



# LAWS OF ALASKA

1998

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Chapter No.  
44

## AN ACT

Requiring, for purposes of permanent fund dividend eligibility, an individual to have been physically present in the state for at least 72 consecutive hours during the prior two years before the current dividend year; relating, for purposes of permanent fund dividend eligibility, to allowable absences for secondary and postsecondary education on a full-time basis, vocational, professional, or other education on a full-time basis when a comparable program is not reasonably available in the state, serving on active duty as a member of the armed forces of the United States, receiving continuous medical treatment or convalescing if the treatment or convalescence is not based on a need for climatic change, providing care for certain relatives with critical life-threatening illnesses, providing care for certain terminally ill relatives, settling the estates of certain relatives, serving as a member of the United States Congress, serving on the staff of a member from this state of the United States Congress, serving as an employee of the state, accompanying certain ill minors, accompanying another eligible resident who is absent for an allowable reason as the spouse, minor dependent, or disabled dependent of the eligible resident, or for any reason consistent with an individual's intent to remain a state resident; prohibiting, for purposes of permanent fund dividend eligibility, an individual from claiming an allowable absence unless the individual was a resident for at least six consecutive months immediately before leaving the state; making ineligible, for purposes of permanent fund dividend eligibility, certain individuals who are absent for more than 180 days during each of 10 qualifying years; relating to the definition of state "resident" for purposes of permanent fund dividend eligibility and requiring a state resident to have the intent to remain indefinitely; relating to the qualifying year and defining that term for purposes of the permanent fund dividend program; relating to the eligibility for 1998 permanent fund dividends of certain spouses and dependents of eligible individuals; 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

**Approved by the Governor:** May 22, 1998

**Actual Effective Date:** Sections 10 and 11 take effect May 23, 1998; section 10 is retroactive to January 1, 1998; sections 1 - 2, and 4 - 9 take effect January 1, 1999; section 3 takes effect January 1, 2000

AN ACT

1 Requiring, for purposes of permanent fund dividend eligibility, an individual to have been  
2 physically present in the state for at least 72 consecutive hours during the prior two years  
3 before the current dividend year; relating, for purposes of permanent fund dividend eligibility,  
4 to allowable absences for secondary and postsecondary education on a full-time basis,  
5 vocational, professional, or other education on a full-time basis when a comparable program  
6 is not reasonably available in the state, serving on active duty as a member of the armed  
7 forces of the United States, receiving continuous medical treatment or convalescing if the  
8 treatment or convalescence is not based on a need for climatic change, providing care for

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1 certain relatives with critical life-threatening illnesses, providing care for certain terminally  
2 ill relatives, settling the estates of certain relatives, serving as a member of the United States  
3 Congress, serving on the staff of a member from this state of the United States Congress,  
4 serving as an employee of the state, accompanying certain ill minors, accompanying another  
5 eligible resident who is absent for an allowable reason as the spouse, minor dependent, or  
6 disabled dependent of the eligible resident, or for any reason consistent with an individual's  
7 intent to remain a state resident; prohibiting, for purposes of permanent fund dividend  
8 eligibility, an individual from claiming an allowable absence unless the individual was a  
9 resident for at least six consecutive months immediately before leaving the state; making  
10 ineligible, for purposes of permanent fund dividend eligibility, certain individuals who are  
11 absent for more than 180 days during each of 10 qualifying years; relating to the definition  
12 of state "resident" for purposes of permanent fund dividend eligibility and requiring a state  
13 resident to have the intent to remain indefinitely; relating to the qualifying year and defining  
14 that term for purposes of the permanent fund dividend program; relating to the eligibility for  
15 1998 permanent fund dividends of certain spouses and dependents of eligible individuals; and  
16 providing for an effective date.

17 \_\_\_\_\_  
18 \* **Section 1.** AS 23.40.210(e) is amended to read:

19 (e) In this section, "state resident" means an individual who is physically  
20 present in the state with the intent to remain permanently in the state under the  
21 requirements of AS 01.10.055 or, if the individual is not physically present in the state,  
22 intends to return to the state and remain permanently in the state under the  
23 requirements of AS 01.10.055 [,] and is absent only temporarily for reasons allowed  
24 under AS 43.23.008 [AS 43.23.095(8)] or a successor statute.

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

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

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

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

6 (3) [THE INDIVIDUAL] was a state resident during [FOR AT  
7 LEAST] the entire qualifying [CALENDAR YEAR IMMEDIATELY PRECEDING  
8 JANUARY 1 OF THE CURRENT DIVIDEND] year;

9 (4) [THE INDIVIDUAL] has been physically present in the state at  
10 some time during the prior two [CALENDAR] years before the current dividend year;  
11 [AND]

12 (5) [THE INDIVIDUAL] is

13 (A) a citizen of the United States;

14 (B) an alien lawfully admitted for permanent residence in the  
15 United States;

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

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

18 and

19 (6) was, at all times during the qualifying year, physically present  
20 in the state or, if absent, was absent only as allowed in AS 43.23.008.

