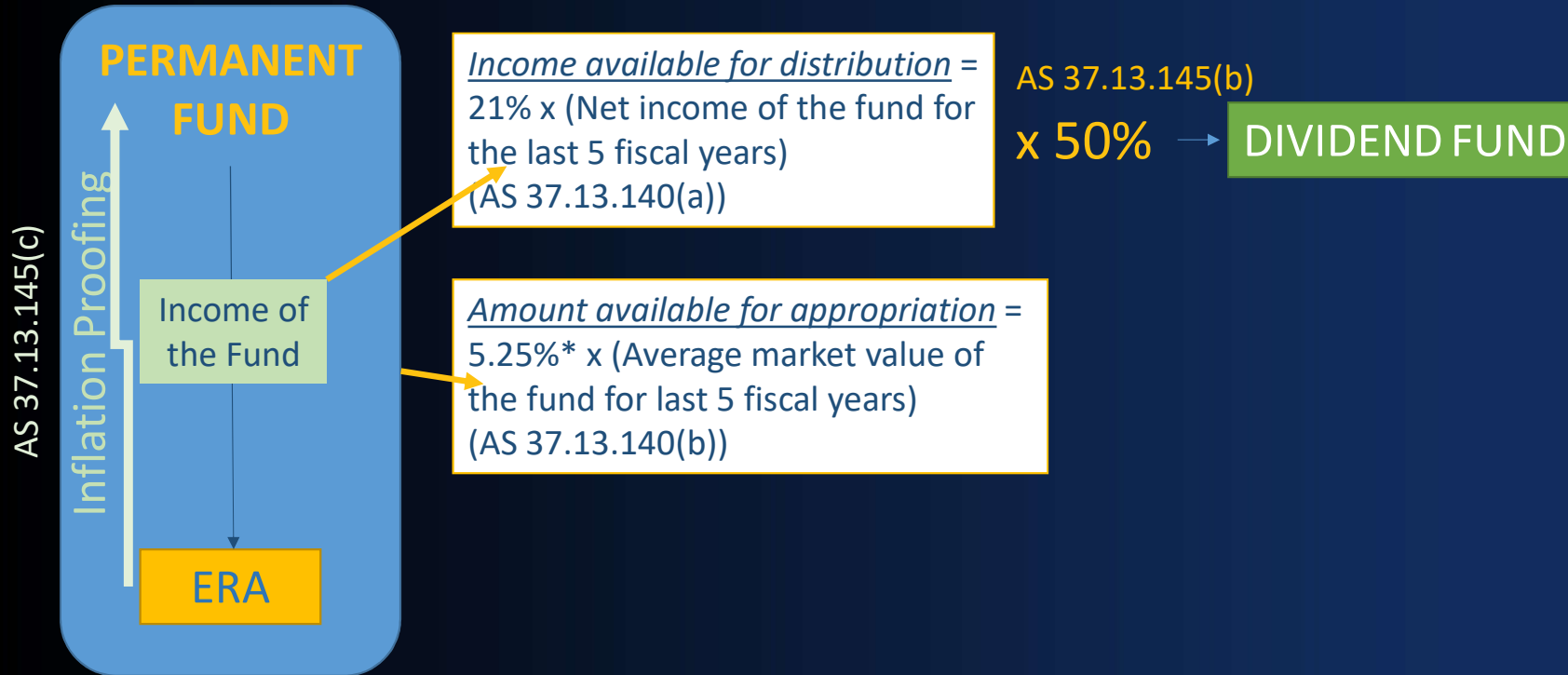


AS 37.13: Alaska Permanent Fund and Corporation

(c) After the transfer under (b) and an appropriation under (e) of this section, the corporation shall transfer from the earnings reserve account to the principal of the fund an amount sufficient to offset the effect of inflation on the principal of the fund during that fiscal year. The corporation shall calculate the amount to 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).

Putting it Together



AS 37.13: Alaska Permanent Fund and Corporation

(d) . . . income earned on money awarded in or received as a result of State v. Amerada Hess . . . shall be annually deposited into the Alaska capital income fund (AS 37.05.565).

(e) The legislature may not appropriate from the ERA to the general fund a total amount that exceeds the amount available for appropriation under AS 37.13.140(b) in a fiscal year.

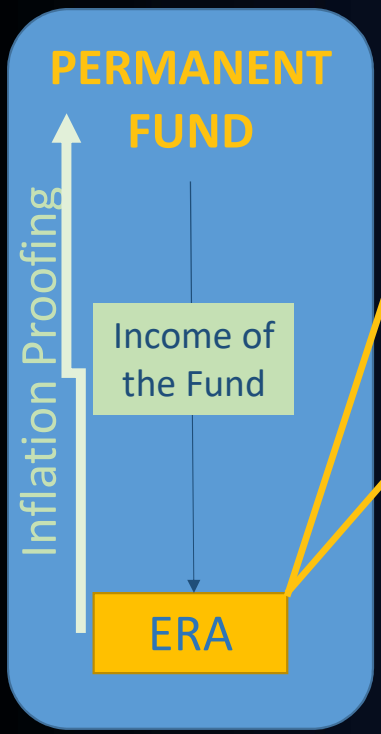
* (e) authorizes money to go from the ERA to the general fund

(f) The combined total of the transfer under (b) of this section and an appropriation under (e) of this section may not exceed the amount available for appropriation under AS 37.13.140(b).

