

Introduced: 5/5/77
Referred: Special Committee on
the Alaska Permanent Fund and
Finance

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 525

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the distribution of income from
7 the Alaska Permanent Fund; amending rules of procedure;
8 and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 37 is amended by adding a new chapter to read:

11 CHAPTER 18. DISTRIBUTION OF INCOME FROM ALASKA PERMANENT FUND.

12 Sec. 37.18.010. POLICY, FINDINGS, AND PURPOSE. (a) It is the
13 duty and policy of the state with respect to the natural resources
14 belonging to it and the income derived from them to provide for their
15 utilization, development, and conservation for the maximum benefit of
16 its people.

17 (b) The legislature finds that there exists in Alaska a serious
18 problem of population turnover. A substantial portion of the state's
19 population is comprised of individuals who reside in Alaska for only a
20 relatively short period of time. This is especially true in the
21 state's larger cities. This constant turnover in population leads to
22 political, economic, and social instability and is harmful to the
23 state. It is in the public interest for the state to promote a stable
24 resident population.

25 (c) The legislature also finds that the demands on and costs of
26 state government have increased over the past few years at an excessive
27 rate and that this increase has been permitted to occur, at least in
28 part, by a feeling on the part of much of the electorate that those
29 demands and costs do not have a significant economic impact upon them

1 personally. It is in the public interest for the state to promote the
2 involvement of its citizens in the budget making process by providing
3 them with a more personal and direct stake in the outcome of budget
4 decisions.

5 (d) The legislature finds that establishment of a mechanism for
6 direct distribution to the people of at least half of the annual
7 income of the Alaska Permanent Fund, and by which an individual's
8 portion of that distribution will increase the longer he continues to
9 be an Alaska resident, will promote the purposes of encouraging a
10 stable resident population, and of providing the people with a more
11 personal and direct stake in the outcome of the state's budget decisions
12 and ensure an equitable distribution of at least a portion of Alaska's
13 resource wealth among Alaska's citizens, who are its equitable owners.

14 Sec. 37.18.020. TOTAL AMOUNT OF ANNUAL DISTRIBUTION. No later
15 than the second day of each regular session of the legislature, the
16 commissioner shall report to the governor and the legislature on the
17 income from the Alaska Permanent Fund deposited in the general fund
18 during the fiscal year which ended on the preceding June 30. The
19 legislature shall appropriate at least 50 per cent of that amount to
20 the department for distribution under sec. 80 of this chapter.

21 Sec. 37.18.030. AMOUNT OF ANNUAL PAYMENTS. Each of the annual
22 payments to be distributed under sec. 80 of this chapter shall be
23 equal to the quotient of the amount appropriated pursuant to sec. 20
24 of this chapter divided by the total number of duly credited shares as
25 of December 31 of the year last preceding the year in which the appro-
26 priation was made.

27 Sec. 37.18.040. ELIGIBILITY FOR SHARES. (a) As of December 31,
28 1979, each eligible resident of Alaska who makes timely application
29 under sec. 70 of this chapter shall be credited by the commissioner

1 with one share under this chapter for each five-year period since
2 January 1, 1974, in which he has been an eligible resident, as defined
3 in sec. 100 of this chapter, or would have been but for being too
4 young by five years or less to register to vote.

5 (b) Shares are not transferable in any way whatsoever, and no
6 payments may be made, other than as expressly provided in sec. 80 of
7 this chapter, to anyone other than the eligible resident. Shares do
8 not survive the death of their holder, and any alienation is void as
9 against public policy. If a share should be declared or ordered by a
10 court to be alienated in any way, it ceases to exist for purposes of
11 this chapter until and unless it is restored to the person from whom
12 it was alienated.

13 Sec. 37.18.050. ELIGIBILITY FOR ANNUAL PAYMENTS. Each eligible
14 resident of Alaska, who has one or more shares under this chapter, and
15 who makes timely application under sec. 70 of this chapter, shall
16 receive one annual payment for each share to which he is entitled
17 under sec. 40 of this chapter.

18 Sec. 37.18.060. DETERMINATION OF ELIGIBILITY. (a) Any person
19 who applies for a share or for an annual payment or payments must make
20 proof of eligibility satisfactory to the commissioner. The commis-
21 sioner may not credit any person with a share or make a payment to any
22 person until and unless proof of that person's eligibility sufficient
23 to satisfy a reasonable person has been made to the commissioner.

24 (b) Proof of eligibilty may be made by applicants from school
25 attendance records, state and local tax and licensing records, voter
26 registration records, birth and marriage certificates, selective
27 service records, sworn affidavits from others having knowledge of a
28 person's residence, and other forms of documentary evidence which a
29 reasonable person would rely on in the conduct of his own affairs. An

1 affidavit from an applicant without supporting evidence of eligibility
2 is not satisfactory proof of eligibility.

3 (c) A person may attempt to make proof by waiving his right to
4 privacy and authorizing the commissioner to make a search of any and
5 all local, state, and federal records and any private employment
6 records which may tend to prove his eligibility. The commissioner's
7 making any search of records is entirely discretionary, and he is
8 under no duty to make the search or to exercise reasonable care in
9 making the search, if he does so; the entire risk is upon the applicant.

10 (d) Upon his determination of a person's eligibility for a share
11 or for an annual payment, the commissioner shall, by first class mail,
12 notify the person of that determination. If the person is determined
13 to be ineligible, he shall be informed by certified mail, of the
14 following:

15 (1) the reason for his ineligibility;

16 (2) that he may file additional proof and/or file a request
17 for a hearing before the commissioner at which to present proof of his
18 eligibility; and

19 (3) that his failure to do one or the other within 30 days
20 makes the decision final and unappealable.

