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1 IN THE SENATE

BY THE RULES COMMITTEE

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CS FOR SENATE BILL NO. 122 (Rules)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act providing for a general tax refund under the
7 Alaska Net Income Tax Act and relating to the use of
8 income from the Alaska permanent fund for the general
9 tax refund and permanent fund dividend; and providing
10 for an effective date."

11

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

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* Section 1. AS 43.20 is amended by adding a new section to read:

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Sec. 43.20.017. GENERAL TAX REFUND. (a) For each tax year after
14 December 31, 1977, each individual filing an Alaska net income tax
15 return on or before June 30 of the succeeding year is entitled to a
16 share of the general tax refund as provided in this section.

17

(b) The total amount of the general tax refund is the amount
18 collected during each calendar year under AS 43.20.011(a) - (d) for the
19 previous tax year. The total amount of the general tax refund shall be
20 calculated without regard to refunds paid under this section.

21

(c) To be eligible for a share of the general tax refund an indi-
22 vidual must file an Alaska net income tax return for the tax year on
23 which the refund is based, even if the individual had no net tax lia-
24 bility under AS 43.20 for that year.

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(d) Eligible individuals are divided into five classes of tax-
26 payers as follows:

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(1) class 5 taxpayers: individuals who filed an Alaska net
28 income tax return for each of the four preceding tax years;

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(2) class 4 taxpayers: individuals who filed an Alaska net

1 income tax return for three of the four preceding tax years;

2 (3) class 3 taxpayers: individuals who filed an Alaska net
3 income tax return for two of the four preceding tax years;

4 (4) class 2 taxpayers: individuals who filed an Alaska net
5 income tax return for one of the four preceding tax years;

6 (5) class 1 taxpayers: individuals who filed an Alaska net
7 income tax return for the tax year on which the refund is based and who
8 did not file a return for any of the four preceding tax years.

9 (e) The general tax refund shall be issued first on the basis of a
10 fraction of the tax paid by the eligible individual taxpayer for the tax
11 year on which the refund is based. The following classes of taxpayers
12 are granted the following fractional refund:

13 class 5 - 100 percent of base year tax paid

14 class 4 - 80 percent of base year tax paid

15 class 3 - 60 percent of base year tax paid

16 class 2 - 40 percent of base year tax paid

17 class 1 - 20 percent or a pro rata amount

18 Only resident net income tax returns may be counted toward determination
19 of a class under this subsection. However, an individual in class 1 who
20 files a part-year Alaska net income tax return may receive a refund
21 prorated on the basis of the number of full months of residency of the
22 individual in the state during the tax year for which the refund is
23 granted.

24 (f) The total amount of the general tax refund less the amount of
25 the general tax refund distributed under (e) of this section equals the
26 amount available for distribution under (g) of this section and this
27 amount is known as the remaining balance.

28 (g) The remaining balance as determined under (f) of this section
29 shall be shared on the basis of the number of years during the five-year

1 base period that a taxpayer filed an Alaska net income tax return. The
2 following classes of eligible taxpayers are granted the following number
3 of shares:

4 class 5 - five shares

5 class 4 - four shares

6 class 3 - three shares

7 class 2 - two shares

8 class 1 - one share or a pro rata fraction of a share.

9 Only resident net income tax returns filed may be counted toward the
10 accrual of shares under this subsection. However, an individual in
11 class 1 who files a part-year Alaska net income tax return may accrue
12 shares prorated on the basis of the number of full months of residency
13 in the state during the tax year for which the refund is based.

14 (h) The dollar value of a share equals the remaining balance
15 determined under (f) of this section divided by the total number of
16 shares in all classes of taxpayers. Each eligible individual taxpayer
17 shall receive a refund equal to the dollar value of a share multiplied
18 by the number of shares to which the taxpayer is entitled.

19 (i) For purposes of this section, married individuals who file a
20 joint return are subject to a separate refund determined on the basis of
21 the number of years that each individual taxpayer filed either a joint
22 or a separate return. Married individuals are considered to have paid
23 one-half of the tax paid jointly and the refund granted in (e) and (h)
24 of this section shall be calculated on that basis.

25 (j) The refund allowed by this section does not reduce the income
26 tax liability of the taxpayer for the year in which the refund is paid
27 and no refund may be made to a person with an outstanding tax liability
28 due and owing the state. A taxpayer may protest a determination under
29 this section in accordance with AS 43.05.240. A person convicted of a

1 criminal violation under AS 43.20 or AS 43.23 forfeits all past, present
2 and future general tax refunds to which he would otherwise have been
3 entitled under this section.

