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# PERMANENT FUND

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Selected Law

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# CONSTITUTION OF THE STATE OF ALASKA

## 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.

## Chapter 13. Alaska Permanent Fund and Corporation.

### Article 1. Alaska Permanent Fund.

**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. (§ 5 ch 18 SLA 1980; am § 2 ch 134 SLA 1992; am §§ 1 - 4 ch 22 SLA 2003)

**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. (§ 5 ch 18 SLA 1980; am § 3 ch 134 SLA 1992)

**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. (§ 5 ch 18 SLA 1980; am § 7 ch 66 SLA 1991; am § 4 ch 134 SLA 1992)

**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. (§ 5 ch 18 SLA 1980; am § 7 ch 66 SLA 1991; am § 5 ch 134 SLA 1992)

**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. (§ 5 ch 18 SLA 1980; am § 1 ch 81 SLA 1982)

**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. (§ 5 ch 18 SLA 1980; am § 2 ch 81 SLA 1982)

**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. (§ 5 ch 18 SLA 1980; am § 3 ch 81 SLA 1982; am § 1 ch 75 SLA 2004)

**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. (§ 5 ch 18 SLA 1980; am § 6 ch 134 SLA 1992)

**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. (§ 5 ch 18 SLA 1980; am § 4 ch 81 SLA 1982)

**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. (§ 5 ch 18 SLA 1980)

**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. (§ 5 ch 18 SLA 1980; am § 7 ch 134 SLA 1992)

**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. (§ 5 ch 18 SLA 1980; am §§ 5 - 7 ch 81 SLA 1982; am § 1 ch 83 SLA 1986; am §§ 1 - 6 ch 4 SLA 1989; am §§ 8 - 17 ch 134 SLA 1992; am § 1 ch 56 SLA 1994; am §§ 1 - 4 ch 104 SLA 1996; am §§ 1 - 7 ch 60 SLA 1999; am §§ 1, 2 ch 74 SLA 2004; am § 1 ch 46 SLA 2005)

**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 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.

(b) The corporation shall determine the amount available for appropriation each year. The amount available for appropriation is 5.25 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, "average market value of the fund" includes the balance of the earnings reserve account established under AS 37.13.145, but does not include 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). (§ 5 ch 18 SLA 1980; am § 8 ch 81 SLA 1982; am § 1 ch 28 SLA 1986; am § 18 ch 134 SLA 1992; am § 1 ch 16 SLA 2018)

*Delayed amendment of subsection (b).*

*Under sec. 2, ch. 16, SLA 2018, effective July 1, 2021, subsection (b) will read as follows:*

*"The corporation shall determine the amount available for appropriation each year. The amount available for appropriation is five 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, "average market value of the fund" includes the balance of the earnings reserve account established under AS 37.13.145, but does not include 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)."*

**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) and an appropriation under (e) 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 the 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, for transfers to the principal under (c)

of this section, or for an appropriation under (e) of this section, and shall be annually deposited into the Alaska capital income fund (AS 37.05.565).

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

(f) The combined total of the transfer under (b) of this section and an appropriation under (e) of this section may not exceed the amount available for appropriation under AS 37.13.140(b). (§ 9 ch 81 SLA 1982; am § 2 ch 28 SLA 1986; am § 19 ch 134 SLA 1992; am §§ 2, 3 ch 49 SLA 2005; am §§ 3 - 5 ch 16 SLA 2018)

**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 and part of the market value of the fund under AS 37.13.140. (§ 5 ch 18 SLA 1980; am § 10 ch 81 SLA 1982; am § 20 ch 134 SLA 1992; am § 6 ch 16 SLA 2018)

**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. (§ 5 ch 18 SLA 1980; am § 11 ch 81 SLA 1982; am § 21 ch 134 SLA 1992)

**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. (§ 5 ch 18 SLA 1980; am § 22 ch 134 SLA 1992; am § 62 ch 21 SLA 1995)

**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. (§ 5 ch 18 SLA 1980; am § 23 ch 134 SLA 1992)

**Sec. 37.13.190. Political activities.** The resources of the corporation or the fund may not be used to finance or influence political activities. (§ 5 ch 18 SLA 1980; am § 24 ch 134 SLA 1992)

**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. (§ 5 ch 18 SLA 1980)

**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. (§ 2 ch 46 SLA 2005; am § 8 ch 7 SLA 2018)

## **Article 2. 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 or market value available for distribution or appropriation under AS 37.13.140. (§ 9 ch 66 SLA 1991; am § 3 ch 5 FSSLA 1994; am § 7 ch 16 SLA 2018)

## **Article 3. 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. (§ 5 ch 18 SLA 1980; am § 25 ch 134 SLA 1992)

## **Chapter 23. Permanent Fund Dividends.**

### **Article 1. Eligibility; Application; Determination of Dividend.**

**Sec. 43.23.005. Eligibility.** (a) An individual is eligible to receive one permanent fund dividend each year in an amount to be determined under AS 43.23.025 if the individual

(1) applies to the department;

(2) is a state resident on the date of application;

(3) was a state resident during the entire qualifying year;

(4) has been physically present in the state for at least 72 consecutive hours at some time during the prior two years before the current dividend year;

(5) is

(A) a citizen of the United States;

(B) an alien lawfully admitted for permanent residence in the United States;

(C) an alien with refugee status under federal law; or

(D) an alien that has been granted asylum under federal law;



(6) was, at all times during the qualifying year, physically present in the state or, if absent, was absent only as allowed in AS 43.23.008; and

(7) was in compliance during the qualifying year with the military selective service registration requirements imposed under 50 U.S.C. App. 453 (Military Selective Service Act), if those requirements were applicable to the individual, or has come into compliance after being notified of the lack of compliance.

(b) [Repealed, § 18 ch 4 SLA 1992.]

(c) A parent, guardian, or other authorized representative may claim a permanent fund dividend on behalf of an unemancipated minor or on behalf of a disabled or an incompetent individual who is eligible to receive a payment under this section. Notwithstanding (a)(2) - (4) of this section, a minor is eligible for a dividend if, during the two calendar years immediately preceding the current dividend year, the minor was born to or adopted by an individual who is eligible for a dividend for the current dividend year.

(d) Notwithstanding the provisions of (a) - (c) of this section, an individual is not eligible for a permanent fund dividend for a dividend year when

(1) during the qualifying year, the individual was sentenced as a result of conviction in this state of a felony;

(2) during all or part of the qualifying year, the individual was incarcerated as a result of the conviction in this state of a

(A) felony; or

(B) misdemeanor if the individual has been convicted of

(i) a prior felony as defined in AS 11.81.900; or

(ii) two or more prior misdemeanors as defined in AS 11.81.900.

(e) [Repealed, § 62 ch 21 SLA 1991.]

(f) The commissioner may waive the requirement of (a)(4) of this section for an individual absent from the state

(1) in a time of national military emergency under military orders while serving in the armed forces of the United States, or for the spouse and dependents of that individual; or

(2) while in the custody of the Department of Health and Social Services in accordance with a court order under AS 47.10 or AS 47.12 and placed outside of the state by the Department of Health and Social Services for purposes of medical or behavioral treatment.

(g) For purposes of applying (d)(1) of this section, the date the court imposes a sentence or suspends the imposition of sentence shall be treated as the date of conviction. For purposes of applying (d)(2)(B) of this section, multiple convictions arising out of a single criminal episode shall be treated as a single conviction.