(§ 9 ch 81 SLA 1982; am § 2 ch 28 SLA 1986; am § 19 ch 134 SLA 1992; am §§ 2, 3 ch 49 SLA 2005; am §§ 3 - 5 ch 16 SLA 2018)

Putting it Together

AS 37.13.145(c)



Income available for distribution =
 21% x (Net income of the fund for
 the last 5 fiscal years)
 (AS 37.13.140(a))

AS 37.13.145(b)

x 50% → DIVIDEND FUND

Amount available for appropriation =
 5.25%* x (Average market value of
 the fund for last 5 fiscal years)
 (AS 37.13.140(b))

- Dividend
 Appropriation → GENERAL FUND
 AS 37.13.145(e) and (f)

Article IX, Section 15, Constitution of the State of Alaska:
*All income from the permanent fund shall be deposited in
 the general fund unless otherwise provided by law.*



AS 37.13.140: History

Sec. 37.13.140. Income. (a) Net income of the fund includes income of the earnings reserve account established under AS 37.13.145. 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.

(b) 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, "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).

(§ 5 ch 18 SLA 1980; am § 8 ch 81 SLA 1982; am § 1 ch 28 SLA 1986; am § 18 ch 134 SLA 1992; am § 1 ch 16 SLA 2018)

AS 37.13.140: History

Sec. 37.13.140. INCOME. The interest received in a year is the income of the corporation for that year. The income available for disbursement shall be determined on an averaging basis. For the first five years, income will be the simple averaging of the annual current return at cost. Subsequently, there will be a moving average current return, in which the latest fiscal year will replace the oldest year. The income available for disbursement will be the lesser of the latest fiscal year's income, or the average annual current income for the past five fiscal years of the Alaska permanent fund at cost, and after adjustment for capital losses charged to that fiscal year.

§5 ch 18 SLA 1980

AS 37.13.140: History

* Sec. 8. AS 37.13.140 is repealed and reenacted to read:

Sec. 37.13.140. INCOME. Net income of the corporation must 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 the average net income of the corporation for the last five fiscal years, including the fiscal year just ended, but may not exceed net income of the corporation for the fiscal year just ended plus the balance in the undistributed income account described in AS 37.13.145.

§8 ch 81 SLA 1982

AS 37.13.145: History

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

Sec. 37.13.145. DISPOSITION OF INCOME. At the end of each fiscal year, an amount sufficient to offset the effect of inflation on principal of the Alaska permanent fund during that year, as measured by a nationally recognized index, shall be transferred from net income as defined in AS 37.13.140, excluding income on the undistributed income account in the Alaska permanent fund, to the principal of the Alaska permanent fund for reinvestment. The balance of the net income as defined in AS 37.13.140 shall be transferred to the undistributed income account in the Alaska permanent fund. Money in the undistributed income account shall be invested in investments authorized under AS 37.13.120. Income from the investment of the undistributed income account shall be treated as an addition to that account.

§9 ch 81 SLA 1982

AS 37.13.140: History

* Section 1. AS 37.13.140 is amended to read:

Sec. 37.13.140. INCOME. Net income of the corporation shall [MUST] 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 [AVERAGE] net income of the corporation for the last five fiscal years, including the fiscal year just ended, but may not exceed net income of the corporation for the fiscal year just ended plus the balance in the earnings reserve [UNDISTRIBUTED INCOME] account described in AS 37.13.145.

§1 ch 28 SLA 1986

AS 37.13.145: History

* Sec. 2. AS 37.13.145 is amended to read:

Sec. 37.13.145. DISPOSITION OF INCOME. At the end of each fiscal year, an amount sufficient to offset the effect of inflation on principal of the Alaska permanent fund during that year, as measured by the change in the calendar year average United States consumer price index for all urban consumers [A NATIONALLY RECOGNIZED INDEX,] shall be transferred from net income as defined in AS 37.13.140, excluding income on the earnings reserve [UNDISTRIBUTED INCOME] account in the Alaska Permanent Fund, to the principal of the Alaska permanent fund for reinvestment. The balance of the [NET] income available for distribution under [AS DEFINED IN] AS 37.13.140 shall be transferred to the earnings reserve [UNDISTRIBUTED INCOME] account in the Alaska permanent fund. Money in the earnings reserve [UNDISTRIBUTED INCOME] account shall be invested in investments authorized under AS 37.13.120. Income from the investment of the earnings reserve [UNDISTRIBUTED INCOME] account shall be treated as an addition to that account.

