

HB 189 Backup
Companion Bill (SB 189) Memo

LEGAL SERVICES

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MEMORANDUM

February 23, 2026

SUBJECT: Restorative Justice Account, Dividend Payment
(CSSB 167(STA); Work Order No. 34-LS0491\N) **Companion bill to HB 189**

TO: Senator Scott Kawasaki
Attn: Mattie Hull

FROM: Emily Nauman 
Director

You forwarded correspondence from the Department of Revenue (department) related to CSSB 167(STA) (SB 167). SB 167 allows for the back payment of a permanent fund dividend (dividend) to an individual who had, because of incarceration, been ineligible for the dividend,¹ if the conviction resulting in the incarceration was later vacated or reversed. The department expressed concern that the back-payment of dividends might result in double payments to individuals if money had, accounting for the incarcerated individual, also been transferred to the restorative justice account (account).

Under AS 43.23.048(a), the revenue commissioner "shall transfer from the dividend fund to the restorative justice account each fiscal year *an amount equal to the amount* that would have been paid during the previous fiscal year to [incarcerated] individuals. . . if they had been eligible."² Importantly, AS 43.23.048 does not direct an individual's actual dividend to be deposited into the account – the department or another party is not applying for and receiving the dividend on behalf of an incarcerated individual. Nor is the dividend being garnished, executed on, or levied, as occurs under AS 43.23.150 - 43.23.190. In fact, these things cannot happen because an incarcerated individual is not eligible to receive a dividend at all under AS 43.23.005(d). Instead, an amount *equivalent* to the incarcerated individual's dividend is deposited into the account. Because this deposit is an amount equal to a dividend, not the individual's actual dividend, back-payment of a dividend should not be considered a double payment of the dividend. This interpretation is additionally supported by sec. 43.23.025(a), as amended

¹ Under AS 43.23.005(d), individuals incarcerated or sentenced for felony and certain misdemeanor convictions are ineligible for the permanent fund dividend.

² Emphasis added. In full, the sentence reads, "The commissioner shall transfer from the dividend fund to the restorative justice account each fiscal year an amount equal to the amount that would have been paid during the previous fiscal year to individuals who were ineligible to receive dividends under AS 43.23.005(d) if they had been eligible."

by the bill, which requires the commissioner to set aside money specifically for the payment of "prior year dividends;" under the bill, this includes dividends for individuals with vacated convictions.³

That said, from the correspondence you relayed, it appears the department has a different understanding. To the extent that you wish to clarify in SB 167 that back-payment of a dividend is not prohibited because of a deposit of an equivalent amount of money into the restorative justice account, the bill could be amended to set out that understanding specifically.

If I may be of further assistance, please advise.

ELN:mis
26-062.mis

³ Under AS 43.23.048(b), money in the account may be appropriated annually by the legislature to the crime victim compensation fund or payments to crime victims and for operating costs of the Violent Crimes Compensation Board, to the office of victims' rights for payments to crime victims and for operating costs of the office of victims' rights, to nonprofit organizations to provide grants for services for crime victims and domestic violence and sexual assault programs, to nonprofit organizations to provide grants for mental health services and substance abuse treatment for offenders, and to the Department of Corrections for costs related to incarceration or probation. Once appropriated, another legislative appropriation would be required to "recall" or move money that was previously appropriated to a state agency or entity. Getting funds returned from a nonprofit would likely be much more difficult.