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Nauman
3/13/23

CS FOR HOUSE BILL NO. 87(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to use of income of the Alaska permanent fund; relating to the amount**
2 **available for appropriation and appropriations from the earnings reserve account;**
3 **relating to the permanent fund dividend; relating to national criminal history record**
4 **checks for certain employees of the Department of Revenue; and providing for an**
5 **effective date."**

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

7 *** Section 1.** AS 12.62.400(c) is amended to read:

8 (c) To obtain a national criminal history record check for determining a
9 current or prospective employee's qualifications under AS 39.90.210, a current or
10 prospective employee's qualifications to administer the permanent fund dividend
11 program under AS 43.23, or a contractor's qualifications under AS 36.30.960, the
12 agency or the procurement officer shall submit the current or prospective employee's
13 or contractor's fingerprints to the department with the fee established by

1 AS 12.62.160. The department shall submit the fingerprints to the Federal Bureau of
 2 Investigation to obtain a national criminal history record check of the current or
 3 prospective employee or contractor for the purpose of evaluating a person's
 4 qualifications under AS 36.30.960, [AND] AS 39.90.210, or AS 43.23, as applicable.

5 In this subsection, unless the context otherwise requires,

6 (1) "agency" has the meaning given in AS 39.90.290;

7 (2) "contractor" has the meaning given in AS 36.30.960;

8 (3) "employee" has the meaning given in AS 39.90.290.

9 * **Sec. 2.** AS 37.13.140 is amended to read:

10 **Sec. 37.13.140. Income.** (a) Net income of the fund includes income of the
 11 earnings reserve account established under AS 37.13.145. Net income of the fund shall
 12 be computed annually as of the last day of the fiscal year in accordance with generally
 13 accepted accounting principles, excluding any unrealized gains or losses. [INCOME
 14 AVAILABLE FOR DISTRIBUTION EQUALS 21 PERCENT OF THE NET
 15 INCOME OF THE FUND FOR THE LAST FIVE FISCAL YEARS, INCLUDING
 16 THE FISCAL YEAR JUST ENDED, BUT MAY NOT EXCEED NET INCOME OF
 17 THE FUND FOR THE FISCAL YEAR JUST ENDED PLUS THE BALANCE IN
 18 THE EARNINGS RESERVE ACCOUNT DESCRIBED IN AS 37.13.145.]

19 (b) The corporation shall determine the amount available for appropriation
 20 each year. The amount available for appropriation is five percent of the average
 21 market value of the fund for the first five of the preceding six fiscal years, including
 22 the fiscal year just ended, computed annually for each fiscal year in accordance with
 23 generally accepted accounting principles. The amount available for appropriation
 24 may not exceed the balance in the earnings reserve account described in
 25 AS 37.13.145. In this subsection, "average market value of the fund" includes the
 26 balance of the earnings reserve account established under AS 37.13.145, but does not
 27 include that portion of the principal attributed to the settlement of State v. Amerada
 28 Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District).

29 * **Sec. 3.** AS 37.13.145(b) is amended to read:

30 (b) Each [AT THE END OF EACH] fiscal year, the legislature may
 31 appropriate [CORPORATION SHALL TRANSFER] from the earnings reserve

1 account to the dividend fund established under AS 43.23.045, 50 percent of the
2 income available for **appropriation** [DISTRIBUTION] under **AS 37.13.140(b)**
3 [AS 37.13.140].

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

5 (c) After the **appropriations** [TRANSFER] under (b) and [AN
6 APPROPRIATION UNDER] (e) of this section, the **legislature may appropriate**
7 [CORPORATION SHALL TRANSFER] from the earnings reserve account to the
8 principal of the fund an amount sufficient to offset the effect of inflation on the
9 principal of the fund during that fiscal year. However, none of the amount
10 **appropriated** [TRANSFERRED] shall be applied to increase the value of that portion
11 of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-
12 847 Civ. (Superior Court, First Judicial District) on July 1, 2004. The corporation shall
13 calculate the amount to **appropriate** [TRANSFER] to the principal under this
14 subsection by

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

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

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

23 * **Sec. 5.** AS 37.13.145(d) is amended to read:

24 (d) Notwithstanding (b) of this section, income earned on money awarded in
25 or received as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior
26 Court, First Judicial District), including settlement, summary judgment, or adjustment
27 to a royalty-in-kind contract that is tied to the outcome of this case, or interest earned
28 on the money, or on the earnings of the money shall be treated in the same manner as
29 other income of the Alaska permanent fund, except that it is not available for
30 **appropriation** [DISTRIBUTION] to the dividend fund **under (b) of this section**, for
31 **an appropriation** [TRANSFERS] to the principal under (c) of this section, or for an

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

3 * **Sec. 6.** AS 37.13.300(c) is amended to read:

4 (c) Net income from the mental health trust fund may not be included in the
5 computation of **the amount** [NET INCOME OR MARKET VALUE] available for
6 [DISTRIBUTION OR] appropriation under **AS 37.13.140(b)** [AS 37.13.140].

