



ALASKA CONSTITUTION AND STATUTES

The Alaska Permanent Fund and Corporation

ALASKA CONSTITUTION ARTICLE IX, SECTION 15

Section 15. Alaska Permanent Fund.

At least twenty-five percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments. All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law [Effective February 21, 1977].

ALASKA STATUTES / ARTICLE 01. ALASKA PERMANENT FUND

CHAPTER 37.13 ALASKA PERMANENT FUND AND CORPORATION

Sec. 37.13.010. Alaska permanent fund.

(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;

(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.

(b) Payments due the Alaska permanent fund under (a) of this section shall be made to the fund within three banking days after the day the amount due to the fund reaches at least \$3,000,000 and at least once each month.

(c) The Alaska permanent fund shall be managed by the Alaska Permanent Fund Corporation established in this chapter.

Sec. 37.13.020. Findings.

The people of the state, by constitutional amendment, have required the placement of at least 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses received by the state into a permanent fund. The legislature finds with respect to the fund that

(1) the fund should provide a means of conserving a portion of the state's revenue from mineral resources to benefit all generations of Alaskans;

(2) the fund's goal should be to maintain safety of principal while maximizing total return;

(3) the fund should be used as a savings device managed to allow the maximum use of disposable income from the fund for purposes designated by law.

Sec. 37.13.030. Purpose.

It is the purpose of [AS 37.13.010](#) - 37.13.190 to provide a mechanism for the management and investment of those fund assets by the Alaska Permanent Fund Corporation in a manner consistent with the findings in [AS 37.13.020](#).

Sec. 37.13.040. Alaska Permanent Fund Corporation.

There is established the Alaska Permanent Fund Corporation. The corporation is a public corporation and government instrumentality in the Department of Revenue managed by the board of trustees. The purpose of the corporation is to manage and invest the assets of the permanent fund and other funds designated by law in accordance with [AS 37.13.010](#) - 37.13.190.

Sec. 37.13.050. Composition and qualifications of board of trustees.

(a) The Board of Trustees of the Alaska Permanent Fund Corporation consists of six members appointed by the governor. Two of the members must be heads of principal departments of state government, one of whom shall be the commissioner of revenue. Four members shall be appointed by the governor from the public and may not hold any other state or federal office, position or employment, either elective or appointive, except as a member of the armed forces of either the United States or of this state.

(b) The four public members of the board must have recognized competence and wide experience in finance, investments, or other business management-related fields.

(c) The board shall annually elect a chairman from among its members.

Sec. 37.13.060. Term of office.

The public members of the board shall be appointed for terms of four years, and they may be reappointed. The terms of the public members shall be staggered so that no more than one term of a public member expires each year.

Sec. 37.13.070. Removal and vacancies.

(a) The governor may remove a public member of the board from office only for cause. A removal by the governor must be in writing and must state the reason for the removal. A member who is removed by the governor may not participate in board business and may not be counted for purposes of establishing a quorum after the member receives written notice of removal from the governor.

(b) A vacancy on the board shall be promptly filled by appointment by the governor. An appointee to a vacancy shall hold office for the balance of the term for which the appointee's predecessor on the board was appointed.

(c) A vacancy on the board does not impair the authority of a quorum of the board to exercise all the powers and perform all the duties of the board.

Sec. 37.13.080. Quorum and voting.

Four members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board. Action may be taken only upon affirmative vote of a majority of the full membership of the board.

Sec. 37.13.090. Compensation of board members.

Public members of the board receive an honorarium of \$400 for each day spent at a meeting of the board or at a meeting of a subcommittee of the board or at a public meeting as a representative of the board. Members of the board are entitled to per diem and travel allowances as provided by law for members of state boards and commissions.

Sec. 37.13.100. Corporation staff.

The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. An employee of the corporation, including the executive director, may not be a member of the board. The executive director and the other employees of the board are in the exempt service under [AS 39.25](#).

Sec. 37.13.110. Conflicts of interest.

(a) Members of the board, the executive director, and investment officers of the corporation are subject to the provisions of [AS 39.50](#).

(b) If a member of the board or an employee of the corporation acquires, owns, or controls an interest, direct or indirect, in an entity or project in which fund assets are invested, the member shall immediately disclose the interest to the board. The disclosure is a matter of public record and shall be included in the minutes of the board meeting next following the disclosure.

