

SENATE BILL NO. 203

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY SENATORS THOMAS, Paskvan, Hoffman, Wagoner, Ellis, Olson, French, Kookesh, Egan

Introduced: 2/17/12

Referred: Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing an energy assistance program in the Department of Revenue to
2 issue an energy voucher to Alaska permanent fund dividend recipients; and relating to
3 the analysis and recommendation of an energy assistance program by the governor."

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

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 ALASKA ENERGY VOUCHER. (a) To help residents meet the high cost of energy
8 in the state, the Department of Revenue shall issue an energy voucher to each adult who is
9 determined by the department to be eligible for the permanent fund dividend paid in 2012.

10 (b) The voucher shall be redeemable for 250 gallons of heating oil, the natural gas
11 British thermal unit equivalent of 250 gallons of heating oil, or for 1,500 kilowatts of
12 electricity.

13 (c) The energy voucher

14 (1) shall be numbered and state the name of the adult to whom the voucher is

1 issued;

2 (2) must contain a certification that the voucher recipient is complying with all
3 the requirements of the voucher;

4 (3) is nontransferable and may not be sold, transferred, or traded for any other
5 compensation, except as provided in (g) of this section;

6 (4) is redeemable only at a distributor qualified under (e) of this section but
7 may not be split among multiple distributors;

8 (5) is valid for heating oil or natural gas delivered, or kilowatts used, before
9 April 30, 2013;

10 (6) is valid for heating oil, natural gas, or electricity delivered to any
11 residential or business address in the state; and

12 (7) shall be issued by the department not earlier than July 1, 2012, and not
13 later than December 1, 2012.

14 (d) A distributor qualified under (e) of this section shall, before June 1, 2013, submit
15 claims for reimbursement to the Department of Revenue. The department shall mail
16 reimbursement for an energy voucher not later than 20 days after receiving an eligible claim
17 from a qualified distributor. Submitted claims must include

18 (1) the voucher number;

19 (2) the name of the recipient, as stated on the voucher;

20 (3) the address to which the heating oil, natural gas, or electricity paid for by
21 the voucher was delivered; and

22 (4) the retail value of the heating oil, natural gas, or electricity on the date or
23 dates it was delivered.

24 (e) For purposes of (d) of this section, a distributor of oil, natural gas, or electricity is
25 qualified if the distributor is licensed to do business in the state, is regularly engaged in the
26 business of distributing oil, natural gas, or electricity, and meets other eligibility requirements
27 that the Department of Revenue may adopt by regulation under AS 44.62 (Administrative
28 Procedure Act). The department shall maintain a list of qualified distributors eligible to accept
29 and redeem vouchers.

30 (f) In determining the eligibility of an individual under a public assistance program, a
31 heating assistance program, or a veterans' benefits program in which eligibility for assistance

1 is based on financial need, the state may not consider an energy voucher as income or
2 resources received by the recipient or by a member of the recipient's household unless
3 required to do so by federal law or regulation.

4 (g) An recipient of an energy voucher who does not pay directly for the heating oil,
5 natural gas, or electricity used in the recipient's residence may certify that fact on a form
6 provided by the Department of Revenue and may exchange the voucher with the department
7 for

8 (1) a replacement voucher in the name of the landlord or owner of the
9 residence in which the recipient resides, the value of which may, subject to negotiations
10 between the landlord and tenant, be deducted from rent; replacement of a voucher under this
11 paragraph is not considered a transfer for purposes of (c)(3) of this section; or

12 (2) a check for \$250 in the name of the recipient of the energy voucher.

13 (h) Except as provided in (i) of this section or as may be provided by regulations
14 adopted by the Department of Revenue, an energy voucher issued under this section is not
15 valid unless it is signed by the individual named on the face of the voucher.

16 (i) The energy voucher of an individual who is disabled or incompetent must be
17 signed by the individual's parent, legal guardian, or other authorized representative. An
18 individual may complete, sign, and redeem an energy voucher on behalf of a member of the
19 armed forces of the United States who is serving on active duty outside of the United States if
20 the individual has a power of attorney from the member of the armed forces that, in specific
21 or general terms, authorizes the individual to redeem the voucher.

22 (j) If a public agency claims an energy voucher on behalf of an individual, the public
23 agency shall hold the energy voucher in trust for the individual.

24 (k) An individual who is disabled or incompetent may not maintain a claim against
25 the state or an officer or employee of the state based on the manner in which the parent,
26 guardian, or authorized representative other than a public agency of the state managed or
27 disposed of an energy voucher received on behalf of the disabled or incompetent individual.

28 (l) In addition to any criminal penalties imposed by state law, if an individual or
29 qualified distributor is convicted of a crime in connection with a false statement made in a
30 certification required under (c)(2) of this section, submission for a reimbursement under (d) of
31 this section, or an exchange of energy vouchers under (g) of this section, or in connection

1 with forging an energy voucher, and the conviction is not reversed, vacated, or set aside, or if
2 an individual or qualified distributor is found by the Department of Revenue to have bought,
3 sold, traded, or otherwise violated the terms of the voucher, that individual or qualified
4 distributor forfeits the energy voucher, and the individual is not eligible for a future
5 permanent fund dividend.

