

2025 Regular Session

HOUSE BILL NO. 628

BY REPRESENTATIVE CREWS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TREASURY DEPARTMENT: Establishes the La. Dividend Program within the Dept. of Treasury and provides for funding, administration, qualifications, and restrictions

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(35) and to enact R.S. 13:3881(A)(11) and Part III of

3 Chapter 5 of Title 49 of the Louisiana Revised Statutes of 1950, to be comprised of

4 R.S. 49:351 through 361, relative to the Louisiana Dividend Program; to provide

5 with respect to qualification for and administration of the program; to provide with

6 respect to the powers and duties of the state treasurer and the Department of Public

7 Safety and Corrections; to provide for definitions; to provide legislative intent; to

8 establish certain special funds within the state treasury for purposes of the program

9 and to provide for the deposit, use, and investment of monies in these funds; to

10 provide for public records exceptions; to authorize a fee for certain appeals; to

11 provide for penalties and enforcement; to exempt certain monies paid pursuant to the

12 program from seizure; to authorize promulgation of rules; to provide for an effective

13 date; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 13:3881(A)(11) is hereby enacted to read as follows:

16 §3881. General exemptions from seizure

17 A. The following income or property of a debtor is exempt from seizure

18 under any writ, mandate, or process whatsoever, except as otherwise herein

19 provided:

20 \* \* \*

1                   (11) Twenty percent of any dividend received pursuant to the Louisiana  
2                   Dividend Program.

3 \* \* \*

4 Section 2. R.S. 44:4.1(B)(35) is hereby amended and reenacted to read as follows:

## 5 §4.1. Exceptions

6 \* \* \*

7                   B. The legislature further recognizes that there exist exceptions, exemptions,  
8                   and limitations to the laws pertaining to public records throughout the revised  
9                   statutes and codes of this state. Therefore, the following exceptions, exemptions, and  
10                  limitations are hereby continued in effect by incorporation into this Chapter by  
11                  citation:

12 \* \* \*

13 (35) R.S. 49:220.25, 355, 358, 975.1, 997, 1055

14 \* \* \*

15           Section 3. Part III of Chapter 5 of Title 49 of the Louisiana Revised Statutes of 1950,  
16   comprised of R.S. 49:351 through 361, is hereby enacted to read as follows:

## 17 PART III. LOUISIANA DIVIDEND PROGRAM

18            §351. Intent, effectiveness, establishment

19                   A. The provisions of this Part shall apply beginning the first July first in  
20                   which there is no individual income tax levied in this state.

21           B. The legislature hereby finds that despite recent actions to more closely  
22           align state taxation with state spending and to control the growth of government,  
23           occasionally revenues in excess of amounts needed for the ordinary operating  
24           expenses of government are collected. The legislature further finds that if excess  
25           revenues are collected, a portion of the monies could be returned to taxpayers;  
26           however, it further recognizes that it is impossible to allocate excess revenues to  
27           individual payments made by a resident and to return those payments to that resident.  
28           The legislature therefore establishes the Louisiana Dividend Program as a tool to  
29           return a certain portion of its collected revenues to qualifying Louisiana residents

1 and thereby incentivize residents to remain in Louisiana rather than relocate to states  
2 competing for our human capital.

3 C. There is hereby established in the Department of the Treasury the  
4 Louisiana Dividend Program, through which the state may return to qualifying  
5 applicants a portion of certain mineral revenues collected in a prior fiscal year.

6 §352. Definitions

7 For the purposes of this Part, the following terms shall have the following  
8 meanings unless context clearly indicates otherwise:

9 (1) "Department" means the Department of the Treasury established pursuant  
10 to R.S. 36:761.

11 (2) "Disabled" means physically or mentally unable to complete and sign an  
12 application due to a serious emotional disturbance; a visual, orthopedic, or other  
13 health impairment; or a developmental disability. "Disabled" does not mean an  
14 interdicted.

15 (3) "Ineligible individual" means an individual who otherwise would have  
16 been eligible to receive a dividend pursuant to the provisions of this Chapter but for  
17 R.S. 49:354(C).

18 (4) "Individual" means a natural person.

19 (5) "Payment period" means the calendar year immediately following the  
20 close of the qualifying year.

21 (6) "Qualifying year" means a fiscal year for which sufficient revenues were  
22 deposited into the fund in order to meet the monetary requirements of R.S.  
23 49:355(A)(1).