Sec. 37.13.120. Investment responsibilities.

(a) The board shall adopt regulations specifically designating the types of income-producing investments eligible for investment of fund assets. When adopting regulations authorized by this section or managing and investing fund assets, the prudent-investor rule shall be applied by the corporation. The prudent-investor rule as applied to investment activity of the fund means that the corporation shall exercise the judgment and care under the circumstances then prevailing that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the designation and management of large investments entrusted to it, not in regard to speculation, but in regard to the permanent disposition of funds, considering preservation of the purchasing power of the fund over time while maximizing the expected total return from both income and the appreciation of capital.

(b) The corporation may not borrow money or guarantee from principal of the fund the obligations of others, except as provided in this subsection. With respect to investments of the fund, the corporation may, either directly or through an entity in which the investment is made, borrow money if the borrowing is nonrecourse to the corporation and the fund.

(c) The board shall maintain a reasonable diversification among investments unless, under the circumstances, it is clearly prudent not to do so. The board shall invest the assets of the fund in in-state investments to the extent that in-state investments are available and if the in-state investments

- (1) have a risk level and expected return comparable to alternate investment opportunities; and
- (2) are eligible for investment of fund assets under (a) of this section.

(d) The corporation may enter into and enforce all contracts necessary, convenient, or desirable for managing the fund's assets and corporate operations, including contracts for future delivery to implement asset allocation strategies or to hedge an existing equivalent ownership position in an investment.

(e) Before adoption of a regulation under (a) of this section, the regulation, in electronic format, shall be provided to the Legislative Budget and Audit Committee for review and comment. The board shall submit investment reports to the committee at least quarterly.

Sec. 37.13.130. Gains and losses. *[Repealed, Sec. 13 ch 81 SLA 1982].*

Repealed or Renumbered

Sec. 37.13.140. Income.

Net income of the fund includes income of the earnings reserve account established under [AS 37.13.145](#). 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. 37.13.145. Disposition of income.

(a) The earnings reserve account is established as a separate account in the fund. 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](#).

(b) 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](#).

(c) After the transfer under (b) of this section, the corporation shall transfer from the earnings reserve account to the principal of the fund an amount sufficient to offset the effect of inflation on principal of the fund during that 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. The corporation shall calculate the amount to transfer to the principal under this subsection by

(1) computing the average of the monthly United States Consumer Price Index for all urban consumers for each of the two previous calendar years;

(2) computing the percentage change between the first and second calendar year average; and

(3) applying that rate to the value of the principal of the fund on the last day of the fiscal year just ended, including 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).

(d) 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 (c) of this section, and shall be annually deposited into the Alaska capital income fund ([AS 37.05.565](#)).

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 under [AS 37.13.140](#).

Sec. 37.13.160. Audits.

The Legislative Budget and Audit Committee may provide for an annual post audit and annual operational and performance evaluations of the fund's investments and investment programs.

Sec. 37.13.170. Reports and publications.

By September 30 of each year, the board shall publish a report of the fund for distribution to the governor and the public. The board shall notify the legislature that the report is available. The report shall be written in easily understandable language. The report must include financial statements audited by independent outside auditors, a statement of the amount of money received by the fund from each investment during the period covered, a statement of investments of the fund including an appraisal at market value, a description of fund investment activity during the period covered by the report, a comparison of the fund performance with the intended goals contained in [AS 37.13.020](#), an examination of the effect of the investment criteria of this chapter on the fund portfolio with recommendations of any needed changes, and any other information the board believes would be of interest to the governor, the legislature, and the public. The annual income statement and balance sheet of the fund shall be published in at least one newspaper in each judicial district.

The income statement and balance sheet for the two fiscal years preceding the publication of the election pamphlet under [AS 15.58](#) shall be included in that pamphlet.

Sec. 37.13.180. Tax exemption.

The corporation and the fund are exempt from all taxes and assessments in the state. All security instruments issued by the corporation or the fund, their transfer, and their income are exempt from all taxes and assessments in the state.

Sec. 37.13.190. Political activities.

The resources of the corporation or the fund may not be used to finance or influence political activities.

Sec. 37.13.200. Public access to information.

Information in the possession of the corporation is a public record, except that information that discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises.