(h) If an individual who would otherwise have been eligible for a permanent fund dividend dies after applying for the dividend but before the dividend is paid, the department shall pay the dividend to a personal representative of the estate or to a successor claiming personal property under AS 13.16.680. If an individual who would otherwise have been eligible for a dividend and who did not apply for the dividend dies during the application period, a personal representative of the estate or a successor claiming personal property under AS 13.16.680 may apply for and receive the dividend. If an individual who received a dividend for the year immediately before the qualifying year and who would otherwise have been eligible for a dividend dies during the qualifying year after having been a state resident for at least 180 days immediately before the date of death, notwithstanding (a)(1) - (3) and (a)(6) of this section, a personal representative of the estate or a successor claiming personal property under AS 13.16.680 may apply for and receive the dividend. Notwithstanding AS 43.23.011, an application for a dividend may be filed by the personal representative or the successor under this subsection at any time before the end of the application period for the next dividend year. (§ 1 ch 102 SLA

1982; am § 1 ch 57 SLA 1987; am § 1 ch 54 SLA 1988; am § 1 ch 159 SLA 1988; am §§ 2, 3 ch 107 SLA 1989; am § 1 ch 68 SLA 1990; am §§ 46, 62 ch 21 SLA 1991; am § 1 ch 68 SLA 1991; am §§ 4 - 8, 18 ch 4 SLA 1992; am §§ 2, 3 ch 46 SLA 1996; am §§ 2 - 4 ch 44 SLA 1998; am § 1 ch 91 SLA 1998; am § 25 ch 92 SLA 2001; am § 5 ch 89 SLA 2002; am § 5 ch 64 SLA 2005; am § 1 ch 22 SLA 2010)

**Sec. 43.23.008. Allowable absences.** (a) Subject to (b) and (d) of this section, an otherwise eligible individual who is absent from the state during the qualifying year remains eligible for a current year permanent fund dividend if the individual was absent

- (1) receiving secondary or postsecondary education on a full-time basis;
- (2) receiving vocational, professional, or other specific education on a full-time basis for which, as determined by the Alaska Commission on Postsecondary Education, a comparable program is not reasonably available in the state;
- (3) serving on active duty as a member of the armed forces of the United States or accompanying, as that individual's spouse, minor dependent, or disabled dependent, an individual who is
  - (A) serving on active duty as a member of the armed forces of the United States; and
  - (B) eligible for a current year dividend;
- (4) serving under foreign or coastal articles of employment aboard an oceangoing vessel of the United States merchant marine;
- (5) receiving continuous medical treatment recommended by a licensed physician or convalescing as recommended by the physician who treated the illness if the treatment or convalescence is not based on a need for climatic change;
- (6) providing care for a parent, spouse, sibling, child, or stepchild with a critical life-threatening illness whose treatment plan, as recommended by the attending physician, requires travel outside the state for treatment at a medical specialty complex;
- (7) providing care for the individual's terminally ill family member;
- (8) settling the estate of the individual's deceased parent, spouse, sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;
- (9) serving as a member of the United States Congress;
- (10) serving on the staff of a member from this state of the United States Congress;
- (11) serving as an employee of the state in a field office or other location;
- (12) accompanying a minor who is absent under (5) of this subsection;
- (13) accompanying another eligible resident who is absent for a reason permitted under (1), (2), (5) - (12), (16), or (17) of this subsection as the spouse, minor dependent, or disabled dependent of the eligible resident;
- (14) serving as a volunteer in the federal peace corps program;
- (15) because of training or competing as a member of the United States Olympic Team or a United States national team for an Olympic sport;
- (16) participating for educational purposes in a student fellowship sponsored by the United States Department of Education or by the United States Department of State;
- (17) for any reason consistent with the individual's intent to remain a state resident, provided the absence or cumulative absences do not exceed
  - (A) 180 days in addition to any absence or cumulative absences claimed under (3) of this subsection if the individual is not claiming an absence under (1), (2), or (4) - (16) of this subsection;
  - (B) 120 days in addition to any absence or cumulative absences claimed under (1) - (3) of this subsection if the individual is not claiming an absence under

(4) - (16) of this subsection but is claiming an absence under (1) or (2) of this subsection; or

(C) 45 days in addition to any absence or cumulative absences claimed under (1) - (16) of this subsection if the individual is claiming an absence under (4) - (16) of this subsection.

(b) An individual may not claim an allowable absence under (a)(1) - (16) of this section unless the individual was a resident of the state for at least six consecutive months immediately before leaving the state.

(c) [Repealed, § 3 ch 33 SLA 2013.]

(d) After an individual has been absent from the state for more than 180 days in each of the five preceding qualifying years, the department shall presume that the individual is no longer a state resident. The individual may rebut this presumption by providing clear and convincing evidence to the department that

(1) the individual was physically present in the state for at least 30 cumulative days during the past five years; and

(2) the individual is a state resident as defined in AS 43.23.295.

(e) To determine whether an individual intends to return and remain in the state indefinitely, the department shall consider all relevant factors, including

(1) the length of time the individual was absent from the state compared to the length of time the individual was physically present in the state;

(2) the frequency and duration of voluntary return trips to the state during the past five years;

(3) whether the individual's intent to return to and remain in the state is conditioned on future events beyond the individual's control;

(4) the ties the individual has established with the state or another jurisdiction, as demonstrated by

(A) maintenance of a home;

(B) payment of resident taxes;

(C) registration of a vehicle;

(D) registration to vote and voting history;

(E) acquisition of a driver's license, business license, or professional license; and

(F) receipt of benefits under a claim of residency in the state or another jurisdiction;

(5) the priority that the individual gave the state on an employment assignment preference list, including a list used by military personnel.

(f) For purposes of (a)(7) of this section, "family member" means a person who is

(1) legally related to the individual through marriage or guardianship; or

(2) the individual's sibling, parent, grandparent, son, daughter, grandson, granddaughter, uncle, aunt, niece, nephew, or first cousin. (§ 5 ch 44 SLA 1998; am § 1 ch 71 SLA 1999; am § 1 ch 69 SLA 2003; am §§ 1, 2 ch 116 SLA 2003; am §§ 20, 21 ch 42 SLA 2006; am §§ 1, 2 ch 36 SLA 2008; am §§ 1 - 3 ch 33 SLA 2013)

**Sec. 43.23.011. Application period.** (a) An application for a permanent fund dividend shall be filed during the period that begins January 1 and ends March 31 of that dividend year.

(b) An otherwise eligible individual may apply for a current year dividend after March 31 of that year if the individual was eligible during the application period under (a) of this section for hostile fire or imminent danger pay while serving on active duty as a member of the armed forces of the United States. The individual must apply under this subsection within 90 days after the last day the individual was eligible for hostile fire or imminent danger pay. If the individual was eligible for hostile fire or imminent danger pay on March 31 of the current dividend year,

the 90-day application period extension begins on the first day after March 31 that the individual was no longer eligible for the pay.

(c) The commissioner may permit an individual to apply for a permanent fund dividend for any year after the application deadline under (a) or (b) of this section if the individual

(1) at any time during the application period for that dividend established in (a) or (b) of this section,

(A) served on active duty as a member of the armed forces of the United States; and

(B) was eligible for hostile fire or imminent danger pay; and

(2) demonstrates a reasonable cause for the delay in applying for that dividend. (§ 9 ch 4 SLA 1992; am § 1 ch 112 SLA 2004; am § 22 ch 42 SLA 2006)

**Sec. 43.23.015. Application and proof of eligibility.** (a) The commissioner shall adopt regulations under the Administrative Procedure Act (AS 44.62) for determining the eligibility of individuals for permanent fund dividends. The commissioner may require an individual to provide proof of eligibility, and the commissioner may use other information available from other state departments or agencies to determine the eligibility of an individual. The commissioner shall consider all relevant circumstances in determining the eligibility of an individual. However, the residency of an individual's spouse may not be the principal factor relied upon by the commissioner in determining the residency of the individual.

