



# LAWS OF ALASKA

1985

**Source**

CCSSB 56

**Chapter No.**

99

**AN ACT**

Relating to a longevity bonus; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 7, 1985  
Actual Effective Date: Sections 2 - 18 take effect on the date that section 1 of this Act is repealed; section 1 takes effect on the date that sections 2 - 18 of this Act are repealed; sections 19 - 24 take effect June 8, 1985

AN ACT

Relating to a longevity bonus; and providing for an effective date.

\* Section 1. AS 47.45.010(a) is amended to read:

(a) A person who is 65 years of age on or before January 1, 1988 [OR OVER], who resides in the state for at least one year immediately preceding application for a longevity bonus under this chapter may apply to the commissioner of administration for qualification to receive a monthly bonus of \$250 upon reaching age 65.

\* Sec. 2. AS 43.23.005(c) is amended to read:

(c) A parent, guardian, or other authorized representative may claim a permanent fund dividend on behalf of an unemancipated minor or on behalf of an incompetent individual who is eligible to receive a dividend [PAYMENT] under this section.

\* Sec. 3. AS 43.23.005 is amended by adding a new subsection to read:

(d) A person who is eligible to receive a permanent fund dividend under this section, or who is authorized to claim a dividend on behalf of another under (c) of this section, may elect to receive the dividend either in cash or as an annuity credit. Alternatively, a person may elect to receive 25 percent, 50 percent, or 75 percent of the dividend in cash and the remainder as an annuity credit. A person who is 65 years of age on or before January 1, 1988 may only receive the permanent fund dividend in cash and may not elect to receive an annuity credit.

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\* Sec. 4. AS 43.23.015(a) is amended to read:

(a) The commissioner shall adopt regulations under the Administrative Procedure Act (AS 44.62) establishing the process for determining the eligibility of individuals for permanent fund dividends. The commissioner may require an individual to provide proof of eligibility, and the commissioner may use other information available from other state departments or agencies to determine the eligibility of an individual.

\* Sec. 5. AS 43.23.015(b) is amended to read:

(b) The department shall prescribe and furnish an application form for claiming a permanent fund dividend. The application must contain a statement of eligibility and a certification of residency in substantially the following form:

I certify that

( ) I am a state resident on the date of this application and I have been a state resident for at least six months immediately preceding the date of this application; or

( ) (name), the individual on whose behalf I am applying, is a state resident and has been a state resident for at least six months immediately preceding the date of this application.

I understand that a false claim of residency to obtain a permanent fund dividend for myself or for another is a criminal offense and that if convicted I will forfeit future permanent fund dividends and that I will lose or must repay all permanent fund dividends that have been credited or paid to me, and any accrued interest in my annuity account. I understand that this penalty is in addition to any criminal penalties imposed.

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(signature of individual, parent,

guardian, or other authorized  
representative)

\* Sec. 6. AS 43.23.015(e) is amended to read:

(e) If a public agency claims a [PERMANENT FUND] dividend on behalf of an individual under this section, the public agency shall elect 100 percent cash under AS 43.23.005(d) and hold the dividend in trust for the individual. Money held in trust under this subsection shall be invested by the commissioner in accordance with AS 37.10.070.

\* Sec. 7. AS 43.23.015(f) is amended to read:

(f) A minor or an incompetent individual may not maintain a claim against the state or an officer or employee of the state based either on the manner in which the parent, guardian, or authorized representative other than a public agency of the state managed or disposed of permanent fund dividends received on behalf of the minor or incompetent, or an election made or not made on that individual's behalf under AS 43.23.005(d) [INDIVIDUAL].

\* Sec. 8. AS 43.23.015 is amended by adding a new subsection to read:

(i) The permanent fund dividend application form shall be prepared to allow an applicant, other than a person who is exempt under AS 47.45.015(b), to elect to receive the dividend either in cash or as an annuity credit.