24 (7) "Mineral revenues" means all revenues received in a fiscal year by the  
25 state as a result of the production of or exploration for minerals, including severance  
26 taxes, royalty payments, bonus payments, or rentals, and excluding such revenues  
27 designated as nonrecurring pursuant to Article VII, Section 10 of the Constitution of  
28 Louisiana, any such revenues received by the state as a result of grants or donations

1 when the terms or conditions thereof require otherwise, and revenues derived from  
2 any tax on the transportation of minerals.

3 §353. Louisiana Dividend Fund; subfund

4 A. There is hereby established in the state treasury, as a special fund, the  
5 Louisiana Dividend Fund, hereafter referred to in this Part as the "fund".

6 B. After compliance with the requirements of Article VII, Section 9(B) of the  
7 Constitution of Louisiana, the state treasurer shall deposit into the fund twenty-five  
8 percent of all mineral revenues in excess of six hundred fifty million dollars after any  
9 allocations of such revenues required by the Constitution of Louisiana and R.S.  
10 39:100.116 have been made. Monies in the fund shall be invested by the treasurer  
11 in the same manner as state general fund monies. Interest earned on monies in the  
12 fund shall be credited to the fund. Unexpended and unencumbered monies in the  
13 fund at the end of the fiscal year shall remain in the fund.

14 C. Monies in the fund shall be appropriated as follows:

15 (1) To the department for disposition in accordance with the provisions of  
16 this Part.

17 (2) For projects in the comprehensive capital outlay budget, but only if the  
18 conditions in R.S. 49:355(A)(2) have been met.

19 D.(1) The Restorative Justice Subfund, referred to in this Part as the  
20 "subfund", is hereby created as a subfund within the Louisiana Dividend Fund. If  
21 the requirements of R.S. 49:355(A)(1) have been met, then no later than October  
22 fifteenth of the payment period the treasurer shall transfer from the Louisiana  
23 Dividend Fund to the subfund an amount equal to the product of the total number of  
24 ineligible individuals and the dividend amount for that payment period. Monies in  
25 the subfund shall be invested in the same manner as monies in the general fund and  
26 interest earned on investment of monies in the subfund shall be credited to the  
27 subfund. Unexpended and unobligated monies in the subfund at the end of the fiscal  
28 year shall remain in the subfund.

1           (2) The secretary of the Department of Public Safety and Corrections shall  
2           supply the number of ineligible individuals to the treasurer no later than October  
3           fifth.

4           (3) Monies in the subfund shall be appropriated to corrections services  
5           within the Department of Public Safety and Corrections for costs related to  
6           incarceration.

7           §354. Eligibility

8           A. Each payment period in which a dividend is to be paid, an individual is  
9           eligible to receive one permanent fund dividend as provided in this Part if the  
10          individual meets all of the following criteria:

11          (1) Applies to the department in accordance with the provisions of this Part.

12          (2) Was eighteen years of age or older during the qualifying year. For  
13          purposes of this Paragraph, an individual whose eighteenth birthday occurs during  
14          the qualifying year meets the requirements of this Paragraph.

15          (3) Is a state resident on the date of application.

16          (4) Was a domiciliary of the state during the entire qualifying year.

17          (5) Is one of the following:

18          (a) A citizen of the United States.

19          (b) An alien lawfully admitted for permanent residence in the United States.

20          (c) An alien with refugee status under federal law.

21          (d) An alien that has been granted asylum under federal law.

22          (6) Was in compliance during the qualifying year with the military selective  
23          service registration requirements imposed pursuant to 50 U.S.C. App. 453, if those  
24          requirements were applicable to the individual, or the individual has come into  
25          compliance with such registration requirements after being notified of the lack of  
26          compliance and prior to submission of the application.

27          B. A parent, guardian, or other authorized representative may claim a  
28          dividend on behalf of a disabled individual or an interdict if the disabled individual

1 or interdict is otherwise eligible to receive a payment pursuant to the provisions of  
2 this Part.

3 C.(1) Notwithstanding the provisions of Subsections (A) and (B) of this  
4 Section, an individual is not eligible for a dividend in the current payment period if  
5 either of the following apply:

6 (a) During the qualifying year, the individual was convicted in this state of  
7 a felony.

8 (b) During all or part of the qualifying year, the individual was incarcerated  
9 as a result of the conviction in this state of either of the following:

10 (i) A crime for which an offender may be sentenced to death or  
11 imprisonment at hard labor.

12 (ii) A misdemeanor, if the individual has been convicted of either of the  
13 following:

14 (aa) A prior crime for which an offender may be sentenced to death or  
15 imprisonment at hard labor.