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

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

24 (1) applies to the department;

25 (2) is a state resident on the date of application;

26 (3) was a state resident during the entire qualifying year;

27 (4) has been physically present in the state for at least 72 consecutive  
28 hours at some time during the prior two years before the current dividend year;

29 (5) is

30 (A) a citizen of the United States;

31 (B) an alien lawfully admitted for permanent residence in the

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1 United States;

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

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

4 and

5 (6) was, at all times during the qualifying year, physically present in  
6 the state or, if absent, was absent only as allowed in AS 43.23.008.

7 \* Sec. 4. AS 43.23.005(d) is amended to read:

8 (d) Notwithstanding the provisions of (a) - (c) of this section, an individual is  
9 not eligible for a permanent fund dividend for a dividend year when

10 (1) during the **qualifying** [CALENDAR YEAR IMMEDIATELY  
11 PRECEDING THAT DIVIDEND] year the individual was sentenced as a result of  
12 conviction in this state of a felony;

13 (2) during all or part of the **qualifying** [CALENDAR YEAR  
14 IMMEDIATELY PRECEDING THAT DIVIDEND] year, the individual was  
15 incarcerated as a result of the conviction in this state of a

16 (A) felony; or

17 (B) misdemeanor if the individual has been convicted of two or  
18 more prior crimes as defined in AS 11.81.900.

19 \* Sec. 5. AS 43.23 is amended by adding a new section to read:

20 **Sec. 43.23.008. Allowable absences.** (a) Subject to (b) and (c) of this  
21 section, an otherwise eligible individual who is absent from the state during the  
22 qualifying year remains eligible for a current year permanent fund dividend if the  
23 individual was absent

24 (1) receiving secondary or postsecondary education on a full-time basis;

25 (2) receiving vocational, professional, or other specific education on a  
26 full-time basis for which, as determined by the Alaska Commission on Postsecondary  
27 Education, a comparable program is not reasonably available in the state;

28 (3) serving on active duty as a member of the armed forces of the  
29 United States;

30 (4) receiving continuous medical treatment recommended by a licensed  
31 physician or convalescing as recommended by the physician that treated the illness if

1 the treatment or convalescence is not based on a need for climatic change;

2 (5) providing care for a parent, spouse, sibling, child, or stepchild with  
3 a critical life-threatening illness whose treatment plan, as recommended by the  
4 attending physician, requires travel outside the state for treatment at a medical  
5 specialty complex;

6 (6) providing care for the individual's terminally ill parent, spouse,  
7 sibling, child, or stepchild;

8 (7) settling the estate of the individual's deceased parent, spouse,  
9 sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;

10 (8) serving as a member of the United States Congress;

11 (9) serving on the staff of a member from this state of the United States  
12 Congress;

13 (10) serving as an employee of the state in a field office or other  
14 location;

15 (11) accompanying a minor who is absent under (4) of this subsection;

16 (12) accompanying another eligible resident who is absent for a reason  
17 permitted under this subsection as the spouse, minor dependent, or disabled dependent  
18 of the eligible resident;

19 (13) for any reason consistent with the individual's intent to remain a  
20 state 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) - (12) of this subsection;

23 (B) 120 days in addition to any absence or cumulative absences  
24 claimed under (1) or (2) of this subsection if the individual is not claiming an  
25 absence under (3) - (12) of this subsection; or

26 (C) 45 days in addition to any absence or cumulative absences  
27 claimed under (1) - (12) of this subsection.

28 (b) An individual may not claim an allowable absence under (a)(1) - (12) of  
29 this section unless the individual was a resident of the state for at least six consecutive  
30 months immediately before leaving the state.

31 (c) An otherwise eligible individual who has been eligible for the immediately

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1 preceding 10 dividends despite being absent from the state for more than 180 days in  
2 each of the related 10 qualifying years is only eligible for the current year dividend  
3 if the individual was absent 180 days or less during the qualifying year. This  
4 subsection does not apply to an absence under (a)(8) or (9) of this section or to an  
5 absence under (a)(12) of this section if the absence is to accompany an individual who  
6 is absent under (a)(8) or (9) of this section.

7 \* Sec. 6. AS 43.23.028(a) is amended to read:

8 (a) By October 1 of each year, the commissioner shall give public notice of  
9 the value of each permanent fund dividend for that year and notice of the information  
10 required to be disclosed under (3) of this subsection. In addition, the stub attached to  
11 each individual dividend check and direct deposit advice must

12 (1) disclose the amount of each dividend attributable to income earned  
13 by the permanent fund from deposits to that fund required under art. IX, sec. 15,  
14 Constitution of the State of Alaska;

15 (2) disclose the amount of each dividend attributable to income earned  
16 by the permanent fund from appropriations to that fund and from amounts added to  
17 that fund to offset the effects of inflation;

18 (3) disclose the amount by which each dividend has been reduced due  
19 to each appropriation from the dividend fund, including amounts to pay the costs of  
20 administering the dividend program and the hold harmless provisions of AS 43.23.075;

21 (4) include a statement that an individual is not eligible for a dividend  
22 when