\* Sec. 9. AS 43.23.035 is amended to read:

Sec. 43.23.035. PENALTIES AND ENFORCEMENT. (a) In addition to any criminal penalties imposed by state law, if an individual is convicted of a crime in connection with a false statement made in a certification required under AS 43.23.015, and the conviction is not reversed, that individual forfeits all permanent fund dividends credited or paid, together with any interest credited to that individual's annuity account and is not eligible for a future permanent fund divi-

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1           dend.

2           (b) If the commissioner determines that a cash [PERMANENT FUND]  
3           dividend should not have been claimed by or paid to an individual, the  
4           commissioner may use all collection procedures or remedies available  
5           for collection of taxes under this title to recover the payment of a  
6           permanent fund dividend that was improperly made. A notice of an  
7           improperly paid dividend must be sent to the individual within 10  
8           years after the improper payment. If notice is not sent within the  
9           10-year period, proceedings may not be commenced in court for recovery  
10          of the improper payment.

11 \* Sec. 10. AS 43.23.035 is amended by adding a new subsection to read:

12           (c) If the commissioner determines that a permanent fund divi-  
13          dend should not have been credited to an individual's annuity account,  
14          the commissioner may, after notice and opportunity for hearing, direct  
15          the commissioner of administration to debit the individual's annuity  
16          account for the amount wrongly credited. If the credit is the fault  
17          of the individual, the debit must be made within 10 years. If the  
18          credit is the fault of the state, the debit must be made within three  
19          years.

20 \* Sec. 11. AS 43.23.055 is amended to read:

21           Sec. 43.23.055. DUTIES OF THE DEPARTMENT. The department shall

22           (1) annually make payments to individuals who elect to  
23          receive cash under AS 43.23.005(d) [PAY PERMANENT FUND DIVIDENDS FROM  
24          THE DIVIDEND FUND];

25           (2) adopt regulations under the Administrative Procedure  
26          Act (AS 44.62) that establish procedures and time limits for claiming  
27          a permanent fund dividend or for electing an annuity credit; the de-  
28          partment shall set the time limit for applications for permanent fund  
29          dividends so that the number of eligible applicants is determined by

1 October 1 of the year for which the dividend is declared and permanent  
2 fund dividends for a year are paid before April 30 of the year follow-  
3 ing that year;

4 (3) adopt regulations under the Administrative Procedure  
5 Act (AS 44.62) that establish procedures and time limits for an indi-  
6 vidual upon emancipation or upon reaching majority to apply for perma-  
7 nent fund dividends not credited or received during minority because  
8 the parent, guardian, or other authorized representative did not apply  
9 on behalf of the individual; [AND]

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

14 (5) provide the commissioner of administration with infor-  
15 mation necessary to maintain individual annuity account records and  
16 administer the annuity program.

17 \* Sec. 12. AS 43.23.065 is amended to read:

18 Sec. 43.23.065. EXEMPTION OF PERMANENT FUND DIVIDENDS. Fifty  
19 percent of a cash [THE ANNUAL] permanent fund dividend payment [PAY-  
20 ABLE TO AN INDIVIDUAL] is exempt from levy, execution, garnishment,  
21 attachment, or any other remedy for the collection of debt. This  
22 exemption applies to an eligible individual's permanent fund dividend  
23 both before and after payment is made to the individual. An exemption  
24 is not available under this section for cash permanent fund dividend  
25 payments [DIVIDENDS] taken to satisfy (1) child support obligations  
26 required by court order or decision of the child support enforcement  
27 agency under AS 47.23.140 - 47.23.220; (2) a debt owed by an eligible  
28 individual to an agency of the state, unless the debt is contested and  
29 an appeal is pending, or the time limit for filing an appeal has not

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1 expired; or (3) court ordered restitution under AS 12.55.045 - 12.55.-  
2 051 or 12.55.100. A child support obligation under (1) of this sec-  
3 tion has priority over a debt owed to an agency of the state, and a  
4 permanent fund dividend may not be taken to satisfy a debt under (2)  
5 of this section until any portion of the dividend necessary to satisfy  
6 a child support obligation has been taken.