§2 ch 28 SLA 1986

AS 37.13.140: History

* **Sec. 18.** AS 37.13.140 is amended to read:

Sec. 37.13.140. INCOME. Net income of the fund includes income of the earnings reserve account established under AS 37.13.145. Net income of the fund [CORPORATION] 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 [CORPORATION] for the last five fiscal years, including the fiscal year just ended, but may not exceed net income of the fund [CORPORATION] for the fiscal year just ended plus the balance in the earnings reserve account described in AS 37.13.145.

§18 ch 134 SLA 1992

AS 37.13.145: History

* **Sec. 19.** AS 37.13.145 is repealed and reenacted to read:

Sec. 37.13.145. DISPOSITION OF INCOME. (a) The earnings reserve account is established as a separate account in the fund. 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.

(b) At the end of each fiscal year, the 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.

§19 ch 134 SLA 1992

AS 37.13.145: History, cont... §19 ch 134 SLA 1992

(c) After the transfer under (b) of this section, the 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. The corporation shall calculate the amount to 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.

(d) 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, and shall be annually deposited into the principal of the Alaska permanent fund.

AS 37.13.140: History

* **Section 1.** AS 37.13.140 is amended by adding a new subsection to read:

(b) 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, "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).

§1 ch 16 SLA 2018

AS 37.13.145: History

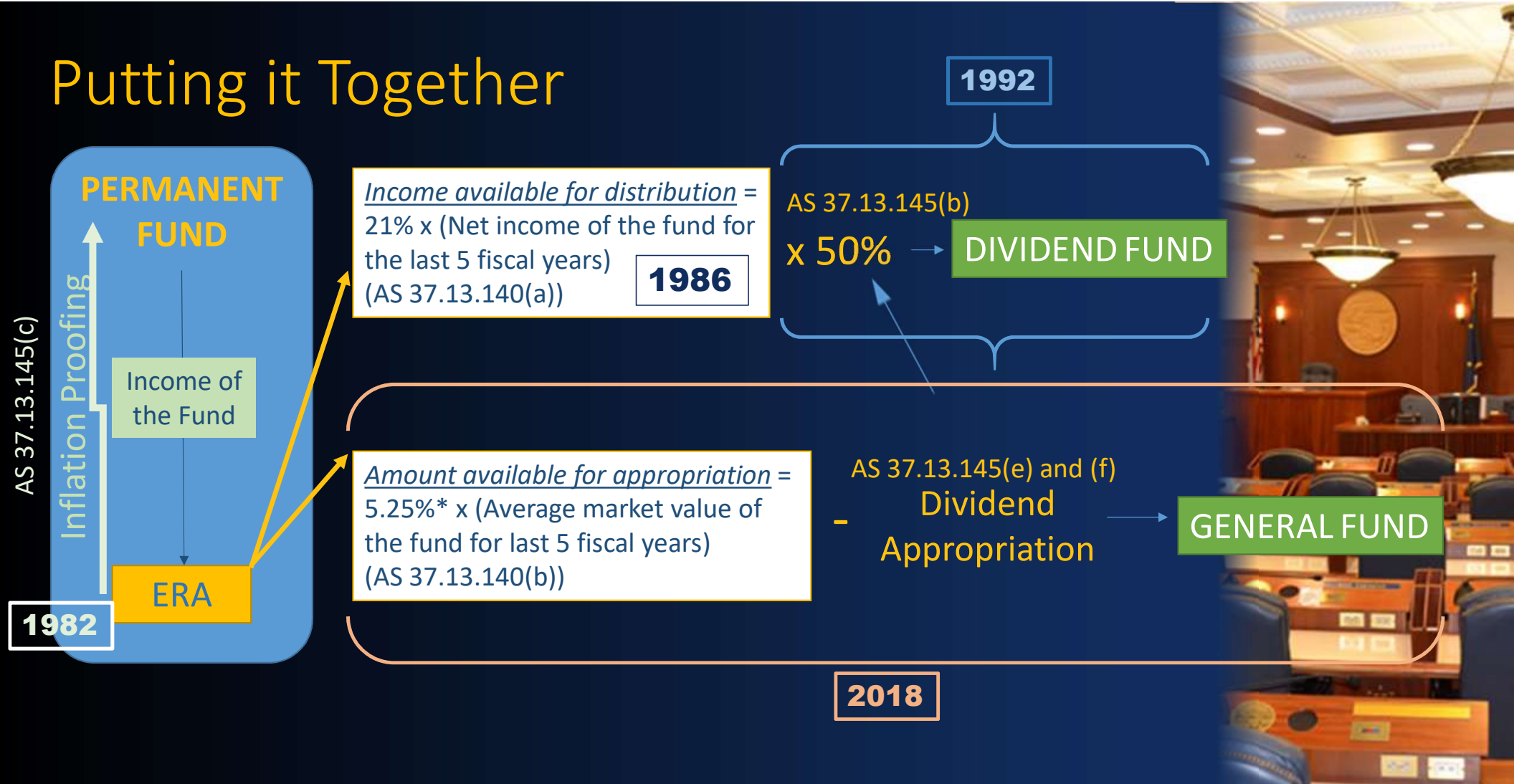
* **Sec. 5.** AS 37.13.145 is amended by adding new subsections to read:

(e) The legislature may not appropriate from the earnings reserve account to the general fund a total amount that exceeds the amount available for appropriation under AS 37.13.140(b) in a fiscal year.