(b) The department shall prescribe and furnish an application form for claiming a permanent fund dividend. The application must include

(1) notice of the penalties provided for under AS 43.23.270;

(2) a statement of eligibility and a certification of residency;

(3) the means for an applicant eligible to vote under AS 15.05, or a person authorized to act on behalf of the applicant, to furnish information required by AS 15.07.060(a)(1) - (4) and (7) - (9), and an attestation that such information is true.

(c) Except as provided in (d) of this section or as may be provided by regulations adopted by the department, an individual must personally sign the application for permanent fund dividends, including the certification of residency required under (b) of this section.

(d) The application and certification of residency of an unemancipated individual under 18 years of age or of a disabled or an incompetent individual must be signed by the individual's parent, legal guardian, or other authorized representative. An individual may complete, sign, and file an application 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 authorizes, in specific or general terms, the individual to file that application.

(e) If a public agency claims a permanent fund dividend on behalf of an individual, the public agency shall hold the dividend in trust for the individual. Money held in trust under this subsection shall be invested by the commissioner in accordance with AS 37.10.070.

(f) A minor or a disabled or an incompetent individual may not maintain a claim against the state or an officer or employee of the state based on the manner in which the parent, guardian, or authorized representative other than a public agency of the state managed or disposed of permanent fund dividends received on behalf of the minor or disabled or incompetent individual.

(g) If an individual is aggrieved by a decision of the department determining the individual's eligibility for a permanent fund dividend or the individual's authority to claim a permanent fund dividend on behalf of another, the individual may, upon payment of a \$25 appeal fee, request the department to review its decision. Within 12 months after the administrative appeal is filed, the department shall provide the individual with a final written decision. If the individual is aggrieved by the decision of the department after all administrative proceedings, the

individual may appeal that decision to the superior court in accordance with AS 44.62.560. An appeal to the court under this section does not entitle the aggrieved individual 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. If, as a result of an administrative proceeding or a court appeal, the individual prevails, the \$25 appeal fee shall be returned to the individual by the department.

(h) The penalty and enforcement provisions of AS 43.23.270 apply to an individual who claims a permanent fund dividend on behalf of another.

(i) An indigent individual may apply for a waiver of the appeal fee required under (g) of this section. The department shall prescribe and furnish a form for that purpose. The department shall grant the waiver if, during the year immediately preceding the year the form is submitted to the department, the individual was a member of a family with an income equal to or less than the federal poverty guidelines for Alaska set by the United States Department of Health and Human Services.

(j) The application form for claiming a permanent fund dividend must include a place for the applicant to voluntarily indicate that the applicant is a veteran, the branch of service, including the Alaska Territorial Guard, and the dates of service. Notwithstanding AS 43.23.110, the department shall release information provided under this subsection to the Department of Military and Veterans' Affairs and may not otherwise release the information. The Department of Military and Veterans' Affairs may only release the information to congressionally chartered veterans service organizations in the state. The application form must contain notice that providing the information under this subsection is voluntary, that the information will be released as provided in this subsection, and that the veterans service organizations are not required to keep it confidential. (§ 1 ch 102 SLA 1982; am § 2 ch 159 SLA 1988; am § 4 ch 107 SLA 1989; am §§ 2, 3 ch 68 SLA 1990; am § 47 ch 21 SLA 1991; am § 2 ch 68 SLA 1991; am §§ 10, 11 ch 4 SLA 1992; am §§ 1, 2 ch 18 SLA 1996; am § 1 ch 83 SLA 2005; am § 1 ch 90 SLA 2008; am § 6, 2016 General Election Ballot Measure No. 1)

**Sec. 43.23.021. Delayed payment of certain dividends.** (a) Notwithstanding other provisions regarding the payment of permanent fund dividends, if an individual is required to register as a sex offender or child kidnapper under AS 12.63 and has not registered or has not completed the required periodic verifications or notices required under AS 12.63, payment of the dividend for that individual shall be delayed.

(b) If payment of a dividend is delayed, the department shall notify the individual in writing of the delayed payment status, explain the requirements of this section, and request proof of registration and compliance with the verifications and notices required under AS 12.63. The dividend may not be paid unless, within one year after the notification, the department determines that the individual has registered and is in compliance with the verifications and notices required under AS 12.63.

(c) The permanent fund dividend of an individual for whom payment has been delayed, but that remains payable under (b) of this section, is subject to levy, execution, garnishment, attachment, or any other remedy for the collection of debt. The department shall immediately pay that dividend, or the portion of it that has been claimed by a debtor, as provided in AS 43.23.140 - 43.23.170.

(d) If an individual for whom payment of a permanent fund dividend has been delayed but remains payable under (b) of this section dies before the dividend is paid or payable, the department shall pay the dividend to a personal representative of the individual's estate.

(e) The department shall include notice with the dividend application form of the requirements of (a) and (b) of this section. (§ 32 ch 75 SLA 2008)

**Sec. 43.23.025. Amount of dividend.** (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 of income of the Alaska permanent fund transferred to the dividend fund under 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 43.23.240;

(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.

(b) [Repealed, § 5 ch 68 SLA 1991.] (§ 1 ch 102 SLA 1982; am § 1 ch 55 SLA 1983; am § 2 ch 43 SLA 1984; am § 2 ch 57 SLA 1987; am § 2 ch 54 SLA 1988; am § 4 ch 68 SLA 1990; am § 1 ch 198 SLA 1990; am § 5 ch 68 SLA 1991; am § 27 ch 134 SLA 1992; am § 2 ch 91 SLA 1998; am § 33 ch 75 SLA 2008)

**Sec. 43.23.028. Public notice.** (a) By October 1 of each year, the commissioner shall give public notice of the value of each permanent fund dividend for that year and notice of the information required to be disclosed under (3) of this subsection. In addition, the stub attached to each individual dividend disbursement advice must

(1) disclose the amount of each dividend attributable to income earned by the permanent fund from deposits to that fund required under art. IX, sec. 15, Constitution of the State of Alaska;

(2) disclose the amount of each dividend attributable to income earned by the permanent fund from appropriations to that fund and from amounts added to that fund to offset the effects of inflation;

(3) disclose the amount by which each dividend has been reduced due to each appropriation from the dividend fund, including amounts to pay the costs of administering the dividend program and the hold harmless provisions of AS 43.23.240;

(4) include a statement that an individual is not eligible for a dividend when

(A) during the qualifying year, the individual was convicted of a felony;

(B) during all or part of the qualifying year, the individual was incarcerated as a result of the conviction of a

(i) felony; or

(ii) misdemeanor if the individual has been convicted of a prior felony or two or more prior misdemeanors;

(5) include a statement that the legislative purpose for making individuals listed under (4) of this subsection ineligible is to

(A) provide funds for services for and payments to crime victims and operating costs of the Violent Crimes Compensation Board;

- (B) provide funds to pay restitution owed to crime victims;
- (C) provide funds for grants to nonprofit organizations for services for crime victims and for mental health services and substance abuse treatment for offenders;
- (D) provide funds for the office of victims' rights;
- (E) provide funds to the Council on Domestic Violence and Sexual Assault for grants for the operation of domestic violence and sexual assault programs; and
- (F) obtain reimbursement for some of the costs imposed on the Department of Corrections related to incarceration or probation of those individuals;
- (6) disclose the total 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;
- (7) disclose the total amount transferred or appropriated for the current fiscal year under AS 43.23.048 for each of the accounts, funds, and agencies listed in AS 43.23.048.
- (b) To the extent that amounts appropriated for a fiscal year do not exceed the total 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) or under AS 43.23.021(b) if they had been eligible, the notice requirements of (a)(3) of this section do not apply to transfers from the dividend fund to the restorative justice account (AS 43.23.048). (§ 2 ch 198 SLA 1990; am § 3 ch 68 SLA 1991; am § 1 ch 82 SLA 1993; am § 4 ch 46 SLA 1996; am § 6 ch 44 SLA 1998; am § 26 ch 92 SLA 2001; am § 22 ch 175 SLA 2004; am § 34 ch 75 SLA 2008; am § 1 ch 79 SLA 2008; am § 5 ch 21 SLA 2018)

## **Article 2. Administration.**

**Sec. 43.23.045. Dividend fund.** (a) The dividend fund is established as a separate fund in the state treasury. 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.

