HOUSE CS FOR CS FOR SENATE BILL NO. 26(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/12/17
Referred: Today's Calendar

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

A BILL

FOR AN ACT ENTITLED

"An Act relating to an appropriation limit; relating to the budget responsibilities of the governor; relating to the Alaska permanent fund, 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 calculation and payment of permanent fund dividends; and providing for an effective date."

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

* **Section 1.** AS 37.05.550(b) is amended to read:

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

*** Sec. 2.** AS 37.07.020 is amended by adding a new subsection to read:

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

*** Sec. 3.** 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]; <u>**and**</u>

(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.

*** Sec. 4.** AS 37.13.140 is amended to read:

Sec. 37.13.140. Income <u>and market value</u>. Net income of the fund includes income of the earnings reserve account established under AS 37.13.145. <u>**The corporation shall determine the net**</u> [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. 5.** AS 37.13.140 is amended by adding new subsections to read:

(b) The corporation shall determine the amount available for distribution each year. The amount available for distribution 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).

(c) In accordance with AS 37.13.145(b)(2), and subject to appropriation, 33 percent of the amount available for distribution under (b) of this section shall be reserved for dividends. The remainder of the amount calculated to be available for distribution under (b) of this section shall be reduced by 80 cents for each dollar by which the amount calculated under (1) of this subsection and the amount under (2) of this subsection if the amount calculated under (1) of this subsection exceeds the amount under (2) of this subsection:

(1) the total amount of oil and gas production taxes under AS 43.55.011 - 43.55.180, mineral lease rentals, royalties, royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing payments and bonuses received by the state from mineral leases that are deposited into the general fund in the current fiscal year;

(2) the sum of $1,400,000,000, adjusted annually for inflation based on a formula provided by the Department of Labor and Workforce Development, reflecting the change from the previous year in the Consumer Price Index for the Anchorage metropolitan area compiled by the Bureau of Labor and Statistics, United States Department of Labor, and rounded to the nearest $10,000,000.

*** Sec. 6.** AS 37.13.140(b), added by sec. 5 of this Act, is amended to read:

(b) The corporation shall determine the amount available for distribution each year. The amount available for distribution 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. 7.** 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

(1) principal of the fund, 0.25 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 paragraph, "average market value of the fund" has the meaning given in AS 37.13.140(b);

(2) dividend fund established under AS 43.23.045, **33** [50] percent of the **amount** [INCOME] available for distribution under **AS 37.13.140(b); and**

(3) general fund, 67 percent of the amount available for distribution under AS 37.13.140(b) [AS 37.13.140].

*** Sec. 8.** 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 **(b)** [(c)] of this section, and shall be annually deposited into the Alaska capital income fund (AS 37.05.565).

*** Sec. 9.** AS 37.13.145 is amended by adding new subsections to read:

(e) Each year that the balance of the earnings reserve account exceeds four times the amount calculated for appropriations under (b) and (f) of this section, after the appropriations under (b) and (f) of this section, the legislature may appropriate from the earnings reserve account to the principal of the fund the lesser of the

(1) amount by which the balance of the earnings reserve account exceeds four times the amount calculated for appropriations under (b) and (f) of this section; or

(2) cumulative amount of inflation on the principal of the fund between the current fiscal year and June 30, 2015, less amounts transferred after June 30, 2015, to the fund to offset the effect of inflation on the principal of the fund.

(f) After the appropriations under (b) of this section, but before the appropriation under (e) of this section, for fiscal years 2018 and 2019, the legislature may appropriate from the earnings reserve account an additional amount, if necessary, to provide a dividend of at least $1,250 for each individual.

*** Sec. 10.** AS 37.13.145(e), added by sec. 9 of this Act, is amended to read:

(e) Each year that the balance of the earnings reserve account exceeds four times the amount calculated for appropriations under (b) [AND (f)] of this section, after the appropriations under (b) [AND (f)] of this section, the legislature may appropriate from the earnings reserve account to the principal of the fund the lesser of the

(1) amount by which the balance of the earnings reserve account exceeds four times the amount calculated for appropriations under (b) [AND (f)] of this section; or

(2) cumulative amount of inflation on the principal of the fund between the current fiscal year and June 30, 2015, less amounts transferred after June 30, 2015, to the fund to offset the effect of inflation on the principal of the fund.

*** Sec. 11.** AS 37.13.150 is amended to read:

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

*** Sec. 12.** 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 **or market value** available for distribution under AS 37.13.140.

*** Sec. 13.** AS 43.23.025 is amended by adding a new subsection to read:

(c) Notwithstanding (a) of this section, the amount of each permanent fund dividend for fiscal years 2018 and 2019 shall be at least $1,250. If the amount of appropriations is not sufficient to provide the dividend amount in this subsection, the commissioner shall reduce the dividend amount under this subsection by an equal amount for each eligible individual.

*** 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;

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

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

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

*** Sec. 15.** AS 37.13.145(c) is repealed July 1, 2017.

*** Sec. 16.** AS 37.13.145(f) and AS 43.23.025(c) are repealed June 30, 2020.

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

FISCAL YEAR 2017. Notwithstanding another provision of law, the legislature may appropriate from the earnings reserve account for fiscal year 2017 the amount by which 5.25 percent of the average market value of the fund for fiscal years 2011, 2012, 2013, 2014, and 2015, computed annually for each fiscal year in accordance with generally accepted accounting principles, exceeds $695,650,000. In this section, "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. 18.** The uncodified law of the State of Alaska is amended by adding a new section to read:

RETROACTIVITY. If sec. 17 of this Act takes effect after June 29, 2017, sec. 17 of this Act is retroactive to June 29, 2017.

*** Sec. 19.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. This Act takes effect only if the Thirtieth Alaska State Legislature passes and enacts into law in 2017

(1) legislation relating to a broad-based tax, directed to education, that is estimated by the Department of Revenue to generate annually at least $650,000,000, once fully implemented, and that has an effective date not later than January 1, 2019; and

(2) the version of House Bill 111 that passes out of the House of Representatives.

*** Sec. 20.** If, under sec. 19 of this Act, secs. 17 and 18 of this Act take effect, they take effect immediately under AS 01.10.070(c).

*** Sec. 21.** If, under sec. 19 of this Act, sec. 6 of this Act takes effect, it takes effect July 1, 2019.

*** Sec. 22.** If, under sec. 19 of this Act, sec. 10 of this Act takes effect, it takes effect June 30, 2020.

*** Sec. 23.** Except as provided in secs. 20 - 22 of this Act, if, under sec. 19 of this Act, this

Act takes effect, it takes effect July 1, 2017.