(f) The combined total of the transfer under (b) of this section and an appropriation under (e) of this section may not exceed the amount available for appropriation under AS 37.13.140(b).

§5 ch 18 SLA 2018

Putting it Together



AS 37.13: Alaska Permanent Fund and Corporation

Sec. 37.13.150. APFC budget.

Sec. 37.13.160. Audits of APFC.

Sec. 37.13.170. Reports and publications of APFC.

Sec. 37.13.180. State tax exemption for APFC and fund.

Sec. 37.13.190. Political activity prohibition.

Sec. 37.13.200. Public records of APFC.

Sec. 37.13.206. Promulgation of regulations by APFC.

Sec. 37.13.300. Authorization for APFC to manage other state assets.

Sec. 37.13.900. AS 37.13 definitions.

ALASKA STATE CAPITOL

AS 43.23: Permanent Fund Dividends Department of Revenue

AS 43.23: Permanent Fund Dividends

Sec. 43.23.005. Eligibility: Principle Concepts: (a) An individual is eligible to receive one permanent fund dividend each year . . . if the individual

- (1) applies;
- (2) is a state resident on the date of application;
- (3) was a state resident during the entire qualifying year;
- (4) has been physically present in the state for at least 72 hours during the prior 2 years before the current dividend year; [exception in (f)]
- (5) is a citizen of the United States or a lawful alien;
- (6) was, at all times during the qualifying year, physically present in the state or, if absent, was absent as allowed in AS 43.23.008; and
- (7) was in compliance during with the military selective service registration requirements, if applicable.

AS 43.23: Permanent Fund Dividends

Sec. 43.23.005. Eligibility: Principle Concepts:

(c) A parent, guardian, or other authorized representative may claim a permanent fund dividend on behalf of an unemancipated minor or on behalf of a disabled or an incompetent individual . . .

(d) An individual is not eligible for a dividend for a dividend year when

(1) during the qualifying year, the individual was sentenced as a result of conviction in this state of a felony;

(2) during all or part of the qualifying year, the individual was incarcerated as a result of the conviction in this state of a felony or a misdemeanor, in certain instances.

AS 43.23: Permanent Fund Dividends

Sec. 43.23.005. Eligibility: Principle Concepts:

(f) The commissioner may waive the requirement of (a)(4) of this section for an individual absent from the state

(1) in a time of national military emergency under military orders while serving in the armed forces of the United States, or for the spouse and dependents of that individual; or

(2) while in the custody of the Department of Health and Social Services in accordance with a court . . .

(a) An individual is eligible to receive one permanent fund dividend each year . . . if the individual
(4) has been physically present in the state for at least 72 hours during the prior 2 years before the current dividend year;

AS 43.23: Permanent Fund Dividends

Sec. 43.23.005. Eligibility: Principle Concepts:

(h) If an individual who would otherwise have been eligible for a permanent fund dividend dies

- after applying for the dividend but before the dividend is paid, DOR pays the dividend to a personal representative of the estate.
- during the application period, a personal representative of the estate may apply for and receive the dividend.
- during the qualifying year after having been a state resident for at least 180 days immediately before the date of death, a personal representative of the estate or a successor claiming personal property under AS 13.16.680 may apply for and receive the dividend.

(§ 1 ch 102 SLA 1982; am § 1 ch 57 SLA 1987; am § 1 ch 54 SLA 1988; am § 1 ch 159 SLA 1988; am §§ 2, 3 ch 107 SLA 1989; am § 1 ch 68 SLA 1990; am §§ 46, 62 ch 21 SLA 1991; am § 1 ch 68 SLA 1991; am §§ 4 - 8, 18 ch 4 SLA 1992; am §§ 2, 3 ch 46 SLA 1996; am §§ 2 - 4 ch 44 SLA 1998; am § 1 ch 91 SLA 1998; am § 25 ch 92 SLA 2001; am § 5 ch 89 SLA 2002; am § 5 ch 64 SLA 2005; am § 1 ch 22 SLA 2010)

AS 43.23 Eligibility: History

(b) The purposes of this Act are

(1) to provide a mechanism for equitable distribution to the people of Alaska of at least a portion of the state's energy wealth derived from the development and production of the natural resources belonging to them as Alaskans;

(2) to encourage persons to maintain their residence in Alaska and to reduce population turnover in the state; and

(3) to encourage increased awareness and involvement by the residents of the state in the management and expenditure of the Alaska permanent fund (art. IX, sec. 15, state constitution).

§1 ch 21 SLA 1980

AS 43.23 Eligibility: History

* Sec. 2. AS 43 is amended by adding a new chapter to read:

CHAPTER 23. PERMANENT FUND DIVIDENDS.

