CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 114(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 3/16/16 Referred: Finance

Sponsor(s): SENATOR MCGUIRE

A BILL

FOR AN ACT ENTITLED

- "An Act relating to the Alaska Permanent Fund Corporation, 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 duties of the
 commissioner of revenue; and providing for an effective date."
- 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
- 6 * **Section 1.** AS 37.13.010(a) is amended to read:
- 7 (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
- 9 (1) 25 percent of all mineral lease rentals, royalties, royalty sale 10 proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue 11 sharing payments received by the state from mineral leases [ISSUED ON OR 12 BEFORE DECEMBER 1, 1979,] and 25 percent of all bonuses received by the state
- from mineral leases [ISSUED ON OR BEFORE FEBRUARY 15, 1980;
- 14 (2) 50 PERCENT OF ALL MINERAL LEASE RENTALS,

1	ROYALTIES, ROYALTY SALE PROCEEDS, NET PROFIT SHARES UNDER
2	AS 38.05.180(f) AND (g), AND FEDERAL MINERAL REVENUE SHARING
3	PAYMENTS RECEIVED BY THE STATE FROM MINERAL LEASES ISSUED
4	AFTER DECEMBER 1, 1979, AND 50 PERCENT OF ALL BONUSES RECEIVED
5	BY THE STATE FROM MINERAL LEASES ISSUED AFTER FEBRUARY 15,
6	1980]; and
7	(2) [(3)] any other money appropriated to or otherwise allocated by
8	law or former law to the Alaska permanent fund.
9	* Sec. 2. AS 37.13.010(a), as amended by sec. 1 of this Act, is amended to read:
10	(a) Under art. IX, sec. 15, of the state constitution, there is established as a
11	separate fund the Alaska permanent fund. The Alaska permanent fund consists of
12	(1) 25 percent of all mineral lease rentals, royalties, royalty sale
13	proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue
14	sharing payments received by the state from mineral leases issued on or before
15	December 1, 1979, and 25 percent of all bonuses received by the state from mineral
16	leases issued on or before February 15, 1980;
17	(2) 50 percent of all mineral lease rentals, royalties, royalty sale
18	proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral
19	revenue sharing payments received by the state from mineral leases issued after
20	December 1, 1979, and 50 percent of all bonuses received by the state from
21	mineral leases issued after February 15, 1980; and
22	(3) [(2)] any other money appropriated to or otherwise allocated by
23	law or former law to the Alaska permanent fund.
24	* Sec. 3. AS 37.13 is amended by adding a new section to read:
25	Sec. 37.13.015. Appropriations to the dividend fund. (a) Following the
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	calculation under AS 37.13.140(b), the legislature may appropriate to the dividend
27	calculation under AS 37.13.140(b), the legislature may appropriate to the dividend fund established in AS 43.23.045 the following amounts from the following funds:
272829	fund established in AS 43.23.045 the following amounts from the following funds:
28	fund established in AS 43.23.045 the following amounts from the following funds: (1) from the earnings reserve account established in AS 37.13.145,

1	(b) two percent of the market value of the constitutional budget
2	reserve fund (art. IX, sec. 17, Constitution of the State of Alaska) calculated on
3	the last day of the fiscal year just ended; and
4	(2) from the general fund, 15 percent of the money deposited in the
5	general fund during the fiscal year just ended from all mineral lease rentals, royalties,
6	royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), federal mineral
7	revenue sharing payments, and bonuses received by the state from mineral leases.
8	(b) Nothing in this section creates a dedicated fund.
9	* Sec. 4. AS 37.13.140 is amended to read:
10	Sec. 37.13.140. Income. (a) Net income of the fund includes income of the
11	earnings reserve account established under AS 37.13.145. The corporation shall
12	determine the net [NET] income of the fund [SHALL BE COMPUTED
13	ANNUALLY AS OF THE LAST DAY OF THE FISCAL YEAR] in accordance with
14	generally accepted accounting principles, excluding unrealized gains or losses.
15	(b) The corporation shall determine the amount available for distribution
16	under this subsection, computed annually for each fiscal year, following the
17	conclusion of the fiscal year. The amount [, EXCLUDING ANY UNREALIZED
18	GAINS OR LOSSES. INCOME] available for distribution may not be less than zero
19	and equals four and one half [21] percent of the average market value [NET
20	INCOME] of the fund, including the earnings reserve account established in
21	AS 37.13.145, for the [LAST] five fiscal years immediately preceding [,
22	INCLUDING] the fiscal year just ended, reduced by an amount equal to 85 percent
23	of production taxes and mineral lease rentals, royalties, royalty sale proceeds, net
24	profit shares under AS 38.05.180(f) and (g), federal mineral revenue sharing
25	payments, and bonuses received by the state from mineral leases and deposited
26	into the general fund in the fiscal year just ended that exceeds \$1,000,000,000
27	[BUT MAY NOT EXCEED NET INCOME OF THE FUND FOR THE FISCAL
28	YEAR JUST ENDED PLUS THE BALANCE IN THE EARNINGS RESERVE
29	ACCOUNT DESCRIBED IN AS 37.13.145].
30	* Sec. 5. AS 37.13.140, as amended by sec. 4 of this Act, is amended to read:
31	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 [THE CORPORATION
SHALL DETERMINE THE 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 [, EXCLUDING
UNREALIZED GAINS OR LOSSES.

