

SENATE BILL NO. 26

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/18/17

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska Permanent Fund Corporation, the earnings of the Alaska**
2 **permanent fund, and the earnings reserve account; relating to the mental health trust**
3 **fund; relating to deposits into the dividend fund; relating to the calculation of**
4 **permanent fund dividends; relating to unrestricted state revenue available for**
5 **appropriation; and providing for an effective date."**

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

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

9 LEGISLATIVE INTENT. It is the intent of the legislature that the legislature
10 reevaluate the use of earnings of the Alaska permanent fund, as prescribed under this Act, in
11 three years.

12 *** Sec. 2.** AS 37.13.010(a) is amended to read:

13 (a) Under art. IX, sec. 15, of the state constitution, there is established as a

1 separate fund the Alaska permanent fund. The Alaska permanent fund consists of

2 (1) 25 percent of all mineral lease rentals, royalties, royalty sale
3 proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue
4 sharing payments received by the state from mineral leases [ISSUED ON OR
5 BEFORE DECEMBER 1, 1979,] and 25 percent of all bonuses received by the state
6 from mineral leases [ISSUED ON OR BEFORE FEBRUARY 15, 1980;

7 (2) 50 PERCENT OF ALL MINERAL LEASE RENTALS,
8 ROYALTIES, ROYALTY SALE PROCEEDS, NET PROFIT SHARES UNDER
9 AS 38.05.180(f) AND (g), AND FEDERAL MINERAL REVENUE SHARING
10 PAYMENTS RECEIVED BY THE STATE FROM MINERAL LEASES ISSUED
11 AFTER DECEMBER 1, 1979, AND 50 PERCENT OF ALL BONUSES RECEIVED
12 BY THE STATE FROM MINERAL LEASES ISSUED AFTER FEBRUARY 15,
13 1980]; and

14 (2) [(3)] any other money appropriated to or otherwise allocated by
15 law or former law to the Alaska permanent fund.

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

17 **Sec. 37.13.140. Income.** Net income of the fund includes income of the
18 earnings reserve account established under AS 37.13.145. The corporation shall
19 determine the net [NET] income of the fund [SHALL BE COMPUTED
20 ANNUALLY AS OF THE LAST DAY OF THE FISCAL YEAR] in accordance with
21 generally accepted accounting principles, excluding any unrealized gains or losses.
22 [INCOME AVAILABLE FOR DISTRIBUTION EQUALS 21 PERCENT OF THE
23 NET INCOME OF THE FUND FOR THE LAST FIVE FISCAL YEARS,
24 INCLUDING THE FISCAL YEAR JUST ENDED, BUT MAY NOT EXCEED NET
25 INCOME OF THE FUND FOR THE FISCAL YEAR JUST ENDED PLUS THE
26 BALANCE IN THE EARNINGS RESERVE ACCOUNT DESCRIBED IN
27 AS 37.13.145.]

28 * **Sec. 4.** AS 37.13.140 is amended by adding new subsections to read:

29 (b) The corporation shall determine the amount available for distribution each
30 year. The amount available for distribution equals five and one-quarter percent of the
31 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 37.13.146(a)(1), and subject to appropriation, 20 percent of the amount available for distribution under (b) of this section shall be reserved for dividends. The remainder of the amount available for distribution under (b) of this section shall be reduced by the difference between 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, less the amount under AS 37.13.146(a)(2);

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

* **Sec. 5.** 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) and** (c) [OF THIS SECTION], and shall be annually deposited into the Alaska capital income fund (AS 37.05.565).

* **Sec. 6.** 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) and (c).

(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. 7.** AS 37.13 is amended by adding new sections 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 20 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) Nothing in this section creates a dedicated fund.

* **Sec. 8.** 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. 9.** 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. 10.** 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 \$1,000.

* **Sec. 11.** 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. 12.** 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

1 determine the number of eligible applicants by October 1 of the year for which the
2 dividend is declared and pay the dividends by December 31 of that year;

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

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

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

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

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

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

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

30 (A) access to the data base; or

31 (B) a copy of the information in the data base and a statement

1 certifying its contents;

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

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

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

10 * **Sec. 13.** AS 37.10.430(c); AS 37.13.145(b), and 37.13.145(c) are repealed.

11 * **Sec. 14.** AS 43.23.025(c) is repealed June 30, 2020.

12 * **Sec. 15.** This Act takes effect immediately under AS 01.10.070(c).