

SENATE BILL NO. 70

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced: 2/24/17

Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to an appropriation limit; relating to the budget responsibilities of the**
2 **governor; relating to the Alaska permanent fund, the earnings of the Alaska permanent**
3 **fund, and the earnings reserve account; relating to the mental health trust fund; relating**
4 **to deposits into the dividend fund; relating to the calculation and payment of permanent**
5 **fund dividends; 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 37.05.540(a) is amended to read:

13 (a) There is established as a separate fund in the state treasury the budget

1 reserve fund. The budget reserve fund consists of appropriations to the fund.
 2 [MONEY RECEIVED BY THE STATE THAT IS SUBJECT TO THE
 3 APPROPRIATION LIMIT UNDER (b) OF THIS SECTION AND THAT EXCEEDS
 4 THAT LIMIT, MAY BE APPROPRIATED TO THE BUDGET RESERVE FUND.]

5 * **Sec. 3.** AS 37.05 is amended by adding a new section to read:

6 **Sec. 37.05.545. Appropriation limit.** (a) Unrestricted general fund
 7 appropriations made for a fiscal year may not exceed \$4,100,000,000 by more than the
 8 cumulative change in inflation since July 1, 2016, derived from federal indices. The
 9 determination of the change in inflation for purposes of this subsection shall be based
 10 on the Consumer Price Index for all urban consumers for Anchorage prepared by the
 11 United States Bureau of Labor Statistics.

12 (b) The appropriation limit in (a) of this section does not apply to an
 13 appropriation

- 14 (1) to the Alaska permanent fund;
- 15 (2) for payment of permanent fund dividends;
- 16 (3) required to pay debt obligations of the state; or
- 17 (4) for a capital project.

18 (c) In this section,

- 19 (1) "capital project" has the meaning given in AS 37.06.090;
- 20 (2) "program receipts" has the meaning given in AS 37.05.146;
- 21 (3) "unrestricted general fund" does not include program receipts or
 22 reappropriations.

23 * **Sec. 4.** AS 37.07.020 is amended by adding a new subsection to read:

24 (f) In addition to the budget and bills submitted under (a) of this section and
 25 the fiscal plan submitted under (b) of this section, the governor shall submit a report
 26 with a calculation of appropriations in the budget prepared under (a) of this section as
 27 applied to the appropriation limit under AS 37.05.545.

28 * **Sec. 5.** AS 37.13.010(a) is amended to read:

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

- 31 (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. 6.** 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. 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 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. 7.** 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 equals five and one-quarter 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

1 average market value of the fund" includes the balance of the earnings reserve account
 2 established under AS 37.13.145, but does not include that portion of the principal
 3 attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ.
 4 (Superior Court, First Judicial District).

5 (c) In accordance with AS 37.13.146(a), 25 percent of the amount available
 6 for distribution under (b) of this section shall be reserved for dividends. The remainder
 7 of the amount available for distribution under (b) of this section shall be reduced by
 8 the difference between the amount calculated under (1) of this subsection and the
 9 amount under (2) of this subsection if the amount calculated under (1) of this
 10 subsection exceeds the amount under (2) of this subsection:

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

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

17 * **Sec. 8.** AS 37.13.140(b), added by sec. 7 of this Act, is amended to read:

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

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

28 (d) **Income** [NOTWITHSTANDING (b) OF THIS SECTION, INCOME]
 29 earned on money awarded in or received as a result of State v. Amerada Hess, et al.,
 30 1JU-77-847 Civ. (Superior Court, First Judicial District), including settlement,
 31 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. 10.** 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. 11.** AS 37.13 is amended by adding a new section to read:

Sec. 37.13.146. Appropriations to the dividend fund. (a) Each year, the legislature may appropriate 25 percent of the amount calculated under AS 37.13.140(b) from the general fund to the dividend fund established in AS 43.23.045.

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

* **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 available for distribution under AS 37.13.140(b) [AS 37.13.140].

* **Sec. 13.** 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. 14.** 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, 2019, and 2020 shall be \$1,000.

* **Sec. 15.** 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. 16.** 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;**

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

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

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

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

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

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

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

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

1 department shall provide the requesting agency with either

2 (A) access to the data base; or

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

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

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

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

13 * **Sec. 17.** AS 37.05.540(b), 37.05.540(c), 37.05.540(e); AS 37.13.145(b), and 37.13.145(c)
14 are repealed.

15 * **Sec. 18.** AS 43.23.025(c) is repealed June 30, 2021.

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

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

22 * **Sec. 20.** Section 19 of this Act takes effect immediately under AS 01.10.070(c).

23 * **Sec. 21.** Section 8 of this Act takes effect July 1, 2021.

24 * **Sec. 22.** Except as provided in secs. 20 and 21 of this Act, this Act takes effect July 1,
25 2017.