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Nauman
3/26/12

CS FOR SENATE BILL NO. 203()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATORS THOMAS, Paskvan, Hoffman, Wagoner, Ellis, Olson, French, Kookesh, Egan

A BILL

FOR AN ACT ENTITLED

"An Act establishing an energy assistance program in the Alaska Housing Finance Corporation to issue an energy voucher to Alaska permanent fund dividend recipients; relating to the analysis and recommendation of an energy assistance program by the governor; and providing for an effective date."

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

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

ALASKA ENERGY VOUCHER. (a) To help residents meet the high cost of energy in the state in 2011, the Alaska Housing Finance Corporation shall establish a program under which the corporation will issue not more than one energy voucher to each person who, in 2011, was an adult or an emancipated minor who was permitted to apply for a permanent fund dividend on the person's own behalf and who was determined by the Department of Revenue to be eligible for the permanent fund dividend paid in 2012.

(b) An energy voucher issued under this section is redeemable for the monetary

equivalent of 250 gallons of heating oil, the monetary equivalent of 35,000 cubic feet of natural gas, or the monetary equivalent of 1,500 kilowatt-hours of electricity. For purposes of this subsection, the monetary equivalent of 250 gallons of heating oil, 35,000 cubic feet of natural gas, or 1,500 kilowatt-hours of electricity is the retail price of 250 gallons of heating oil, 35,000 cubic feet of natural gas, or 1,500 kilowatt-hours of electricity as approved for each distributor qualified under (e) of this section. The corporation shall specify a date in 2012 for which each distributor that wants to be qualified under (e) of this section shall submit the retail price of 250 gallons of heating oil, the retail price of 35,000 cubic feet of natural gas, or the retail price of 1,500 kilowatt-hours of electricity, as applicable. On receipt of a voucher and eligible claim, the corporation shall issue a payment to the qualified distributor of the monetary amount determined under this subsection using the retail price approved by the corporation under (e) of this section for a qualified distributor for the applicable type of energy or fuel. On receipt of the payment from the state, a qualified distributor shall credit the full amount of the payment to the account that services the principal residence of the recipient of the voucher. A payment made under this section may not be used for costs unassociated with the purchase of the energy or fuel, may not be transferred between customer accounts, and may not be paid out in cash. If an account with a remaining balance from a payment made under this section is closed, a qualified distributor shall return the balance of the account attributable to the energy voucher to the state.

(c) The energy voucher

(1) shall be numbered and state the name of the person to whom the voucher is issued;

(2) must require the recipient of the voucher to sign, and date, and certify, on a form bearing notice that false statements made in the form are punishable by law, that the recipient of the voucher is complying with all the requirements of the voucher, including the requirement that the voucher amount be used to supply heating oil, natural gas, or electricity to the voucher recipient's primary residence in the state;

(3) is nontransferable and may not be sold, transferred, or traded for any other compensation, except as provided in (g) and (l) of this section;

(4) is redeemable only at a distributor qualified under (e) of this section and may not be split among multiple distributors;

(5) is not valid for submission to a distributor more than four months after the date the energy voucher is issued;

(6) is valid for heating oil, natural gas, or electricity delivered to the voucher recipient's primary residence in the state; and

(7) shall be issued by the corporation not more than 30 days following the issuance in 2012 of the permanent fund dividend.

(d) A distributor qualified under (e) of this section shall, within 30 days after accepting the voucher, issue a document acknowledging receipt of the voucher to the person exchanging the voucher. The corporation shall issue the amount determined under (b) and (e) of this section to the qualified distributor for an energy voucher not later than 20 days after receiving an eligible claim from a qualified distributor. Submitted claims must include

(1) the number of the voucher;

(2) the name of the recipient, as stated on the voucher; and

(3) the address or other identifying information requested by the corporation listed on the heating oil, natural gas, or electricity account that the voucher will credit.

(e) The corporation shall maintain a list of qualified distributors eligible to accept and redeem vouchers. A distributor of oil, natural gas, or electricity is qualified if the distributor

(1) is licensed to do business in the state;

(2) is regularly engaged in the business of distributing oil, natural gas, or electricity;

(3) submits a retail price of oil, natural gas, or electricity, as applicable, for the quantities described in (a) of this section, submits all evidence for that retail price requested by the corporation, and responds to inquiries of the corporation related to that retail price, and the corporation finds that retail price is representative of the price charged under similar circumstances; and

(4) meets other eligibility requirements that the corporation may adopt under AS 18.56.088 or emergency regulations adopted under sec. 3 of this Act.

(f) In determining the eligibility of an individual under a public assistance program, a heating assistance program, or a veterans' benefits program in which eligibility for assistance is based on financial need, the state may not consider an energy voucher as income or resources received by the recipient or by a member of the recipient's household.

