

SENATE CS FOR CS FOR HOUSE BILL NO. 392(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/27/94

Referred: Rules

Sponsor(s): REPRESENTATIVES PARNELL, Mulder

A BILL

FOR AN ACT ENTITLED

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

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

5 * Section 1. PURPOSES. The purposes of the amendments made to AS 43.23.005(d) and
6 43.23.028(b) in this Act are to obtain

7 (1) a source of additional funding for the state agencies listed in
8 AS 43.23.028(b); and

9 (2) full or partial reimbursement from individuals convicted of a felony or
10 misdemeanor for costs imposed on the state criminal justice system related to convictions and
11 incarcerations.

12 * Sec. 2. AS 14.43.120(i) is amended to read:

13 (i) If a loan is in default, the commission shall notify the borrower that

1 repayment of the remaining balance is accelerated and due by sending the borrower
2 a notice by registered or certified mail. The permanent fund dividend of a borrower
3 may be taken under AS 43.23.065(b)(4) [AS 43.23.065(b)(3)] to satisfy the balance
4 due on the defaulted loan.

5 * Sec. 3. AS 43.23.005(a) is amended to read:

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

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

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

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

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

15 (5) [THE INDIVIDUAL] is

16 (A) a citizen of the United States;

17 (B) an alien lawfully admitted for permanent residence in the
18 United States;

19 (C) an alien with refugee status under federal law; or

20 (D) an alien that has been granted asylum under federal law;

21 and

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

24 * Sec. 4. AS 43.23.005(c) is amended to read:

25 (c) A parent, guardian, or other authorized representative who meets the
26 requirements of (a)(2) - (6) of this section may claim a permanent fund dividend on
27 behalf of an unemancipated minor or on behalf of a disabled or an incompetent
28 individual who is eligible to receive a payment under this section. Notwithstanding
29 (a)(2) - (4) of this section and AS 43.23.008(b), a minor who is otherwise eligible is
30 eligible for a dividend if, during the two calendar years immediately preceding the
31 current dividend year, the minor was born to or adopted by an individual who is

1 eligible for a dividend for the current dividend year.

2 * Sec. 5. AS 43.23.005(d) is amended to read:

3 (d) Notwithstanding the provisions of (a) - (c) of this section, an individual
4 [WHO HAS BEEN CONVICTED OF A FELONY] is not eligible for a permanent
5 fund dividend for a dividend year when (1) during the calendar year immediately
6 preceding that dividend year the individual was convicted of a felony; or (2) [,]
7 during all or part of the [PREVIOUS] calendar year immediately preceding that
8 dividend year, as a result of the conviction of a felony or misdemeanor, the
9 individual was [IS] incarcerated. This subsection does not apply if the conviction
10 is reversed. An action taken under AS 12.55.085 - 12.55.110 does not constitute
11 reversal of a conviction for purposes of this subsection.

12 * Sec. 6. AS 43.23 is amended by adding a new section to read:

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

17 (1) receiving full-time technical training as part of a career education
18 program recognized by the Alaska Commission on Postsecondary Education;

19 (2) attending full-time an academic institution, seminar, or other
20 program for continuing professional educational development, including a sabbatical,
21 legal, or accounting program, recognized by the Alaska Commission on Postsecondary
22 Education;

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;

27 (4) attending full-time at an educational institution in grades 7 through
28 12;

29 (5) attending full-time at an accredited college, university, or junior or
30 community college in a program leading to an associate, baccalaureate, or graduate
31 degree;

- 1 (6) serving on active duty as a member of the armed forces of the
2 United States;
- 3 (7) receiving continuous medical treatment recommended by a licensed
4 physician or convalescing as recommended by the physician that treated the illness if
5 the treatment or convalescence is not based on a need for climatic change;
- 6 (8) accompanying a minor who is absent under (7) of this subsection;
- 7 (9) serving as a member of the United States Congress;
- 8 (10) serving on the staff of a member of the United States Congress
9 from the state;
- 10 (11) serving as a full-time volunteer in the Peace Corps;
- 11 (12) serving as an employee of the state, including employment in a
12 field office;
- 13 (13) in the custody of the state;
- 14 (14) actively participating on a United States national athletic team as
15 an eligible athlete as defined by the International Federation and National Governing
16 Body for each nonprofessional sport;
- 17 (15) accompanying an eligible individual as the spouse, minor
18 dependent, or disabled dependent of the eligible individual;
- 19 (16) for a reason consistent with the individual's intent to remain a
20 resident, provided the absence or cumulative absences do not exceed
- 21 (A) 180 days if the individual is not claiming an absence under
22 (1) - (15) of this subsection and provided that the individual
- 23 (i) established the individual's principal home in this
24 state before leaving this state;
- 25 (ii) has not taken an action inconsistent with an intent
26 to maintain the individual's principal home in this state;
- 27 (iii) has not taken an action to establish or maintain a
28 principal home outside of this state;
- 29 (iv) returned to the individual's principal home in this
30 state at the conclusion of the absence;
- 31 (B) the greater of 90 days, one school semester during which