(b) [Repealed, § 29 ch 134 SLA 1992.]

(c) [Repealed, § 24 ch 99 SLA 1985.]

(d) Unless specified otherwise in an appropriation act, the unexpended and unobligated balance of an appropriation to implement this chapter lapses into the dividend fund on June 30 of the fiscal year for which the appropriation was made and shall be used in determining the amount of and paying the subsequent year's dividend as provided in AS 43.23.025(a)(1)(B).

(e) [Repealed, § 29 ch 134 SLA 1992.] (§ 1 ch 102 SLA 1982; am § 24 ch 99 SLA 1985; am § 3 ch 57 SLA 1987; am § 1 ch 38 SLA 1989; am §§ 2, 3 ch 18 SLA 1991; am § 29 ch 134 SLA 1992)

**Sec. 43.23.048. Restorative justice account.** (a) The restorative justice account is created as a separate account in the dividend fund. 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.

(b) The legislature may appropriate amounts from the account to the following recipients in the priority order and percentages listed:

- (1) 10 to 13 percent to the crime victim compensation fund established under AS 18.67.162 for payments to crime victims and for operating costs of the Violent Crimes Compensation Board;

(2) two to six percent to the office of victims' rights for payments to crime victims as provided in AS 24.65.105 and for operating costs of the office of victims' rights;

(3) one to three percent to nonprofit organizations to provide grants for services for crime victims and domestic violence and sexual assault programs;

(4) one to three percent to nonprofit organizations to provide grants for mental health services and substance abuse treatment for offenders; and

(5) 79 to 88 percent to the Department of Corrections for costs related to incarceration or probation.

(c) A person who is subject to an order of restitution all or part of which is paid under this section shall reimburse the state for the amount paid by the state. The state may enforce payment of reimbursement under this subsection as if the reimbursement were a civil judgment enforceable by execution.

(d) The legislature may appropriate money received under (c) of this section to the restorative justice account.

(e) Nothing in this section creates a dedicated fund. (§ 6 ch 21 SLA 2018)

**Sec. 43.23.055. Duties of the department.** The department shall

(1) annually pay permanent fund dividends from the dividend fund;

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

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

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

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

(6) adopt regulations that are necessary to implement AS 43.23.005(d) and 43.23.048;

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

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

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

(A) access to the data base; or



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

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

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

(B) commissioner to detect and investigate the claiming or paying of permanent fund dividends that should not have been claimed by or paid to an individual and to impose the penalties and enforcement provisions under AS 43.23.270;

(11) adopt regulations under AS 44.62 (Administrative Procedure Act) so that contributions under AS 43.23.130 are given a priority over donations under AS 43.23.230 if the total amount of contributions and donations elected by an applicant exceeds the amount of the permanent fund dividend that the applicant is entitled to receive. (§ 1 ch 102 SLA 1982; am § 2 ch 55 SLA 1983; am § 3 ch 43 SLA 1984; am § 3 ch 54 SLA 1988; am § 5 ch 68 SLA 1990; am § 14 ch 4 SLA 1992; am § 1 ch 64 SLA 1993; am § 5 ch 46 SLA 1996; am § 144 ch 87 SLA 1997; am § 23 ch 175 SLA 2004; am § 25 ch 42 SLA 2006; am § 7 ch 21 SLA 2018; am § 7 ch 80 SLA 2018)

**Sec. 43.23.101. Voter registration.** The commissioner shall establish by rule a schedule by which the commissioner will provide, and shall provide as soon as is practicable the director of elections with

(1) electronic records from the permanent fund dividend applications of the information required by AS 15.07.060(a)(1) - (4) and (7) - (9), and the attestation that such information is true, for each permanent fund dividend applicant who

(A) is a citizen of the United States; and

(B) is at least 18 years of age or will be within 90 days of the date of the application; and

(2) the mailing addresses for all permanent fund dividend applicants. (§ 1 ch 48 SLA 1992; am § 91 ch 82 SLA 2000; am § 7, 2016 General Election Ballot Measure No. 1)

**Sec. 43.23.110. Applicant information confidential.** (a) Except as provided in (c) of this section, information on each permanent fund dividend application, except the applicant's name, is confidential. The department may only release information that is confidential under this section

(1) to a local, state, or federal government agency;

(2) in compliance with a court order;

(3) to the individual who or agency that files an application on behalf of another;

(4) to a banking institution to verify the direct deposit of a permanent fund dividend or correct an error in that deposit;

(5) as directed to do so by the applicant;

(6) to a contractor who has a contract with a person entitled to obtain the information under (1) - (5) of this section to receive, store, or manage the information on that person's behalf; a contractor receiving data under this paragraph may only use the data as directed by and for the purposes of the person entitled to obtain the information;

(7) to the division of elections as required by AS 43.23.101.

(b) Notwithstanding (a) of this section, the department may release the names and addresses of permanent fund dividend applicants to a legislator of this state and to the legislator's office staff for official legislative purposes.

(c) Information submitted on a permanent fund dividend application that is used for the purpose of registering an applicant to vote under AS 43.23.101 shall be kept confidential by the

division of elections as provided in AS 15.07.195. (§ 2 ch 181 SLA 2004; am § 2 ch 92 SLA 2008; am §§ 8, 9, 2016 General Election Ballot Measure No. 1)

### **Article 3. Deductions; Claims; Assignments.**

**Sec. 43.23.130. Contributions from dividends.** (a) Notwithstanding AS 43.23.200, the Department of Revenue shall prepare the electronic Alaska permanent fund dividend application to allow an applicant who files electronically to direct that money be subtracted from the dividend payment and contributed to the crime victim compensation fund (AS 18.67.162), the peace officer and firefighter survivors' fund, or one or more of the educational organizations, community foundations, or charitable organizations that appear on the contribution list contained in the application. A contribution to the crime victim compensation fund, the peace officer and firefighter survivors' fund or to an organization may be \$25, \$50, \$75, \$100, or more, in increments of \$50, up to the total amount of the permanent fund dividend that the applicant is entitled to receive. If the total amount of contributions elected by an applicant exceeds the amount of the permanent fund dividend that the applicant is entitled to receive, contributions shall be deducted from the dividend in the order of priority elected by the applicant on the application until the entire amount of the dividend that the applicant is entitled to receive is allocated for contribution. The electronic dividend application form must include notice that seven percent of the money contributed will be used for administrative costs incurred in implementing this section, and money from the dividend fund will not be used for that purpose.

(b) The department shall list each educational organization, community foundation, or charitable organization eligible under (c) and (d) of this section, each university campus that applies under (1) of this section, the crime victim compensation fund, and the peace officer and firefighter survivors' fund on the contribution list. The department shall maintain an electronic database for the contribution list that is accessible to the public and that permits searches by organization or fund name, geographic location, and type. The department shall provide a statement of the contributions made by an individual that is suitable for federal income tax purposes to each individual who elects to contribute under (a) of this section.