16 (bb) Two or more prior misdemeanors.

17 (2) For purposes Subparagraph (C)(1)(a) of this Subsection, the date the  
18 court imposes a sentence or suspends the imposition of sentence shall be treated as  
19 the date of conviction. For purposes Item (C)(2)(b)(ii) of this Section, multiple  
20 convictions arising out of a single criminal episode shall be treated as a single  
21 conviction.

22 D. If an individual who would otherwise have been eligible for a dividend  
23 dies after applying for the dividend but before the dividend is paid, the department  
24 shall pay the dividend to the deceased's estate.

25 §355. Application period and proof

26 A.(1) A dividend pursuant to the provisions of this Section shall be paid only  
27 if the balance in the fund exceeds four hundred million dollars at the end of the  
28 qualifying year and the legislature has not adopted a concurrent resolution pursuant  
29 to Paragraph (2) of this Subsection. In such event, the treasurer shall post notice on

1 his website prior to the opening of the application period that a dividend will be paid  
2 and when the application period will open for that dividend payment. An application  
3 for a dividend shall be filed during the period that begins July first and ends  
4 September thirtieth of the payment period.

5 (2) A dividend shall not be paid if during the regular session of the  
6 legislature immediately following the close of the qualifying year, the legislature  
7 adopts a concurrent resolution by a favorable vote of two-thirds of the elected  
8 members of each house expressing its intent to utilize fund and subfund monies for  
9 capital outlay projects in the comprehensive capital outlay budget.

10 B. An otherwise eligible individual may apply for a dividend after  
11 September thirtieth of the payment period if the individual was an active duty  
12 member of the armed forces of the United States and was deployed during the  
13 application period. Any such applicant shall have ninety days after the end of  
14 deployment to apply for the dividend.

15 C. The treasurer shall promulgate rules pursuant to the Administrative  
16 Procedure Act for determining the eligibility of individuals for a dividend. The  
17 treasurer may require an individual to provide proof of eligibility and may use other  
18 information available from other state departments, agencies, boards, or  
19 commissions to determine the eligibility of an individual. The sharing of any such  
20 information with the treasurer for the purposes of determining eligibility shall not  
21 otherwise cause shared information exempted from disclosure pursuant to the Public  
22 Records Law to be subject to disclosure and the treasurer shall maintain the  
23 confidentiality of any such information. The treasurer shall consider all relevant  
24 circumstances in determining the eligibility of an individual; however, the residency  
25 of an individual's spouse may not be the principal factor relied upon by the treasurer  
26 in determining the residency of the individual.

27 D. The department shall prescribe and furnish an application form for  
28 claiming a dividend. The application shall include a notice of the penalties provided  
29 for in R.S. 49:361, a statement of eligibility, and a certification of residency.

1           E.(1) Except as provided in Paragraph (2) of this Subsection, an individual  
2           must personally sign the application for a dividend, including the certification of  
3           residency required pursuant to Subsection D of this Section.

4           (2) The application and certification of residency of a disabled individual or  
5           an interdict shall be signed by the individual's legal guardian or other authorized  
6           representative. An individual may complete, sign, and file an application on behalf  
7           of a member of the armed forces of the United States who is serving on active duty  
8           outside of the United States if the individual has a power of attorney from the  
9           member of the armed forces that authorizes, in specific or general terms, the  
10          individual to file that application.

11          (3) The penalty and enforcement provisions of R.S. 49:361 shall apply to an  
12          individual who claims a permanent fund dividend on behalf of another.

13          F. A disabled individual or interdict may not maintain a claim against the  
14          state or an officer or employee of the state based on the manner in which the  
15          guardian or authorized representative managed or disposed of permanent fund  
16          dividends received on behalf of the disabled individual or interdict.

17          G.(1) If an individual is aggrieved by a decision of the department  
18          determining the individual's eligibility for a permanent fund dividend or the  
19          individual's authority to claim a permanent fund dividend on behalf of another, the  
20          individual may, upon payment of a twenty-five dollar appeal fee, request the  
21          department to review its decision. Within four months after the administrative appeal  
22          is filed, the department shall provide the individual with a final written decision. If  
23          the individual is aggrieved by the decision of the department after all administrative  
24          proceedings, the individual may appeal that decision to the nineteenth judicial  
25          district court. An appeal to the court pursuant to the provisions of this Section does  
26          not entitle the aggrieved individual to a trial de novo. The appeal shall be based on  
27          the record of the administrative proceeding from which appeal is taken and the scope  
28          of appeal is limited to matters contained in the record of the administrative  
29          proceeding. Unless the individual has received a waiver pursuant to Paragraph (2)



1        of this Subsection, the department shall return the twenty-five dollar appeal fee to  
2        the individual upon a final determination on appeal that the individual is eligible for  
3        the dividend.