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

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

7 (b) An individual who is otherwise eligible and who is absent for more than
8 180 days during the calendar year immediately preceding January 1 of the current
9 dividend year remains eligible for the dividend only if the individual was a resident
10 of the state for at least six consecutive months immediately before leaving the state.

11 * Sec. 7. AS 43.23.015(b) is amended to read:

12 (b) The department shall prescribe and furnish an application form for claiming
13 a permanent fund dividend. The application must include

14 (1) notice of the penalties provided for under AS 43.23.035; [AND
15 CONTAIN]

16 (2) a statement of eligibility and a certification of residency to be
17 signed by the applicant or appropriate representative if the application is filed
18 under AS 43.23.005(c) or (e) of this section; and

19 (3) a statement to be signed by

20 (A) two other people who can attest to the eligibility of the
21 applicant; or

22 (B) one other person who can attest to the eligibility of the
23 applicant if the application is filed under AS 43.23.005(c) or (e) of this
24 section.

25 * Sec. 8. AS 43.23.028(b) is amended to read:

26 (b) The notice requirements of (a) of this section do not apply to
27 appropriations from the dividend fund to the crime victim compensation fund
28 established under AS 18.67.162, to the council on domestic violence and sexual assault
29 established under AS 18.66.010, to the court system, or to the Department of
30 Corrections to the extent that amounts appropriated for a fiscal year do not exceed the
31 total amount that would have been paid during that same [THE PREVIOUS] fiscal

1 year to individuals who are ineligible to receive dividends under AS 43.23.005(d) if
2 they had been eligible.

3 * Sec. 9. AS 43.23.035(a) is amended to read:

4 (a) In addition to any criminal penalties imposed by state law, if an individual
5 is convicted of a crime in connection with a false statement made in a certification
6 required under AS 43.23.015, and the conviction is not reversed, that individual forfeits
7 all permanent fund dividends paid and is not eligible for a future permanent fund
8 dividend. An action taken under AS 12.55.085 - 12.55.110 does not constitute
9 reversal of a conviction for purposes of this subsection.

10 * Sec. 10. AS 43.23.035(d) is amended to read:

11 (d) If notice is not sent within the time required under (b) of this section,
12 administrative or judicial proceedings may not be commenced for recovery of an
13 improperly paid dividend. The time limitations of (b) of this section do not apply

14 (1) to a duplicate payment of a dividend;

15 (2) if a dividend is forfeited under (a) of this section; or

16 (3) if it is more probable than not that an individual has committed a
17 crime in connection with a false statement made in an application.

18 * Sec. 11. AS 43.23.035 is amended by adding new subsections to read:

19 (e) Except as provided in (f) of this section, the department may not, during
20 the time in which an appeal may be filed or while an appeal is pending, pay a
21 dividend to an individual who, as a result of a proceeding under this section, owes
22 money to the state.

23 (f) The department shall pay to an individual who is not the subject of a
24 criminal investigation under this section any prior year dividend for which the
25 individual is eligible if, by September 30 of the year following the year for which the
26 dividend is declared, the

27 (1) individual has not exhausted the individual's appeal rights related
28 to the money owed to the state as a result of a proceeding under this section; and

29 (2) department has not issued a formal hearing decision affirming that
30 the individual owes money to the state as a result of a proceeding under this section.

31 * Sec. 12. AS 43.23.055 is amended to read:

1 **Sec. 43.23.055. DUTIES OF THE DEPARTMENT.** The department shall

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

3 (2) subject to AS 43.23.011 and paragraph (8) of this section, adopt
4 regulations under AS 44.62 (Administrative Procedure Act) that establish procedures
5 and time limits for claiming a permanent fund dividend and for providing missing
6 or additional information; the department shall determine the number of eligible
7 applicants by October 1 of the year for which the dividend is declared and pay the
8 dividends by December 31 of that year;

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

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

17 (5) use a list of individuals ineligible for a dividend under
18 AS 43.23.005(d) provided annually by [ANNUALLY DETERMINE, IN
19 COOPERATION WITH] the Department of Corrections and the Department of
20 Public Safety to determine [,] the number and identity of those individuals
21 [INELIGIBLE FOR A PERMANENT FUND DIVIDEND UNDER AS 43.23.005(d)];