(c) The department may not include a charitable organization, other than a community foundation, on the contribution list for a dividend year unless the purpose of the charitable organization is to provide services for youth development, workforce development, arts and culture, aid and services to the elderly, low-income individuals, individuals in emergency situations, victims of crime, disabled individuals, individuals with mental illness, primary, vocational, and higher education, health and dental care, recreational facilities, child abuse and neglect, economic development, food assistance, libraries, public broadcasting, recycling of waste, animal rescue, and zoos. The department may not include on the contribution list an educational organization, community foundation, or charitable organization that is the affiliate of a group. For purposes of this subsection,

(1) "affiliate" means an organization or foundation that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, a group;

(2) "group" has the meaning given in AS 15.13.400(8)(B).

(d) Except for each campus of the University of Alaska, the department may include an educational organization, community foundation, or charitable organization on the contribution list for a current dividend year only if the organization

(1) before March 31 of the qualifying year, files an application for inclusion on the list for that dividend year on the form required by the department;

(2) is exempt from taxation under 26 U.S.C. 501(c)(3) (Internal Revenue Code) as an educational or a charitable organization on the date of application;

(3) was qualified for tax exempt status under 26 U.S.C. 501(c)(3) (Internal Revenue Code) as an educational or a charitable organization during the two calendar years that immediately precede the year the application is filed;

(4) unless exempted under federal law, has a current Internal Revenue Service Form 990 on file with the United States Department of the Treasury, Internal Revenue Service, or, if the Internal Revenue Service has granted a filing extension for the current year, has on file that form for the immediately preceding year;

(5) is directed by a voluntary board of directors or local advisory board, a majority of whose members are residents of the state;

(6) if a community foundation, provided in the state aid during the two calendar years that immediately precede the year the application is filed, or, if an education organization or charitable organization, provided in the state services during the two calendar years that immediately precede the year the application is filed;

(7) receives at least \$100,000 or five percent of its total annual receipts, whichever is less, from contributions;

(8) has completed and provided to the department a financial audit with an unqualified opinion conducted by an independent certified public accountant for the fiscal year to which the Internal Revenue Service Form 990 required under (4) of this subsection applies; this paragraph applies only to an organization that is required by the federal government to complete a financial audit by an independent certified public accountant; and

(9) does not make grants or contributions to an organization that is exempt from taxation under 26 U.S.C. 501(c)(4) or (6).

(e) Unless an appropriation specifically directs that the money be used for costs incurred in implementing this section, the department may not use money from the dividend fund for administrative costs incurred in implementing this section, even if it has been appropriated for costs of administering the dividend program. Contributions shall be distributed to each organization as soon as practicable.

(f) The department shall charge an application fee of \$250 for each educational organization, community foundation, or charitable organization that files an application under (d) of this section or for each university campus that files an application under (l) of this section. The application fees shall be separately accounted for under AS 37.05.142. The annual estimated balance in the account maintained under AS 37.05.142 for application fees collected under this subsection may be appropriated for costs of administering this section.

(g) The department may use an agent or enter into a contract for the implementation and operation of the contribution program under this section. Before executing a contract with a corporation or other organization, the organization must provide a copy of its policies and procedures to the department. A contract entered into under this subsection is exempt from AS 36.30 (State Procurement Code).

(h) A public agency that claims a dividend on behalf of an individual under AS 43.23.015(e) may not elect to make contributions from the dividend under (a) of this section.

(i) The department may adopt regulations under AS 44.62 (Administrative Procedure Act) to carry out the provisions of this section. Notwithstanding this subsection and other provisions of law, a state agency, including the department, may not adopt regulations or otherwise impose requirements or procedures on organizations to implement, interpret, make specific, or otherwise carry out the provisions of this section unless required by the federal government. If an organization disagrees with an action of the department under this section and requests an administrative hearing, the hearing shall be conducted by the office of administrative hearings (AS 44.64.010).

(j) By January 20 of each year, the department shall prepare a report identifying the organizations on the contribution list for the immediately preceding year, together with the

amount of contributions made to each of the organizations, and shall notify the legislature that the report is available.

(k) A community foundation may not deposit contributions received under this section into a fund that would be included in the definition of a donor advised fund under 26 U.S.C. 4966(d)(2) (Internal Revenue Code).

(l) The University of Alaska shall apply separately for each of the three main campuses to be listed on the contribution list for the current dividend year in the manner prescribed by the department. The University of Alaska may apply for each campus other than the three main campuses to be listed on the contribution list for the current dividend year in the manner prescribed by the department.

(m) In addition to the application fee in (f) of this section, the department shall withhold a coordination fee from each organization, foundation, or university campus that receives contributions under this section in the immediately preceding dividend year. The coordination fee for an organization, foundation, or university campus that receives contributions under this section shall be seven percent of the amount of contributions reported by the department under (j) of this section for the organization, foundation, or university campus for the immediately preceding dividend year. The coordination fee shall be separately accounted for under AS 37.05.142 and shall be accounted for separately from the application fee collected under (f) of this section. The annual estimated balance in the account maintained under AS 37.05.142 for coordination fees collected under this subsection may be appropriated for costs of administering this section. The department may not withhold a coordination fee for contributions to the crime victim compensation fund or the peace officer and firefighter survivors' fund.

(n) In this section,

(1) "community foundation" means a nonprofit, autonomous, philanthropic institution that is organized and operated primarily as a permanent collection of endowed funds for the long-term benefit of a defined geographic area within one or more municipalities, that has a long-term goal of increasing its permanent unrestricted charitable endowment to benefit the area served, that primarily provides benefits by making grants and may also provide other forms of charitable services, that makes grants that are not limited to providing one type of benefit or to serving one population segment, and that makes grants to multiple grantees;

(2) "peace officer and firefighter survivors' fund" means the fund established in AS 39.60.010(a). (§ 1 ch 41 SLA 2008; am §§ 2 - 8 ch 22 SLA 2010; am §§ 1 - 6 ch 106 SLA 2014; am §§ 2 - 5 ch 14 SLA 2017; am §§ 8 - 10 ch 21 SLA 2018)

**Sec. 43.23.140. Exemption of and levy on permanent fund dividends.** (a) Except as provided in (b) of this section, 20 percent of the annual permanent fund dividend payable to an individual is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. No other exemption applies to a dividend. Notwithstanding other laws, a writ of execution upon a dividend that has not been delivered to the debtor may be served on the commissioner by

(1) certified mail, return receipt requested; or

(2) a civilian process server licensed by the commissioner of public safety using electronic execution procedures, as provided under regulations adopted by the department.

(b) An exemption is not available under this section for permanent fund dividends taken to satisfy

(1) child support obligations required by court order or decision of the child support services agency under AS 25.27.140 - 25.27.220;

(2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100, or AS 47.12.120(b)(4);

- (3) claims on defaulted education loans under AS 43.23.160;
- (4) court ordered fines;
- (5) writs of execution under AS 09.35 of a judgment that is entered
  - (A) against a minor in a civil action to recover damages and court costs;
  - (B) under AS 09.65.255 against the parent, parents, or legal guardian of an unemancipated minor;
- (6) a debt owed by an eligible individual to an agency of the state, including the University of Alaska, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired;
- (7) a debt owed to a person for a program for the rehabilitation of perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15), AS 25.20.061(3), or AS 33.16.150(f)(2);
- (8) a judgment for unpaid rent or damage owed to a landlord by an eligible individual that was a tenant of the landlord; in this paragraph, "tenant" has the meaning given in AS 34.03.360;
- (9) court-ordered forfeiture of an appearance or performance bond under AS 12.30.075.

(c) Claims listed in (b) of this section have priority in the order listed over other claims on a permanent fund dividend whether payments are sought through legal actions for the collection of debts or through assignments from the debtor.