23 (A) during the qualifying [CALENDAR YEAR  
24 IMMEDIATELY PRECEDING THAT DIVIDEND] year the individual was  
25 convicted of a felony;

26 (B) during all or part of the qualifying [CALENDAR YEAR  
27 IMMEDIATELY PRECEDING THAT DIVIDEND] year, the individual was  
28 incarcerated as a result of the conviction of a

29 (i) felony; or

30 (ii) misdemeanor if the individual has been convicted of  
31 two or more prior crimes;

1 (5) include a statement that the legislative purpose for making  
2 individuals listed under (4) of this subsection ineligible is to

3 (A) obtain reimbursement for some of the costs imposed on the  
4 state criminal justice system related to incarceration or probation of those  
5 individuals;

6 (B) provide funds for payments to crime victims and for grants  
7 for the operation of domestic violence and sexual assault programs;

8 (6) disclose the total amount that would have been paid during the  
9 previous fiscal year to individuals who were ineligible to receive dividends under  
10 AS 43.23.005(d) if they had been eligible;

11 (7) disclose the total amount appropriated for the current fiscal year  
12 under (b) of this section for each of the funds and agencies listed in (b) of this section.

13 \* Sec. 7. AS 43.23.095(8) is amended to read:

14 (8) "state resident" means an individual who is physically present in the  
15 state with the intent to remain indefinitely [PERMANENTLY] in the state under the  
16 requirements of AS 01.10.055 or, if the individual is not physically present in the state,  
17 intends to return to the state and remain indefinitely [PERMANENTLY] in the state  
18 under the requirements of AS 01.10.055 [, AND IS ABSENT ONLY FOR ANY OF  
19 THE FOLLOWING REASONS:

20 (A) VOCATIONAL, PROFESSIONAL, OR OTHER SPECIFIC  
21 EDUCATION FOR WHICH A COMPARABLE PROGRAM WAS NOT  
22 REASONABLY AVAILABLE IN THE STATE;

23 (B) SECONDARY OR POSTSECONDARY EDUCATION;

24 (C) MILITARY SERVICE;

25 (D) MEDICAL TREATMENT;

26 (E) SERVICE IN CONGRESS;

27 (F) OTHER REASONS WHICH THE COMMISSIONER MAY  
28 ESTABLISH BY REGULATION;

29 (G) SERVICE IN THE PEACE CORPS;

30 (H) TO CARE FOR THE INDIVIDUAL'S TERMINALLY ILL  
31 PARENT, SPOUSE, SIBLING, CHILD, OR STEPCHILD;

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1 (I) FOR UP TO 220 DAYS TO SETTLE THE ESTATE OF  
2 THE INDIVIDUAL'S DECEASED PARENT, SPOUSE, SIBLING, CHILD,  
3 OR STEPCHILD; OR

4 (J) TO CARE FOR A PARENT, SPOUSE, SIBLING, CHILD,  
5 OR STEPCHILD WITH A CRITICAL LIFE-THREATENING ILLNESS  
6 WHOSE TREATMENT PLAN, AS RECOMMENDED BY THE ATTENDING  
7 PHYSICIAN, REQUIRES TRAVEL OUTSIDE THE STATE FOR  
8 TREATMENT AT A MEDICAL SPECIALTY COMPLEX];

9 \* Sec. 8. AS 43.23.095 is amended by adding a new paragraph to read:

10 (10) "qualifying year" means the year immediately preceding January 1  
11 of the current dividend year.

12 \* Sec. 9. APPLICATION. AS 43.23.008(c), enacted by sec. 5 of this Act, applies only to  
13 periods of absence during January 1, 1998, and thereafter.

14 \* Sec. 10. PERMANENT FUND DIVIDENDS FOR CERTAIN SPOUSES AND  
15 DEPENDENTS. (a) Notwithstanding the provision in AS 43.23.015(a) that the residency of  
16 an individual's spouse may not be the principal factor relied upon in determining the residency  
17 of the individual, an individual is eligible for a 1998 dividend if the individual was absent  
18 from the state while accompanying, as the spouse, minor dependent, or disabled dependent,  
19 another person who was eligible for that dividend and was absent for a reason permitted under  
20 AS 43.23.095(8), as that statute read at the time of the absence. An individual is eligible for  
21 a 1998 dividend under this subsection only if the individual would have been otherwise  
22 eligible for the 1998 dividend and

23 (1) applied for the 1998 dividend during the 1998 application period; or

24 (2) if the individual did not apply during the 1998 application period, applies  
25 for the 1998 dividend before the end of the 1999 application period.

26 (b) The Department of Revenue shall prescribe and furnish an application form for  
27 claiming a 1998 dividend under (a)(2) of this section.

28 \* Sec. 11. Section 10 of this Act is retroactive to January 1, 1998.

29 \* Sec. 12. Sections 10 and 11 of this Act take effect immediately under AS 01.10.070(c).

30 \* Sec. 13. Sections 1, 2, and 4 - 9 of this Act take effect January 1, 1999.

31 \* Sec. 14. Section 3 of this Act takes effect January 1, 2000.