4 (k) If the commissioner of revenue determines that a refund should
5 not have been paid to an individual under this section, he may use
6 collection procedures or remedies available under this title to recover
7 a payment improperly made.

8 (l) Ten percent of the income from the Alaska permanent fund is
9 allocated for the general tax refund provided under this section. For
10 any year that the income from the Alaska permanent fund exceeds the
11 total amount of the general tax refund the excess shall be distributed
12 in accordance with AS 43.23 and each share shall be increased pro rata.

13 (m) Payment of refunds under this section is subject to annual
14 appropriation. The appropriation for payment of refunds may include the
15 amount of money from the general fund needed to provide for refunds
16 under this section and the amount available from the income of the
17 Alaska permanent fund as allocated in (l) of this section.

18 (n) A refund paid under this section is exempt from taxation under
19 this chapter.

20 (o) The department shall issue the refunds provided in this sec-
21 tion to all eligible taxpayers within the first six months of the second
22 tax year following the tax year on which the refund is based. For the
23 first year of the general tax refund (the 1978 tax year) the refunds
24 shall be issued by the department within six months of the effective
25 date of this Act.

26 (p) For purposes of this section, "part-year resident" and "resi-
27 dent" are defined as set out in AS 43.20.340(15) and (17), except as
28 modified by AS 43.23.020(c).

29 * Sec. 2. AS 43 is amended by adding a new chapter to read:

1 CHAPTER 23. PERMANENT FUND DIVIDENDS.

2 Sec. 43.23.010. ELIGIBILITY FOR PERMANENT DIVIDENDS. (a) An
3 individual 18 years of age or older is entitled to one permanent fund
4 dividend for each full calendar year of residence in the state beginning
5 January 1, 1959.

6 (b) An individual 18 years of age or older who files an Alaska net
7 income tax return under AS 43.20 as a part-year resident, may claim a
8 dividend in that return but the amount of the dividend to which he is
9 entitled must be prorated based on the number of full months of resi-
10 dence in the state during the tax year for which he claims a dividend.
11 Part-year residency may not be counted toward the accrual of dividends
12 under (a) of this section.

13 (c) A dividend may be claimed by, and credited or paid to, an
14 individual who is a resident at the time he claims the dividend and who
15 was a resident and physically present in the state for the period for
16 which the dividend is claimed, or who, if a resident but not physically
17 present, was temporarily absent for reasons of professional, vocational
18 or other special education for which a comparable program was not
19 reasonably available in the state, or for postsecondary education,
20 military service, medical treatment, vacation determined to be of
21 reasonable duration, or service in Congress.

22 Sec. 43.23.020. TAX CREDITS AND PAYMENTS. (a) An eligible indi-
23 vidual is entitled to a tax credit against his net income tax liability
24 under AS 43.20 equal to the total amount of his permanent fund dividends
25 accrued as of December 31 of each tax year beginning with tax year 1979.

26 (b) If the total amount of the dividends to which an individual is
27 entitled exceeds his net tax liability, if any, under AS 43.20, he is
28 entitled to receive a payment for the excess.

29 (c) If an individual, at the time he claims a dividend, is in-

1 carcerated as punishment for committing a crime and he is entitled to a
2 payment under (b) of this section, the payment shall be made to the
3 Department of Health and Social Services for deposit in the general fund
4 to offset the expenses to the state of the incarceration accrued as of
5 December 31 of the tax year for which he claims a dividend. If the
6 amount of the payment exceeds the expenses, the excess must be paid to
7 the individual.

8 (d) The commissioner shall make all payments for dividends re-
9 quired to be made under (b) of this section from an annual appropriation
10 for that purpose.

11 Sec. 43.23.030. AMOUNT OF DIVIDEND. For tax year 1979, the amount
12 of each dividend is \$10. For each tax year thereafter the amount of
13 each dividend is equal to the quotient of 10 percent of the income from
14 the Alaska permanent fund earned during the fiscal year ending June 30
15 of the preceding tax year, divided by the total number of dividends paid
16 or credited during the preceding tax year, or \$10, whichever is greater.

17 Sec. 43.23.040. DETERMINATION OF ELIGIBILITY. (a) An individual
18 who claims a dividend must make a statement of eligibility verified by
19 him under penalty of perjury. The commissioner may require an indivi-
20 dual to provide additional proof of eligibility including one or more
21 affidavits from other persons having personal knowledge concerning the
22 individual's eligibility.

23 (b) The department shall prescribe and furnish a form for the
24 statement of eligibility, which must include a certification of resi-
25 dency.