(d) An assignment of or levy, execution, garnishment, attachment, or other remedy for the collection of debt applied to a dividend for a year may not be accepted by the department before April 1 of that same year. AS 09.38.080(c) and 09.38.085 do not apply to a levy on a permanent fund dividend. Upon receipt of a writ of execution under (a) of this section or another court order, the commissioner shall deliver to the court that portion of the dividend executed upon along with the case name and number. At the time payment is made to the court, the department shall send to the individual at the address provided in the individual's dividend application and to the court that issued the writ or order a notice that contains

- (1) notification that all or part of the individual's dividend has been seized under a writ of execution or court order;
- (2) the name and address of the court that issued the writ or order;
- (3) the case number for which the writ or order was issued;
- (4) the amount seized under the writ or order; and
- (5) notification that the individual has 30 days from the date the notice is mailed in which to file with the court an objection to the seizure if a mistake has been made. (§ 1 ch 102 SLA 1982; am § 1 ch 157 SLA 1984; am § 1 ch 57 SLA 1985; am § 67 ch 138 SLA 1986; am § 3 ch 26 SLA 1989; am § 3 ch 198 SLA 1990; am §§ 3, 4 ch 52 SLA 1992; am § 5 ch 113 SLA 1994; am § 3 ch 34 SLA 1995; am § 9 ch 59 SLA 1996; am § 63 ch 64 SLA 1996; am § 1 ch 89 SLA 1998; am § 92 ch 21 SLA 2000; am § 2 ch 43 SLA 2004; am §§ 2, 3 ch 41 SLA 2008; am §§ 2, 3 ch 79 SLA 2008; am § 12 ch 27 SLA 2014; am § 161 ch 36 SLA 2016)

**Sec. 43.23.150. Claims on reimbursement for court-ordered treatment.** (a) AS 09.38 does not apply to permanent fund dividends taken under AS 47.12.155(c). Notwithstanding AS 09.35, execution on a dividend claimed under AS 47.12.155(c) is accomplished by delivering a certified claim to the department containing the following information:

- (1) the name and social security number of the individual whose dividend is being claimed;
- (2) the amount the individual owes on the reimbursement claim; and
- (3) a statement that

(A) the Department of Health and Social Services has notified the individual that future permanent fund dividends of the individual will be taken to satisfy the reimbursement claim;

(B) the individual was notified of the right to request a hearing and allowed 30 days after the date of the notice described in (A) of this paragraph to request the Department of Health and Social Services to hold a hearing on the reimbursement claim;

(C) the reimbursement claim has not been contested, or, if contested, that the issue has been resolved in favor of the Department of Health and Social Services; and

(D) if the reimbursement claim has been contested and resolved in favor of the Department of Health and Social Services, no appeal is pending, the time limit for filing an appeal has expired, or the appeal has been resolved in favor of the Department of Health and Social Services.

(b) The Department of Health and Social Services shall notify the individual if a dividend is claimed under (a) of this section. The notice shall be sent to the address provided in the individual's permanent fund dividend application and must provide the following information:

(1) the amount of the reimbursement claim;

(2) notice that the permanent fund dividend, or that portion of the permanent fund dividend that does not exceed the amount of the reimbursement claim, shall be paid to the Department of Health and Social Services; and

(3) notification that the individual has a right to request a hearing and has 30 days after the date the notice is mailed in which to file with the Department of Health and Social Services an objection to the dividend claim if a mistake has been made.

(c) AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual under (b)(3) of this section. (§ 1 ch 144 SLA 1996)

**Sec. 43.23.160. Claims of defaulted education loans.** (a) AS 09.38 does not apply to a permanent fund dividend taken under AS 14.43.145. Notwithstanding AS 09.35, the Alaska Commission on Postsecondary Education may take a permanent fund dividend under AS 14.43.145 by delivering a claim to the department certifying the following information:

(1) the name and social security number of the individual whose dividend is being claimed;

(2) the amount the individual owes on a loan awarded under AS 14.43; and

(3) a statement that the loan is in default under AS 14.43.145, or, if the individual has requested review of the status of the loan under AS 14.43.145(c), that a final determination has been made that the loan is in default.

(b) The Alaska Commission on Postsecondary Education shall notify the individual of a claim under (a) of this section. The notice shall be sent to the address provided in the individual's permanent fund dividend application and must provide the following information:

(1) the amount of the claim;

(2) notice that the amount of the permanent fund dividend up to the amount of the claim shall be paid to the Alaska Commission on Postsecondary Education to be credited against the individual's loan balance; and

(3) the individual's right to a hearing under (c) of this section.

(c) Within 30 days after the date of the notice under (b) of this section, the individual may request a hearing. AS 44.62.330 - 44.62.630 apply to a hearing under this section. At the hearing, the borrower has the burden to show that

(1) the commission has not sent a notice of default in compliance with AS 14.43.145(b);

(2) the notice of default has been rescinded after review under AS 14.43.145(c);  
or

(3) the amount owed by the borrower is less than the amount claimed from the permanent fund dividend.

(d) If the amount owed by the borrower is determined under (c) of this section to be some amount greater than \$0, but less than the amount claimed, the commission may amend its claim to the amount determined to be owing. (§ 18 ch 92 SLA 1987; am §§ 5, 6 ch 52 SLA 1992; am § 17 ch 54 SLA 1997)

**Sec. 43.23.170. Claims on defaulted public assistance overpayment.** (a) AS 09.38 does not apply to permanent fund dividends taken under AS 47.05.080(b). Notwithstanding AS 09.35, execution on a dividend claimed under AS 47.05.080(b) is accomplished by delivering a certified claim to the department containing the following information:

(1) the name and social security number of the individual whose dividend is being claimed;

(2) the amount the individual owes on the overpayment claim; and

(3) a statement that

(A) the Department of Health and Social Services has notified the individual that future permanent fund dividends of the individual will be taken to satisfy the overpayment claim;

(B) the individual was notified of the right to request a hearing and allowed 30 days from the date of the notice under (A) of this paragraph to request the Department of Health and Social Services to hold a hearing on the overpayment claim;

(C) the overpayment claim has not been contested, or, if contested, that the issue has been resolved in favor of the Department of Health and Social Services; and

(D) if the overpayment claim has been contested and resolved in favor of the Department of Health and Social Services, no appeal is pending, the time limit for filing an appeal has expired, or the appeal has been resolved in favor of the Department of Health and Social Services.

(b) The Department of Health and Social Services shall notify the individual if a dividend is claimed under (a) of this section. The notice shall be sent to the address provided in the individual's permanent fund dividend application and must provide the following information:

(1) the amount of the overpayment claim;

(2) notice that the amount of the permanent fund dividend that does not exceed the amount of the overpayment claim shall be paid to the Department of Health and Social Services; and

(3) notification that the individual has a right to request a hearing and has 30 days from the date the notice is mailed in which to file with the Department of Health and Social Services an objection to the dividend claim if a mistake has been made.

(c) AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual under (b)(3) of this section. (§ 1 ch 35 SLA 1995)

**Sec. 43.23.180. Claims for amounts owed under the Alaska Employment Security Act.** (a) AS 09.38 does not apply to permanent fund dividends taken by the Department of Labor and Workforce Development for a claim for payment of money owed under AS 23.20 (Alaska Employment Security Act). Notwithstanding AS 09.35, execution on a dividend claimed under this section is accomplished by delivering a certified claim to the Department of Revenue containing the following information:

(1) the name and social security number of the individual whose dividend is being claimed; if the Department of Labor and Workforce Development does not have access to the individual's social security number for this purpose, the department may supply other identification information authorized under regulations to make a claim under AS 43.23.140;

(2) the amount the individual owes on the claim under AS 23.20;

(3) a statement that

(A) the Department of Labor and Workforce Development has notified the individual that future permanent fund dividends of the individual will be taken to satisfy the claim under AS 23.20;

(B) the individual was notified of the right to request a hearing under AS 23.20 and the Department of Labor and Workforce Development has allowed the individual at least 30 days after the date of the notice described in (A) of this paragraph to request a hearing on the claim;

(C) the claim under AS 23.20 has not been contested, or, if contested, the issue has been resolved in favor of the Department of Labor and Workforce Development; and

(D) if the claim under AS 23.20 has been contested and resolved in favor of the Department of Labor and Workforce Development, an appeal is not pending, the time limit for filing an appeal has expired, or the appeal has been resolved in favor of the department.

