

CS FOR HOUSE BILL NO. 75(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 1/26/94
Referred: Finance

Sponsor(s): REPRESENTATIVES MULDER, Martin

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the permanent fund dividend program; and providing for an
2 effective date."

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

4 * Section 1. AS 43.23.005(a) is amended to read:

5 (a) An individual is eligible to receive one permanent fund dividend each year
6 in an amount to be determined under AS 43.23.025 if the individual

7 (1) [THE INDIVIDUAL] applies to the department;

8 (2) [ON THE DATE OF APPLICATION THE INDIVIDUAL] is a
9 state resident on the date of application;

10 (3) [THE INDIVIDUAL] was a state resident for at least the calendar
11 year immediately preceding January 1 of the current dividend year;

12 (4) [THE INDIVIDUAL] has been physically present in the state at
13 some time during the prior two calendar years before the current dividend year; [AND]

14 (5) [THE INDIVIDUAL] is

- 1 (A) a citizen of the United States;
2 (B) an alien lawfully admitted for permanent residence in the
3 United States;
4 (C) an alien with refugee status under federal law; or
5 (D) an alien that has been granted asylum under federal law;

6 **and**

7 (6) was, during the entire period described in (3) of this subsection,
8 present in the state or, if absent, was absent only as allowed in AS 43.23.008.

9 * Sec. 2. AS 43.23 is amended by adding a new section to read:

10 Sec. 43.23.008. ALLOWABLE ABSENCES. (a) Subject to (b) of this
11 section, an otherwise eligible individual who is absent from the state during the
12 calendar year immediately preceding the current dividend year remains eligible for the
13 dividend if the individual was absent

14 (1) receiving full-time technical training as part of a career education
15 program recognized by the Alaska Commission on Postsecondary Education if the
16 commission informs the department that there is no comparable technical training
17 reasonably available in the state;

18 (2) attending full-time an academic institution, seminar, or other
19 program for continuing professional educational development, including a sabbatical,
20 legal, or accounting program, recognized by the Alaska Commission on Postsecondary
21 Education if the commission informs the department that there is no comparable
22 program reasonably available in the state;

23 (3) attending a special education program to assist in the treatment of
24 learning or physical disabilities or the treatment of mental disorders if attendance is
25 recommended by a licensed physician, psychologist, physical therapist, or the
26 commissioner of education, and if the commissioner of education informs the
27 department that there is no comparable special education program reasonably available
28 in the state;

29 (4) attending full-time at an educational institution in grades 7 through
30 12;

31 (5) attending full-time at an accredited college, university, or junior or

1 community college in a program leading to an associate, baccalaureate, or graduate
2 degree;

3 (6) serving on active duty as a member of the armed forces of the
4 United States or to accompany, as a spouse or dependent of another individual,
5 whether a state resident or nonresident, who is serving in the armed forces of the
6 United States;

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

10 (8) accompanying a minor who is absent under (7) of this subsection;

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

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

14 (11) serving as a full-time volunteer in the Peace Corps;

15 (12) serving as an employee of the state, including employment in a
16 field office;

17 (13) in the custody of the state;

18 (14) actively participating on a United States national athletic team as
19 an eligible athlete as defined by the International Federation and National Governing
20 Body for each nonprofessional sport;

21 (15) accompanying an eligible individual as the spouse, minor
22 dependent, or disabled dependent of the eligible individual;

23 (16) for a reason consistent with the individual's intent to remain a
24 resident, provided the absence or cumulative absences do not exceed

25 (A) 180 days if the individual is not claiming an absence under
26 (1) - (15) of this subsection and provided that the individual

27 (i) established the individual's principal home in this
28 state before leaving this state;

29 (ii) has not taken an action inconsistent with an intent
30 to maintain the individual's principal home in this state;

31 (iii) has not taken an action to establish or maintain a

1 principal home outside of this state;
2 (iv) returned to the individual's principal home in this
3 state at the conclusion of the absence;

4 (B) the greater of 90 days, one school semester during which
5 the individual was enrolled, or one school quarter during which the individual
6 was enrolled, in addition to any absence or cumulative absences claimed under
7 (1) or (5) of this subsection if the individual is not claiming any absence under
8 (2) - (4) or (6) - (15) of this subsection; or

9 (C) 45 days in addition to any absence or cumulative absences
10 claimed under (1) - (15) of this subsection.

11 (b) An individual who is otherwise eligible and who is absent for more than
12 180 days during the calendar year immediately preceding January 1 of the current
13 dividend year remains eligible for the dividend only if the individual was a resident
14 of the state for at least six consecutive months immediately before leaving the state.

15 * Sec. 3. AS 43.23.015(a) is amended to read:

16 (a) The commissioner shall adopt regulations under the Administrative
17 Procedure Act (AS 44.62) for determining the eligibility of individuals for permanent
18 fund dividends. The commissioner may require an individual to provide proof of
19 eligibility, and the commissioner may use other information available from other state
20 departments or agencies to determine the eligibility of an individual. The commissioner
21 shall consider all relevant circumstances in determining the eligibility of an individual.
22 However, the residency of an individual's spouse may not be a [THE PRINCIPAL]
23 factor relied upon by the commissioner in determining the residency of the individual
24 except as provided in AS 43.23.008.

25 * Sec. 4. AS 43.23.095 is amended to read:

26 Sec. 43.23.095. DEFINITIONS. In this chapter,

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

29 (2) [REPEALED

30 (3) REPEALED

31 (4)] "disabled" means physically or mentally unable to complete and

1 sign an application due to a serious emotional disturbance, visual, orthopedic, or other
2 health impairment, or developmental disability that is attributable to mental retardation,
3 cerebral palsy, epilepsy, autism or other cause; "disabled" does not mean
4 "incompetent";

5 (3) [(5)] "dividend fund" means the fund established by AS 43.23.045;

6 (4) [(6)] "individual" means a natural person;

7 (5) [(7)] "permanent fund dividend" means a right to receive a payment
8 from the dividend fund;

9 (6) [(8)] "state resident" means an individual who is physically present
10 in the state with the intent to remain permanently in the state under the requirements
11 of AS 01.10.055 or, if the individual is not physically present in the state, maintains
12 and demonstrates at all times an intent [INTENDS] to return to the state to [AND]
13 remain permanently in the state under the requirements of AS 01.10.055 [, AND IS
14 ABSENT ONLY FOR ANY OF THE FOLLOWING REASONS:

15 (A) VOCATIONAL, PROFESSIONAL, OR OTHER SPECIFIC
16 EDUCATION FOR WHICH A COMPARABLE PROGRAM WAS NOT
17 REASONABLY AVAILABLE IN THE STATE;

18 (B) SECONDARY OR POSTSECONDARY EDUCATION;

19 (C) MILITARY SERVICE;

20 (D) MEDICAL TREATMENT;

21 (E) SERVICE IN CONGRESS;

22 (F) OTHER REASONS WHICH THE COMMISSIONER MAY
23 ESTABLISH BY REGULATION; OR

24 (G) SERVICE IN THE PEACE CORPS;

25 (9) "YEAR" MEANS A CALENDAR YEAR].

26 * Sec. 5. This Act takes effect January 1, 1995.