22 (6) adopt regulations that are necessary to implement AS 43.23.005(d);

23 (7) adopt regulations that establish procedures for the parent, guardian,
24 or other authorized representative of a disabled individual to apply for prior year
25 permanent fund dividends not received by the disabled individual because no
26 application was submitted on behalf of the individual;

27 (8) adopt regulations that establish procedures for an individual to apply
28 to have a dividend warrant reissued if it is returned to the department as undeliverable
29 or it is not paid within two years of the date of its issuance; however, the department
30 may not establish a time limit within which an application to have a warrant reissued
31 must be filed;

1 (9) adopt regulations establishing an optional longevity bonus program
2 to provide for the direct payment by the department of an individual's permanent fund
3 dividend to an annuity program selected by the individual.

4 * Sec. 13. AS 43.23.065(a) is amended to read:

5 (a) Except as provided in (b) of this section, 45 percent of an individual's
6 [THE ANNUAL] permanent fund dividend [PAYABLE TO AN INDIVIDUAL] is
7 exempt from levy, execution, garnishment, attachment, or any other remedy for the
8 collection of debt. This exemption applies to an eligible individual's permanent fund
9 dividend both before and after payment is made to the individual. No other exemption
10 applies to a dividend. Notwithstanding other laws, a writ of execution upon a dividend
11 that has not been delivered to the debtor may be served on the commissioner by
12 certified mail, return receipt requested. Upon receipt of a writ by certified mail, return
13 receipt requested, the commissioner shall deliver that portion of the dividend executed
14 upon to the court along with the case name and number.

15 * Sec. 14. AS 43.23.065(b) is amended to read:

16 (b) An exemption is not available under this section for permanent fund
17 dividends taken to satisfy

18 (1) amounts owed to the state under AS 43.23.035(a) or (b);

19 (2) child support obligations required by court order or decision of the
20 child support enforcement agency under AS 25.27.140 - 25.27.220;

21 (3) [(2)] court ordered restitution under AS 12.55.045 - 12.55.051 or
22 12.55.100;

23 (4) [(3)] claims on defaulted scholarship loans under AS 43.23.067;

24 (5) [(4)] court ordered fines; or

25 (6) [(5)] a debt, other than a debt under (1) - (5) of this subsection,
26 owed by an eligible individual to an agency of the state, unless the debt is contested
27 and an appeal is pending, or the time limit for filing an appeal has not expired.

28 * Sec. 15. AS 43.23.065(d) is amended to read:

29 (d) The department may not accept an [AN] assignment of a current year
30 dividend or a levy, execution, garnishment, attachment, or other remedy for the
31 collection of debt applied to a current year dividend [FOR A YEAR MAY NOT BE

1 ACCEPTED BY THE DEPARTMENT] before April 1 of the current dividend
2 [THAT SAME] year. AS 09.38.080(c) and 09.38.085 do not apply to a levy on a
3 permanent fund dividend. The department shall include the case number with a
4 dividend or portion of a dividend transmitted to the court in response to a writ of
5 execution or other court order. At the time payment is made to the court, the
6 department shall send to the individual at the address provided in the individual's
7 dividend application and to the court that issued the writ or order a notice that contains

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

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

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

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

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

16 * Sec. 16. AS 43.23.069(b) is amended to read:

17 (b) A person may assign the right to receive a permanent fund dividend to a

18 (1) federal, state, or municipal government agency for a debt owed to
19 or administered by the agency; or

20 (2) [TO A] court for a debt owed to the court or a government
21 agency, or for restitution ordered under AS 12.55.045, 12.55.051, or 12.55.100.

22 * Sec. 17. AS 43.23 is amended by adding a new section to read:

23 Sec. 43.23.089. RELEASE OF INFORMATION. (a) Except to the extent
24 required under AS 24.20.271 and AS 24.55.160 - 24.55.170, required for the
25 administration of the permanent fund dividend program, and as provided in this
26 section, information related to an individual's application or dividend, including a
27 dividend eligibility determination made by the department, is confidential. Except as
28 provided in (e) of this section, the department shall provide information related to an
29 individual's application or dividend to that individual upon the request of that
30 individual. Notwithstanding the fact that information may not be subject to public
31 inspection under AS 09.25.110 - 09.25.140, with respect to information related to an

1 individual's application or dividend, the department shall comply with AS 44.99.300 -
2 44.99.350.