(b) The Department of Labor and Workforce Development shall notify the individual if a dividend is claimed under (a) of this section. The notice shall be sent to the mailing address provided in the individual's permanent fund dividend application and must provide the following information:

(1) the amount of the claim under AS 23.20;

(2) notice that the permanent fund dividend, or that portion of the permanent fund dividend that does not exceed the amount of the claim under AS 23.20, shall be paid to the Department of Labor and Workforce Development in accordance with priorities established in state law;

(3) notice that the individual has a right to request a hearing and has a specific time after the date that the notice is mailed in which to file with the Department of Labor and Workforce Development an objection to paying the claim from the individual's permanent fund dividend.

(c) Except as provided in (d) of this section, AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual under (b) of this section. The hearing

(1) is limited to issues of identity of the individual and whether an amount is still owing in the claim under AS 23.20; and

(2) may be conducted telephonically or in writing.

(d) If the Department of Labor and Workforce Development has a notification or hearing procedure established in statute or regulation, the department may instead use that notification and hearing procedure so long as

(1) the procedure provides at least the minimum time for notice specified in

(a)(3)(B) of this section for the individual to request a hearing;

(2) the notice includes the statements required by (b) of this section; and

(3) the hearing is limited to the issues specified in (c)(1) of this section.

(e) The Department of Labor and Workforce Development may adopt regulations to implement this section under AS 44.62 (Administrative Procedure Act).

(f) In a claim for payment under this section, the Department of Labor and Workforce Development may include only fines, penalties, overpayments, attorney fees, costs, and other amounts that



(1) are owed the department under other provisions of state law under which the claim under AS 23.20 is being made; and

(2) have been established by court judgment or administrative order. (§ 2 ch 64 SLA 2000)

**Sec. 43.23.190. Claims of the University of Alaska.** (a) AS 09.38 does not apply to a permanent fund dividend taken under AS 14.40.251. Notwithstanding AS 09.35, the University of Alaska may take a permanent fund dividend under AS 14.40.251 by delivering a claim to the department certifying the following information:

(1) the name and social security number of the individual whose dividend is being claimed;

(2) the amount the individual owes the university; and

(3) a statement that

(A) the amount claimed is in default under AS 14.40.251;

(B) the university has notified the individual that future permanent fund dividends will be taken to satisfy the claim;

(C) the individual was notified of the right to request a hearing and allowed 30 days after the date of the notice described in (B) of this paragraph to request the university to hold a hearing on the claim;

(D) the claim has not been contested or, if contested, the issue has been resolved in favor of the university; and

(E) if the claim has been contested and resolved in favor of the university, no appeal is pending, the time limit for filing an appeal has expired, or the appeal has been resolved in favor of the university.

(b) The University of Alaska shall notify the individual of a claim under (a) of this section. The notice shall be sent to the address provided in the individual's permanent fund dividend application and must provide the following information:

(1) the amount of the claim;

(2) notice that the amount of the permanent fund dividend up to the amount of the claim shall be paid to the university to be credited against the individual's default balance; and

(3) notice of the individual's right to a hearing under (c) of this section.

(c) Within 30 days after the date of the notice under (b) of this section, the individual may request a hearing. AS 44.62.330 - 44.62.630 apply to a hearing under this subsection. At the hearing, the individual has the burden to show that

(1) the university has not sent a notice of default in compliance with AS 14.40.251(b);

(2) the notice of default has been rescinded after review under AS 14.40.251(c);

or

(3) the amount owed by the individual is less than the amount claimed from the permanent fund dividend.

(d) If the amount owed is determined under (c) of this section to be some amount greater than \$0, but less than the amount claimed, the University of Alaska may amend its claim to the amount determined to be owing. (§ 3 ch 43 SLA 2004)

**Sec. 43.23.200. Assignments.** (a) Except as provided in (b) of this section, a person eligible to receive a permanent fund dividend may not assign the right to the dividend. An attempted assignment of the right to receive a permanent fund dividend is against public policy and is void.

(b) A person may assign the right to receive a permanent fund dividend to a federal, state, or municipal government agency or to a court.

(c) For purposes of this section, "state agency" includes a regional housing authority created under AS 18.55.996. (§ 15 ch 4 SLA 1992; am § 17 ch 4 SLA 1992)

**Sec. 43.23.210. Fees for processing claims and assignments.** The department shall by regulation adopted under AS 44.62 (Administrative Procedure Act) establish fees for processing claims on dividends received by the department under AS 43.23.140, 43.23.160, or 43.23.180 and for processing assignments of dividends received by the department under AS 43.23.200(b). The fees shall cover the administrative expenses of the department associated with the claims and assignments. Fees shall be deducted from the amount of the dividend remaining after payment of the portion claimed or assigned, or, if the entire dividend is claimed or assigned, the fees shall be deducted before the dividend is paid to the creditor or assignee. (§ 1 ch 11 SLA 1994; am § 1 ch 64 SLA 2000)

#### **Article 4. Dividend Raffle.**

**Sec. 43.23.220. Education endowment fund.** (a) The education endowment fund is established as a separate account in the general fund. The fund consists of appropriations from

- (1) donations to the fund under AS 43.23.230(b);
- (2) transfers to the fund under AS 43.23.230(a);
- (3) interest earned on the fund; and
- (4) any other money appropriated to the fund.

(b) The commissioner is the fiduciary of the fund. In managing the fund, the commissioner shall

- (1) have the same powers and duties as provided in AS 37.10.071; and
- (2) invest the fund in a manner likely to achieve at least a four percent nominal return over a five-year period to meet the objectives of the fund.

(c) In managing the fund, the commissioner shall

- (1) consider the status of the fund's capital and the income generated on both current and probable future bases;
- (2) determine the appropriate investment objectives;
- (3) establish investment policies to achieve the objectives; and
- (4) act only in regard to the best financial interests of the fund.

(d) On July 1 of each year, the commissioner shall

- (1) determine the fund balance for the previously closed fiscal year, including the earnings of the fund; and
- (2) when the average market value for that fiscal year exceeds \$1,000,000,000, transfer 4.5 percent of the average fiscal-year-end market value of the balance of the fund for the last five fiscal years, including the fiscal year just ended, and including any unrealized gains and losses, to the Department of Education and Early Development for distribution as supplemental grants to school districts according to the average daily membership for each district adjusted under AS 14.17.410(b)(1)(A) - (D), subject to appropriation.

(e) Money appropriated to the fund does not lapse. (§ 8 ch 80 SLA 2018)

**Sec. 43.23.230. Dividend raffle fund; dividend donations to the dividend raffle fund; drawing.** (a) The dividend raffle fund is established as an account in the general fund. The commissioner shall manage the fund. Interest and other income received on money in the fund shall be separately accounted for and shall be appropriated to the fund. The fund consists of donations appropriated to the fund under (c) of this section. The commissioner shall use the dividend raffle fund, without further appropriation, to pay for prizes as set out in (d) of this section and may use up to two percent of the balance of the fund but not more than \$500,000

from the fund each fiscal year to pay the cost of administering the fund and for promotion and advertisement of the fund. When the balance of the dividend raffle fund exceeds \$300,000,000 at the end of a fiscal year, the commissioner shall transfer the amount above \$300,000,000 to the education endowment fund established in AS 43.23.220. Money donated to the fund does not lapse.