4                (2) An indigent individual may apply for a waiver of the appeal fee required  
5        pursuant to the provisions of this Subsection. The department shall prescribe and  
6        furnish a form for that purpose. The department shall grant the waiver if, during the  
7        qualifying year for the dividend, the individual was a member of a family with an  
8        income equal to or less than the federal poverty guidelines for Louisiana set by the  
9        United States Department of Health and Human Services.

10        §356. Determination of amount of dividend; notice

11                A. If the provisions of R.S. 49:355(A)(1) are met, then no later than October  
12        fifteenth of the payment period, the treasurer shall determine the value of each  
13        dividend for the qualifying year in accordance with the provisions of this Section and  
14        shall submit notice of the amounts required for appropriation from the fund and the  
15        subfund to the commissioner of administration and the Joint Legislative Committee  
16        on the Budget for receipt of a mid-year budget adjustment to authorize payment from  
17        the fund.

18                B. The value of each dividend for the qualifying year shall be calculated by:

19                (1) Determining the total amount available for dividend payments by  
20        subtracting both of the following from the unobligated balance of the Louisiana  
21        Dividend Fund as of the end of the qualifying year:

22                (a) The total amount necessary to pay prior year dividends from the dividend  
23        fund in the current year pursuant to R.S. 49:355(B) or (G).

24                (b) The amount necessary to pay costs of administering the dividend  
25        program.

26                (2) Determining the number of individuals for whom payment may be made  
27        by adding both of the following:

28                (a) The number of applicants eligible to receive a dividend payment for the  
29        current payment period and the number of estates eligible to receive a dividend

1        payment for the current payment period pursuant to Subsection 354(D) of this  
2        Chapter.

3                (b) The number of individuals who would have been eligible for a payment  
4        but for R.S. 49:354(C). This figure shall be supplied to the department by the  
5        secretary of the Department of Public Safety and Corrections no later than October  
6        fifth each year.

7                (3) Dividing the amount determined pursuant to Paragraph (1) of this  
8        Subsection by the amount determined pursuant to Paragraph (2) of this Subsection.

9                C. By October fifteenth of an applicable payment period, the treasurer shall  
10       post on the department's website the value of each permanent fund dividend for that  
11       payment period and the balance of the fund at the end of the qualifying year.

12       §357. Duties of the department

13                The department shall do all of the following:

14                (1) Pay dividends from the fund as provided in this Part beginning November  
15       first of the applicable payment period. Notwithstanding any provision of law to the  
16       contrary, if a payment cannot be made to an applicant by the following March thirty-  
17       first, the treasurer shall administer that dividend as unclaimed property in accordance  
18       with the Uniform Unclaimed Property Act of 1997.

19                (2) Promulgate rules pursuant to the Administrative Procedure Act for the  
20       implementation and administration of the provisions of this Part, including  
21       establishment of procedures, requirements, and time limits for claiming a permanent  
22       fund dividend.

23                (3) Assist residents of the state, particularly in rural areas, who need  
24       assistance to establish eligibility and to apply for permanent fund dividends.

25                (4) Provide any information, upon request, contained in Louisiana Dividend  
26       Fund records to the Department of Children and Family Services, or a child support  
27       enforcement agency of another state, for child support purposes authorized by law.

28                (5) Establish a fraud investigation unit for the purpose of assisting the  
29       following:

1           (a) The Department of Justice in the prosecution of individuals who apply  
2           for or obtain a permanent fund dividend in violation of the provisions of this Part,  
3           by detecting and investigating those crimes.

4           (b) The treasurer to detect and investigate the claiming or paying of  
5           permanent fund dividends that should not have been claimed by or paid to an  
6           individual and to impose the penalties and enforcement provisions imposed pursuant  
7           to the provisions of this Part.

8           §358. Confidentiality

9           Information on each permanent fund dividend application, except the  
10          applicant's name, is confidential. The department may release information that is  
11          confidential only in accordance with the following:

12           (1) To a local, state, or federal government agency.

13           (2) In compliance with a court order.

14           (3) To the individual who files an application on behalf of another.

15           (4) To a banking institution to verify the direct deposit of a permanent fund  
16          dividend or correct an error in that deposit.

17           (5) As directed to do so by the applicant.