Sec. 43.23.010. ELIGIBILITY FOR PERMANENT FUND DIVIDEND. (a) An individual who is eligible under (b) of this section is entitled to one permanent fund dividend for each full year that the individual is a state resident after January 1, 1959.

(b) For each year, an individual is eligible to receive payment of the permanent fund dividends for which he is entitled under this section if he

- (1) is at least 18 years of age; and
- (2) is a state resident during all or part of the year for which the permanent fund dividend is paid.

§2 ch 21 SLA 1980

AS 43.23 Eligibility: History

* Section 1. AS 43.23 is amended by adding new sections to read:

Sec. 43.23.005. ELIGIBILITY. (a) An individual is eligible to receive one permanent fund dividend each year in an amount to be determined under AS 43.23.025 if the individual applies to the department, and if on the date of application the individual

(1) is a state resident; and

(2) has been a state resident for a period of at least six consecutive months immediately preceding the date of application.

§2 ch 21 SLA 1980

AS 43.23 Eligibility: History

- 1987 – April 1 deadline for eligibility
- 1988 (ch 54) – felon ineligibility
- 1988 (ch 159) – physical presence in state requirement added
- 1989 – two year residency requirement, revert to one year if invalid by a court (*Lindly v. Malone*)
- 1990 – provisions added for disabled individuals
- 1991 (ch 21) – *Lindly v. Malone* statutory clean up [revisor's bill]
- 1991 (ch 68) – physical presence waiver added for individuals serving in the armed forces
- 1992 (ch 4) – technical changes to language/timing of residency requirement, US citizenship/lawful alien status requirement added
- 1996 – expansion of provisions related to felony/misdemeanor ineligibility
- 1998 (ch 44) – 72 hour physical presence requirement added
- 1998 (ch 91) – deceased individuals provisions added
- 2001 – technical changes to felony/misdemeanor ineligibility
- 2002 – new eligibility requirement: compliance with Military Selective Service Act
- 2005 – physical presence exemption added for those out of state in custody of DHSS
- 2010 – small changes to the provisions related to deceased individuals

AS 43.23: Permanent Fund Dividends

Sec. 43.23.008. Allowable Absences: Principle Concepts: (a) an otherwise eligible individual who is absent from the state during the qualifying year remains eligible for a current year permanent fund dividend if the individual was absent

- (1) receiving secondary or postsecondary education on a full-time basis;
- (2) receiving vocational, professional, or other education on a full-time basis and a comparable program is not available in the state;
- (3) serving on active duty for the armed forces of the U.S. or that individual's spouse or dependent;
- (4) serving as a U.S. merchant marine;
- (5) & (12) receiving medical treatment/convalescing, or accompanying a minor;
- (6) & (7) providing care for a family member with a critical life-threatening illness or who is terminally ill;
- (8) settling the estate of the a deceased relative;
- (9) & (10) serving as a member of the United States Congress or staff of a member from this state of the United States Congress;

AS 43.23: Permanent Fund Dividends

Sec. 43.23.008. Allowable Absences: Principle Concepts: (a) an otherwise eligible individual who is absent from the state during the qualifying year remains eligible for a current year permanent fund dividend if the individual was absent

(11) serving as an employee of the state in a field office or other location;

(13) accompanying an eligible resident who is absent under (1), (2), (5) - (12), (16), or (17);

(14) serving as a volunteer in the federal peace corps program;

(15) because of training or competing as a member of the U.S. Olympic Team or a national team for an Olympic sport;

(16) participating for educational purposes in a student fellowship sponsored by the U.S. Dept. of Edu. or by the U.S. Dept. of State;

(17) for any reason consistent with the individual's intent to remain a state resident, provided the absence or cumulative absences do not exceed . . . [combinations with other absences]

(b) An individual may not claim an allowable absence under (a)(1) - (16) of this section unless the individual was a resident of the state for at least six consecutive months immediately before leaving the state.

AS 43.23: Permanent Fund Dividends

Sec. 43.23.008. Allowable Absences: Principle Concepts: (d) After an individual has been absent from the state for more than 180 days in each of the five preceding qualifying years, the department shall presume that the individual is no longer a state resident. The individual may rebut this presumption.

AS 43.23: Permanent Fund Dividends

Sec. 43.23.008. Allowable Absences: Principle Concepts: (e) To determine whether an individual intends to return and remain in the state indefinitely, DOR shall consider all relevant factors, including

(1) the length of time the individual was absent from the state compared to the length of time the individual was physically present in the state;

(2) the frequency and duration of trips to the state during the past 5 years;

(3) whether the individual's intent to return to and remain in the state is conditioned on future events beyond the individual's control;

(4) the ties the individual has established with the state or another jurisdiction, as demonstrated by maintenance of a home, payment of resident taxes, registration of a vehicle, registration to vote and voting history, acquisition of a driver's license, business license, or professional license, and receipt of benefits under a claim of residency in the state or another jurisdiction;

(5) the priority that the individual gave the state on an employment assignment preference list, including a list used by military personnel.