(b) Notwithstanding AS 43.23.200, the department shall provide on the Alaska permanent fund dividend application an option for an applicant who is 18 years of age or older to direct that all or a portion of the applicant's dividend payment be donated for educational purposes and to enter the permanent fund dividend raffle as provided in (c) of this section. A donation under this section may be \$100 or more, in increments of \$100, up to the total amount of the permanent fund dividend that the applicant is entitled to receive.

(c) Of the donations received in a year under (b) of this section, the legislature shall appropriate 25 percent to the education endowment fund established in AS 43.23.220 and shall appropriate 25 percent to the dividend raffle fund. The legislature shall appropriate the remaining 50 percent of the donations received under (b) of this section to the Department of Education and Early Development for distribution as supplemental grants to school districts according to the average daily membership for each district adjusted under AS 14.17.410(b)(1)(A) - (D).

(d) At the beginning of each year, the commissioner shall conduct a public drawing to award prizes from the dividend raffle fund. Each \$100 donation as provided in (b) of this section entitles a person to one entry into the raffle. The prizes for the raffle shall be as follows:

(1) the first name drawn receives an amount equal to eight percent of the balance of the dividend raffle fund;

(2) the second name drawn receives an amount equal to four percent of the balance of the dividend raffle fund;

(3) the third name drawn receives an amount equal to two percent of the balance of the dividend raffle fund; and

(4) the fourth name drawn receives an amount equal to one percent of the balance of the dividend raffle fund.

(e) Nothing in this section creates a dedicated fund. (§ 8 ch 80 SLA 2018)

## **Article 5. Relationship to other Programs.**

**Sec. 43.23.240. Eligibility for public assistance.** (a) In determining the eligibility of an individual under a public assistance program administered by the Department of Health and Social Services in which eligibility for assistance is based on financial need, the Department of Health and Social Services may not consider a permanent fund dividend as income or resources received by the recipient of public assistance or by a member of the recipient's household unless required to do so by federal law or regulation. The Department of Health and Social Services shall notify all recipients of public assistance of the effects of receiving a permanent fund dividend.

(b) An individual who is denied medical assistance under 42 U.S.C. 1396 - 1396p (Social Security Act, Title XIX) solely because of the receipt of a permanent fund dividend by the individual or by a member of the individual's household is eligible for state-funded medical assistance under AS 47.25.120 - 47.25.300 (general relief assistance program). The individual is entitled to receive, for a period not to exceed four months, the same level of medical assistance as the individual would have received under 42 U.S.C. 1396 - 1396p (Social Security Act, Title XIX) had there been no permanent fund dividend program.

(c) An individual who is denied assistance solely because permanent fund dividends received by the individual or by a member of the individual's household are counted as income or resources under federal law or regulation is eligible for cash assistance under AS 47.25.120 - 47.25.300 (general relief assistance program). Notwithstanding the limit in AS 47.25.130, the

individual is entitled to receive, for a period not to exceed four months, the same amount as the individual would have received under other public assistance programs had there been no permanent fund dividend program. (§ 1 ch 102 SLA 1982)

**Sec. 43.23.250. Eligibility for state programs.** A program administered by the state or any of its instrumentalities or municipalities, the eligibility for which is based on financial need, may not consider a permanent fund dividend as income or resources unless required to do so by federal law or regulation. (§ 1 ch 102 SLA 1982)

## **Article 6. Enforcement; Penalties.**

**Sec. 43.23.260. Subpoena power.** (a) The commissioner or the commissioner's designee at the director level may issue subpoenas to compel the production of books, papers, correspondence, memoranda, and other records considered necessary as evidence in connection with an investigation under or the administration of this chapter.

(b) In case of refusal to obey a subpoena issued to any person under (a) of this section, the superior court may, upon application by the department, issue an order requiring the person to appear before the department to produce evidence if ordered. Failure to obey the order of the court is punishable as contempt.

(c) A person who, without just cause, fails or refuses to produce books, papers, correspondence, memoranda, and other records, if it is in the person's power to do so, in obedience to a subpoena of the department or an authorized representative of it, upon conviction, is punishable by a fine of not more than \$200, or by imprisonment for not more than 60 days, or by both. Each day the failure or refusal continues is a separate offense. (§ 1 ch 97 SLA 2004)

**Sec. 43.23.270. Penalties and enforcement.** (a) In addition to any criminal penalties imposed by state law, if an individual is convicted of a crime in connection with a false statement made in a certification required under AS 43.23.015, and the conviction is not reversed, that individual forfeits all permanent fund dividends paid and is not eligible for a future permanent fund dividend.

(b) If the commissioner determines that a permanent fund dividend should not have been claimed by or paid to an individual, the commissioner may use all collection procedures or remedies available for collection of taxes under this title to recover the payment of a permanent fund dividend that was improperly made. A notice of an improperly paid dividend must be sent to the individual within

(1) three years after the improper payment is sent; or

(2) six years after the improper payment is sent if the commissioner determines that the individual exercised gross negligence or recklessly disregarded a material fact in connection with a false statement made in an application.

(c) In addition to any criminal penalties imposed by state law, if the department finds that an individual, in claiming a permanent fund dividend, or an individual, in certifying another person's eligibility, wilfully misrepresents, exercises gross negligence with respect to, or recklessly disregards a material fact pertaining to, eligibility, the department may issue an order against the individual for the

(1) forfeiture of the dividend;

(2) imposition of a civil fine of up to \$3,000; and

(3) loss of eligibility to receive the next five dividends following the forfeited dividend.

(d) If notice is not sent within the time required under (b) of this section, administrative or judicial proceedings may not be commenced for recovery of an improperly paid dividend. The time limitations of (b) of this section do not apply if a dividend is forfeited under (a) of this

section or if it is more probable than not that an individual has committed a crime in connection with a false statement made in an application.

(e) The provisions of AS 43.23.015(g) and (i) apply to a request for review of, and to appeal of, a decision under (c) of this section by an individual aggrieved by the decision. When all appeals have been exhausted under this chapter or the time when all of the appeals that could have been taken has expired, the order issued imposing a civil fine, forfeiture, or loss of eligibility becomes final and enforceable in the same manner as a judgment of the court. (§ 1 ch 102 SLA 1982; am § 3 ch 159 SLA 1988; am §§ 12, 13 ch 4 SLA 1992; am §§ 23, 24 ch 42 SLA 2006)

## **Article 7. General Provisions.**

### **Sec. 43.23.295. Definitions.** In this chapter,

(1) "Alaska permanent fund" means the fund established by art. IX, § 15 of the state constitution;

(2) "disabled" means physically or mentally unable to complete and sign an application due to a serious emotional disturbance, visual, orthopedic, or other health impairment, or developmental disability that is attributable to intellectual disability, cerebral palsy, epilepsy, autism, or other cause; "disabled" does not mean "incompetent";

(3) "dividend fund" means the fund established by AS 43.23.045;

(4) "individual" means a natural person;

(5) "permanent fund dividend" means a right to receive a payment from the dividend fund;

(6) "qualifying year" means the year immediately preceding January 1 of the current dividend year;

(7) "state resident" means an individual who is physically present in the state with the intent to remain indefinitely in the state under the requirements of AS 01.10.055 or, if the individual is not physically present in the state, intends to return to the state and remain indefinitely in the state under the requirements of AS 01.10.055;

(8) "year" means a calendar year. (§ 1 ch 102 SLA 1982; am § 3 ch 55 SLA 1983; am § 6 ch 68 SLA 1990; am § 38 ch 168 SLA 1990; am § 16 ch 4 SLA 1992; am § 2 ch 73 SLA 1996; am §§ 7, 8 ch 44 SLA 1998; am § 13 ch 42 SLA 2013)