Sec. 37.13.205. Regulations. *[Repealed, Sec. 3 ch 46 SLA 2005].*

Repealed or Renumbered

Sec. 37.13.206. Regulations.

(a) The board may adopt regulations to carry out the purposes of this chapter and shall adopt regulations under [AS 37.13.120\(a\)](#). The provisions of [AS 44.62](#) (Administrative Procedure Act) regarding the adoption of regulations do not apply to regulations of the corporation.

(b) The board may adopt regulations under this section by motion, by resolution, or in any other manner permitted by the bylaws of the corporation.

(c) Except as provided in (f) of this section, at least 15 days before the adoption, amendment, or repeal of a regulation, the corporation shall give public notice of the proposed action by

(1) publishing the notice in a newspaper of general circulation or trade or industry publication that the corporation prescribes;

(2) posting the notice on the Alaska Online Public Notice System;

(3) furnishing the notice, by electronic format, to all legislators; and

(4) providing a copy of the notice to every person who has filed a request for notice of proposed regulation with the corporation.

(d) The public notice must include a statement of the time, place, and nature of the proceedings for the adoption, amendment, or repeal of the regulation and an informative summary of the subject of the proposed action.

(e) On the date and at the time and place designated in the notice, the corporation shall give each interested person or the person's authorized representative, or both, the opportunity to present statements, arguments, or contentions in writing, with or without opportunity to present them orally. The board may accept material presented by any form of communication and shall consider all factual, substantive, and other relevant matter presented to it before adopting, amending, or repealing a regulation. A regulation adopted, amended, or repealed by the board may vary from the informative summary specified in (d) of this section if the subject of the action taken on the regulation remains the same and if the original notice of the proposed action was written so as to ensure that members of the public are reasonably notified of the subject of the proposed action in order for members of the public to determine whether their interests could be affected by

the board's proposed action on that subject.

(f) A regulation or order of repeal of a regulation under this section may be made as an emergency regulation if, in the order of adoption, the board states the facts constituting the emergency and makes a finding that the adoption of the regulation or repeal is necessary for the immediate preservation of the orderly operation of the corporation. The requirements of (c) - (e) of this section do not apply to the initial adoption of an emergency regulation or repeal under this subsection; however, upon adoption of an emergency regulation or repeal under this subsection, the corporation shall, within 10 days after that adoption, comply with the notice procedures specified in (c) - (e) of this section. An emergency regulation or repeal adopted under this subsection does not remain in effect for more than 120 days unless, before the expiration of that period, the corporation complies with the procedures specified in (c) - (e) of this section.

(g) A regulation adopted under this section takes effect immediately upon its adoption by the board or at another time specified in the order of adoption. The regulation shall be submitted to the lieutenant governor for publication in the Alaska Administrative Code and Register. Within 45 days after adoption of a regulation under this section, the corporation shall provide a copy of the adopted regulation to the chair of the Administrative Regulation Review Committee ([AS 24.20.400](#)).

Sec. 37.13.210. [Renumbered as [AS 37.13.900](#)].

Repealed or Renumbered

ARTICLE 02. MANAGEMENT OF OTHER ASSETS

Sec. 37.13.300. Corporation to manage certain assets of the mental health trust.

- (a) The corporation shall manage the mental health trust fund.
- (b) The corporation shall
 - (1) hold and invest the mental health trust fund subject to [AS 37.13.120](#);
 - (2) at least quarterly, prepare, publish, and distribute to the Board of Trustees of the Alaska Mental Health Trust Authority a financial report showing investment revenue and expenditures, including the allocation of the cash assets of the mental health trust fund among investments;
 - (3) annually prepare, publish, and distribute to the Board of Trustees of the Alaska Mental Health Trust Authority financial statements prepared in accordance with generally accepted accounting principles consistently applied, and an audit report prepared by a certified public accountant;
 - (4) periodically advise the Board of Trustees of the Alaska Mental Health Trust Authority when revisions to long-range investment policy, including asset allocation changes, are contemplated, and provide an opportunity for consultation and comment on the changes before they are implemented; and
 - (5) transfer to the mental health trust settlement income account the net income available for distribution attributable to the mental health trust fund at the end of each fiscal year.
- (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](#).

ARTICLE 03. GENERAL PROVISIONS

Sec. 37.13.900. Definitions.

