

SENATE CS FOR CS FOR HOUSE BILL NO. 213(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE

Offered: 5/12/18

Referred: Second Supplemental Calendar

Sponsor(s): REPRESENTATIVES PARISH, Guttenberg, Gara, Drummond, Josephson, Tuck

A BILL

FOR AN ACT ENTITLED

1 **"An Act creating the education endowment fund and the dividend raffle fund; relating**
2 **to the definition of 'gambling'; relating to the investment, appropriation, and**
3 **administration of the public school trust fund; authorizing donations from the**
4 **permanent fund dividend for educational purposes and to enter the permanent fund**
5 **dividend raffle; relating to transfers from the dividend raffle fund and the education**
6 **endowment fund; relating to the duties of the Department of Revenue; and providing**
7 **for an effective date."**

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

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

11 LEGISLATIVE INTENT. It is the intent of the legislature that the funds generated by
12 the permanent fund dividend raffle created in sec. 8 of this Act be used to supplement and not
13 to supplant state aid provided by the public school funding formula under AS 14.17.410.

1 * **Sec. 2.** AS 11.66.280(3) is amended to read:

2 (3) "gambling" means that a person stakes or risks something of value
3 upon the outcome of a contest of chance or a future contingent event not under the
4 person's control or influence, upon an agreement or understanding that that person or
5 someone else will receive something of value in the event of a certain outcome;
6 "gambling" does not include

7 (A) bona fide business transactions valid under the law of
8 contracts for the purchase or sale at a future date of securities or commodities
9 and agreements to compensate for loss caused by the happening of chance,
10 including contracts of indemnity or guaranty and life, health, or accident
11 insurance;

12 (B) playing an amusement device that

13 (i) confers only an immediate right of replay not
14 exchangeable for something of value other than the privilege of
15 immediate replay and does not contain a method or device by which the
16 privilege of immediate replay may be cancelled or revoked;

17 (ii) confers only tickets, credits, allowances, tokens, or
18 anything of value that can be redeemed for toys, candy, or electronic
19 novelties offered at the same facility where the amusement device is
20 located; or

21 (iii) allows a player to manipulate a claw machine or
22 similar device within an enclosure and enables a person to receive
23 merchandise directly from the machine; [OR]

24 (C) an activity authorized by the Department of Revenue under
25 AS 05.15; **or**

26 **(D) the permanent fund dividend raffle authorized under**
27 **AS 43.23.064;**

28 * **Sec. 3.** AS 37.10.071(d) is amended to read:

29 (d) In exercising investment, custodial, or depository powers or duties under
30 this section, the fiduciary or the fiduciary's designee is liable for a breach of a duty
31 that is assigned or delegated under this section, or under AS 14.40.255, 14.40.280(c),

1 14.40.400(b), AS 37.10.070, **AS 37.14.160** [AS 37.14.110(c), 37.14.160], or
 2 37.14.170. However, the fiduciary or the designee is not liable for a breach of a duty
 3 that has been delegated to another person if the delegation is prudent under the
 4 applicable standard of prudence set out in statute or if the duty is assigned by law to
 5 another person, except to the extent that the fiduciary or designee

6 (1) knowingly participates in, or knowingly undertakes to conceal, an
 7 act or omission of another person knowing that the act or omission is a breach of that
 8 person's duties under this chapter;

9 (2) by failure to comply with this section in the administration of
 10 specific responsibilities, enables another person to commit a breach of duty; or

11 (3) has knowledge of a breach of duty by another person, unless the
 12 fiduciary or designee makes reasonable efforts under the circumstances to remedy the
 13 breach.

14 * **Sec. 4.** AS 37.14.160 is amended to read:

15 **Sec. 37.14.160. Duties of the commissioner of revenue.** The commissioner of
 16 revenue is the treasurer of the trust fund created in AS 37.14.110 and shall

17 (1) in carrying out investment duties under this section, exercise the
 18 same powers and duties established for the Alaska Retirement Management Board in
 19 AS 37.10.220;

20 (2) deposit the principal and income from investments **into** [IN
 21 SEPARATE PRINCIPAL AND INCOME ACCOUNTS FOR] the fund;

22 (3) invest and maintain accounting records [THAT DISTINGUISH
 23 BETWEEN THE PRINCIPAL AND INCOME OF THE FUND];

24 (4) provide reports to the board established under AS 37.14.120 on the
 25 condition and investment performance of the fund;

26 **(5) determine, on July 1 of each year, the monthly average market**
 27 **value of the fund for the five fiscal years preceding the previous fiscal year.**

28 * **Sec. 5.** AS 37.14 is amended by adding a new section to read:

29 **Sec. 37.14.165. Use of the public school trust fund.** Each year, the legislature
 30 may appropriate not more than five percent of the amount determined by the
 31 commissioner of revenue under AS 37.14.160(5) for the following purposes:

1 (1) funding support of the state public school program; and

2 (2) reimbursement of the costs of administration of the fund.

3 * **Sec. 6.** AS 37.14.170 is amended to read:

4 **Sec. 37.14.170. Investments.** The commissioner of revenue is the fiduciary of
5 the trust fund and shall invest the fund to provide increasing returns from capital
6 appreciation and net income over long-term periods to the fund's current
7 [INCOME] beneficiaries. The commissioner may invest the money in the fund on the
8 basis of probable total rate of return to promote the long-term generation of capital
9 appreciation and income. In managing the trust fund, the commissioner shall

10 (1) consider the status of the fund's capital and the income generated
11 on both a current and a probable future basis;

12 (2) determine the appropriate investment objectives;

13 (3) establish investment policies to achieve the objectives; and

14 (4) act only in regard to the financial interests of the fund's
15 beneficiaries.