- (b) THE CORPORATION SHALL DETERMINE THE AMOUNT AVAILABLE FOR DISTRIBUTION UNDER THIS SUBSECTION, COMPUTED ANNUALLY FOR EACH FISCAL YEAR, FOLLOWING THE CONCLUSION OF THE FISCAL YEAR. THE AMOUNT available for distribution [MAY NOT BE LESS THAN ZERO AND equals 21 [FOUR AND ONE HALF] percent of the net income [AVERAGE MARKET VALUE] of the fund [, INCLUDING THE EARNINGS RESERVE ACCOUNT ESTABLISHED IN AS 37.13.145,] for the last five fiscal years, including [IMMEDIATELY PRECEDING] 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 REDUCED BY THE PORTION OF PRODUCTION TAXES AND 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 AND DEPOSITED INTO THE GENERAL FUND IN THE FISCAL YEAR JUST ENDED THAT EXCEEDS \$1,000,000,000].
- * **Sec. 6.** AS 37.13.145(a) is amended to read:

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- (a) The earnings reserve account is established as a separate account in the fund. Except for income deposited into the general fund under (e) of this section, income [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.
- * Sec. 7. AS 37.13.145(a), as amended by sec. 6 of this Act, is amended to read:
 - (a) The earnings reserve account is established as a separate account in the fund. <u>Income</u> [EXCEPT FOR INCOME DEPOSITED INTO THE GENERAL FUND UNDER (e) OF THIS SECTION, INCOME] from the fund shall be deposited by the

1	corporation into the account as soon as it is received. Money in the account shall be
2	invested in investments authorized under AS 37.13.120.
3	* Sec. 8. AS 37.13.145(c) is amended to read:
4	(c) The [AFTER THE TRANSFER UNDER (b) OF THIS SECTION, THE
5	corporation may [SHALL] transfer from the earnings reserve account to the principa
6	of the fund an amount [SUFFICIENT] to offset the effect of inflation on principal o
7	the fund during that fiscal year. However, none of the amount transferred shall be
8	applied to increase the value of that portion of the principal attributed to the settlemen
9	of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicia
10	District) on July 1, 2004. On July 1, the [THE] corporation shall calculate the amoun
11	to transfer to the principal under this subsection by multiplying the amount available
12	for distribution for the previous fiscal year under AS 37.13.140(b) by four and
13	subtracting the product of that calculation from the balance of the earning
14	reserve account on June 30 of the previous fiscal year
15	[(1) COMPUTING THE AVERAGE OF THE MONTHLY UNITED
16	STATES CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS FOR
17	EACH OF THE TWO PREVIOUS CALENDAR YEARS;
18	(2) COMPUTING THE PERCENTAGE CHANGE BETWEEN THE
19	FIRST AND SECOND CALENDAR YEAR AVERAGE; AND
20	(3) APPLYING THAT RATE TO THE VALUE OF THE
21	PRINCIPAL OF THE FUND ON THE LAST DAY OF THE FISCAL YEAR JUST
22	ENDED, INCLUDING THAT PORTION OF THE PRINCIPAL ATTRIBUTED TO
23	THE SETTLEMENT OF STATE v. AMERADA HESS, ET AL., 1JU-77-847 CIV
24	(SUPERIOR COURT, FIRST JUDICIAL DISTRICT)].
25	* Sec. 9. AS 37.13.145(c), as amended by sec. 8 of this Act, is amended to read:
26	(c) after the transfer under (b) of this section, the [THE] corporation shall
27	[MAY] transfer from the earnings reserve account to the principal of the fund ar
28	amount sufficient to offset the effect of inflation on principal of the fund during tha

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fiscal year. However, none of the amount transferred shall be applied to increase the

value of 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) on July 1, 2004.