(g) A recipient of an energy voucher who does not pay directly for the heating oil, natural gas, or electricity used in the recipient's residence or who does not have reasonable access to a qualified distributor of the type of fuel or electricity used in the recipient's residence in the state may certify that fact on a form provided by the corporation bearing notice that false statements made in the form are punishable by law, and may exchange the voucher with the corporation

(1) if applicable, for a replacement voucher in the name of the landlord or owner of the residence in the state in which the recipient resides, the value of which may, subject to negotiations between the landlord and tenant, be deducted from rent; or

(2) upon certification that the \$250 will be used toward rent, energy, or heating costs at the recipient's primary residence in the state, for a check for \$250 in the name of the recipient of the energy voucher.

(h) Except as provided in (j) of this section or as may be provided by regulations adopted by the corporation, an energy voucher issued under this section is not valid unless it is signed and dated by the individual named on the face of the voucher.

(i) A replacement voucher issued to a landlord under (g) of this section is not valid until the landlord certifies on a form provided by the corporation bearing notice that false statements made in the form are punishable by law that the amount of the voucher will be used to provide energy or heat to the primary residence of the original recipient of the voucher and certifies to the amount that the landlord will apply against the rent of the original recipient of the voucher.

(j) Certification or signature on an energy voucher or other certification under this section required of an individual who is disabled or incompetent may be signed or certified by the individual's legal guardian or other authorized representative. An individual may complete, sign, and redeem an energy voucher on behalf of a member of the armed forces of the United States who is serving on active duty outside of the United States if the individual has a power of attorney from the member of the armed forces that, in specific or general terms, authorizes the individual to redeem the voucher.

(k) An individual who is disabled or incompetent may not maintain a claim against the state or an officer or employee of the state based on the manner in which the guardian or authorized representative other than a public agency of the state managed or disposed of an

energy voucher received on behalf of the disabled or incompetent individual.

(l) If a person is eligible for an energy voucher but dies before the energy voucher is issued or redeemed, the energy voucher may be transferred to a personal representative of the estate or to a successor claiming personal property under AS 13.16.680.

(m) In addition to any criminal penalties imposed by state law, if an individual or qualified distributor is convicted of a crime in connection with a false statement made in a certification required under this section, in a submission for a reimbursement under (d) of this section, or in connection with forging an energy voucher, and the conviction is not reversed, vacated, or set aside, or if an individual or qualified distributor is found by the Alaska Housing Finance Corporation to have bought, sold, traded, or otherwise violated the terms of the voucher, that individual or qualified distributor forfeits the energy voucher, or the monetary amount received from the voucher, and the individual is not eligible for a future permanent fund dividend.

(n) If an individual is aggrieved by a decision of the Department of Revenue with respect to the individual's eligibility for a permanent fund dividend, and thus an energy voucher, the individual may request that the department review its decision under AS 43.23.015(g).

(o) If an individual or distributor is aggrieved by a decision of the Alaska Housing Finance Corporation with respect to the individual's authority to claim an energy voucher on behalf of another, or reimbursement of a distributor, or other decision under (e), (g), or (m) of this section, the individual or distributor may request that the corporation review its decision. Within 12 months after an administrative appeal under this subsection is filed, the corporation shall provide the individual or distributor with a final written decision. If the individual or distributor is aggrieved by the final written decision of the corporation, the individual or distributor may appeal that decision to the superior court in accordance with AS 44.62.560. An appeal to the court under this subsection does not entitle the aggrieved individual or distributor to a trial de novo. The appeal shall be based on the record of the administrative proceeding from which appeal is taken, and the scope of appeal is limited to matters contained in the record of the administrative proceeding.

(p) If the corporation determines that an energy voucher or a cash payment made in exchange for a voucher should not have been issued to an individual or a reimbursement

1 should not have been made to a distributor, the state may use all collection procedures or
2 remedies available under AS 43 to recover the energy voucher or the cash value of the
3 voucher that was improperly issued or for which reimbursement was improperly made.
4 Except as provided in (q) of this section, a notice of an improperly issued voucher or improper
5 reimbursement shall be sent to the individual or distributor, as applicable, within

6 (1) three years after the energy voucher was issued if the notice is sent to an
7 individual; or

8 (2) three years after the distributor received reimbursement if the notice is sent
9 to a distributor.

10 (q) The three-year time limit under (p) of this section for the corporation to send
11 notice of an improperly issued voucher or an improper reimbursement is extended to six years
12 if the corporation determines that the individual or distributor

13 (1) exercised gross negligence or reckless disregard with respect to a material
14 fact in connection with a false statement on the energy voucher or submission for
15 reimbursement; or

16 (2) forged an energy voucher.

