

CS FOR HOUSE BILL NO. 87(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/19/23

Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to use of income of the Alaska permanent fund; relating to the amount**
2 **available for appropriation and appropriations from the earnings reserve account;**
3 **relating to the permanent fund dividend; relating to national criminal history record**
4 **checks for certain employees of the Department of Revenue; relating to depositing**
5 **permanent fund dividends into investment accounts; and providing for an effective**
6 **date."**

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

8 * **Section 1.** AS 12.62.400(c) is amended to read:

9 (c) To obtain a national criminal history record check for determining a
10 current or prospective employee's qualifications under AS 39.90.210, **a current or**
11 **prospective employee's qualifications to administer the permanent fund dividend**
12 **program under AS 43.23,** or a contractor's qualifications under AS 36.30.960, the
13 agency or the procurement officer shall submit the current or prospective employee's

or contractor's fingerprints to the department with the fee established by AS 12.62.160. The department shall submit the fingerprints to the Federal Bureau of Investigation to obtain a national criminal history record check of the current or prospective employee or contractor for the purpose of evaluating a person's qualifications under AS 36.30.960, [AND] AS 39.90.210, or AS 43.23, as applicable.

In this subsection, unless the context otherwise requires,

(1) "agency" has the meaning given in AS 39.90.290;

(2) "contractor" has the meaning given in AS 36.30.960;

(3) "employee" has the meaning given in AS 39.90.290.

* **Sec. 2.** AS 37.13.140 is amended to read:

Sec. 37.13.140. Income. (a) Net income of the fund includes income of the earnings reserve account established under AS 37.13.145. Net income of the fund shall be computed annually as of the last day of the fiscal year in accordance with generally accepted accounting principles, excluding any unrealized gains or losses. [INCOME AVAILABLE FOR DISTRIBUTION EQUALS 21 PERCENT OF THE NET INCOME OF THE FUND FOR THE LAST FIVE FISCAL YEARS, INCLUDING THE FISCAL YEAR JUST ENDED, BUT MAY NOT EXCEED NET INCOME OF THE FUND FOR THE FISCAL YEAR JUST ENDED PLUS THE BALANCE IN THE EARNINGS RESERVE ACCOUNT DESCRIBED IN AS 37.13.145.]

(b) The corporation shall determine the amount available for appropriation each year. The amount available for appropriation is five percent of the average market value of the fund for the first five of the preceding six fiscal years, including the fiscal year just ended, computed annually for each fiscal year in accordance with generally accepted accounting principles. The amount available for appropriation may not exceed the balance in the earnings reserve account described in AS 37.13.145. In this subsection, "average market value of the fund" includes the balance of the earnings reserve account established under AS 37.13.145, but does not include that portion of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court, First Judicial District).

* **Sec. 3.** AS 37.13.145(b) is amended to read:

(b) Each [AT THE END OF EACH] fiscal year, the legislature may

1 **appropriate** [CORPORATION SHALL TRANSFER] from the earnings reserve
 2 account to the dividend fund established under AS 43.23.045, 50 percent of the
 3 income available for **appropriation** [DISTRIBUTION] under **AS 37.13.140(b)**
 4 [AS 37.13.140].

5 * **Sec. 4.** AS 37.13.145(c) is amended to read:

6 (c) After the **appropriations** [TRANSFER] under (b) and [AN
 7 APPROPRIATION UNDER] (e) of this section, the **legislature may appropriate**
 8 [CORPORATION SHALL TRANSFER] from the earnings reserve account to the
 9 principal of the fund an amount sufficient to offset the effect of inflation on the
 10 principal of the fund during that fiscal year. However, none of the amount
 11 **appropriated** [TRANSFERRED] shall be applied to increase the value of that portion
 12 of the principal attributed to the settlement of State v. Amerada Hess, et al., 1JU-77-
 13 847 Civ. (Superior Court, First Judicial District) on July 1, 2004. The corporation shall
 14 calculate the amount to **appropriate** [TRANSFER] to the principal under this
 15 subsection by

16 (1) computing the average of the monthly United States Consumer
 17 Price Index for all urban consumers for each of the two previous calendar years;

18 (2) computing the percentage change between the first and second
 19 calendar year average; and

20 (3) applying that rate to the value of the principal of the fund on the
 21 last day of the fiscal year just ended, including that portion of the principal attributed
 22 to the settlement of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior Court,
 23 First Judicial District).

