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Offered: 4/12/82  
Referred: Rules

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 842 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for permanent fund dividends; and  
7 providing for an effective date."

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

9 \* Section 1. AS 43.23 is amended by adding new sections to read:

10 Sec. 43.23.005. ELIGIBILITY. (a) An individual is eligible to  
11 receive one permanent fund dividend each year in an amount to be deter-  
12 mined under AS 43.23.035 if he applies to the department, and if on the  
13 date of application the individual

14 (1) is at least 18 years of age;

15 (2) is a state resident; and

16 (3) has been a state resident for a period of at least six  
17 consecutive months immediately preceding the date of application.

18 (b) In determining the minimum period of an individual's residency  
19 required under (a)(3) of this section, the department may include months  
20 of residency both in the current year and in the immediately preceding  
21 year.

22 Sec. 43.23.015. PERMANENT FUND DIVIDENDS FOR PRIOR YEARS. (a)  
23 Beginning with application for the 1983 permanent fund dividend and for  
24 each year after that, an individual who becomes 18 years of age on or  
25 before the last day for filing an application during a year may file a  
26 claim for and receive permanent fund dividends for all prior years  
27 beginning on or after January 1, 1982, in which he would have been  
28 eligible under AS 43.23.005 if he had then been 18 years of age.

29 (b) A claim for permanent fund dividends for prior years under

1 this section may be filed even if the individual is not a state resident  
2 at the time the claim is filed.

3 (c) In order to receive a permanent fund dividend for a prior  
4 year, an individual must file a claim for all prior dividends within one  
5 year after reaching the age of 18 and within the time limits established  
6 under AS 43.23.065(2) for the current year's application. Failure to  
7 file a claim for permanent fund dividends for prior years within this  
8 period waives all entitlement to those dividends. The department shall  
9 prescribe and make available forms for claims for permanent fund divi-  
10 dends for prior years, and may require proof of eligibility in addition  
11 to that required for a current year under AS 43.23.025(a).

12 (d) The value of a permanent fund dividend for a prior year is the  
13 value published by the commissioner under AS 43.23.035 for that prior  
14 year. Interest on permanent fund dividends paid for a prior year under  
15 this section is computed and paid from January 1 following the year for  
16 which the individual is entitled to a prior year dividend, using the  
17 average rate of return earned since that time by the dividend fund  
18 established in AS 43.23.055.

19 (e) Nothing in this section prevents an individual from claiming  
20 and receiving a permanent fund dividend under AS 43.23.005 for the  
21 current year for which he is eligible.

22 Sec. 43.23.025. PROOF OF ELIGIBILITY. (a) The commissioner shall  
23 adopt regulations under the Administrative Procedure Act (AS 44.62) for  
24 determining the eligibility of individuals for permanent fund dividends.  
25 The commissioner may require an individual to provide proof of eligibil-  
26 ity, and he may use other information available to him from other state  
27 departments or agencies to determine the eligibility of an individual.

28 (b) The department shall prescribe and furnish an application form  
29 for claiming a permanent fund dividend. The application must contain a

1 statement of eligibility and a certification of residency in substan-  
2 tially the following form:

3 I certify that I am a state resident on the date of  
4 this application and that I have been a state resident  
5 for at least six months immediately preceding the date  
6 of this application. I also understand that a false  
7 claim of residency to obtain a permanent fund dividend  
8 is a criminal offense and that if convicted I will for-  
9 feit all permanent fund dividends and that I must repay  
10 all permanent fund dividends that have been paid to me.  
11 I understand that this penalty is in addition to any  
12 criminal penalties imposed.

13 \_\_\_\_\_  
14 (signature of individual)

15 (c) Beginning with application for the 1983 permanent fund divi-  
16 dend and for each year after that, an individual who is a parent or legal  
17 guardian of a minor child who is a resident of the state shall provide to  
18 the department the following information with respect to each minor child:

- 19 (1) full name;  
20 (2) date of birth;  
21 (3) current address if different from the parent's or  
22 guardian's address; and  
23 (4) other information required by the department relating to  
24 the future eligibility of the child to claim a prior year permanent fund  
25 dividend under AS 43.23.015.