7 * **Sec. 7.** AS 43.23.008(a) is amended to read:

8 (a) Subject to (b) and (d) of this section, an otherwise eligible individual who
9 is absent from the state during the qualifying year remains eligible for a current year
10 permanent fund dividend if the individual was absent

11 (1) receiving secondary or postsecondary education on a full-time
12 basis; **on a break or holiday from a secondary or postsecondary educational**
13 **institution during an academic year, not including summer break, if the**
14 **individual is enrolled in and attends the educational institution on a full-time**
15 **basis before and after the break or holiday; or in an orientation program**
16 **required as a condition of the secondary or postsecondary education and the**
17 **individual immediately begins the education on a full-time basis after the**
18 **completion of the orientation;**

19 (2) receiving vocational, professional, or other specific education on a
20 full-time basis for which, as determined by the Alaska Commission on Postsecondary
21 Education, a comparable program is not reasonably available in the state; **on a break**
22 **or holiday from the vocational, professional, or other specific training, not**
23 **including summer break, if the individual is enrolled in and attends the training**
24 **on a full-time basis before and after the break or holiday; or in an orientation**
25 **program required as a condition of the vocational, professional, or other specific**
26 **training and the individual immediately begins the training on a full-time basis**
27 **after the completion of the orientation;**

28 (3) serving on active duty as a member of the **uniformed services**
29 [ARMED FORCES] of the United States or accompanying, as that individual's
30 spouse, minor dependent, or disabled dependent, an individual who is

31 (A) serving on active duty as a member of the **uniformed**

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services [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 or attending a vocational program that

(A) trains students for a career in the United States merchant marine, including a career as a marine engineer, in the deck department, or as a steward;

(B) provides seagoing service that meets the requirements of the United States Coast Guard for United States merchant marine credentialing; and

(C) is approved by the United States Coast Guard;

(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;

1 (14) serving as a volunteer in the federal peace corps program;

2 (15) because of training or competing as a member of the United States
3 Olympic Team or a United States national team for an Olympic sport;

4 (16) participating for educational purposes in a student fellowship
5 sponsored by the United States Department of Education or by the United States
6 Department of State;

7 (17) for any reason consistent with the individual's intent to remain a
8 state resident, provided the absence or cumulative absences do not exceed

9 (A) 180 days in addition to any absence or cumulative absences
10 claimed under (3) of this subsection if the individual is not claiming an absence
11 under (1), (2), or (4) - (16) of this subsection;

12 (B) 120 days in addition to any absence or cumulative absences
13 claimed under (1) - (3) of this subsection if the individual is not claiming an
14 absence under (4) - (16) of this subsection but is claiming an absence under (1)
15 or (2) of this subsection; or

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

19 * **Sec. 8.** AS 43.23.008(f) is amended to read:

20 (f) In [FOR PURPOSES OF (a)(7) OF] this section,

21 (1) "family member" means a person who is

22 (A) [(1)] legally related to the individual through marriage or
23 guardianship; or

24 (B) [(2)] the individual's sibling, parent, grandparent, son,
25 daughter, grandson, granddaughter, uncle, aunt, niece, nephew, or first cousin;

26 (2) **"uniformed service" means the Army, Navy, Air Force, Marine**
27 **Corps, Coast Guard, Space Force, and the Commissioned Corps of the National**
28 **Oceanic and Atmospheric Administration and Public Health Services.**

29 * **Sec. 9.** AS 43.23.011 is amended by adding a new subsection to read:

30 (d) An otherwise eligible individual may apply for a current year dividend
31 after March 31 and before October 1 of that year if the individual was eligible during

1 the application period under (a) of this section and the individual's parent, guardian, or
2 other authorized representative failed to claim a dividend on behalf of the individual
3 because the parent, guardian, or authorized representative had a medical emergency
4 that prevented the parent, guardian, or authorized representative from applying by
5 March 31.