(§ 5 ch 44 SLA 1998; am § 1 ch 71 SLA 1999; am § 1 ch 69 SLA 2003; am §§ 1, 2 ch 116 SLA 2003; am §§ 20, 21 ch 42 SLA 2006; am §§ 1, 2 ch 36 SLA 2008; am §§ 1 - 3 ch 33 SLA 2013)

AS 43.23 Allowable Absences: History

- 1998 – allowable absence statute added
- 1999 – merchant marine allowable absence
- 2003 (ch 69) – military spouse and dependent allowable absence
- 2003 (ch 116) – small change to terminally ill family member allowable absence
- 2006 – peace corps and Olympic Team allowable absences added
- 2008 – educational fellowship allowable absence added
- 2013 – presumption that individual no longer a state resident if absent more than 180 days in each of the preceding five years added

AS 43.23: Permanent Fund Dividends

Sec. 43.23.011. Application period: Principle Concepts:

- (a) The application period is January 1 to March 31 of the dividend year.
- (b) Provides an extension for an applicant (a) of this section for applicant eligible for hostile fire or imminent danger pay while serving on active duty as a member of the armed forces of the United States.
- (c) [similar extension]

(§ 9 ch 4 SLA 1992; am § 1 ch 112 SLA 2004; am § 22 ch 42 SLA 2006)

AS 43.23: Permanent Fund Dividends

Sec. 43.23.015. Application and proof of eligibility: Principle Concepts:

- (a) The commissioner shall adopt regulations for determining the eligibility of individuals for permanent fund dividends; the commissioner may use other information available to determine the eligibility of an individual.
- (b) The department shall prescribe and furnish an application form for claiming a permanent fund dividend.
- (c) & (d) An individual must personally sign the application. A guardian may sign an application.
- (e) & (f) A public agency that claims a permanent fund dividend on behalf of an individual must hold the dividend in trust for the individual.
- (g) & (i) An individual may request the department to review its decision to deny a dividend.
- (h) There are penalties for an individual who claims a permanent fund dividend on behalf of another.
- (j) The application form for claiming a permanent fund dividend must include a place for the applicant to voluntarily indicate that the applicant is a veteran.

(§ 1 ch 102 SLA 1982; am § 2 ch 159 SLA 1988; am § 4 ch 107 SLA 1989; am §§ 2, 3 ch 68 SLA 1990; am § 47 ch 21 SLA 1991; am § 2 ch 68 SLA 1991; am §§ 10, 11 ch 4 SLA 1992; am §§ 1, 2 ch 18 SLA 1996; am § 1 ch 83 SLA 2005; am § 1 ch 90 SLA 2008; am § 6, 2016 General Election Ballot Measure No. 1)

Sec. 43.23.021. Delayed payment to certain individuals.

AS 43.23: Permanent Fund Dividends

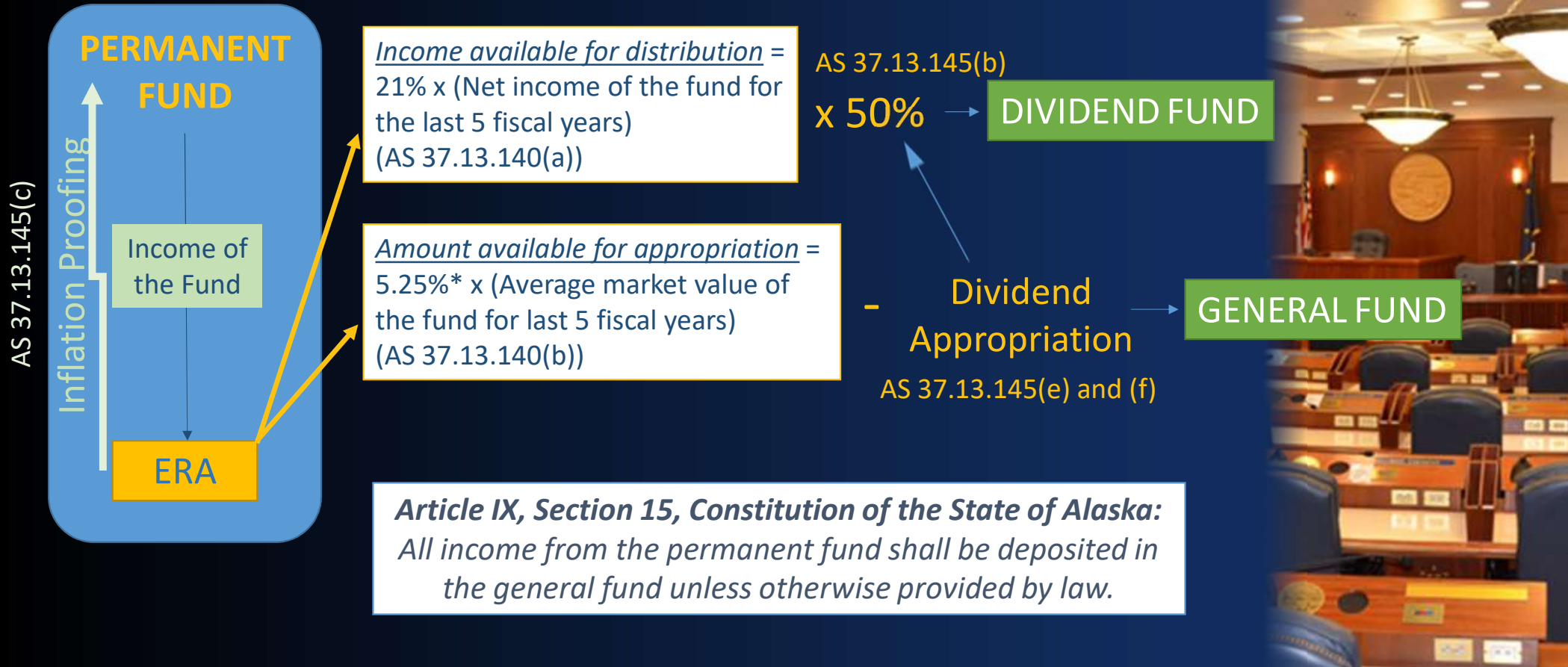
Sec. 43.23.025. Amount of dividend: Principle Concepts:

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

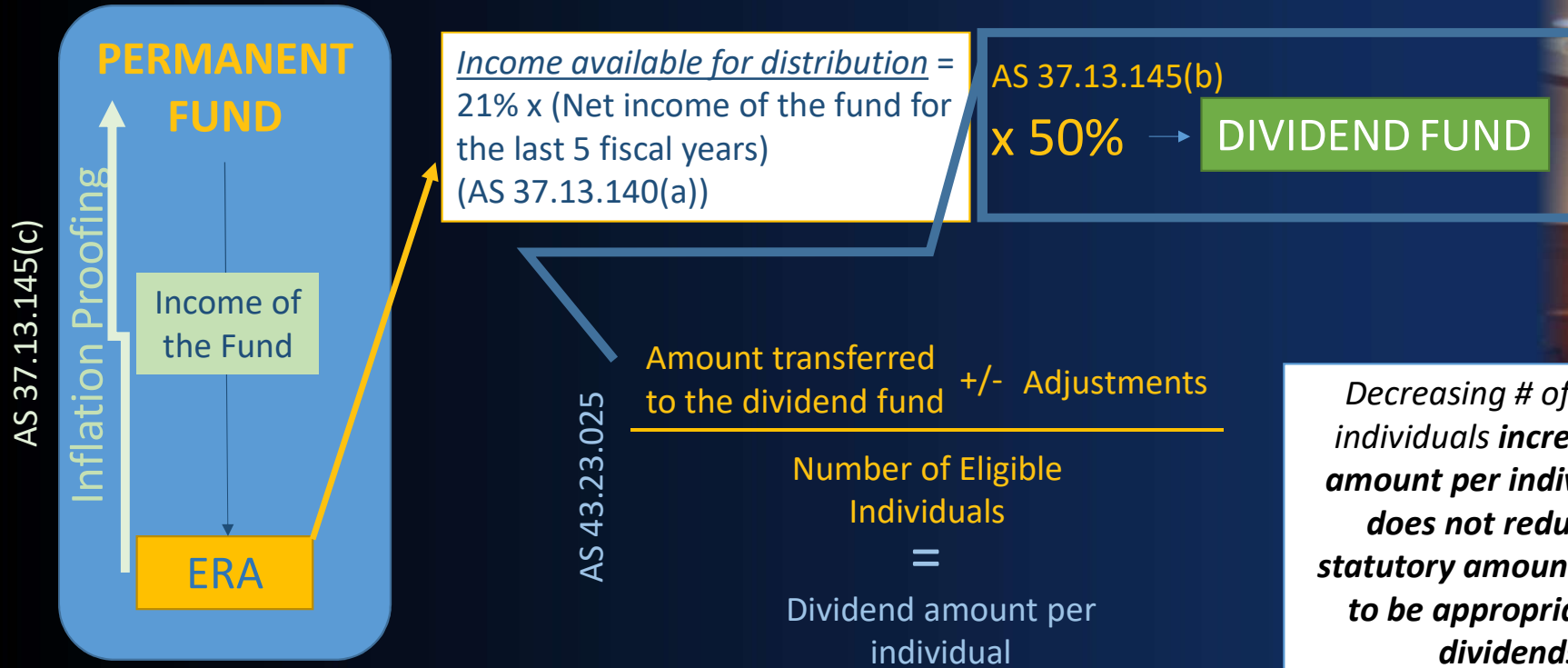
- (1) determining the total amount available for dividend payments, which equals
 - (A) the amount transferred to the dividend fund during the current year;
 - (B) plus the balances of prior fiscal year appropriations that lapse into the dividend fund;
 - (C) & (D) less the amount necessary to pay prior year dividends;
 - (E) less costs of administering the dividend program and the hold harmless provisions;
- (2) determining the number of individuals eligible to receive a dividend payment for the current year;
- (3) dividing the amount under paragraph (1) by the amount under paragraph (2).