7 \* Sec. 13. AS 43.23.065 is amended by adding new subsections to read:

8 (b) The department shall require an individual to take 100  
9 percent of the permanent fund dividend in cash if the department  
10 receives a levy, execution, garnishment, attachment or other legal  
11 remedy for the collection of a past due debt described in (a)(1) or  
12 (2) of this section.

13 (c) The courts of this state may, as a condition of any civil  
14 judgment or restitution order under AS 12.55.045 - 12.55.051 or 12.-  
15 55.100, require the defendant to take the defendant's permanent fund  
16 dividend in cash.

17 \* Sec. 14. AS 43.23.075 is amended to read:

18 Sec. 43.23.075. ELIGIBILITY FOR PUBLIC ASSISTANCE. (a) In  
19 determining the eligibility of an individual under a public assistance  
20 program administered by the Department of Health and Social Services  
21 in which eligibility for assistance is based on financial need, the  
22 Department of Health and Social Services may not consider a permanent  
23 fund dividend as income or resources received by the recipient of  
24 public assistance or by a member of the recipient's household unless  
25 required to do so by federal law or regulation. The Department of  
26 Health and Social Services shall notify all recipients of public  
27 assistance of the effects of [RECEIVING] a permanent fund dividend  
28 credit or cash payment.

29 (b) An individual who is denied medical assistance under 42

1 U.S.C. 1396 - 1396p (Social Security Act, Title XIX) solely because of  
 2 the credit or receipt of a permanent fund dividend by the individual  
 3 or by a member of the individual's household is eligible for state-  
 4 funded medical assistance under the general relief assistance program  
 5 (AS 47.25.120 - 47.25.300). The individual is entitled to receive,  
 6 for a period not to exceed four months, the same level of medical  
 7 assistance as the individual would have received under 42 U.S.C.  
 8 1396 - 1396p (Social Security Act, Title XIX) had there been no perma-  
 9 nent fund dividend program.

10 (c) An individual who is denied assistance solely because perma-  
 11 nent fund dividends credited to or received by the individual or by a  
 12 member of the individual's household are counted as income or re-  
 13 sources under federal law or regulation is eligible for cash assis-  
 14 tance under the general relief assistance program (AS 47.25.120 -  
 15 47.25.300). Notwithstanding the limit in AS 47.25.130, the individual  
 16 is entitled to receive, for a period not to exceed four months, the  
 17 same amount as the individual would have received under other public  
 18 assistance programs had there been no permanent fund dividend program.

19 \* Sec. 15. AS 43.23.095(6) is repealed and reenacted to read:

20 (6) "permanent fund dividend" means a credit to an annuity  
 21 account or a cash payment under this chapter;

22 \* Sec. 16. AS 43.23 is amended by adding new sections to read:

23 ARTICLE 2. ANNUITY PROGRAM.

24 Sec. 43.23.110. ANNUITY INVESTMENT FUND. (a) The annuity  
 25 investment fund is established as a separate fund in the state trea-  
 26 sury. The annuity investment fund consists of money transferred from  
 27 the dividend fund and income earned by the annuity investment fund.  
 28 Notwithstanding AS 37.13.145, an amount equal to the permanent fund  
 29 dividends taken as annuity credits under this chapter shall be annual-

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1 ly transferred from the dividend fund to the annuity investment fund.

2 (b) Money in the annuity investment fund shall be invested by  
3 the commissioner of revenue in investments authorized under AS 39.-  
4 35.110. The commissioner of administration shall credit the net  
5 income of the annuity investment fund to the individual annuity  
6 accounts.

7 (c) The legislature may annually appropriate to the Department  
8 of Administration an amount sufficient to pay monthly annuity payments  
9 for the subsequent fiscal year under AS 43.23.130 from the annuity  
10 investment fund. Funds appropriated under this subsection shall be  
11 transferred from the annuity investment fund to the Department of  
12 Administration in order to meet the current demands of the annuity  
13 program.

14 (d) The legislature may annually appropriate from the annuity  
15 investment fund an amount sufficient to administer the annuity pro-  
16 gram. Any costs of administration funded under this subsection shall  
17 be allocated equitably among all individual annuity accounts.

