

CS FOR SENATE BILL NO. 203(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/6/12

Referred: Rules

Sponsor(s): SENATORS THOMAS, Paskvan, Hoffman, Wagoner, Ellis, Olson, French, Kookesh, Egan, Menard, Davis, Stevens

REPRESENTATIVES Petersen, Herron, Miller, Guttenberg

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing an energy assistance program in the Alaska Housing Finance**
2 **Corporation to issue an energy voucher to Alaska permanent fund dividend recipients;**
3 **relating to the analysis and recommendation of an energy assistance program by the**
4 **governor; and providing for an effective date."**

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

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

8 ALASKA ENERGY VOUCHER. (a) To help residents meet the high cost of energy
9 in the state in 2011, the Alaska Housing Finance Corporation shall establish a program under
10 which the corporation will issue not more than one energy voucher to each adult or
11 emancipated minor who

12 (1) in 2011, was permitted to apply for a permanent fund dividend on the
13 person's own behalf and who was determined by the Department of Revenue to be eligible for
14 the permanent fund dividend paid in 2012; or

1 (2) did not apply for the permanent fund dividend paid in 2012 but certifies,
2 on a form provided by the corporation that bears notice that false statements made in the form
3 are punishable by law, that the person was eligible for the permanent fund dividend paid in
4 2012 and is determined by the corporation to have otherwise been eligible for the permanent
5 fund dividend paid in 2012.

6 (b) An energy voucher issued under this section is redeemable for the monetary
7 equivalent of 250 gallons of heating oil, the monetary equivalent of 35,000 cubic feet of
8 natural gas, the monetary equivalent of 31,000,000 British thermal units of hot water or steam
9 district heat, or the monetary equivalent of 1,500 kilowatt-hours of electricity. For purposes of
10 this subsection, the monetary equivalent of 250 gallons of heating oil, 35,000 cubic feet of
11 natural gas, 31,000,000 British thermal units of hot water or steam district heat, or 1,500
12 kilowatt-hours of electricity is the retail price of 250 gallons of heating oil, 35,000 cubic feet
13 of natural gas, 31,000,000 British thermal units of hot water or steam district heat, or 1,500
14 kilowatt-hours of electricity as approved for each distributor qualified under (e) of this
15 section. The corporation shall specify a date in 2012 for which each distributor that wants to
16 be qualified under (e) of this section shall submit the retail price of 250 gallons of heating oil,
17 the retail price of 35,000 cubic feet of natural gas, the retail price of 31,000,000 British
18 thermal units of hot water or steam district heat, or the retail price of 1,500 kilowatt-hours of
19 electricity, as applicable. On receipt of a voucher and eligible claim, the corporation shall
20 issue a payment to the qualified distributor of the monetary amount determined under this
21 subsection using the retail price approved by the corporation under (e) of this section for a
22 qualified distributor for the applicable type of energy, district heat, or fuel. On receipt of the
23 payment from the corporation, a qualified distributor shall credit the full amount of the
24 payment to the account that services the primary physical residence of the recipient of the
25 voucher. A payment made under this section may not be used for costs unassociated with the
26 purchase of the energy, district heat, or fuel, may not be transferred between customer
27 accounts, and may not be paid out in cash. If an account with a remaining balance from a
28 payment made under this section is closed, a qualified distributor shall return the balance of
29 the account attributable to the energy voucher to the corporation.

30 (c) The energy voucher

31 (1) must be numbered and state the name of the person to whom the voucher

1 is issued;

2 (2) must require the recipient of the voucher to sign, and date, and certify, on a
3 form bearing notice that false statements made in the form are punishable by law, that the
4 recipient of the voucher is complying with all the requirements of the voucher, including the
5 requirement that the voucher amount be used to supply heating oil, natural gas, district heat,
6 or electricity to the voucher recipient's primary physical residence in the state;

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

9 (4) is redeemable only at a distributor qualified under (e) of this section and
10 may not be split among multiple distributors;

11 (5) is not valid for submission to a distributor more than four months after the
12 date the energy voucher is issued;

13 (6) is valid for heating oil, natural gas, district heat, or electricity delivered to
14 the voucher recipient's primary physical residence in the state; and

15 (7) shall be issued by the corporation not more than 30 days following the
16 issuance in 2012 of the permanent fund dividend.

17 (d) A distributor qualified under (e) of this section shall, within 30 days after
18 accepting the voucher, issue a document acknowledging receipt of the voucher to the person
19 exchanging the voucher. The corporation shall issue the amount determined under (b) and (e)
20 of this section to the qualified distributor for an energy voucher not later than 20 days after
21 receiving an eligible claim from a qualified distributor. Submitted claims must include

22 (1) the number of the voucher;

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

24 (3) the address or other identifying information requested by the corporation
25 listed on the heating oil, natural gas, district heat, or electricity account that the voucher will
26 credit.