(§ 1 ch 102 SLA 1982; am § 1 ch 55 SLA 1983; am § 2 ch 43 SLA 1984; am § 2 ch 57 SLA 1987; am § 2 ch 54 SLA 1988; am § 4 ch 68 SLA 1990; am § 1 ch 198 SLA 1990; am § 5 ch 68 SLA 1991; am § 27 ch 134 SLA 1992; am § 2 ch 91 SLA 1998; am § 33 ch 75 SLA 2008)

Putting it Together



Putting it Together



Decreasing # of eligible individuals increases the amount per individual. It does not reduce the statutory amount directed to be appropriated for dividends.



AS 43.23: Permanent Fund Dividends

Sec. 43.23.028. Public notice: Principle Concepts: By October 1 of each year, the commissioner shall give public notice of the value of each permanent fund dividend and notice certain other information.

(§ 2 ch 198 SLA 1990; am § 3 ch 68 SLA 1991; am § 1 ch 82 SLA 1993; am § 4 ch 46 SLA 1996; am § 6 ch 44 SLA 1998; am § 26 ch 92 SLA 2001; am § 22 ch 175 SLA 2004; am § 34 ch 75 SLA 2008; am § 1 ch 79 SLA 2008; am § 5 ch 21 SLA 2018)

Sec. 43.23.045. Dividend fund: Principle Concepts. The dividend fund is established as a separate fund, administered by the commissioner and shall be invested in the same manner as provided in AS 37.10.070.

(§ 1 ch 102 SLA 1982; am § 24 ch 99 SLA 1985; am § 3 ch 57 SLA 1987; am § 1 ch 38 SLA 1989; am §§ 2, 3 ch 18 SLA 1991; am § 29 ch 134 SLA 1992)

AS 43.23: Permanent Fund Dividends

Sec. 43.23.048. Restorative justice account: Principle Concepts: The restorative justice account is created as a separate account in the dividend fund. The commissioner shall transfer from the dividend fund to the restorative justice account each fiscal year an amount equal to the amount that would have been paid during the previous fiscal year to individuals who were ineligible to receive dividends under AS 43.23.005(d) if they had been eligible.

- The legislature may appropriate amounts from the account to the following recipients, in the priority order:
 - 10 – 13% to the crime victim compensation fund for payments to crime victims and for operating costs of the Violent Crimes Compensation Board;
 - 2 – 6% to the office of victims' rights for payments to crime victims and for operating costs of the office of victims' rights;
 - 1 – 3% to nonprofit organizations to provide grants for crime victims and domestic violence/sexual assault programs;
 - 1 – 3% to nonprofit organizations to provide grants for mental health services/substance abuse treatment for offenders;
 - 79 – 88% to the Department of Corrections for costs related to incarceration or probation.

(§ 6 ch 21 SLA 2018)

Sec. 43.23.055. Duties of the department. Related to the dividend.

AS 43.23: Permanent Fund Dividends

Sec. 43.23.101. Voter registration. Principle Concepts: The commissioner shall provide the director of elections with records from the permanent fund dividend applications.

Sec. 43.23.110. Applicant information confidential. Principle Concepts: Information on each permanent fund dividend application, except the applicant's name, is confidential. (§ 2 ch 181 SLA 2004; am § 2 ch 92 SLA 2008; am §§ 8, 9, 2016 General Election Ballot Measure No. 1)

Sec. 43.23.130. Contributions from dividends. Principle Concepts: Pick.Click.Give. Currently available for contributions to crime victim compensation fund, the peace officer and firefighter survivors' fund, certain educational organizations, community foundations, or charitable organizations, UA campuses.

AS 43.23: Permanent Fund Dividends

Sec. 43.23.140. Exemption of and levy on permanent fund dividends:

Principle Concepts: With exceptions, 20% of the annual permanent fund dividend is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt.

Secs. 43.23.140 – 43.23.190: Principle Concepts: A dividend may be taken to satisfy:

- Child support obligations
- Court ordered restitution
- Defaulted education loans
- Court ordered fines and judgments
- A debt owed to the state
- Unpaid rent
- Claims for court ordered treatment
- Public assistance overpayment
- Amounts owed under the Alaska Employment Security Act
- Claims of the University of Alaska

Sec. 43.23.200. Assignments: Principle Concepts: A dividend may not be assigned, except to a government.

Sec. 43.23.210. Fees for processing claims and assignments.

AS 43.23: Permanent Fund Dividends

Secs. 43.23.220 - 230. Principle Concepts: Dividend raffle, education endowment fund.

Sec. 43.23.240 – 43.23.250. Eligibility for public assistance. Principle Concepts: The state cannot consider the dividend as income for purposes of determining public assistance. The state may provide payments to individuals unable to get certain federal assistance because of receipt of the dividend.

Sec. 43.23.260 - 270. Principle Concepts: Penalties, enforcement, subpoena and investigatory power of the commissioner.

Questions?

Thank you.

Emily Nauman
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