18 (e) Notwithstanding AS 39.35.110 or (b) of this section, the  
19 commissioner of revenue may invest all or part of the annuity invest-  
20 ment fund in commercial insurance contracts purchased from insurance  
21 companies that have a Best's policyholders' rating of A or better and  
22 belong to Best's financial size Group XV at the time of purchase.

23 Sec. 43.23.120. ANNUITY PROGRAM. (a) The annuity program is  
24 administered by the commissioner of administration. The commissioner  
25 of administration shall adopt regulations necessary to implement the  
26 annuity program.

27 (b) The commissioner of administration shall maintain records of  
28 individual annuity accounts and make annuity payments under AS 43.23.-  
29 130.

1           Sec. 43.23.130. PAYMENT OF ANNUITIES. (a) An individual with  
2 one or more annuity credits may receive an annuity upon reaching the  
3 age of 65.

4           (b) An annuity under this section is a monthly payment based  
5 upon the principal and accrued interest in the person's annuity  
6 account. An annuity shall be paid as a straight life annuity or other  
7 payment plan authorized by the commissioner of the Department of  
8 Administration. The size of the annuity may not vary on account of  
9 the individual's sex.

10           (c) An individual need not be a resident of the state to be  
11 eligible to received an annuity payment from the individual's account.

12           (d) Except as provided in (b) and (e) of this section, an annu-  
13 ity account may not be assigned, sold, or otherwise transferred from  
14 one individual to another.

15           (e) If a person elects to credit a permanent fund dividend to an  
16 annuity account in a particular year, that person may make an irrevoc-  
17 able choice regarding death benefits with respect to that credit. If  
18 a person dies before age 65 and that person has selected death bene-  
19 fits in at least one year, a lump sum payment shall, subject to appro-  
20 priation, be paid to the surviving spouse by right of survivorship  
21 unless a different beneficiary was designated. When no spouse sur-  
22 vives and no beneficiary is designated, the lump sum shall be paid to  
23 the decedent's estate. The lump sum payment includes all dividends  
24 credited to the person's annuity account in years in which death  
25 benefits were selected and interest on those dividends. Dividends  
26 credited to a person's annuity account in years for which death bene-  
27 fits were not selected and interest on those dividends shall, if the  
28 person dies before age 65, be distributed equitably among the annuity  
29 accounts of all individuals for which death benefits were not select-

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2 (f) An individual does not receive a vested property right in an  
3 annuity payment until that payment is made. Notwithstanding this  
4 section, the state is not obligated to provide annuity payments for  
5 annuity credits granted under AS 43.23.005.

6 \* Sec. 17. AS 47.45.010(a) is amended to read:

7 (a) A person who is 65 years of age or over, who resides in the  
8 state for at least one year immediately preceding application for a  
9 longevity bonus under this chapter may apply to the commissioner of  
10 administration for qualification to receive a monthly bonus [OF \$250].

11 \* Sec. 18. AS 47.45 is amended by adding a new section to read:

12 Sec. 47.45.015. AMOUNT OF BONUS. (a) Except as provided in (b)  
13 of this section, the monthly longevity bonus is equal to \$250, minus  
14 the maximum possible straight life annuity for a person 65 years of  
15 age under the annuity program (AS 43.23.110 - 43.23.130), as deter-  
16 mined by the commissioner of administration.

17 (b) A person who is 65 years of age on or before January 1,  
18 1988, is entitled to the full longevity bonus payment without reduc-  
19 tion for the annuity program.

20 \* Sec. 19. AS 47.45.030 is amended to read:

21 Sec. 47.45.030. ABSENCE FROM THE STATE. After qualification, a  
22 recipient shall notify the commissioner of administration when the  
23 recipient expects to be absent from the state if the absence is for a  
24 continuous period that exceeds 30 days. After that notification, the  
25 recipient may no longer receive bonuses from the Department of Admin-  
26 istration after the last regularly approved monthly application. Upon  
27 returning to the state, the recipient may again make application for a  
28 bonus. Whenever the absence is for a continuous period that exceeds 90  
29 [180] days the recipient shall be disqualified from receiving bonuses

1 for the next 12 calendar months after returning to the state. However,  
2 when the commissioner of administration determines a period of absence  
3 is beyond the control of the recipient, the recipient may not be  
4 disqualified if the recipient still otherwise qualifies upon returning  
5 to the state. Continual absences from the state, even though  
6 reported, and failure to notify the commissioner of an expected  
7 absence may be grounds for disqualification.