6 (m) If an individual or distributor is aggrieved by a decision of the Department of
7 Revenue with respect to the individual's eligibility for an energy voucher, the individual's
8 authority to claim an energy voucher on behalf of another, or reimbursement of a distributor,
9 or other decision under (l) of this section, the individual or distributor may request that the
10 Department of Revenue review its decision. Within 12 months after an administrative appeal
11 under this subsection is filed, the Department of Revenue shall provide the individual or
12 distributor with a final written decision. If the individual or distributor is aggrieved by the
13 final written decision of the Department of Revenue, the individual or distributor may appeal
14 that decision to the superior court in accordance with AS 44.62.560. An appeal to the court
15 under this subsection does not entitle the aggrieved individual or distributor to a trial de novo.
16 The appeal shall be based on the record of the administrative proceeding from which appeal is
17 taken, and the scope of appeal is limited to matters contained in the record of the
18 administrative proceeding.

19 (n) If the Department of Revenue determines that an energy voucher should not have
20 been issued to an individual or a reimbursement should not have been made to a distributor,
21 the commissioner of revenue may use all collection procedures or remedies available under
22 AS 43 to recover the energy voucher or the cash value of the voucher that was improperly
23 issued or for which reimbursement was improperly made. Except as provided in (o) of this
24 section, a notice of an improperly issued voucher or improper reimbursement shall be sent to
25 the individual or distributor, as applicable, within

26 (1) three years after the energy voucher was issued if the notice is sent to an
27 individual; or

28 (2) three years after the distributor received reimbursement if the notice is sent
29 to a distributor.

30 (o) The three-year time limit under (n) of this section for the department to send
31 notice of an improperly issued voucher or an improper reimbursement is extended to six years

1 if the Department of Revenue determines that the individual or distributor

2 (1) exercised gross negligence or reckless disregard with respect to a material
3 fact in connection with a false statement on the energy voucher or submission for
4 reimbursement; or

5 (2) forged an energy voucher.

6 (p) If notice is not sent within the time required under (n) or (o) of this section,
7 administrative or judicial proceedings may not be commenced for recovery of an improperly
8 issued energy voucher or improper reimbursement.

9 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 ANALYSIS AND RECOMMENDATION OF AN ENERGY ASSISTANCE
12 PROGRAM. (a) The governor shall analyze the energy assistance program in (b) of this
13 section and alternate options for providing energy assistance to Alaskans and, before
14 October 1, 2012, provide a report to the legislature making a recommendation for an energy
15 assistance program to be implemented in the fiscal year ending June 30, 2014, that

16 (1) correlates the amount of assistance to the local cost of residential heating,
17 taking into consideration the price of fuel and heating degree days in each community;

18 (2) is implemented based on crude oil price or heating oil price;

19 (3) has total funding based on state revenue;

20 (4) minimizes administrative costs;

21 (5) makes participation of fuel distributors voluntary;

22 (6) includes a hold harmless provision for recipients of public assistance and
23 veterans' benefits; and

24 (7) includes penalties for fraud, including ineligibility for a future permanent
25 fund dividend.

26 (b) The governor shall analyze the following options and may analyze alternate
27 options to provide energy assistance to Alaskans:

28 (1) a fuel price reduction program with the following features:

29 (A) state reimbursement to a heating oil or natural gas distributor of a
30 portion of the wholesale purchase price of fuel that the distributor sold to heat
31 residential structures;

1 (B) an amount of reimbursement necessary to reduce the wholesale
2 purchase price of a distributor by a specified amount or to a specified price;

3 (C) a limit on the amount of fuel that a person may purchase and for
4 which a distributor received a state reimbursement; and

5 (2) an individual account program with the following features:

6 (A) application on a permanent fund dividend application for energy
7 assistance in the form of a state payment to the applicant's account with a fuel
8 distributor or electric utility;

9 (B) assistance based on heating degree days and the cost of energy in
10 the community;

11 (C) electronic selection of

12 (i) a fuel distributor or electric utility to receive the individual's
13 energy assistance payment; and

14 (ii) an optional amount from the applicant's dividend to be
15 deposited in the individual's account with a fuel distributor or electric utility;

16 (D) a statewide base amount to be sent with the applicant's permanent
17 fund dividend for an applicant for energy assistance who fails to select a fuel
18 distributor or electric utility to receive the individual's energy assistance payment.

19 (c) The governor's report to the legislature under (a) of this section shall evaluate

20 (1) the estimated cost of the program for the first five years;

21 (2) the cost of administering the program compared to the assistance provided;

22 (3) whether the program provides the highest level of assistance to the
23 individuals with the highest heating costs; and

24 (4) whether the program can be structured so that energy assistance is not
25 subject to federal taxation.

26 (d) In this section, "heating degree days" means the average temperature for a day
27 minus the reference temperature of 65 degrees Fahrenheit.