

CS FOR SENATE BILL NO. 128(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FOURTH SPECIAL SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 6/6/16

Referred: First Supplemental Calendar

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

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 management of the**
3 **budget reserve fund (art. IX, sec. 17, Constitution of the State of Alaska) by the Alaska**
4 **Permanent Fund Corporation; relating to procurement by the Alaska Permanent Fund**
5 **Corporation; relating to the mental health trust fund; relating to deposits into the**
6 **dividend fund; relating to the calculation of permanent fund dividends; relating to**
7 **unrestricted state revenue available for appropriation; and providing for an effective**
8 **date."**

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

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

12 LEGISLATIVE INTENT. It is the intent of the legislature that the legislature

1 reevaluate the use of earnings of the Alaska permanent fund, as prescribed under this Act, in
2 three years.

3 * **Sec. 2.** AS 36.30.015 is amended by adding a new subsection to read:

4 (l) The board of trustees of the Alaska Permanent Fund Corporation shall
5 adopt regulations to govern the procurement of supplies, services, and professional
6 services. The regulations must be similar to the procedures described in this chapter
7 and in regulations adopted under this chapter. Notwithstanding any other provisions of
8 this subsection, the Alaska Permanent Fund Corporation shall comply with the five
9 percent preference under AS 36.30.321(a) and the requirement that contracts for legal
10 services be approved by the attorney general under (d) of this section.

11 * **Sec. 3.** AS 36.30.990(1) is amended to read:

12 (1) "agency"

13 (A) means a department, institution, board, commission,
14 division, authority, public corporation, the Alaska Pioneers' Home, the Alaska
15 Veterans' Home, or other administrative unit of the executive branch of state
16 government;

17 (B) does not include

18 (i) the University of Alaska;

19 (ii) the Alaska Railroad Corporation;

20 (iii) the Alaska Housing Finance Corporation;

21 (iv) a regional Native housing authority created under
22 AS 18.55.996 or a regional electrical authority created under
23 AS 18.57.020;

24 (v) the Department of Transportation and Public
25 Facilities, in regard to the repair, maintenance, and reconstruction of
26 vessels, docking facilities, and passenger and vehicle transfer facilities
27 of the Alaska marine highway system;

28 (vi) the Alaska Aerospace Corporation;

29 (vii) the Alaska Retirement Management Board;

30 (viii) the Alaska Seafood Marketing Institute;

31 (ix) the Alaska children's trust and the Alaska

1 Children's Trust Board;

2 (x) the Alaska Industrial Development and Export
3 Authority;

4 **(xi) the Alaska Permanent Fund Corporation;**

5 * **Sec. 4.** AS 37.10.430(a) is amended to read:

6 (a) The **Alaska Permanent Fund Corporation shall manage and invest the**
7 **assets of** [DEPARTMENT OF REVENUE MAY TRANSFER MANAGEMENT
8 RESPONSIBILITY OVER ALL OR A PORTION OF] the budget reserve fund (art.
9 IX, sec. 17, Constitution of the State of Alaska) **in the manner set out for the**
10 **management and investment of the assets of the Alaska permanent fund under**
11 **AS 37.13.120** [TO THE ALASKA PERMANENT FUND CORPORATION].

12 * **Sec. 5.** AS 37.10.430(b) is amended to read:

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

21 * **Sec. 6.** AS 37.13.010(a) is amended to read:

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

24 (1) 25 percent of all mineral lease rentals, royalties, royalty sale
25 proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue
26 sharing payments received by the state from mineral leases [ISSUED ON OR
27 BEFORE DECEMBER 1, 1979,] and 25 percent of all bonuses received by the state
28 from mineral leases [ISSUED ON OR BEFORE FEBRUARY 15, 1980;

29 (2) 50 PERCENT OF ALL MINERAL LEASE RENTALS,
30 ROYALTIES, ROYALTY SALE PROCEEDS, NET PROFIT SHARES UNDER
31 AS 38.05.180(f) AND (g), AND FEDERAL MINERAL REVENUE SHARING

1 PAYMENTS RECEIVED BY THE STATE FROM MINERAL LEASES ISSUED
 2 AFTER DECEMBER 1, 1979, AND 50 PERCENT OF ALL BONUSES RECEIVED
 3 BY THE STATE FROM MINERAL LEASES ISSUED AFTER FEBRUARY 15,
 4 1980]; and

5 (2) [(3)] any other money appropriated to or otherwise allocated by
 6 law or former law to the Alaska permanent fund.

7 * **Sec. 7.** AS 37.13.140 is amended to read:

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

19 * **Sec. 8.** AS 37.13.140 is amended by adding new subsections to read:

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

29 (c) In accordance with AS 37.13.146(a)(1), 20 percent of the amount available
 30 for distribution under (b) of this section shall be reserved for dividends. The remainder
 31 of the amount available for distribution under (b) of this section shall be reduced by

1 the difference between the amount calculated under (1) of this subsection and the
 2 amount under (2) of this subsection if the amount calculated under (1) of this
 3 subsection exceeds the amount under (2) of this subsection:

4 (1) the total amount of oil and gas production taxes under
 5 AS 43.55.011 - 43.55.180, mineral lease rentals, royalties, royalty sale proceeds, net
 6 profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing
 7 payments and bonuses received by the state from mineral leases that are deposited into
 8 the general fund in the current fiscal year, less the amount under AS 37.13.146(a)(2);

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

10 * **Sec. 9.** AS 37.13.145(d) is amended to read:

11 (d) **Income** [NOTWITHSTANDING (b) OF THIS SECTION, INCOME]
 12 earned on money awarded in or received as a result of State v. Amerada Hess, et al.,
 13 1JU-77-847 Civ. (Superior Court, First Judicial District), including settlement,
 14 summary judgment, or adjustment to a royalty-in-kind contract that is tied to the
 15 outcome of this case, or interest earned on the money, or on the earnings of the money
 16 shall be treated in the same manner as other income of the Alaska permanent fund,
 17 except that it is not available for distribution [TO THE DIVIDEND FUND OR FOR
 18 TRANSFERS TO THE PRINCIPAL] under **AS 37.13.140(b) and** (c) [OF THIS
 19 SECTION], and shall be annually deposited into the Alaska capital income fund
 20 (AS 37.05.565).