3 (b) The following information is subject to release by the department under the
4 following conditions:

5 (1) to any person who makes a written request and pays a fee set by
6 the department under AS 09.25.110 or 09.25.115, the names and mailing addresses of
7 applicants;

8 (2) to the federal court system for use in developing a jury list and to
9 the state court system for use in developing a jury list under AS 09.20.050, the names,
10 mailing addresses, birth dates, and social security numbers of applicants who are
11 United States citizens 18 years old or older;

12 (3) to the division of elections at the discretion of the department for
13 use in voter registration drives, the names, mailing addresses, and birth dates of
14 applicants who are 18 years old or older;

15 (4) to the Alaska Commission on Postsecondary Education, information
16 for use in the collection of money owed to the commission, and for use in eligibility
17 determinations by the commission;

18 (5) to the Department of Administration, information for use in
19 confirming eligibility for the longevity bonus program and compliance with state
20 employment requirements and claims;

21 (6) to the Department of Health and Social Services, the names, mailing
22 addresses, birth dates, social security numbers of applicants, and necessary payment
23 information to administer the following programs:

24 (A) permanent fund dividend hold harmless under
25 AS 43.23.075;

26 (B) public assistance under AS 47.05 and AS 47.25;

27 (C) medical assistance under AS 47.07;

28 (D) care of children under AS 47.10.230 - 47.10.260;

29 (E) Social Security Act Supplemental Security Income Program
30 under 42 U.S.C. 1381 - 1383;

31 (7) to the Department of Labor, information for use in determining

1 compliance with resident hire requirements, determining characteristics and trends of
2 Alaska's labor force and population, and collecting amounts due to the unemployment
3 compensation fund;

4 (8) to the Department of Law, the names, mailing addresses, birth
5 dates, and social security numbers of applicants for use in the collection of money
6 owed to the state, and for use in investigations by the Department of Law;

7 (9) to the Department of Revenue,

8 (A) child support enforcement division, the names, mailing
9 addresses, birth dates, social security numbers, birth states, and birth names of
10 applicants and other individuals who filed with an applicant for use in the
11 collection of money owed to the state or another, and for use in child support
12 investigations by the state;

13 (B) income and excise audit division, the names, mailing
14 addresses, birth dates, social security numbers, birth states, and birth names of
15 applicants and other individuals who filed with an applicant for use in locating
16 individuals for whom the state has unclaimed property under AS 34.45;

17 (10) to a municipality, the names, mailing addresses, birth dates, and
18 social security numbers of all current dividend year applicants to help the municipality
19 identify and locate individuals who owe a debt to the municipality for use in the
20 collection of money owed to the municipality;

21 (11) to a municipality of this or another state, a state, or the federal
22 government, information

23 (A) to which an applicant has authorized access as a condition
24 of qualification for or participation in a government program;

25 (B) for use in a criminal investigation by the requesting
26 government if the department receives a request from the municipal, state, or
27 federal government;

28 (12) to the United States Department of Treasury, Internal Revenue
29 Service, information for use in the collection of money owed to the federal government
30 and for use in tax compliance investigations by the Internal Revenue Service;

31 (13) to the United States Selective Service System, the names, mailing

1 addresses, birth dates, and social security numbers of all current dividend year
2 applicants between 17 and 28 years of age for determining compliance with federal
3 selective service laws;

4 (14) to a process server at the discretion of the department, information
5 related to payments made by the department to the process server;

6 (15) to a person who has filed an application on behalf of another
7 individual, information regarding the eligibility status of that individual;

8 (16) to the office of a legislator or the governor, information regarding
9 an application filed by an individual if the individual has requested assistance from the
10 legislator or the governor in a matter concerning the application.

11 (c) Notwithstanding (b) of this section, the department may release information
12 regarding a bank, credit union, savings and loan, or other financial account of an
13 individual only if the department

14 (1) receives authorization from the individual to release the information;

15 (2) receives a court order directing that the information be released;

16 (3) receives a request from a municipality, the state, or the federal
17 government and the information is sought in connection with a criminal investigation
18 by the requesting government; or

19 (4) makes use of the information to recover an improperly paid
20 dividend or collect a penalty under AS 43.23.035.

21 (d) The department shall release on request of an adult or emancipated minor
22 information pertaining to all applications filed with the application of the requestor.

23 (e) Notwithstanding other provisions of law and except as required by court
24 order, if an individual who provides the department with information that might
25 disqualify another individual from receiving a dividend requests nondisclosure, the
26 department may not disclose the identity of the individual who provides the
27 information.