18          §359. Exemption from levy or seizure; exceptions

19           A. Twenty percent of the annual permanent fund dividend payable to an  
20          individual is exempt from levy, execution, garnishment, attachment, or any other  
21          remedy for the collection of debt. A writ of fieri facias directing seizure of any part  
22          of a dividend paid pursuant to the provisions of this Part shall be served on the  
23          treasurer.

24           B. An assignment of or levy, execution, garnishment, attachment, or other  
25          remedy for the collection of debt applied to a dividend shall not be accepted by the  
26          department before July first of the payment period. Beginning November first of the  
27          payment period, the treasurer shall deliver that portion of the dividend executed upon  
28          along with the case name and number. At the time payment is made, the department  
29          shall send to the individual at the address provided in the individual's dividend

1        application and to the court that issued the writ or order a notice that contains all of  
2        the following:

3                (1) Notification that all or part of the individual's dividend has been seized  
4        under a writ of execution or court order.

5                (2) The name and address of the court that issued the writ or order.

6                (3) The case number for which the writ or order was issued.

7                (4) The amount seized under the writ or order.

8                (5) Notification that the individual has thirty days from the date the notice  
9        is mailed in which to file with the court an objection to the seizure if a mistake has  
10       been made.

11               C. The department shall establish fees by rule for processing claims on  
12       dividends and assignments of dividends received by the department. Such fees shall  
13       be deducted from the amount of the dividend remaining after payment of the portion  
14       claimed or assigned, or, if the entire dividend is claimed or assigned, the fees shall  
15       be deducted before the dividend is paid to the creditor or assignee.

16       §360. Subpoena power

17               In the performance of his duties, the treasurer or any member of his staff  
18       designated by him may compel the production of public and private records by  
19       issuing a subpoena. However, a subpoena duces tecum shall be issued only upon  
20       approval of a judge of the district court of the parish in which the Department of  
21       Treasury is domiciled upon application in writing by the treasurer. The judge shall  
22       issue a written decision within seventy-two hours after receipt of such application.

23       Any subpoena for production of private records shall be in compliance with all  
24       applicable constitutionally established rights and processes. The subpoena may be  
25       served by certified mail, return receipt requested, at the addressee's residence or  
26       business address, or by representatives appointed by the treasurer, or may be directed  
27       for service to the office of state police. If a person refuses to obey a subpoena issued  
28       pursuant to the provisions of this Section, upon application by the treasurer, the  
29       district court of the parish in which the Department of Treasury is domiciled may

1 issue an order to the person requiring the person to appear before the court to show  
2 cause why an order shall not be issued ordering such person to obey the subpoena,  
3 and the person may be adjudged in contempt of court.

4 §361. Penalties and enforcement

5 A. In addition to any criminal penalties imposed by state law, if an individual  
6 is convicted of a crime in connection with a false statement made in a certification  
7 required pursuant to R.S. 49:355, and the conviction is not reversed, that individual  
8 shall forfeit all permanent fund dividends paid and is permanently ineligible for  
9 payment of a future dividend pursuant to the provisions of this Part.

10 B. If the treasurer determines that a permanent fund dividend should not  
11 have been claimed by or paid to an individual, the treasurer shall refer the debt to the  
12 office of debt recovery for recoupment as provided in R.S. 47:1676. All recovered  
13 amounts shall be deposited into the fund. An improperly paid dividend shall be  
14 referred to the office of debt recovery within three years after the improper payment  
15 is sent or within six years after the improper payment is sent if the treasurer  
16 determines that the individual exercised gross negligence or recklessly disregarded  
17 a material fact in connection with a false statement made in an application.

18 C.(1) In addition to any criminal penalties imposed by state law, if the  
19 department finds that an individual, in claiming a permanent fund dividend, or an  
20 individual, in certifying another person's eligibility, wilfully misrepresented,  
21 exercised gross negligence with respect to, or recklessly disregarded a material fact  
22 pertaining to eligibility, the department may issue an order against the individual for  
23 the imposition of a civil fine of up to three thousand dollars; loss of eligibility to  
24 receive the next five dividends; or both.

25 (2) The provisions of R.S. 49:355(G) shall apply to a request for review of,  
26 and to appeal of, a decision pursuant to Paragraph (1) of this Subsection. When all  
27 appeals have been exhausted under this Part or the time when all of the appeals that  
28 could have been taken have expired, the order issued pursuant to Paragraph (1) of

1        this Subsection becomes final and enforceable in the same manner as a judgment of  
 2        the court.