24 * **Sec. 5.** AS 37.13.145(d) is amended to read:

25 (d) Notwithstanding (b) of this section, income earned on money awarded in
 26 or received as a result of State v. Amerada Hess, et al., 1JU-77-847 Civ. (Superior
 27 Court, First Judicial District), including settlement, summary judgment, or adjustment
 28 to a royalty-in-kind contract that is tied to the outcome of this case, or interest earned
 29 on the money, or on the earnings of the money shall be treated in the same manner as
 30 other income of the Alaska permanent fund, except that it is not available for
 31 **appropriation** [DISTRIBUTION] to the dividend fund **under (b) of this section**, for

1 **an appropriation** [TRANSFERS] to the principal under (c) of this section, or for an
 2 appropriation under (e) of this section, and shall be annually deposited into the Alaska
 3 capital income fund (AS 37.05.565).

4 * **Sec. 6.** AS 37.13.300(c) is amended to read:

5 (c) Net income from the mental health trust fund may not be included in the
 6 computation of **the amount** [NET INCOME OR MARKET VALUE] available for
 7 [DISTRIBUTION OR] appropriation under **AS 37.13.140(b)** [AS 37.13.140].

8 * **Sec. 7.** AS 43.23.008(a) is amended to read:

9 (a) Subject to (b) and (d) of this section, an otherwise eligible individual who
 10 is absent from the state during the qualifying year remains eligible for a current year
 11 permanent fund dividend if the individual was absent

12 (1) receiving secondary or postsecondary education on a full-time
 13 basis; **on a break or holiday from a secondary or postsecondary educational**
 14 **institution during an academic year, not including summer break, if the**
 15 **individual is enrolled in and attends the educational institution on a full-time**
 16 **basis before and after the break or holiday; or in an orientation program**
 17 **required as a condition of the secondary or postsecondary education and the**
 18 **individual immediately begins the education on a full-time basis after the**
 19 **completion of the orientation;**

20 (2) receiving vocational, professional, or other specific education on a
 21 full-time basis for which, as determined by the Alaska Commission on Postsecondary
 22 Education, a comparable program is not reasonably available in the state; **on a break**
 23 **or holiday from the vocational, professional, or other specific training, not**
 24 **including summer break, if the individual is enrolled in and attends the training**
 25 **on a full-time basis before and after the break or holiday; or in an orientation**
 26 **program required as a condition of the vocational, professional, or other specific**
 27 **training and the individual immediately begins the training on a full-time basis**
 28 **after the completion of the orientation;**

29 (3) serving on active duty as a member of the **uniformed services**
 30 [ARMED FORCES] of the United States or accompanying, as that individual's
 31 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;

(4) serving under foreign or coastal articles of employment aboard an oceangoing vessel of the United States merchant marine **or attending a vocational program that**

(A) trains students for a career in the United States merchant marine, including a career as a marine engineer, in the deck department, or as a steward;

(B) provides seagoing service that meets the requirements of the United States Coast Guard for United States merchant marine credentialing; and

(C) is approved by the United States Coast Guard;

(5) receiving continuous medical treatment recommended by a licensed physician or convalescing as recommended by the physician who treated the illness if the treatment or convalescence is not based on a need for climatic change;

(6) providing care for a parent, spouse, sibling, child, or stepchild with a critical life-threatening illness whose treatment plan, as recommended by the attending physician, requires travel outside the state for treatment at a medical specialty complex;

(7) providing care for the individual's terminally ill family member;

(8) settling the estate of the individual's deceased parent, spouse, sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;

