

SENATE BILL NO. 322

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY SENATOR DUNCAN

Introduced: 2/16/98

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska children's dividend fund; and providing for an
2 effective date."

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

4 * **Section 1.** AS 43.23.005(c) is amended to read:

5 (c) A parent, guardian, or other authorized representative may claim a
6 permanent fund dividend on behalf of an unemancipated minor or on behalf of a
7 disabled or an incompetent individual who is eligible **for a dividend** [TO RECEIVE
8 A PAYMENT] under this section. Notwithstanding (a)(2) - (4) of this section, a minor
9 is eligible for a dividend if, during the two calendar years immediately preceding the
10 current dividend year, the minor was born to or adopted by an individual who is
11 eligible for a dividend for the current dividend year.

12 * **Sec. 2.** AS 43.23.005 is amended by adding a new subsection to read:

13 (h) A parent, guardian, or other authorized representative who is authorized to
14 claim a dividend on behalf of an unemancipated minor under (c) of this section may

1 elect to defer payment of the dividend and have the dividend deposited into the Alaska
2 children's dividend fund (AS 43.23.150) and held in trust for the minor.

3 * **Sec. 3.** AS 43.23.015(b) is amended to read:

4 (b) The department shall prescribe and furnish an application form for claiming
5 a permanent fund dividend. **The form must allow an election to defer payment of**
6 **the dividend under AS 43.23.005(h).** The application must include notice of the
7 penalties provided for under AS 43.23.035 and contain a statement of eligibility and
8 a certification of residency.

9 * **Sec. 4.** AS 43.23.035(a) is amended to read:

10 (a) In addition to any criminal penalties imposed by state law, if an individual
11 is convicted of a crime in connection with a false statement made in a certification
12 required under AS 43.23.015, and the conviction is not reversed, that individual forfeits
13 all permanent fund dividends paid **to the individual or to the Alaska children's**
14 **dividend fund and held in trust for that individual, together with any income**
15 **from the money held in trust,** and is not eligible for a future permanent fund
16 dividend.

17 * **Sec. 5.** AS 43.23.035(b) is amended to read:

18 (b) If the commissioner determines that a permanent fund dividend should not
19 have been claimed by or paid to an individual **or to the Alaska children's dividend**
20 **fund and held in trust for that individual,** the commissioner may use all collection
21 procedures or remedies available for collection of taxes under this title to recover the
22 payment of a permanent fund dividend that was improperly made. A notice of an
23 improperly paid dividend must be sent to the individual within

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

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

28 * **Sec. 6.** AS 43.23.055 is amended to read:

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

30 (1) annually pay permanent fund dividends from the dividend fund **to**
31 **individuals and to the Alaska children's dividend fund;**

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

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

11 (4) assist residents of the state, particularly in rural areas, who, because
12 of language, disability, or inaccessibility to public transportation, need assistance to
13 establish eligibility, [AND] to apply for permanent fund dividends, **and to determine**
14 **whether to elect to defer payment of dividends under AS 43.23.005(h);**

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

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

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

23 (8) adopt regulations that establish procedures for an individual to apply
24 to have a dividend warrant reissued if it is returned to the department as undeliverable
25 or it is not paid within two years of the date of its issuance; however, the department
26 may not establish a time limit within which an application to have a warrant reissued
27 must be filed;

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

1 department shall provide the requesting agency with either

2 (A) access to the data base; or

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

5 * **Sec. 7.** AS 43.23.065(a) is amended to read:

6 (a) Except as provided in (b) of this section, 45 percent of the annual
7 permanent fund dividend payable to an individual is exempt from levy, execution,
8 garnishment, attachment, or any other remedy for the collection of debt. This
9 exemption applies to an eligible individual's permanent fund dividend both before and
10 after payment is made to the individual **or to the Alaska children's dividend fund**
11 **and held in trust for that individual.** No other exemption applies to a dividend.
12 Notwithstanding other laws, a writ of execution upon a dividend that has not been
13 delivered to the debtor may be served on the commissioner by certified mail, return
14 receipt requested. Upon receipt of a writ by certified mail, return receipt requested, the
15 commissioner shall deliver that portion of the dividend executed upon to the court
16 along with the case name and number.