In this chapter,

- (1) "board" means the Board of Trustees of the Alaska Permanent Fund Corporation;
- (2) "corporation" means the Alaska Permanent Fund Corporation;
- (3) "fund" means the Alaska permanent fund established under art. IX, sec. 15, Constitution of the State of Alaska.



LAWS OF ALASKA

2018

Source
CCS SB 26

Chapter No.

AN ACT

Relating to the earnings of the Alaska permanent fund and the earnings reserve account; relating to the mental health trust fund; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to the earnings of the Alaska permanent fund and the earnings reserve account;
2 relating to the mental health trust fund; and providing for an effective date.

3

4 * **Section 1.** AS 37.13.140 is amended by adding a new subsection to read:

5 (b) The corporation shall determine the amount available for appropriation
6 each year. The amount available for appropriation is 5.25 percent of the average
7 market value of the fund for the first five of the preceding six fiscal years, including
8 the fiscal year just ended, computed annually for each fiscal year in accordance with
9 generally accepted accounting principles. In this subsection, "average market value of
10 the fund" includes the balance of the earnings reserve account established under
11 AS 37.13.145, but does not include that portion of the principal attributed to the
12 settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First
13 Judicial District).

14 * **Sec. 2.** AS 37.13.140(b), added by sec. 1 of this Act, is amended to read:

1 (b) The corporation shall determine the amount available for appropriation
2 each year. The amount available for appropriation is **five** [5.25] percent of the average
3 market value of the fund for the first five of the preceding six fiscal years, including
4 the fiscal year just ended, computed annually for each fiscal year in accordance with
5 generally accepted accounting principles. In this subsection, "average market value of
6 the fund" includes the balance of the earnings reserve account established under
7 AS 37.13.145, but does not include that portion of the principal attributed to the
8 settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First
9 Judicial District).

10 * **Sec. 3.** AS 37.13.145(c) is amended to read:

11 (c) After the transfer under (b) **and an appropriation under (e)** of this
12 section, the corporation shall transfer from the earnings reserve account to the
13 principal of the fund an amount sufficient to offset the effect of inflation on **the**
14 principal of the fund during that fiscal year. However, none of the amount transferred
15 shall be applied to increase the value of that portion of the principal attributed to the
16 settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First
17 Judicial District) on July 1, 2004. The corporation shall calculate the amount to
18 transfer to the principal under this subsection by

19 (1) computing the average of the monthly United States Consumer
20 Price Index for all urban consumers for each of the two previous calendar years;

21 (2) computing the percentage change between the first and second
22 calendar year average; and

23 (3) applying that rate to the value of the principal of the fund on the
24 last day of the fiscal year just ended, including that portion of the principal attributed
25 to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court,
26 First Judicial District).

27 * **Sec. 4.** AS 37.13.145(d) is amended to read:

28 (d) Notwithstanding (b) of this section, income earned on money awarded in
29 or received as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior
30 Court, First Judicial District), including settlement, summary judgment, or adjustment
31 to a royalty-in-kind contract that is tied to the outcome of this case, or interest earned

1 on the money, or on the earnings of the money shall be treated in the same manner as
2 other income of the Alaska permanent fund, except that it is not available for
3 distribution to the dividend fund, [OR] for transfers to the principal under (c) of this
4 section, **or for an appropriation under (e) of this section,** and shall be annually
5 deposited into the Alaska capital income fund (AS 37.05.565).

6 * **Sec. 5.** AS 37.13.145 is amended by adding new subsections to read:

7 (e) The legislature may not appropriate from the earnings reserve account to
8 the general fund a total amount that exceeds the amount available for appropriation
9 under AS 37.13.140(b) in a fiscal year.

10 (f) The combined total of the transfer under (b) of this section and an
11 appropriation under (e) of this section may not exceed the amount available for
12 appropriation under AS 37.13.140(b).

13 * **Sec. 6.** AS 37.13.150 is amended to read:

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

20 * **Sec. 7.** AS 37.13.300(c) is amended to read:

21 (c) Net income from the mental health trust fund may not be included in the
22 computation of net income **or market value** available for distribution **or**
23 **appropriation** under AS 37.13.140.

24 * **Sec. 8.** Section 2 of this Act takes effect July 1, 2021.

25 * **Sec. 9.** Except as provided in sec. 8 of this Act, this Act takes effect July 1, 2018.