21 * **Sec. 10.** AS 37.13.145 is amended by adding new subsections to read:

22 (e) Each year the legislature may appropriate from the earnings reserve
 23 account to the general fund an amount that does not exceed the amount available for
 24 distribution under AS 37.13.140(b) and (c).

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

29 * **Sec. 11.** AS 37.13 is amended by adding new sections to read:

30 **Sec. 37.13.146. Appropriations to the dividend fund.** (a) The legislature may
 31 appropriate to the dividend fund established in AS 43.23.045 the following amounts

1 from the general fund:

2 (1) 20 percent of the amount calculated under AS 37.13.140(b); and

3 (2) an amount equal to 20 percent of the money deposited in the
4 general fund during the fiscal year just ended from all mineral lease rentals, royalties,
5 royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), federal mineral
6 revenue sharing payments, and bonuses received by the state from mineral leases.

7 (b) Nothing in this section creates a dedicated fund.

8 **Sec. 37.13.148. Appropriation of revenue.** (a) If the unrestricted state
9 revenue available for appropriation in the preceding fiscal year exceeds the
10 unrestricted general fund appropriations made for the same fiscal year, the legislature
11 may appropriate the amount of unrestricted state revenue in excess of unrestricted
12 general fund appropriations as follows:

13 (1) 50 percent to the Alaska permanent fund (art. IX, sec. 15,
14 Constitution of the State of Alaska); and

15 (2) 50 percent to the budget reserve fund (art. IX, sec. 17, Constitution
16 of the State of Alaska).

17 (b) In this section, "unrestricted state revenue" does not include the balance or
18 earnings of the earnings reserve account established under AS 37.13.145(a).

19 * **Sec. 12.** AS 37.13.206(a) is amended to read:

20 (a) The board may adopt regulations to carry out the purposes of this chapter
21 and shall adopt regulations under AS 36.30.015(l) and AS 37.13.120(a). The
22 provisions of AS 44.62 (Administrative Procedure Act) regarding the adoption of
23 regulations do not apply to regulations of the corporation.

24 * **Sec. 13.** AS 37.13.300(c) is amended to read:

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

28 * **Sec. 14.** AS 43.23.025(a) is amended to read:

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

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

1 which equals

2 (A) the amount **appropriated** [OF INCOME OF THE
3 ALASKA PERMANENT FUND TRANSFERRED] to the dividend fund
4 under **AS 37.13.146** [AS 37.13.145(b)] during the current year;

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

8 (C) less the amount necessary to pay prior year dividends from
9 the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and
10 43.23.055(3) and (7);

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

15 (E) less appropriations from the dividend fund during the
16 current year, including amounts to pay costs of administering the dividend
17 program and the hold harmless provisions of AS 43.23.075;

18 (2) determining the number of individuals eligible to receive a
19 dividend payment for the current year and the number of estates and successors
20 eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

21 (3) dividing the amount determined under (1) of this subsection by the
22 amount determined under (2) of this subsection.

23 * **Sec. 15.** AS 43.23.025 is amended by adding a new subsection to read:

24 (c) Notwithstanding (a) of this section, the amount of each permanent fund
25 dividend for fiscal years 2017, 2018, and 2019 shall be \$1,000.

26 * **Sec. 16.** AS 43.23.045(a) is amended to read:

27 (a) The dividend fund is established as a separate fund in the state treasury.

28 **The fund consists of money appropriated to it under AS 37.13.146.** The dividend
29 fund shall be administered by the commissioner and shall be invested by the
30 commissioner in the same manner as provided in AS 37.10.070.

31 * **Sec. 17.** AS 43.23.055 is amended to read:

1 **Sec. 43.23.055. Duties of the department.** The department shall

2 (1) annually pay permanent fund dividends from the dividend fund,
3 without further appropriation;

4 (2) subject to AS 43.23.011 and paragraph (8) of this section, adopt
5 regulations under AS 44.62 (Administrative Procedure Act) that establish procedures
6 and time limits for claiming a permanent fund dividend; the department shall
7 determine the number of eligible applicants by October 1 of the year for which the
8 dividend is declared and pay the dividends by December 31 of that year;

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

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

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

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

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

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

31 (9) provide any information, upon request, contained in permanent

1 fund dividend records to the child support services agency created in AS 25.27.010, or
 2 the child support enforcement agency of another state, for child support purposes
 3 authorized under law; if the information is contained in an electronic data base, the
 4 department shall provide the requesting agency with either

5 (A) access to the data base; or

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

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

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

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

16 * **Sec. 18.** AS 37.10.430(c); AS 37.13.145(b), and 37.13.145(c) are repealed.

17 * **Sec. 19.** AS 43.23.025(c) is repealed June 30, 2020.

18 * **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to
 19 read:

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

24 * **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to
 25 read:

26 RETROACTIVITY. If secs. 6 - 11 and 13 - 18 of this Act take effect after July 1,
 27 2016, secs. 6 - 11 and 13 - 18 of this Act are retroactive to July 1, 2016.

28 * **Sec. 22.** Sections 2, 3, 12, 20, and 21 of this Act take effect immediately under
 29 AS 01.10.070(c).

30 * **Sec. 23.** Except as provided in sec. 22 of this Act, this Act takes effect July 1, 2016.