17 * **Sec. 8.** AS 43.23.075 is amended to read:

18 **Sec. 43.23.075. Eligibility for public assistance.** (a) In determining the
19 eligibility of an individual under a public assistance program administered by the
20 Department of Health and Social Services in which eligibility for assistance is based
21 on financial need, the Department of Health and Social Services may not consider a
22 permanent fund dividend **or money held in the Alaska children's dividend fund** as
23 income or resources received by the recipient of public assistance or by a member of
24 the recipient's household unless required to do so by federal law or regulation. The
25 Department of Health and Social Services shall notify all recipients of public assistance
26 of the effects of receiving a permanent fund dividend.

27 (b) An individual who is denied medical assistance under 42 U.S.C. 1396 -
28 1396p (Social Security Act, Title XIX) solely because of **money held in the Alaska**
29 **children's dividend fund or** the receipt of a permanent fund dividend by the
30 individual or by a member of the individual's household is eligible for state-funded
31 medical assistance under AS 47.25.120 - 47.25.300 (general relief assistance program).

1 The individual is entitled to receive, for a period not to exceed four months, the same
 2 level of medical assistance as the individual would have received under 42 U.S.C.
 3 1396 - 1396p (Social Security Act, Title XIX) had there been no permanent fund
 4 dividend program.

5 (c) An individual who is denied assistance solely because **money held in the**
 6 **Alaska children's dividend fund or** permanent fund dividends received by the
 7 individual or by a member of the individual's household are counted as income or
 8 resources under federal law or regulation is eligible for cash assistance under
 9 AS 47.25.120 - 47.25.300 (general relief assistance program). Notwithstanding the limit
 10 in AS 47.25.130, the individual is entitled to receive, for a period not to exceed four
 11 months, the same amount as the individual would have received under other public
 12 assistance programs had there been no permanent fund dividend program.

13 * **Sec. 9.** AS 43.23.085 is amended to read:

14 **Sec. 43.23.085. Eligibility for state programs.** A program administered by
 15 the state or any of its instrumentalities or municipalities, the eligibility for which is
 16 based on financial need, may not consider a permanent fund dividend **or money held**
 17 **in the Alaska children's dividend fund** as income or resources unless required to do
 18 so by federal law or regulation.

19 * **Sec. 10.** AS 43.23 is amended by adding new sections to read:

20 **Article 2. Alaska Children's Dividend Fund.**

21 **Sec. 43.23.150. Alaska children's dividend fund.** (a) The Alaska children's
 22 dividend fund is established as a separate trust fund in the state treasury and is an asset
 23 of the state. The Alaska children's dividend fund consists of

24 (1) money transferred from the dividend fund under AS 43.23.005(h)
 25 and held in trust for individuals; and

26 (2) income earned on the money in the Alaska children's dividend fund.

27 (b) Money in the Alaska children's dividend fund shall be invested by the
 28 commissioner of revenue under AS 37.10.070. Investment income and losses shall be
 29 allocated equitably among all beneficiaries. A quarterly statement of the balance held
 30 in trust for an individual shall be provided to the individual or, if the individual is
 31 under 18 years of age and unemancipated, to the individual's parent, legal guardian,

1 or other authorized representative.

2 (c) An amount sufficient to administer AS 43.23.150 - 43.23.180 may be
3 annually appropriated from the Alaska children's dividend fund. Appropriations shall
4 be allocated equitably among all beneficiaries.

5 **Sec. 43.23.160. Requested disbursements.** (a) When an individual is
6 emancipated or is 18 years of age or older, the individual may request disbursement
7 from the Alaska children's dividend fund of all or part of the money held in trust for
8 that individual. The parent, legal guardian, or other authorized representative of an
9 unemancipated individual under 18 years of age may request disbursement of all or
10 part of the money held in trust for the minor only for costs of

11 (1) postsecondary education or vocational training for the individual;

12 (2) medical treatment for the individual necessitated by a serious illness
13 or medical condition; or

14 (3) caring for the individual if the individual has a long-term or
15 permanent disability.

16 (b) Except in cases of medical emergency, disbursements may be made under
17 this section only on June 1 and December 1.

18 **Sec. 43.23.170. Mandatory disbursements.** (a) The entire balance held in
19 trust in the Alaska children's dividend fund for an individual shall be disbursed to that
20 individual

21 (1) if the individual is at least 21 years of age and did not satisfactorily
22 complete at least 24 credit hours in a postsecondary education or vocational training
23 program during the last 12-month period; or

24 (2) when the individual reaches the age of 25.

25 **Sec. 43.23.180. Regulations.** The commissioner of revenue may adopt
26 regulations under AS 44.62 (Administrative Procedure Act) to carry out the provisions
27 of AS 43.23.150 - 43.23.180.

28 * **Sec. 11.** This Act takes effect January 1, 1999.