1	The [ON JULY 1, THE] corporation shall calculate the amount to transfer to the
2	principal under this subsection by
3	(1) computing the average of the monthly United States Consumer
4	Price Index for all urban consumers for each of the two previous calendar years;
5	(2) computing the percentage change between the first and second
6	calendar year average; and
7	(3) applying that rate to the value of the principal of the fund on
8	the last day of the fiscal year just ended, including that portion of the principal
9	attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ.
10	(Superior Court, First Judicial District) [MULTIPLYING THE AMOUNT
11	AVAILABLE FOR DISTRIBUTION FOR THE PREVIOUS FISCAL YEAR
12	UNDER AS 37.13.140(b) BY FOUR AND SUBTRACTING THE PRODUCT OF
13	THAT CALCULATION FROM THE BALANCE OF THE EARNINGS RESERVE
14	ACCOUNT ON JUNE 30 OF THE PREVIOUS FISCAL YEAR].
15	* Sec. 10. AS 37.13.145(d) is amended to read:
16	(d) Notwithstanding (e) [(b)] of this section, income earned on money
17	awarded in or received as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ.
18	(Superior Court, First Judicial District), including settlement, summary judgment, or
19	adjustment to a royalty-in-kind contract that is tied to the outcome of this case, or
20	interest earned on the money, or on the earnings of the money shall be treated in the
21	same manner as other income of the Alaska permanent fund, except that it is not
22	available for distribution to the dividend fund or for transfers to the general fund
23	[PRINCIPAL] under (e) [(c)] of this section, and shall be annually deposited into the
24	Alaska capital income fund (AS 37.05.565).
25	* Sec. 11. AS 37.13.145(d), as amended by sec. 10 of this Act, is amended to read:
26	(d) Notwithstanding (b) [(e)] of this section, income earned on money
27	awarded in or received as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ.
28	(Superior Court, First Judicial District), including settlement, summary judgment, or
29	adjustment to a royalty-in-kind contract that is tied to the outcome of this case, or
30	interest earned on the money, or on the earnings of the money shall be treated in the

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same manner as other income of the Alaska permanent fund, except that it is not

available fo	or distri	bution to	the	dividend	fund	or fo	r trans	fers to	the	principal
[GENERAL	L FUND] under	<u>(c)</u> [(e)] of this	sectio	n, and	d shall	be ani	nually	deposited
into the Ala	ıska capi	tal incom	e fun	d (AS 37.0)5.565)).				

* Sec. 12. AS 37.13.145 is amended by adding new subsections to read:

- (e) Under art. IX, sec. 15, Constitution of the State of Alaska, subject to legislative appropriation, the corporation shall deposit funds from the earnings reserve account into the general fund until the amount available for distribution for that fiscal year under AS 37.13.140(b) has been deposited into the general fund. On the last day of a fiscal year, if the actual net income of the fund for that fiscal year is less than the amount of income available for distribution under AS 37.13.140(b) for that fiscal year, the corporation shall deposit into the general fund the amount from the earnings reserve account necessary to satisfy the amount of income available for distribution for that fiscal year or the balance of the earnings reserve account, whichever is less.
- (f) Each year, on or before January 30, the commissioner of revenue may, after consultation with the board, recommend an adjustment to the percentages of money appropriated under AS 37.13.015, based on a review of the assets of the fund.
- (g) Each year, on or before January 30, the commissioner of revenue shall provide to the legislature a report evaluating the sufficiency of the assets in the earnings reserve account and the amount the commissioner projects to be distributed under AS 37.13.140(b). The commissioner shall deliver the report to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available.
- (h) 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.
- * **Sec. 13.** 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 **the amount** [NET INCOME] available for distribution under **AS 37.13.140(b)** [AS 37.13.140].
- * **Sec. 14.** AS 37.13.300(c), as amended by sec. 13 of this Act, is amended to read:
- 31 (c) Net income from the mental health trust fund may not be included in the