8 \* Sec. 20. AS 47.45.070 is amended to read:

9 Sec. 47.45.070. UNQUALIFIED PERSONS. An unqualified person is  
10 one who

11 (1) does not meet the age or residence requirements as  
12 provided for under this chapter;

13 (2) meets the age and residence requirements of this chap-  
14 ter but either is confined in a state or federal mental health insti-  
15 tution or facility and is certified by the state as unable to manage  
16 personal affairs, or resides in a nursing home as that term is defined  
17 in AS 08.70.180; however, if that person, at the time of commitment or  
18 commencement of residence, provided the principal support of a spouse,  
19 the commissioner of administration may determine to pay the confined  
20 person's bonus to the person's spouse until the spouse is qualified  
21 for a bonus;

22 (3) is otherwise qualified but confined in a penal or  
23 correctional institution or facility; upon completion of sentence or  
24 upon the conferral of a pardon, parole or probation, the person may  
25 make application; confinement outside the state shall be considered as  
26 residence in the state if a person was convicted and sentenced from a  
27 court in Alaska; revocation of parole or probation shall be cause for  
28 immediate disqualification until release from confinement is again  
29 effected;

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(4) voluntarily leaves the state and remains absent from the state for a continuous period of more than 90 [180] days.

\* Sec. 21. AS 47.45 is amended by adding a new section to read:

Sec. 47.45.122. ELIGIBILITY FOR PUBLIC ASSISTANCE. (a) An individual whose public assistance is denied or reduced solely because of the receipt of a bonus under this chapter by the individual or by a member of the individual's household is eligible for assistance under the general relief assistance program in AS 47.25.120 - 47.25.300. Notwithstanding the limit in AS 47.25.130, the individual is entitled to receive the same amount as the individual would have received under other public assistance programs had the individual not received a longevity bonus.

(b) In this section "other public assistance" means

- (1) Supplemental Security Income (42 U.S.C. 1381 - 1385);
- (2) Medicaid (42 U.S.C. 1396 - 1396p); and
- (3) Adult Public Assistance (AS 47.25.430 - 47.25.615).

\* Sec. 22. The lieutenant governor shall place before the qualified voters of the state at the next general election the following question, advisory to the legislature. The question shall appear on the ballot in substantially the following form:

Q U E S T I O N

Under legislation proposed in 1985, only individuals who turn 65 on or before January 1, 1988, who have lived in Alaska for at least one year, will be entitled to receive an Alaska longevity bonus of \$250 a month.

The legislature is considering a program that would allow younger Alaskans to use all or part of their permanent fund dividend to purchase an annuity that they will receive when they turn 65, since they will no longer receive the full

1 longevity bonus. In the early years of the program, the  
2 annuity payment would have to be supplemented with a declin-  
3 ing bonus payment paid for with state funds, since initially  
4 the annuity payment would not on its own provide an amount  
5 equal to \$250 a month.

6 Should the legislature adopt this program?

7 Yes [ ] No [ ]

8 \* Sec. 23. Section 11, ch. 38, SLA 1984 is amended to read:

9 Sec. 11. Sections 7 and 9 of this [THIS] Act [AND AS 47.45] are  
10 repealed June 30, 1985.

11 \* Sec. 24. AS 43.23.045(c) is repealed.

12 \* Sec. 25. Sections 2 - 18 of this Act take effect on the date that  
13 sec. 1 of this Act is repealed.

14 \* Sec. 26. Section 1 of this Act takes effect on the date that secs.  
15 2 - 18 of this Act are repealed.

16 \* Sec. 27. Sections 19 - 24 of this Act take effect immediately in  
17 accordance with AS 01.10.070(c).