3        Section 4. This Act shall become effective upon signature by the governor or, if not  
 4        signed by the governor, upon expiration of the time for bills to become law without signature  
 5        by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 6        vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 7        effective on the day following such approval.

### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 628 Engrossed

2025 Regular Session

Crews

**Abstract:** Establishes the Louisiana Dividend Program (hereafter the "program") within the Dept. of Treasury (hereafter "department") in order to return a portion of certain tax collections to qualifying applicants and provides for funding, administration, qualification, and restrictions relative to the program.

### PROGRAM

Proposed law (R.S. 49:351 et seq.) establishes the program within the department applicable the first July 1st in which there is no individual income tax levied in the state.

### *Qualification*

Unless an individual qualifies as an "ineligible individual", as explained below, proposed law authorizes an individual to receive a dividend pursuant to proposed law if all of the following criteria are met:

- (1) The individual applies to the department in accordance with proposed law.
- (2) The individual was 18 years of age or older during the qualifying year. Includes an individual whose eighteenth birthday occurs within the qualifying year. Defines "qualifying year" to mean a fiscal year for which sufficient revenues are deposited into the La. Dividend Fund ("fund") in order to meet the requirements of proposed law (R.S. 49:355(A)) with respect to payment of a dividend.
- (3) Is a state resident on the date of application.
- (4) Was a domiciliary of the state during the entire qualifying year.
- (5) Is a citizen of the U.S., an alien lawfully admitted for permanent residence in the U.S., an alien with refugee status under federal law, or an alien that has been granted asylum under federal law.
- (6) Was in compliance during the qualifying year with the military selective service registration requirements imposed pursuant to federal law (50 U.S.C. App. 453), if those requirements were applicable to the individual, or the individual has come into

compliance with such registration requirements after being notified of the lack of compliance.

Defines "individual" to mean a natural person. Further defines an "ineligible individual" as an individual who otherwise would have been eligible for a dividend, but meets either of the following criteria:

- (1) During the qualifying year, was convicted in this state of a felony.
- (2) During all or part of the qualifying year, the individual was incarcerated as a result of the conviction in this state of a crime for which an offender may be sentenced to death or imprisonment at hard labor or a misdemeanor, if the individual has been convicted of a prior crime for which an offender may be sentenced to death or imprisonment at hard labor or has been convicted of two or more prior misdemeanors.

Proposed law authorizes a parent, guardian, or other authorized representative to claim a dividend on behalf of a disabled individual or an interdict if the disabled individual or interdict is otherwise eligible to receive the dividend. Defines "disabled" to mean physically or mentally unable to complete and sign an application due to a serious emotional disturbance; a visual, orthopedic, or other health impairment; or a developmental disability. Proposed law additionally requires payment of a dividend to a deceased's estate if the individual dies after applying for the dividend.

#### *Application*

Proposed law authorizes payment of a dividend from the fund only if the balance in the fund exceeds \$400M at the end of the qualifying year. Once this condition is met, requires the treasurer to post notice on his website that a dividend will be paid and when the application period will open for that dividend payment. Further requires all applications for that dividend payment to be submitted between July 1 and Sept. 30; however, authorizes an otherwise eligible individual to apply after Sept. 30 if the individual is an active duty member of the armed forces and was deployed during the application period. Grants these individuals until 90 days after the end of deployment to apply for the dividend.

Proposed law authorizes the treasurer to require an individual to provide proof of eligibility and may use other information available from other state departments, agencies, boards, or commissions to determine the eligibility of an individual. Provides that the sharing of any such information with the treasurer for the purposes of determining eligibility shall not otherwise cause shared information exempted from disclosure pursuant to the Public Records Law to be subject to disclosure and requires the treasurer to maintain the confidentiality of any such information. Requires the treasurer to consider all relevant circumstances in determining the eligibility of an individual for a dividend; however, prohibits the residency of an individual's spouse from being the principal factor relied upon by the treasurer in determining the residency of the individual.

Proposed law requires the department to develop and furnish an application form for claiming a dividend. Requires the form to include notice of penalties for false statements and claims in connection with claiming a dividend, a statement of eligibility, and a certification of residency. Further requires that an individual must personally sign the application for a dividend unless:

- (1) The applicant is disabled or an interdict, in which case the parent, legal guardian, or other authorized representative shall sign the application.
- (2) The applicant is a member of the armed forces who is serving on active duty outside of the U.S., in which case an individual with a power of attorney from the member

of the armed forces that authorizes in specific or general terms the individual to file on behalf of that armed services member may sign the application.