26 Sec. 43.23.050. APPLICATIONS. (a) In order to receive a divi-
27 dend under this chapter, an eligible individual must file an Alaska net
28 income tax return, even if the individual has no net tax liability under
29 AS 43.20.

1 (b) A claim for a dividend covers the period ending on December 31
2 for which the individual was eligible for the dividend.

3 (c) For married individuals filing a joint return, the return may
4 claim dividends for each spouse.

5 (d) A year for which an individual was eligible but failed to
6 claim a dividend may be counted toward eligibility for a dividend under
7 AS 43.20.020. A dividend may not be paid or credited if it is claimed
8 for the first time in an amended return.

9 (e) The department may by regulation adopt reasonable procedures
10 and time limitations for claiming dividends, including procedures and
11 time limitations not provided for in AS 43.20 or in regulations adopted
12 under AS 43.20.

13 Sec. 43.23.060. PENALTIES. In addition to any criminal penalties
14 imposed, if a person is convicted of perjury or unsworn falsification on
15 the basis of a statement made under AS 43.23.050, and the conviction is
16 not reversed, that person is not, and may never become, eligible for a
17 dividend under this chapter, and he forfeits all dividends previously
18 paid or credited to him.

19 Sec. 43.23.070. TAX EXEMPTION. The tax credits and payments
20 provided under this chapter are exempt from taxation under AS 43.20.

21 Sec. 43.23.080. ENFORCEMENT. If the commissioner determines that
22 a dividend should not have been claimed by or credited to an individual,
23 he may use collection procedures or remedies available under this title
24 to recover payments improperly made or to collect additional taxes due.

25 Sec. 43.23.090. RELATIONSHIP WITH OTHER CHAPTERS. For purposes of
26 calculating the total amount of the general tax refund under AS 43.-
27 20.017, the credit allowed by this chapter shall be disregarded.

28 Sec. 43.23.100. DEFINITIONS. In this chapter, unless the context
29 requires otherwise,

1 (1) "dividend" means a right to receive a tax credit, or to
2 receive a payment from the annual appropriation made under this chapter,
3 and credited by the department to an eligible individual;

4 (2) "commissioner" means the commissioner of revenue or his
5 designee;

6 (3) "department" means the Department of Revenue;

7 (4) "individual" means a natural person.

8 * Sec. 3. AS 43.20.215 is repealed.

9 * Sec. 4. If any provision of AS 43.23 enacted by sec. 2 of this Act,
10 other than AS 43.23.070, is held to be invalid by the final judgment, de-
11 cision or order of a court of competent jurisdiction, then that provision is
12 nonseverable, and the entire chapter is invalid and of no force or effect.

13 * Sec. 5. The procedures for claiming, crediting, and paying permanent
14 fund dividends provided for in AS 43.23, enacted by sec. 2 of this Act, do
15 not apply to claims for dividends for tax year 1979. For that tax year only,
16 an eligible individual is entitled to receive a payment equal to the total
17 amount of his permanent fund dividends accrued as of December 31, 1979, to
18 the extent that this amount exceeds the total credit claimed by the indivi-
19 dual under AS 43.20.015 for tax year 1979. For tax year 1979, the Department
20 of Revenue shall, no later than July 1, 1980, prescribe and make available a
21 form for claiming dividends. In addition, the Department of Revenue shall
22 mail the form to each individual who, as of July 1, 1980, filed a resident or
23 part-year resident Alaska net income tax return under AS 43.20. In order to
24 receive a dividend for tax year 1979, an eligible individual must file with
25 the Department of Revenue the form for claiming dividends no later than
26 September 1, 1980, and must make a statement of eligibility as required in
27 AS 43.23.040 enacted by sec. 2 of this Act. For tax year 1979 only, divi-
28 dends may not be credited against net tax liability, if any, under AS 43.20,
29 but may be received only in the form of a payment.

1 * Sec. 6. (a) It is the duty and policy of the state with respect to the
2 natural resources belonging to it and the income derived from the natural
3 resources to provide for their utilization, development, and conservation for
4 the maximum benefit of its people.

5 (b) The purposes of this Act are to

6 (1) reduce individual state income taxes;

7 (2) provide a mechanism for equitable distribution to the people
8 of Alaska of at least a portion of the state's energy wealth derived from the
9 production and development of the natural resources belonging to them as
10 Alaskans;

11 (3) encourage persons to maintain their roots in Alaska and to
12 reduce population turnover in the state; and

13 (4) encourage increased awareness and involvement by the voters of
14 the state in the management and expenditure of state revenues derived from
15 natural resources production and development.

16 * Sec. 7. This Act takes effect immediately in accordance with AS 01.10.-
17 070(c).

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