6 * **Sec. 10.** AS 43.23.025(a) is amended to read:

7 (a) By October 1 of each year, the commissioner shall determine the value of
8 each permanent fund dividend for that year by

9 (1) determining the total amount available for dividend payments,
10 which equals

11 (A) the amount appropriated [OF INCOME OF THE
12 ALASKA PERMANENT FUND TRANSFERRED] to the dividend fund
13 under AS 37.13.145(b) during the current year;

14 (B) plus the unexpended and unobligated balances of prior
15 fiscal year appropriations that lapse into the dividend fund under
16 AS 43.23.045(d);

17 (C) less the amount necessary to pay prior year dividends from
18 the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and
19 43.23.055(3) and (7);

20 (D) less the amount necessary to pay dividends from the
21 dividend fund due to eligible applicants who, as determined by the department,
22 filed for a previous year's dividend by the filing deadline but who were not
23 included in a previous year's dividend computation;

24 (E) less appropriations from the dividend fund during the
25 current year, including amounts to pay costs of administering the dividend
26 program and the hold harmless provisions of AS 43.23.240;

27 (2) determining the number of individuals eligible to receive a
28 dividend payment for the current year and the number of estates and successors
29 eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

30 (3) dividing the amount determined under (1) of this subsection by the
31 amount determined under (2) of this subsection.

1 * **Sec. 11.** AS 43.23.055 is amended to read:

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

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

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

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

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

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

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

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

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

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

6 (A) access to the data base; or

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

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

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

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

17 (11) adopt regulations under AS 44.62 (Administrative Procedure Act)
18 so that contributions under AS 43.23.130 are given a priority over donations under
19 AS 43.23.230 if the total amount of contributions and donations elected by an
20 applicant exceeds the amount of the permanent fund dividend that the applicant is
21 entitled to receive;

22 **(12) submit fingerprints and fees to the Department of Public**
23 **Safety for a national criminal history record check under AS 12.62.400 for the**
24 **purpose of determining a person's qualifications for administering the**
25 **permanent fund dividend program under this chapter.**

26 * **Sec. 12.** AS 43.23.140(d) is amended to read:

27 (d) An assignment of or levy, execution, garnishment, attachment, or other
28 remedy for the collection of debt applied to a dividend for a year may not be accepted
29 by the department before April 1 of that same year. AS 09.38.080(c) and 09.38.085 do
30 not apply to a levy on a permanent fund dividend. Upon receipt of a writ of execution
31 under (a) of this section or another court order, the commissioner shall deliver to the

1 court that portion of the dividend executed upon along with the case name and
2 number. At the time payment is made to the court, the department shall send **notice to**
3 **the court that issued the writ or order and** to the individual at the address provided
4 in the individual's dividend application **or the electronic mail address at which the**
5 **individual has consented to receive notices or documents in a verifiable manner,**
6 **as provided in regulations adopted by the department. The** [AND TO THE
7 COURT THAT ISSUED THE WRIT OR ORDER A] notice **must contain** [THAT
8 CONTAINS]

9 (1) notification that all or part of the individual's dividend has been
10 seized under a writ of execution or court order;

11 (2) the name and address of the court that issued the writ or order;

12 (3) the case number for which the writ or order was issued;

13 (4) the amount seized under the writ or order; and

14 (5) notification that the individual has 30 days from the date the notice
15 is mailed in which to file with the court an objection to the seizure if a mistake has
16 been made.

17 * **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 APPLICABILITY. AS 43.23.008(a), as amended by sec. 7 of this Act,
20 AS 43.23.008(f), as amended by sec. 8 of this Act, and AS 43.23.011(d), added by sec. 9 of
21 this Act, apply to the permanent fund dividend 2024 qualifying year for the 2025 dividend
22 year and thereafter.

23 * **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to
24 read:

25 TRANSITION: REGULATIONS. The commissioner of revenue may adopt
26 regulations necessary to implement the changes made by secs. 7 - 9 of this Act. The
27 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
28 effective date of the law implemented by the regulation.

29 * **Sec. 15.** Sections 1 - 6, 10 - 12, and 14 of this Act take effect immediately under
30 AS 01.10.070(c).

31 * **Sec. 16.** Except as provided in sec. 15 of this Act, this Act takes effect January 1, 2024.