Further provides that the penalty and enforcement provisions in proposed law (R.S. 49:361) for false claims made in connection with a dividend application shall apply to an individual who claims a dividend on behalf of another.

Proposed law prohibits a disabled or interdicted individual from maintaining a claim against the state or an officer or employee of the state based on actions taken by his or her guardian or authorized representative with respect to management or disposal of a dividend received on behalf of the disabled or interdicted individual.

Proposed law establishes a procedure for appeals of a determination that an individual is ineligible for a dividend or ineligible to claim a dividend on behalf of another. Requires payment of a \$25 appeal fee and a request that the department review its decision. Requires the department to provide the appellant with a final written decision within four months after the administrative appeal is filed. If the individual is aggrieved by the decision of the department after all administrative proceedings, proposed law authorizes the individual to appeal that decision to the nineteenth judicial district court. Further provides that an appeal does not entitle the aggrieved individual to a trial de novo. Requires the appeal to be based on the record of the administrative proceeding from which appeal is taken and the scope of appeal is limited to matters contained in the record of the administrative proceeding. Further provides that unless the individual has received a waiver pursuant to proposed law, the department is required to return the \$25 appeal fee to the individual upon a final determination on appeal that the individual is eligible for that dividend. Authorizes a waiver of the \$25 appeal fee if, during the qualifying year for that dividend, the individual was a member of a family with an income equal to or less than the federal poverty guidelines for Louisiana set by the United States Department of Health and Human Services.

Proposed law authorizes the legislature to pass a concurrent resolution with a 2/3 vote to express its intent to utilize fund and subfund monies for capital outlay projects in the comprehensive capital outlay budget.

#### *Dividend amount and notice*

Proposed law provides that if sufficient monies have been deposited into the fund to require payment of a dividend (R.S. 49:355(A)), then no later than Oct. 15 of the payment period, the treasurer is required determine the value of each dividend and shall submit notice of the amounts required for appropriation from the fund and subfund to the House Committee on Appropriations and the Senate Committee on Finance for inclusion in the General Appropriation Bill. Establishes a calculation for determining the amount of each dividend by requiring the treasurer to:

- (1) Determine the total amount available for dividend payments by subtracting both of the following from the unobligated balance of the fund as of the end of the qualifying year:
  - (a) The total amount necessary to pay prior year dividends from the fund in the current year to applicants who were deployed during the application period or who successfully prosecuted an appeal of a determination that the individual was ineligible for a dividend.
  - (b) The amount necessary to pay costs of administering the dividend program.
- (2) Determine the number of individuals for whom payment may be made by adding both of the following:



- (a) The number of applicants eligible to receive a dividend payment in the current payment period and the number of estates eligible to receive a dividend payment for the current payment period pursuant to proposed law.
- (b) The number of ineligible individuals, which figure shall be supplied to the department by the secretary of the Dept. of Public Safety and Corrections no later than Oct. 5 each year.
- (3) Divide the total amount calculated to be available by the total number of individuals for whom payment may be made.

Proposed law requires the treasurer, by Oct. 15 of an applicable payment period, to post on the department's website the value of each dividend for that payment period and the balance of the fund at the end of the qualifying year.

#### *Duties of the department*

Proposed law imposes certain duties on the department, including but no limited to:

- (1) Payment of dividends from the fund between Nov. 1 and March 31 of an applicable payment period. Further requires any dividend not paid by March 31 to be administered as unclaimed property pursuant to present law (R.S. 9:151 et seq.).
- (2) Promulgation of rules pursuant to the Administrative Procedure Act for the implementation and administration of proposed law.
- (3) Assisting residents of the state, particularly in rural areas, who need assistance to establish eligibility and to apply for dividends.
- (4) Establish a fraud investigation unit to assist in the investigation and prosecution of fraudulent activity by applicants.

#### *Confidentiality*

Proposed law provides that information on each dividend application, except the applicant's name, is confidential. Authorizes release of such information in certain limited circumstances.

#### *Exemption from seizure*

Proposed law exempts 20% of a recipient's dividend from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. Requires a writ of *feri facias* directing seizure of any part of a dividend to be served on the treasurer.

Prohibits acceptance by the department of an assignment of or levy, execution, garnishment, attachment, or other remedy for the collection of debt applied to a dividend prior to May 1 of the payment period. Requires the department to send to the individual at the address provided in the individual's dividend application and to the court that issued the writ or order a notice that contains all of the following:

- (1) Notification that all or part of the individual's dividend has been seized under a writ of execution or court order.
- (2) The name and address of the court that issued the writ or order.
- (3) The case number for which the writ or order was issued.
- (4) The amount seized under the writ or order.