(9) serving as a member of the United States Congress;

(10) serving on the staff of a member from this state of the United States Congress;

(11) serving as an employee of the state in a field office or other location;

(12) accompanying a minor who is absent under (5) of this subsection;

(13) accompanying another eligible resident who is absent for a reason permitted under (1), (2), (5) - (12), **or (16) - (18)** [(16), OR (17)] of this subsection as

the spouse, minor dependent, or disabled dependent of the eligible resident;

(14) serving as a volunteer in the federal peace corps program;

(15) because of training or competing as a member of the United States Olympic Team or a United States national team for an Olympic sport;

(16) participating for educational purposes in a student fellowship sponsored by the United States Department of Education or by the United States Department of State;

(17) serving as a pilot, flight engineer, or flight attendant for a United States airline certified as an air carrier by the Federal Aviation Administration;

(18) [(17)] for any reason consistent with the individual's intent to remain a state resident, provided the absence or cumulative absences do not exceed

(A) 180 days in addition to any absence or cumulative absences claimed under (3) of this subsection if the individual is not claiming an absence under (1), (2), or **(4) - (17)** [(4) - (16)] of this subsection;

(B) 120 days in addition to any absence or cumulative absences claimed under (1) - (3) of this subsection if the individual is not claiming an absence under **(4) - (17)** [(4) - (16)] of this subsection but is claiming an absence under (1) or (2) of this subsection; or

(C) 45 days in addition to any absence or cumulative absences claimed under **(1) - (17)** [(1) - (16)] of this subsection if the individual is claiming an absence under **(4) - (17)** [(4) - (16)] of this subsection.

* **Sec. 8.** AS 43.23.008(f) is amended to read:

(f) **In** [FOR PURPOSES OF (a)(7) OF] this section,

(1) "family member" means a person who is

(A) [(1)] legally related to the individual through marriage or guardianship; or

(B) [(2)] the individual's sibling, parent, grandparent, son, daughter, grandson, granddaughter, uncle, aunt, niece, nephew, or first cousin;

(2) "uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Space Force, and the Commissioned Corps of the National

Oceanic and Atmospheric Administration and Public Health Services.

* **Sec. 9.** AS 43.23.025(a) is amended to read:

(a) By October 1 of each year, the commissioner shall determine the value of each permanent fund dividend for that year by

(1) determining the total amount available for dividend payments, which equals

(A) the amount **appropriated** [OF INCOME OF THE ALASKA PERMANENT FUND TRANSFERRED] to the dividend fund under AS 37.13.145(b) during the current year;

(B) plus the unexpended and unobligated balances of prior fiscal year appropriations that lapse into the dividend fund under AS 43.23.045(d);

(C) less the amount necessary to pay prior year dividends from the dividend fund in the current year under AS 43.23.005(h), 43.23.021, and 43.23.055(3) and (7);

(D) less the amount necessary to pay dividends from the dividend fund due to eligible applicants who, as determined by the department, filed for a previous year's dividend by the filing deadline but who were not included in a previous year's dividend computation;

(E) less appropriations from the dividend fund during the current year, including amounts to pay costs of administering the dividend program and the hold harmless provisions of AS 43.23.240;

(2) determining the number of individuals eligible to receive a dividend payment for the current year and the number of estates and successors eligible to receive a dividend payment for the current year under AS 43.23.005(h); and

(3) dividing the amount determined under (1) of this subsection by the amount determined under (2) of this subsection.