28 (f) Notwithstanding (b) and (c) of this section, the department may not release
29 an individual's social security number unless release of the number is required by
30 federal law or the individual has been notified that the department may release the
31 number.

1 (g) Information that the department is authorized to release under this section
2 only for specified uses may not be released until the department obtains a written
3 agreement executed by the requestor. The agreement must contain

- 4 (1) notice that the information is confidential;
5 (2) a summary of the provisions of AS 11.56.860;
6 (3) a list of the uses that may be made of the information; and
7 (4) a statement by the requestor agreeing to use the information only
8 for the purposes listed.

9 * Sec. 18. AS 43.23.095 is amended to read:

10 Sec. 43.23.095. DEFINITIONS. In this chapter,

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

13 (2) [REPEALED

14 (3) REPEALED

15 (4)] "disabled" means physically or mentally unable to complete and
16 sign an application due to a serious emotional disturbance, visual, orthopedic, or other
17 health impairment, or developmental disability that is attributable to mental retardation,
18 cerebral palsy, epilepsy, autism or other cause; "disabled" does not mean
19 "incompetent";

20 (3) [(5)] "dividend fund" means the fund established by AS 43.23.045;

21 (4) [(6)] "individual" means a natural person;

22 (5) [(7)] "permanent fund dividend" means a right to receive a payment
23 from the dividend fund;

24 (6) [(8)] "state resident" means an individual who is physically present
25 in the state with the intent to remain permanently in the state under the requirements
26 of AS 01.10.055 or, if the individual is not physically present in the state, maintains
27 and demonstrates at all times an intent [INTENDS] to return to the state to [AND]
28 remain permanently in the state under the requirements of AS 01.10.055 [, AND IS
29 ABSENT ONLY FOR ANY OF THE FOLLOWING REASONS:

30 (A) VOCATIONAL, PROFESSIONAL, OR OTHER SPECIFIC
31 EDUCATION FOR WHICH A COMPARABLE PROGRAM WAS NOT

- 1 **REASONABLY AVAILABLE IN THE STATE;**
2 **(B) SECONDARY OR POSTSECONDARY EDUCATION;**
3 **(C) MILITARY SERVICE;**
4 **(D) MEDICAL TREATMENT;**
5 **(E) SERVICE IN CONGRESS;**
6 **(F) OTHER REASONS WHICH THE COMMISSIONER MAY**
7 **ESTABLISH BY REGULATION; OR**
8 **(G) SERVICE IN THE PEACE CORPS;**
9 **(9) "YEAR" MEANS A CALENDAR YEAR].**

10 * **Sec. 19. PERMANENT FUND DIVIDENDS FOR CERTAIN SPOUSES AND**
11 **DEPENDENTS.** Notwithstanding the provision in AS 43.23.015(a) that the residency of an
12 individual's spouse may not be the principal factor relied upon in determining the residency
13 of the individual, an otherwise eligible individual who applied for a 1992 or 1993 permanent
14 fund dividend within the time prescribed by law is eligible for the dividend even if the
15 individual was absent from the state while accompanying as the spouse, minor dependent, or
16 disabled dependent another person who was absent for a reason permitted under former
17 AS 43.23.095(8) and was eligible for that dividend.

18 * **Sec. 20.** Notwithstanding the amendment to AS 43.23.005(d) made in sec. 5 of this Act,
19 for purposes of determining eligibility for 1995 dividends, AS 43.23.005(d) shall be applied
20 as though it had not been amended by this Act.

21 * **Sec. 21.** Notwithstanding the amendment to AS 43.23.028(b) made in sec. 8 of this Act,
22 the notice requirements of AS 43.23.028(a) do not apply to appropriations from the dividend
23 fund made for fiscal year 1995 to the crime victim compensation fund established under
24 AS 18.67.162, to the Council on Domestic Violence and Sexual Assault established under
25 AS 18.66.010, to the court system, or to the Department of Corrections to the extent that
26 amounts appropriated do not exceed the total amount that would have been paid during fiscal
27 year 1994 and fiscal year 1995 to individuals who are ineligible to receive dividends under
28 AS 43.23.005(d) if they had been eligible.

29 * **Sec. 22.** Sections 2 - 4, 6 - 8, 12 - 16, 18, and 21 of this Act are retroactive to January 1,
30 1994.

31 * **Sec. 23.** Sections 1 - 4, 6 - 8, 10 - 19, 21, and 22 of this Act take effect immediately

1 under AS 01.10.070(c).

2 * Sec. 24. Sections 5, 9, and 20 of this Act take effect January 1, 1995.