26 (d) The department shall maintain a record of the information  
27 provided under (c) of this section for each minor child until the time  
28 for that child to file a claim for prior year permanent fund dividends  
29 has expired. The information required in (c) of this section may be

1 used only to estimate the number of future claims for prior year perma-  
2 nent fund dividends and to verify the eligibility of individuals who  
3 have filed claims for prior year permanent fund dividends. This infor-  
4 mation may be used in place of other proof of eligibility permitted  
5 under (a) of this section and under AS 43.23.015(c). The failure of a  
6 parent or guardian to provide the information required by (c) of this  
7 section does not affect the child's eligibility in the future to receive  
8 payment for a prior year permanent fund dividend.

9 Sec. 43.23.035. AMOUNT OF DIVIDEND. By September 1 of each year  
10 the commissioner shall give public notice of the value of each permanent  
11 fund dividend for that year. The commissioner shall determine the value  
12 of a permanent fund dividend by

13 (1) determining the amount of income of the Alaska permanent  
14 fund transferred to the dividend fund under AS 43.23.055(b) during the  
15 current year;

16 (2) determining the number of individuals eligible to receive  
17 a dividend payment for the current year plus an estimate of the number  
18 of individuals under 18 years of age who will be eligible in the future  
19 to claim a dividend for the current year as a prior year dividend under  
20 AS 43.23.015; and

21 (3) dividing the amount determined in (1) of this section by  
22 the amount determined in (2) of this section.

23 Sec. 43.23.045. PENALTIES AND ENFORCEMENT. (a) In addition to  
24 any criminal penalties imposed by state law, if an individual is con-  
25 victed of a crime in connection with a false statement made in a certi-  
26 fication required under AS 43.23.025, and the conviction is not reversed,  
27 that individual forfeits all permanent fund dividends paid to him and is  
28 not eligible for a future permanent fund dividend.

29 (b) If the commissioner determines that a permanent fund dividend

1 should not have been claimed by or paid to an individual, he may use all  
2 collection procedures or remedies available for collection of taxes  
3 under this title to recover the payment of a permanent fund dividend  
4 that was improperly made. A notice of an improperly paid dividend must  
5 be sent to the individual within 10 years after the improper payment.  
6 If notice is not sent within the 10-year period, proceedings may not be  
7 commenced in court for recovery of the improper payment.

8 Sec. 43.23.055. DIVIDEND FUND. (a) The dividend fund is estab-  
9 lished as a separate fund in the state treasury. The dividend fund  
10 shall be administered by the commissioner and shall be invested by the  
11 commissioner in the same manner as provided in AS 37.10.070.

12 (b) Each year the commissioner shall transfer to the dividend fund  
13 50 percent of the income of the Alaska permanent fund earned during the  
14 fiscal year ending on June 30 of the current year and available for  
15 distribution under AS 37.13.130.

16 (c) Each year the department shall pay from the dividend fund all  
17 permanent fund dividends payable to eligible individuals for the current  
18 year and all permanent fund dividends for prior years, including inter-  
19 est, payable that year to eligible individuals. The money remaining  
20 each year after these payments are made, and any interest earned from  
21 investment of money in the dividend fund, remains in the dividend fund  
22 to pay future claims for prior year permanent fund dividends.

23 (d) The department shall review the status of the dividend fund  
24 every four years beginning in 1987 to determine whether there is suffi-  
25 cient money in the fund to pay future claims for prior year permanent  
26 fund dividends. On August 1 of the year of a review the commissioner  
27 shall certify the amount of excess or the deficiency of money, as the  
28 case may be. If there is an excess, the amount of income described in  
29 AS 43.23.035(1) shall be increased by the amount of the excess for

1 purposes of determining the value of a permanent fund dividend for that  
2 year under AS 43.23.035. If there is a deficiency, the amount of income  
3 described in AS 43.23.035(1) shall be reduced by the amount of the  
4 deficiency for purposes of determining the value of a permanent fund  
5 dividend for that year under AS 43.23.035.

6 (e) The department may adopt by regulation a plan that, to the  
7 extent permitted by federal law, will allow an individual who elects to  
8 participate in the plan to select an optional disbursement of the divi-  
9 dend payment that would have the effect of deferring payment of all or a  
10 portion of federal income taxes on the receipt of a permanent fund  
11 dividend.