1	computation of <u>net income</u> [THE AMOUNT] available for distribution under
2	<u>AS 37.13.140</u> [AS 37.13.140(b)].
3	* Sec. 15. AS 37.14.031(c) is amended to read:
4	(c) The net income of the fund shall be computed annually [DETERMINED]
5	by the Alaska Permanent Fund Corporation as of the last day of the fiscal year in
6	accordance with generally accepted accounting principles, excluding any
7	unrealized gains or losses [IN THE SAME MANNER THE CORPORATION
8	DETERMINES THE NET INCOME OF THE ALASKA PERMANENT FUND
9	UNDER AS 37.13.140].
10	* Sec. 16. AS 37.14.031(c), as amended by sec. 15 of this Act, is amended to read:
11	(c) The net income of the fund shall be <u>determined</u> [COMPUTED
12	ANNUALLY] by the Alaska Permanent Fund Corporation in the same manner the
13	corporation determines the net income of the Alaska permanent fund under
14	AS 37.13.140 [AS OF THE LAST DAY OF THE FISCAL YEAR IN
15	ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES,
16	EXCLUDING ANY UNREALIZED GAINS OR LOSSES].
17	* Sec. 17. AS 43.23.025(a) is amended to read:
18	(a) By October 1 of each year, the commissioner shall determine the value of
19	each permanent fund dividend for that year by
20	(1) determining the total amount available for dividend payments,
21	which equals
22	(A) the amount appropriated [OF INCOME OF THE
23	ALASKA PERMANENT FUND TRANSFERRED] to the dividend fund
24	under AS 37.13.015 [AS 37.13.145(b)] during the current year;
25	(B) plus the unexpended and unobligated balances of prior
26	fiscal year appropriations that lapse into the dividend fund under
27	AS 43.23.045(d);
28	(C) less the amount necessary to pay prior year dividends from
29	the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and
30	43.23.055(3) and (7);
31	(D) less the amount necessary to pay dividends from the

1	dividend fund due to eligible applicants who, as determined by the department,
2	filed for a previous year's dividend by the filing deadline but who were not
3	included in a previous year's dividend computation;
4	(E) less appropriations from the dividend fund during the
5	current year, including amounts to pay costs of administering the dividend
6	program and the hold harmless provisions of AS 43.23.075;
7	(2) determining the number of individuals eligible to receive a
8	dividend payment for the current year and the number of estates and successors
9	eligible to receive a dividend payment for the current year under AS 43.23.005(h); and
10	(3) dividing the amount determined under (1) of this subsection by the
11	amount determined under (2) of this subsection.
12	* Sec. 18. AS 43.23.025(a), as amended by sec. 17 of this Act, is amended to read:
13	(a) By October 1 of each year, the commissioner shall determine the value of
14	each permanent fund dividend for that year by
15	(1) determining the total amount available for dividend payments,
16	which equals
17	(A) the amount of income of the Alaska permanent fund
18	transferred [APPROPRIATED] to the dividend fund under AS 37.13.145(h)
19	[AS 37.13.015] during the current year;
20	(B) plus the unexpended and unobligated balances of prior
21	fiscal year appropriations that lapse into the dividend fund under
22	AS 43.23.045(d);
23	(C) less the amount necessary to pay prior year dividends from
24	the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and
25	43.23.055(3) and (7);
26	(D) less the amount necessary to pay dividends from the
27	dividend fund due to eligible applicants who, as determined by the department,
28	filed for a previous year's dividend by the filing deadline but who were not
29	included in a previous year's dividend computation;
30	(E) less appropriations from the dividend fund during the
31	current year, including amounts to pay costs of administering the dividend