17 (r) If notice is not sent within the time required under (p) or (q) of this section,
18 administrative or judicial proceedings may not be commenced for recovery of an improperly
19 issued energy voucher or improper reimbursement.

20 (s) An energy voucher, account credit, or cash payment provided under this section is
21 exempt from garnishment, levy, or execution by a private party or the state.

22 (t) To the extent allowed by federal law and notwithstanding other state law that may
23 be to the contrary, the department shall, on request of the corporation, electronically provide
24 the corporation with information about applicants who the department has determined are
25 eligible for the permanent fund dividend paid in 2012. Information requested by the
26 corporation under this subsection may include the name of the applicant, the address of the
27 applicant, the date of birth of the applicant, the social security number of the applicant, and
28 any other information necessary to execute the energy voucher program. Information from the
29 department may be used by the corporation only for the purpose of executing the energy
30 voucher program created under this section.

31 (u) In this section,

(1) "corporation" means the Alaska Housing Finance Corporation created under AS 18.56;

(2) "department" means the Department of Revenue;

(3) "disabled" means physically or mentally unable to sign an energy voucher or make a certification required in this section because of serious emotional disturbance, visual, orthopedic, or other health impairment, or developmental disability that is attributable to mental retardation, cerebral palsy, epilepsy, autism, or other cause; "disabled" does not mean "incompetent."

* **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

ANALYSIS AND RECOMMENDATION OF AN ENERGY ASSISTANCE PROGRAM. (a) The governor shall take public testimony, consider the recommendations from organizations involved in providing energy or energy assistance to Alaskans, analyze the energy assistance options in (b) of this section, and analyze alternate options to those proposed in (b) of this section for providing energy assistance to Alaskans and, before October 1, 2012, the governor shall provide a report to the legislature making a recommendation for an energy assistance program to be implemented in the fiscal year ending June 30, 2014, that

(1) correlates the amount of assistance to the local cost of residential heating, taking into consideration the price of fuel and heating degree days in each community;

(2) is implemented based on crude oil price or heating oil price;

(3) has total funding based on state revenue;

(4) minimizes administrative costs;

(5) makes participation of fuel distributors voluntary;

(6) includes a hold harmless provision for recipients of public assistance and veterans' benefits; and

(7) includes penalties for fraud, including ineligibility for a future permanent fund dividend.

(b) The governor shall analyze the following options and may analyze alternate options to provide energy assistance to Alaskans:

(1) a fuel price reduction program with the following features:

(A) state reimbursement to a heating oil or natural gas distributor of a portion of the wholesale purchase price of fuel that the distributor sold to heat residential structures;

(B) an amount of reimbursement necessary to reduce the wholesale purchase price of a distributor by a specified amount or to a specified price;

(C) a limit on the amount of fuel that a person may purchase and for which a distributor received a state reimbursement; and

(2) an individual account program with the following features:

(A) application on a permanent fund dividend application for energy assistance in the form of a state payment to the applicant's account with a fuel distributor or electric utility;

(B) assistance based on heating degree days and the cost of energy in the community;

(C) electronic selection of

(i) a fuel distributor or electric utility to receive the individual's energy assistance payment; and

(ii) an optional amount from the applicant's dividend to be deposited in the individual's account with a fuel distributor or electric utility;

(D) a statewide base amount to be sent with the applicant's permanent fund dividend for an applicant for energy assistance who fails to select a fuel distributor or electric utility to receive the individual's energy assistance payment.

(c) The governor's report to the legislature under (a) of this section shall evaluate

(1) the estimated cost of the program for the first five years;

(2) the cost of administering the program compared to the assistance provided;

(3) whether the program provides the highest level of assistance to the individuals with the highest heating costs; and

(4) whether the program can be structured so that energy assistance is not subject to federal taxation.

(d) In this section, "heating degree days" means the average temperature for a day minus the reference temperature of 65 degrees Fahrenheit.

* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 EMERGENCY REGULATION AND PROCUREMENT PROVISIONS.

3 Notwithstanding AS 18.56.088, the Alaska Housing Finance Corporation may adopt
4 emergency regulations under AS 44.62.250 and 44.62.260 necessary to implement the Alaska
5 energy voucher program in sec. 1 of this Act without making written findings under
6 AS 44.62.250. The legislature finds that the adoption of emergency regulations is necessary to
7 implement this Act and for the immediate preservation of public health and general welfare.
8 In addition, the Alaska Housing Finance Corporation is exempt from AS 36.30, including
9 AS 36.30.015(f), for the purposes of implementing the Alaska energy voucher program.

10 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).