16 * **Sec. 7.** AS 43.23.055 is amended to read:

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

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

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

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

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

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

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

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

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

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

20 (A) access to the data base; or

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

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

24 (A) Department of Law in the prosecution of individuals who
25 apply for or obtain a permanent fund dividend in violation of a provision in
26 AS 11, by detecting and investigating those crimes; [AND]

27 (B) commissioner to detect and investigate the claiming or
28 paying of permanent fund dividends that should not have been claimed by or
29 paid to an individual and to impose the penalties and enforcement provisions
30 under AS 43.23.035; **and**

31 **(11) adopt regulations under AS 44.62 (Administrative Procedure**

1 **Act) so that contributions under AS 43.23.062 are given a priority over donations**
 2 **under AS 43.23.064 if the total amount of contributions and donations elected by**
 3 **an applicant exceeds the amount of the permanent fund dividend that the**
 4 **applicant is entitled to receive.**

5 * **Sec. 8.** AS 43.23 is amended by adding new sections to read:

6 **Sec. 43.23.063. Education endowment fund.** (a) The education endowment
 7 fund is established as a separate account in the general fund. The fund consists of
 8 appropriations from

- 9 (1) donations to the fund under AS 43.23.064(b);
- 10 (2) transfers to the fund under AS 43.23.064(c);
- 11 (3) interest earned on the fund; and
- 12 (4) any other money appropriated to the fund.

13 (b) The commissioner is the fiduciary of the fund. In managing the fund, the
 14 commissioner shall

- 15 (1) have the same powers and duties as provided in AS 37.10.071; and
- 16 (2) invest the fund in a manner likely to achieve at least a four percent
 17 nominal return over a five-year period to meet the objectives of the fund.

18 (c) In managing the fund, the commissioner shall

- 19 (1) consider the status of the fund's capital and the income generated
 20 on both current and probable future bases;
- 21 (2) determine the appropriate investment objectives;
- 22 (3) establish investment policies to achieve the objectives; and
- 23 (4) act only in regard to the best financial interests of the fund.

24 (d) On July 1 of each year, the commissioner shall

- 25 (1) determine the fund balance for the previously closed fiscal year,
 26 including the earnings of the fund; and
- 27 (2) when the average market value for that fiscal year exceeds
 28 \$1,000,000,000, transfer 4.5 percent of the average fiscal-year-end market value of the
 29 balance of the fund for the last five fiscal years, including the fiscal year just ended,
 30 and including any unrealized gains and losses, to the Department of Education and
 31 Early Development for distribution as supplemental grants to school districts

1 according to the average daily membership for each district adjusted under
2 AS 14.17.410(b)(1)(A) - (D), subject to appropriation.

3 (e) Money appropriated to the fund does not lapse.

4 **Sec. 43.23.064. Dividend raffle fund; dividend donations to the dividend**
5 **raffle fund; drawing.** (a) The dividend raffle fund is established as an account in the
6 general fund. The commissioner shall manage the fund. Interest and other income
7 received on money in the fund shall be separately accounted for and shall be
8 appropriated to the fund. The fund consists of donations appropriated to the fund
9 under (c) of this section. The commissioner shall use the dividend raffle fund, without
10 further appropriation, to pay for prizes as set out in (d) of this section and may use up
11 to two percent of the balance of the fund but not more than \$500,000 from the fund
12 each fiscal year to pay the cost of administering the fund and for promotion and
13 advertisement of the fund. When the balance of the dividend raffle fund exceeds
14 \$300,000,000 at the end of a fiscal year, the commissioner shall transfer the amount
15 above \$300,000,000 to the education endowment fund established in AS 43.23.063.
16 Money donated to the fund does not lapse.

17 (b) Notwithstanding AS 43.23.069, the department shall provide on the Alaska
18 permanent fund dividend application an option for an applicant who is 18 years of age
19 or older to direct that all or a portion of the applicant's dividend payment be donated
20 for educational purposes and to enter the permanent fund dividend raffle as provided
21 in (c) of this section. A donation under this section may be \$100 or more, in
22 increments of \$100, up to the total amount of the permanent fund dividend that the
23 applicant is entitled to receive.

24 (c) Of the donations received in a year under (b) of this section, the legislature
25 shall appropriate 25 percent to the education endowment fund established in
26 AS 43.23.063 and shall appropriate 25 percent to the dividend raffle fund. The
27 legislature shall appropriate the remaining 50 percent of the donations received under
28 (b) of this section to the Department of Education and Early Development for
29 distribution as supplemental grants to school districts according to the average daily
30 membership for each district adjusted under AS 14.17.410(b)(1)(A) - (D).

31 (d) At the beginning of each year, the commissioner shall conduct a public

1 drawing to award prizes from the dividend raffle fund. Each \$100 donation as
2 provided in (b) of this section entitles a person to one entry into the raffle. The prizes
3 for the raffle shall be as follows:

4 (1) the first name drawn receives an amount equal to eight percent of
5 the balance of the dividend raffle fund;

6 (2) the second name drawn receives an amount equal to four percent of
7 the balance of the dividend raffle fund;

8 (3) the third name drawn receives an amount equal to two percent of
9 the balance of the dividend raffle fund; and

10 (4) the fourth name drawn receives an amount equal to one percent of
11 the balance of the dividend raffle fund.

12 (e) Nothing in this section creates a dedicated fund.

13 * **Sec. 9.** AS 37.14.110(c) and 37.14.140 are repealed.

14 * **Sec. 10.** Sections 1, 2, 7, and 8 of this Act take effect January 1, 2019.