1	program and the hold harmless provisions of AS 45.25.075;
2	(2) determining the number of individuals eligible to receive a
3	dividend payment for the current year and the number of estates and successors
4	eligible to receive a dividend payment for the current year under AS 43.23.005(h); and
5	(3) dividing the amount determined under (1) of this subsection by the
6	amount determined under (2) of this subsection.
7	* Sec. 19. AS 43.23.025 is amended by adding a new subsection to read:
8	(c) If the value of each permanent fund dividend calculated under (a) of this
9	section results in a dividend for each eligible individual that is less than \$1,000, then
10	the legislature may appropriate from the earnings reserve account established in
11	AS 37.13.145 an amount necessary to pay each eligible individual a permanent fund
12	dividend of \$1,000.
13	* Sec. 20. AS 43.23.045(d) is amended to read:
14	(d) Unless specified otherwise in an appropriation act, the unexpended and
15	unobligated balance of an appropriation to implement this chapter lapses into the
16	dividend fund on June 30 of the fiscal year for which the appropriation was made and
17	may [SHALL] be used in determining the amount of and paying the subsequent year's
18	dividend as provided in AS 43.23.025(a)(1)(B).
19	* Sec. 21. AS 43.23.045(d), as amended by sec. 20 of this Act, is amended to read:
20	(d) Unless specified otherwise in an appropriation act, the unexpended and
21	unobligated balance of an appropriation to implement this chapter lapses into the
22	dividend fund on June 30 of the fiscal year for which the appropriation was made and
23	shall [MAY] be used in determining the amount of and paying the subsequent year's
24	dividend as provided in AS 43.23.025(a)(1)(B).
25	* Sec. 22. AS 37.13.145(b) is repealed.
26	* Sec. 23. AS 37.13.015, 37.13.145(e), 37.13.145(f), 37.13.145(g); and AS 43.23.025(c) are
27	repealed July 1, 2019.
28	* Sec. 24. The uncodified law of the State of Alaska is amended by adding a new section to
29	read:
30	TRANSITION. (a) Notwithstanding AS 43.23.025(a), as amended by sec. 17 of this
31	Act, AS 43.23.025(c), added by sec. 19 of this Act, and AS 43.23.045(d), as amended by sec.

- 1 20 of this Act, the commissioner of revenue shall determine the value of each permanent fund
- dividend for the 2016 dividend year under AS 43.23.025 and 43.23.045(d), as those sections
- 3 read on the day before the effective date of secs. 17, 19, and 20 of this Act.
- 4 (b) The commissioner of revenue and the Alaska Permanent Fund Corporation may
- 5 adopt regulations, policies, and procedures necessary to implement this Act. The regulations,
- 6 policies, or procedures may not take effect before the effective date of the law implemented
- 7 by the regulation, policy, or procedure.
- * Sec. 25. The uncodified law of the State of Alaska is amended by adding a new section to
- 9 read:
- TRANSITION. (a) Notwithstanding AS 43.23.025(a), as amended by sec. 18 of this
- 11 Act, AS 43.23.045(d), as amended by sec. 21 of this Act, and the repeals of AS 37.13.015 and
- AS 43.23.025(c) by sec. 23 of this Act, the commissioner of revenue shall determine the value
- of the permanent fund dividend distributed in 2019 under AS 37.13.015, AS 43.23.025(a),
- 43.23.025(c), and 43.23.045(d), as those sections read on the day before the effective date of
- 15 secs. 18, 21, and 23 of this Act.
- 16 (b) The commissioner of revenue and the Alaska Permanent Fund Corporation may
- adopt regulations, policies, and procedures necessary to implement AS 43.23.025(a), as
- amended by sec. 18 of this Act, and AS 43.23.045(d), as amended by sec. 21 of this Act. The
- 19 regulations, policies, or procedures may not take effect before the effective date of the law
- 20 implemented by the regulation, policy, or procedure.
- * Sec. 26. The uncodified law of the State of Alaska is amended by adding a new section to
- read:
- 23 RETROACTIVITY. If secs. 1, 3, 4, 6, 8, 10, 12(e) (g), 13, 15, 17, 19, 20, and 24 take
- 24 effect after July 1, 2016, secs. 1, 3, 4, 6, 8, 10, 12(e) (g), 13, 15, 17, 19, 20, and 24 of this
- 25 Act are retroactive to July 1, 2016.
- * Sec. 27. Sections 2, 5, 7, 9, 11, 12(h), 14, 16, 18, 21, and 23 of this Act take effect July 1,
- 27 2019.
- * Sec. 28. Sections 24 and 26 of this Act take effect immediately under AS 01.10.070(c).
- * Sec. 29. Except as provided in secs. 27 and 28 of this Act, this Act takes effect July 1,
- 30 2016.