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

Proposed law further requires the department to promulgate rules to establish fees for processing claims on dividends and assignments of dividends. Requires such fees to be deducted from the amount of the dividend remaining after payment of the portion claimed or assigned, or, if the entire dividend is claimed or assigned, requires the fees to be deducted before the dividend is paid to the creditor or assignee.

#### *Subpoena power*

Proposed law authorizes the treasurer or any member of his staff designated by him to compel the production of public and private records by issuing a subpoena. Further provides that pursuant to proposed law shall be issued only upon approval of a judge of the district court of the parish in which the department is domiciled upon application in writing by the treasurer. Requires the judge to issue a written decision within 72 hours after receipt of such application. Provides methods for service of the subpoena. Provides remedy by court order if a person refuses to obey a subpoena issued pursuant to the provisions of proposed law.

#### *Penalties and enforcement*

If an individual is convicted of a crime in connection with a false statement made pursuant to proposed law and the conviction is not reversed, proposed law requires the individual forfeit all dividends paid pursuant to proposed law and is permanently ineligible for payment of a future dividend.

Proposed law further requires the treasurer to refer a debt to the office of debt recovery if he determines that a dividend should not have been claimed by or paid to an individual. Requires all such recovered amounts to be deposited into the fund. Establishes a three year period after payment is sent within which an improperly paid dividend is to be referred to the office of debt recovery; however, if the treasurer determines that the individual exercised gross negligence or recklessly disregarded a material fact in connection with a false statement made in an application, then the debt is to be referred within six years of payment. If the department finds that an individual, in claiming a dividend, or an individual, in certifying another person's eligibility, wilfully misrepresented, exercised gross negligence with respect to, or recklessly disregarded a material fact pertaining to eligibility, proposed law authorizes the department to issue an order against the individual for the imposition of a civil fine of up to \$3,000; loss of eligibility to receive the next five dividends; or both.

Proposed law provides that the appeal provisions of proposed law apply to a penalty determination.

### **FUNDING**

Proposed law establishes the fund within the state treasury for the purposes of financing the program. Requires deposit of 25% of all mineral revenues collected by the state in excess of \$650M after all other allocations of such revenues required by the constitution and present law (R.S. 39:116). Proposed law defines "mineral revenues" to mean all revenues received in a fiscal year by the state as a result of the production of or exploration for minerals, including severance taxes, royalty payments, bonus payments, or rentals. Specifically excludes from the definition any revenues designated as nonrecurring pursuant to present constitution, any revenues received by the state as a result of grants or donations when the terms or conditions thereof require otherwise, and revenues derived from any tax on the transportation of minerals.

Proposed law provides for the investment, and use of monies in the fund. Further establishes the Restorative Justice Subfund (hereafter "subfund") within the fund. If the requirements of proposed law relative to payment of dividends have been met, then no later than Oct. 15

of the payment period, the treasurer is required to transfer from the fund into the subfund an amount equal to the total amount of dividends that would have been paid to ineligible individuals. Requires monies in the subfund be appropriated to corrections services within the Dept. of Public Safety and Corrections for costs related to incarceration.

### **PUBLIC RECORDS EXEMPTIONS**

Present law (R.S. 44:4.1) authorizes certain information to be exempted from disclosure as a public record. Proposed law retains present law and adds provisions of the La. Dividend Program relative to previously protected information and information on dividend application forms to the authorized list of exemptions.

### **EXEMPTION FROM SEIZURE**

Present law (R.S. 13:3881) exempts certain income or property of a debtor from seizure. Proposed law retains present law and adds an exemption for 20% of any dividend paid pursuant to proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 44:4.1(B)(35) and adds R.S. 13:3881(B)(11) and R.S. 49:351 through 361)

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Remove provision requiring automatic payment of a dividend if certain conditions are met.
2. Add provision authorizing the legislature to pass a concurrent resolution with a 2/3 vote to express its intent to utilize fund and subfund monies for capital outlay projects in the comprehensive capital outlay budget.
3. Change application period from Jan. 1 through March 31 to July 1 through Sept. 30.
4. Change date by which Dept. of Corrections must supply certain information from April 5 to Oct. 5.
5. Change date by which treasurer must post notice of payment of a dividend and its amount from April 15 to Oct. 15.
6. Change dates by which treasurer is required to pay dividends from July 1 through Dec. 31 to Nov. 1 through March 31.