12 Sec. 43.23.065. DUTIES OF THE DEPARTMENT. The department shall

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

15 (2) adopt regulations under the Administrative Procedure Act  
16 (AS 44.62) that establish procedures and time limits for claiming a  
17 permanent fund dividend; the department shall set the time limit for  
18 applications for permanent fund dividends so that the number of eligible  
19 applicants is determined by September 1 and permanent fund dividends for  
20 a year are paid before December 31 of that year; and

21 (3) assist residents of the state, particularly in rural  
22 areas, who because of language, illness, old age, or inaccessibility to  
23 public transportation need assistance to establish eligibility and to  
24 apply for permanent fund dividends.

25 Sec. 43.23.075. EXEMPTION OF PERMANENT FUND DIVIDENDS. Fifty  
26 percent of the annual permanent fund dividend payable to an individual  
27 is exempt from levy, execution, garnishment, attachment, or any other  
28 remedy for the collection of debt. This exemption applies to an eligible  
29 individual's permanent fund dividend both before and after payment is

1 made to the individual and applies even if the dividend payment is  
2 commingled with other money of the individual. The exemption under this  
3 section does not apply to obligations for child support.

4 Sec. 43.23.085. ELIBIGILITY FOR STATE PUBLIC ASSISTANCE PAYMENTS.

5 In determining the eligibility of an individual for general relief  
6 medical assistance under AS 47.25.120 - 47.25.300, the Department of  
7 Health and Social Services may not consider a permanent fund dividend as  
8 income.

9 Sec. 43.23.095. DEFINITIONS. In this chapter,

10 (1) "Alaska permanent fund" means the fund established by  
11 art. IX, sec. 15 of the state constitution;

12 (2) "commissioner" means the commissioner of revenue;

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

14 (4) "dividend fund" means the fund established by AS 43.-  
15 23.055;

16 (5) "individual" means a natural person;

17 (6) "permanent fund dividend" means a right to receive a  
18 payment from the dividend fund;

19 (7) "state resident" means an individual who is physically  
20 present in the state with the intent to remain permanently in the state  
21 or, if he is not physically present in the state, intends to return to  
22 the state and is absent only for any of the following reasons:

23 (A) vocational, professional, or other specific educa-  
24 tion for which a comparable program was not reasonably available in  
25 the state;

26 (B) secondary or postsecondary education;

27 (C) military service;

28 (D) medical treatment;

29 (E) service in Congress; or

1 (F) other reasons which the commissioner may establish  
2 by regulation;

3 (8) "year" means a calendar year.

4 \* Sec. 2. AS 43.23.010(a) is amended to read:

5 (a) An individual who is eligible under (b) of this section is  
6 entitled to one permanent fund dividend for each full year that the  
7 individual is a state resident after January 1, 1982 [1959].

8 \* Sec. 3. AS 43.23.020(b)(1) is amended to read:

9 (1) a statement of eligibility and a certification of resi-  
10 dency in substantially the following form:

11 I certify that I am a state resident on the date of  
12 this application and I have been a state resident for  
13 \_\_\_\_\_ full years and that I understand that my claim  
14 for a permanent fund dividend is determined by the  
15 length of my residence in the state after January 1,  
16 1982 [1959]. I also understand that a false claim of  
17 residency to obtain a permanent fund dividend is a  
18 criminal offense and that if convicted I will forfeit  
19 all permanent fund dividends and that I must repay  
20 all permanent fund dividends which have been paid to  
21 me. I understand that this penalty is in addition  
22 to any criminal penalties imposed.

23  
24 \_\_\_\_\_  
(signature of individual)

25 and

26 \* Sec. 4. AS 43.23 is amended by adding a new section to read:

27 Sec. 43.23.014. PAYMENTS FOR PRIOR YEARS. (a) Beginning with  
28 application for permanent fund dividends filed during 1983 and for each  
29 year after that, an individual who becomes 18 years of age on or before

1 the last day for filing an application during a year may file a claim  
2 for and receive permanent fund dividends for all prior years in which he  
3 would have been eligible under AS 43.23.010 if he had then been 18 years  
4 of age.

