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MEMORANDUM

March 16, 2023

SUBJECT: Permanent Fund Dividend Eligibility: Five Year Rule
(CSHB 25(STA); Work Order No. 33-LS0265\S)

TO: Representative Dan Saddler
Attn: Melodie Wilterdink

FROM: Emily Naumen
Director 

You asked whether the "five-year rule" for permanent fund dividend (dividend) eligibility applies to the absences for uniformed service members in CSHB 25(STA), the short answer is yes.

AS 43.23.008(d) sets out the five-year rule. That subsection states that if an individual is absent from the state for more than 180 days in each of the preceding five years, an individual is presumed no longer eligible for the dividend. AS 43.23.008(d), in full, reads:

(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.

The allowable absence for uniformed service members, expanded in CSHB 25(STA), is set out in AS 43.23.008(a)(3). AS 43.23.008(a)(3), as amended by CSHB 25(STA) reads:

(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

...

(3) serving on active duty as a member of the **uniformed services** [ARMED FORCES] of the United States or accompanying, as that

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individual's spouse, minor dependent, or disabled dependent, an individual who is

(A) serving on active duty as a member of the **uniformed services** [ARMED FORCES] of the United States; and

(B) eligible for a current year dividend;¹

The lead in to AS 43.23.008(a) states that the allowable absences in AS 43.23.008(a), including the absence for armed forces or, if amended, uniformed service members, is *subject to* the limitation in AS 43.23.008(d), the five-year rule. In other words, even if an individual is absent from the state under an allowable uniformed services or armed forces absence, if the individual is absent from the state more than 180 days in the five years preceding the dividend year, the individual is presumed no longer eligible for the dividend.²

If I may be of further assistance, please advise.

ELN:mjt
23-105.mjt

¹ Emphasis added.

² The individual may rebut the presumption as described in AS 43.23.008(d), *supra*.