27 (e) The corporation shall maintain a list of qualified distributors eligible to accept and
28 redeem vouchers. A distributor of oil, natural gas, district heat, or electricity is qualified if the
29 distributor

30 (1) is licensed to do business in the state;

31 (2) is regularly engaged in the business of distributing oil, natural gas, district

1 heat, or electricity;

2 (3) submits a retail price of oil, natural gas, district heat, or electricity, as
3 applicable, for the quantities described in (a) of this section, submits all evidence for that
4 retail price requested by the corporation, and responds to inquiries of the corporation related
5 to that retail price, and the corporation finds that retail price is representative of the price
6 charged under similar circumstances; and

7 (4) meets other eligibility requirements that the corporation may adopt under
8 AS 18.56.088 or emergency regulations adopted under sec. 3 of this Act.

9 (f) In determining the eligibility of an individual under a public assistance program, a
10 heating assistance program, or a veterans' benefits program in which eligibility for assistance
11 is based on financial need, the state may not consider an energy voucher as income or
12 resources received by the recipient or by a member of the recipient's household. An individual
13 whose

14 (1) supplemental security income benefit payment under 42 U.S.C. 1381 -
15 1383f is reduced solely because of the receipt of energy assistance under this section is
16 entitled to receive from the state, for a period not to exceed 12 months, the same level of
17 benefit payment as the individual would have received under 42 U.S.C. 1381 - 1383f had
18 energy assistance not been received under this section; or

19 (2) nutrition assistance or benefits under 42 U.S.C. 1786 (Special
20 Supplemental Nutrition Program for Women, Infants, and Children) or 7 U.S.C. 612c
21 (Commodity Supplemental Food Program) are reduced solely because of the receipt of energy
22 assistance under this section is entitled to receive, notwithstanding the assistance limit in
23 AS 47.25.130(a), cash assistance under AS 47.25.120 - 47.25.300 (general relief assistance),
24 for a period not to exceed 12 months, in the same amount as the individual would have
25 received under 42 U.S.C. 1786 (Special Supplemental Nutrition Program for Women, Infants,
26 and Children) or 7 U.S.C. 612c (Commodity Supplemental Food Program) had energy
27 assistance not been received under this section.

28 (g) A recipient of an energy voucher who does not pay directly for the heating oil,
29 natural gas, district heat, or electricity used in the recipient's primary physical residence or
30 who does not have reasonable access to a qualified distributor of the type of fuel, district heat,
31 or electricity used in the recipient's primary physical residence in the state may certify that

1 fact on a form provided by the corporation bearing notice that false statements made in the
2 form are punishable by law, and may exchange the voucher with the corporation

3 (1) if applicable, for a replacement voucher in the name of the landlord or
4 owner of the recipient's primary physical residence in the state, the value of which may,
5 subject to negotiations between the landlord and tenant, be deducted from rent; or

6 (2) upon certification that the \$250 will be used toward rent, energy, or
7 heating costs at the recipient's primary physical residence in the state, for a check for \$250 in
8 the name of the recipient of the energy voucher.

9 (h) Except as provided in (j) of this section or as may be provided by regulations
10 adopted by the corporation, an energy voucher issued under this section is not valid unless it
11 is signed and dated by the individual named on the face of the voucher.

12 (i) A replacement voucher issued to a landlord under (g) of this section is not valid
13 until the landlord certifies on a form provided by the corporation bearing notice that false
14 statements made in the form are punishable by law that the amount of the voucher will be
15 used to provide energy or heat to the primary physical residence of the original recipient of
16 the voucher and certifies to the amount that the landlord will apply against the rent of the
17 original recipient of the voucher.

18 (j) Certification or signature on an energy voucher or other certification under this
19 section required of an individual who is disabled or incapacitated may be signed or certified
20 by the individual's legal guardian or other authorized representative. An individual may
21 complete, sign, and redeem an energy voucher on behalf of a member of the armed forces of
22 the United States who is serving on active duty outside of the United States if the individual
23 has a power of attorney from the member of the armed forces that, in specific or general
24 terms, authorizes the individual to redeem the voucher.

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

29 (l) If a person is eligible for an energy voucher but dies before the energy voucher is
30 issued or redeemed, the energy voucher may be transferred to a personal representative of the
31 estate or to a successor claiming personal property under AS 13.16.680.

1 (m) In addition to any criminal penalties imposed by state law, if an individual or
2 qualified distributor is convicted of a crime in connection with a false statement made in a
3 certification required under this section, in a submission for a reimbursement under (d) of this
4 section, or in connection with forging an energy voucher, and the conviction is not reversed,
5 vacated, or set aside, or if an individual or qualified distributor is found by the Alaska
6 Housing Finance Corporation to have bought, sold, traded, or otherwise violated the terms of
7 the voucher, that individual or qualified distributor forfeits the energy voucher, or the
8 monetary amount received from the voucher, and the individual is not eligible for a future
9 permanent fund dividend.