5 (b) A claim for permanent fund dividends for prior years under  
6 this section may be filed even if the individual is not a state resident  
7 at the time he makes the claim.

8 (c) In order to receive a permanent fund dividend for a prior  
9 year, an individual must file a claim for all prior dividends within one  
10 year after reaching the age of 18 and within the time limits established  
11 under AS 43.23.060(2) for the current year's application. Failure to  
12 file a claim for permanent fund dividends for prior years within this  
13 period waives all entitlement to those dividends. The department shall  
14 prescribe and make available forms for claims for permanent fund divi-  
15 dends for prior years, and may require proof of eligibility in addition  
16 to that required for a current year under AS 43.23.020(a).

17 (d) The value of a permanent fund dividend for a prior year is the  
18 value published by the commissioner under AS 43.23.030 for that prior  
19 year. Interest on permanent fund dividends paid for a prior year under  
20 this section is computed and paid from January 1 of the year following  
21 that year, using the average rate of return earned since that time by  
22 the dividend fund established in AS 43.23.050.

23 (e) Nothing in this section prevents an individual from claiming  
24 and receiving a permanent fund dividend under AS 43.23.010 during the  
25 current year in which he is eligible.

26 \* Sec. 5. AS 43.23.020 is amended by adding new subsections to read:

27 (c) Beginning with application for a permanent fund dividend filed  
28 during 1983 and each year after that, an individual who is a parent or  
29 legal guardian of a minor child who is a resident of the state, shall

1 provide to the department the following information with respect to each  
2 minor child:

3 (1) full name;

4 (2) date of birth;

5 (3) current address if different from the parent or guardian's  
6 address; and

7 (4) other information required by the department relating to  
8 the future eligibility of the child to claim a prior year permanent fund  
9 dividend.

10 (d) The department shall maintain a record of the information  
11 provided under (c) of this section for each minor child until the time  
12 for that child to file a claim for prior year permanent fund dividends  
13 has expired. The information required in (c) of this section may be  
14 used only to estimate the number of future claims for prior year divi-  
15 dends and to verify the eligibility of individuals who have filed claims  
16 for prior year dividends. This information may be used in place of  
17 other proof of eligibility permitted under (a) of this section and under  
18 AS 43.23.014(c). The failure of a parent or guardian to provide the  
19 information required by (c) of this section does not affect the child's  
20 eligibility in the future to receive payment for a prior year dividend.

21 \* Sec. 6. AS 43.23.030(2) is amended to read:

22 (2) determining the number of permanent fund dividends paid  
23 during the current year plus an estimate of the number of dividends for  
24 that year which individuals under 18 years of age will be eligible in  
25 the future to claim as dividends for a prior year under AS 43.23.014;  
26 and

27 \* Sec. 7. AS 43.23.050 is amended by adding new subsections to read:

28 (d) Each year the department shall pay from the dividend fund all  
29 permanent fund dividends payable to eligible individuals for the current

1 year and all permanent fund dividends for prior years, including inter-  
2 est, payable that year to eligible individuals. The money remaining  
3 each year after these payments are made, and any interest earned from  
4 investment of money in the dividend fund, remains in the fund to pay  
5 claims for prior year permanent fund dividends.

6 (e) The department shall review the status of the fund every four  
7 years beginning in 1985 to determine whether there is sufficient money  
8 in the fund to pay future claims for prior year permanent fund divi-  
9 dends. On August 1 of the year of a review the commissioner shall  
10 certify the amount of excess or deficient funds, as the case may be. If  
11 there is an excess, the amount of income described in AS 43.23.030(1)  
12 shall be increased by the amount of the excess for purposes of deter-  
13 mining the value of a permanent fund dividend under AS 43.23.030 to be  
14 paid in the following year. If there is a deficiency, the amount of  
15 income described in AS 43.23.030(1) shall be reduced by the amount of  
16 the deficiency for purposes of determining the value of a permanent fund  
17 dividend under AS 43.23.030 to be paid in the following year.