* **Sec. 10.** AS 43.23.055 is amended to read:

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

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

(2) subject to AS 43.23.011 and (8) of this section, adopt regulations

1 under AS 44.62 (Administrative Procedure Act) that establish procedures and time
 2 limits for claiming a permanent fund dividend; the department shall determine the
 3 number of eligible applicants by October 1 of the year for which the dividend is
 4 declared and pay the dividends by December 31 of that year;

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

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

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

17 (6) adopt regulations that are necessary to implement AS 43.23.005(d)
 18 and 43.23.048;

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
 24 apply to have a dividend disbursement under AS 37.25.050(a)(2) reissued if it is not
 25 collected within two years after the date of its issuance; however, the department may
 26 not establish a time limit within which an application to have a disbursement reissued
 27 must be filed;

28 (9) provide any information, upon request, contained in permanent
 29 fund dividend records to the child support services 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 (10) establish a fraud investigation unit for the purpose of assisting the

6 (A) Department of Law in the prosecution of individuals who
7 apply for or obtain a permanent fund dividend in violation of a provision in
8 AS 11, by detecting and investigating those crimes; and

9 (B) commissioner to detect and investigate the claiming or
10 paying of permanent fund dividends that should not have been claimed by or
11 paid to an individual and to impose the penalties and enforcement provisions
12 under AS 43.23.270;

13 (11) adopt regulations under AS 44.62 (Administrative Procedure Act)
14 so that contributions under AS 43.23.130 are given a priority over donations under
15 AS 43.23.230 if the total amount of contributions and donations elected by an
16 applicant exceeds the amount of the permanent fund dividend that the applicant is
17 entitled to receive;

18 **(12) submit fingerprints and fees to the Department of Public**
19 **Safety for a national criminal history record check under AS 12.62.400 for the**
20 **purpose of determining a person's qualifications for administering the**
21 **permanent fund dividend program under this chapter.**

22 * **Sec. 11.** AS 43.23 is amended by adding a new section to read:

23 **Sec. 43.23.058. Deposits from dividends.** (a) An applicant for a permanent
24 fund dividend who is eligible under this chapter to receive a permanent fund dividend,
25 or the applicant's authorized representative, may direct that all or part of the amount of
26 the dividend payment be deposited in an investment account identified by the
27 applicant.

28 (b) The department shall design the permanent fund dividend application form
29 to allow an applicant, or the applicant's authorized representative, to direct the
30 department to make a deposit under this section, and to provide the information that
31 the department determines is necessary to implement this section.

(c) The department may not use money from the dividend fund for administrative costs incurred in implementing this section.

* **Sec. 12.** AS 43.23.140(d) is amended to read:

(d) An assignment of or levy, execution, garnishment, attachment, or other remedy for the collection of debt applied to a dividend for a year may not be accepted by the department before April 1 of that same year. AS 09.38.080(c) and 09.38.085 do not apply to a levy on a permanent fund dividend. Upon receipt of a writ of execution under (a) of this section or another court order, the commissioner shall deliver to the court that portion of the dividend executed upon along with the case name and number. At the time payment is made to the court, the department shall send **notice to the court that issued the writ or order and** to the individual at the address provided in the individual's dividend application **or the electronic mail address at which the individual has consented to receive notices or documents in a verifiable manner, as provided in regulations adopted by the department.** The [AND TO THE COURT THAT ISSUED THE WRIT OR ORDER A] notice **must contain** [THAT CONTAINS]

(1) notification that all or part of the individual's dividend has been seized under a writ of execution or court order;

(2) the name and address of the court that issued the writ or order;

(3) the case number for which the writ or order was issued;

(4) the amount seized under the writ or order; and

(5) notification that the individual has 30 days from the date the notice is mailed in which to file with the court an objection to the seizure if a mistake has been made.

* **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. AS 43.23.008(a), as amended by sec. 7 of this Act and AS 43.23.008(f), as amended by sec. 8 of this Act, apply to the permanent fund dividend 2024 qualifying year for the 2025 dividend year and thereafter.

* **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to read:

1 TRANSITION: REGULATIONS. The commissioner of revenue may adopt
2 regulations necessary to implement the changes made by secs. 7 and 8 of this Act. The
3 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
4 effective date of the law implemented by the regulation.

5 * **Sec. 15.** Sections 1 - 6, 9, 10, 12, and 14 of this Act take effect immediately under
6 AS 01.10.070(c).

7 * **Sec. 16.** Except as provided in sec. 15 of this Act, this Act takes effect January 1, 2024.