10 (n) If an individual is aggrieved by a decision of the Department of Revenue with
11 respect to the individual's eligibility for a permanent fund dividend, and thus an energy
12 voucher under (a)(1) of this section, the individual may request that the department review its
13 decision under AS 43.23.015(g).

14 (o) If an individual or distributor is aggrieved by a decision of the Alaska Housing
15 Finance Corporation with respect to the individual's authority to claim an energy voucher on
16 behalf of another, or reimbursement of a distributor, or other decision under (a)(2), (e), (g), or
17 (m) of this section, the individual or distributor may request that the corporation review its
18 decision. Within 12 months after an administrative appeal under this subsection is filed, the
19 corporation shall provide the individual or distributor with a final written decision. If the
20 individual or distributor is aggrieved by the final written decision of the corporation, the
21 individual or distributor may appeal that decision to the superior court in accordance with
22 AS 44.62.560. An appeal to the court under this subsection does not entitle the aggrieved
23 individual or distributor to a trial de novo. The appeal shall be based on the record of the
24 administrative proceeding from which appeal is taken, and the scope of appeal is limited to
25 matters contained in the record of the administrative proceeding.

26 (p) If the corporation determines that an energy voucher or a cash payment made in
27 exchange for a voucher should not have been issued to an individual or a reimbursement
28 should not have been made to a distributor, the state may use all collection procedures or
29 remedies available under AS 43 to recover the energy voucher or the cash value of the
30 voucher that was improperly issued or for which reimbursement was improperly made.
31 Except as provided in (q) of this section, a notice of an improperly issued voucher or improper

1 reimbursement shall be sent to the individual or distributor, as applicable, within

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

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

6 (q) The three-year time limit under (p) of this section for the corporation to send
7 notice of an improperly issued voucher or an improper reimbursement is extended to six years
8 if the corporation determines that the individual or distributor

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

12 (2) forged an energy voucher.

13 (r) If notice is not sent within the time required under (p) or (q) of this section,
14 administrative or judicial proceedings may not be commenced for recovery of an improperly
15 issued energy voucher or improper reimbursement.

16 (s) An energy voucher, account credit, or cash payment provided under this section is
17 exempt from garnishment, levy, or execution by a private party or the state.

18 (t) To the extent allowed by federal law and notwithstanding other state law that may
19 be to the contrary, the department shall, on request of the corporation, electronically provide
20 the corporation with information about applicants who the department has determined are
21 eligible for the permanent fund dividend paid in 2012. Information requested by the
22 corporation under this subsection may include the name of the applicant, the physical and
23 mailing address of the applicant, the date of birth of the applicant, the social security number
24 of the applicant, and any other information necessary to execute the energy voucher program.
25 Information from the department may be used by the corporation only for the purpose of
26 executing the energy voucher program created under this section.

27 (u) In this section,

28 (1) "corporation" means the Alaska Housing Finance Corporation created
29 under AS 18.56;

30 (2) "department" means the Department of Revenue;

31 (3) "disabled" means physically or mentally unable to sign an energy voucher

1 or make a certification required in this section because of serious emotional disturbance,
 2 visual, orthopedic, or other health impairment, or developmental disability that is attributable
 3 to mental retardation, cerebral palsy, epilepsy, autism, or other cause;

4 (4) "incapacitated" means the ability to receive and evaluate information or to
 5 communicate decisions is impaired for reasons other than minority to the extent that the
 6 person lacks the ability to provide the essential requirements for the person's physical health
 7 or safety without court-ordered assistance.

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

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

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

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

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

22 (4) minimizes administrative costs;

23 (5) makes participation of fuel distributors voluntary;

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

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

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

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

31 (A) state reimbursement to a heating oil or natural gas distributor of a

1 portion of the wholesale purchase price of fuel that the distributor sold to heat
2 residential structures;

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

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

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

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

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

13 (C) electronic selection of

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

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

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

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

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

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

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

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

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

30 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 EMERGENCY REGULATION AND PROCUREMENT PROVISIONS.
2 Notwithstanding AS 18.56.088, the Alaska Housing Finance Corporation may adopt
3 emergency regulations under AS 44.62.250 and 44.62.260 necessary to implement the Alaska
4 energy voucher program in sec. 1 of this Act without making written findings under
5 AS 44.62.250. The legislature finds that the adoption of emergency regulations is necessary to
6 implement this Act and for the immediate preservation of public health and general welfare.
7 In addition, the Alaska Housing Finance Corporation is exempt from AS 36.30, including
8 AS 36.30.015(f), for the purposes of implementing the Alaska energy voucher program.
9 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).