18 \* Sec. 8. 1982 PERMANENT FUND DIVIDEND DISTRIBUTION. (a) This section  
19 applies to the distribution of permanent fund dividends under AS 43.23 during  
20 1982 only. The provisions of this section relating to the value of a perma-  
21 nent fund dividend, eligibility requirements, application procedures, and  
22 time limits apply to the distribution of permanent fund dividends during 1982,  
23 notwithstanding any contrary provisions of AS 43.23 that are in effect on the  
24 effective date of this section or that take effect after the effective date  
25 of this section. All other provisions of AS 43.23 in effect on the effective  
26 date of this section apply to the distribution of permanent fund dividends  
27 under this section.

28 (b) An individual is eligible to receive one permanent fund dividend in  
29 1982 if he applies to the department, and if on the date of application the

1 individual

2 (1) is at least 18 years of age;

3 (2) is a state resident; and

4 (3) has been a state resident for a period of at least six con-  
5 secutive months immediately preceding the date of application.

6 (c) In determining the minimum period of an individual's residency  
7 required under (b)(3) of this section, the department may include months of  
8 residency both in 1982 and in 1981.

9 (d) The amount of each dividend for 1982 is \$1,000.

10 (e) An individual meets the requirement of applying to the department  
11 under (b) of this section if the individual

12 (1) before the effective date of this section and during 1982  
13 filed an application with the department under AS 43.23.010; or

14 (2) files an application with the department under this section  
15 within the time limits established by the department in regulations adopted  
16 under (g) of this section.

17 (f) As soon as possible after the effective date of this section, the  
18 department shall issue warrants for permanent fund dividends to eligible  
19 individuals. The department shall make application forms available and may  
20 continue to use the application forms prepared under AS 43.23.020(b) for  
21 applications under this section.

22 (g) The department may adopt regulations to govern the 1982 dividend  
23 distribution as emergency regulations under AS 44.62.250.

24 (h) The income of the Alaska permanent fund for fiscal year 1982 trans-  
25 ferred to the dividend fund may not be used for payment of dividends during  
26 1982, but must remain in the dividend fund and be used for payment of perma-  
27 nent fund dividends during 1983 along with the fiscal year 1983 earnings of  
28 the Alaska permanent fund transferred to the dividend fund.

29 (i) In this section, "department" means the Department of Revenue.

1 \* Sec. 9. Section 4, ch. 21, SLA 1980, is repealed.

2 \* Sec. 10. AS 43.23.050(c) is repealed.

3 \* Sec. 11. AS 43.23.010, 43.23.014, 43.23.020, 43.23.030, 43.23.040,  
4 43.23.050, 43.23.060, 43.23.070, 43.23.080, 43.23.090, and 43.23.100 are re-  
5 pealed.

6 \* Sec. 12. If the United States Supreme Court decides that AS 43.23.010(a)  
7 is invalid on the basis of the date specified in that subsection, then the  
8 language specifying that date is severable, and all other provisions of  
9 AS 43.23, as enacted in ch. 21, SLA 1980, remain in effect.

10 \* Sec. 13. Notwithstanding the provisions of AS 43.23.014(c), enacted in  
11 sec. 4 of this Act, which require an individual to file an application for  
12 prior year permanent fund dividends within one year after reaching 18 years  
13 of age, an individual may file a claim during 1983 for permanent fund divi-  
14 dends for all prior years for which he is eligible if that individual has  
15 turned 18 years of age on or before the last day for filing an application  
16 during 1983.

17 \* Sec. 14. Sections 2 and 3 of this Act take effect 60 days after the  
18 date that the United States Supreme Court decides that AS 43.23.010 is  
19 invalid but also decides that AS 43.23.010 would not violate the United  
20 States Constitution if the amount of a permanent fund dividend were deter-  
21 mined by accumulated years of residency in the state beginning on or after  
22 January 1, 1979.

23 \* Sec. 15. Sections 1 and 11 of this Act take effect 60 days after the  
24 date that the United States Supreme Court decides that AS 43.23.010 is  
25 invalid because the amount of a permanent fund dividend is determined by  
26 accumulated years of residency in the state whether those years are counted  
27 before or after January 1, 1979.

28 \* Sec. 16. Sections 4 - 7, 9, 10, 12, and 13 of this Act take effect  
29 immediately in accordance with AS 01.10.070(c).

1 \* Sec. 17. Section 8 of this Act takes effect on the date that the United  
2 States Supreme Court decides that AS 43.23.010 is for any reason invalid.

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