21 (e) If a person does not file additional proof or file a request
22 for a hearing with the commissioner within 30 days after his receipt
23 of the commissioner's notice of the determination, the commissioner's
24 decision becomes final as to the period involved and there can be no
25 further appeal. This time limit is jurisdictional.

26 (f) If a person files additional proof or files a request for a
27 hearing with the commissioner within 30 days after he receives the
28 commissioner's notice of the determination and, after the additional
29 evidence has been considered or the hearing held, he is still deter-

1 mined to be ineligible, he may appeal to the superior court within 30
2 days after he receives notice of the final decision. This time limit
3 is jurisdictional, and no suit may be brought after it has elapsed.
4 In considering the appeal, the superior court is to review solely on
5 the record which was before the commissioner and to use the reasonable-
6 basis test on factual matters and its own judgment on the law. The
7 same standard of review shall apply, if a further appeal is taken to
8 the supreme court. This requirement is substantive, not procedural.

9 (g) A person not eligible as of December 31 in any year may
10 establish or reestablish eligibility as of December 31 in subsequent
11 years.

12 Sec. 37.18.070. APPLICATION PERIOD. (a) In order to receive a
13 payment or to be credited with a share, an eligible person must first
14 apply for one or both on the Alaska net income tax form or on another
15 form provided by the commissioner.

16 (b) The application covers the last preceding period ending on
17 December 31 in which the applicant was eligible for a payment or to be
18 credited with a share or both.

19 (c) The application, together with the proof of eligibility
20 required by sec. 60 of this chapter, for the year or five-year period
21 claimed as of December 31 must be filed with the commissioner or, if
22 mailed, postmarked no later than the following April 15. This filing
23 date is mandatory. Any applications not timely filed or postmarked
24 will be returned and the applicant is not eligible for the year for
25 which the late application was made. This provision does not bar
26 subsequent presentation of additional proof of eligibility so long as
27 the application was timely filed. A year for which a person would
28 have been eligible but for his failure to file a timely application
29 may subsequently be counted toward a five-year period to be eligible

1 for a share under this chapter.

2 Sec. 37.18.080. ANNUAL PAYMENTS. (a) Payments shall be made as
3 soon as practical after January 1 of the year following the application.

4 (b) If the payment is to a person presently incarcerated as
5 punishment for committing a crime, it shall be made to the Department
6 of Health and Social Services to offset the expense to the state of
7 the incarceration.

8 (c) At the request of the person to whom payments are to be
9 distributed and to the extent allowed under federal law, distribution
10 of payments may be deferred or otherwise set aside so as to defer the
11 payment of income taxes. Payments may also be made as tax credits or
12 rebates at the request of the person to whom payments are to be
13 distributed.

14 Sec. 37.18.090. PENALTIES. (a) Any person who wilfully submits
15 false or misleading information to the commissioner in making proof of
16 his eligibility or of the eligibility of another is guilty of a mis-
17 demeanor.

18 (b) In addition to any criminal penalties imposed, any person
19 convicted of violating (a) of this section whose conviction is not
20 reversed is not, and can never become, an eligible resident under this
21 chapter, forfeits any shares with which he may have been credited, and
22 is not, and can never become, eligible to be credited with any shares
23 or to receive any payments.

24 Sec. 37.18.100. DEFINITIONS. In this chapter, unless the context
25 requires otherwise,

26 (1) "commissioner" means the commissioner of revenue or his
27 designee;

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

(3) "eligible resident" means any person who is registered

1 to vote under the Election Code, is a resident of Alaska under AS
2 15.05.020, filed (or whose parent or parents filed) a resident Alaska
3 income tax return for the year preceding his application, and was
4 physically present in Alaska for more than one-half the period between
5 January 1 and December 31 last preceding his application for one or
6 more payments, for a share, or both, or who, if not so physically
7 present was temporarily absent for reasons of professional, vocational
8 or other special education for which a comparable program was not
9 reasonably available in Alaska, post-secondary education, military
10 service, medical treatment, or service in Congress;

11 (4) "five-year period" includes any cumulation of periods
12 within a span of no more than 10 years which totals five full years;

13 (5) "share" means a right to receive payment from the
14 annual distribution made under this chapter and credited by the
15 department to an eligible resident.

16 Sec. 37.18.110. NONSEVERABILITY. If the residency requirements
17 of this chapter are invalid, the provision is nonseverable, and the
18 entire chapter is invalid and of no force or effect.

19 * Sec. 2. In sec. 1 of this Act, the enactment of AS 37.18.060(e) and
20 (f) has the effect of imposing a jurisdictional limitation on the operation
21 of Appellate Rule 45, Alaska Rules of Court Procedure, in that an appeal
22 under the rule (having to do with appeals from administrative decisions to
23 the superior court) must be brought from the commissioner's decisions as to
24 eligibility within 30 days or the courts will have no jurisdiction to hear
25 it. This is an exercise of the legislature's authority over the jurisdic-
26 tion of the courts, but because it also effects an implied, narrow amend-
27 ment to Appellate Rule 45 by imposing this jurisdictional time limit instead
28 of the procedural time limit of the same duration which will continue to
29 apply to other appeals, this section has also been included.

1 * Sec. 3. This Act takes effect immediately, the first distribution
2 shall be made as soon as practicable after January 1, 1980, based on income
3 received during the fiscal years 1977 through 1979 to persons eligible as
4 of January 1, 1979.

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