

**MINUTES**  
**SENATE FINANCE COMMITTEE**  
**April 17, 2003**  
**9:04 AM**

**TAPES**

SFC-03 # 59, Side A  
SFC 03 # 59, Side B

**CALL TO ORDER**

Co-Chair Gary Wilken convened the meeting at approximately 9:04 AM.

**PRESENT**

Senator Gary Wilken, Co-Chair  
Senator Con Bunde, Vice Chair  
Senator Robin Taylor  
Senator Ben Stevens  
Senator Donny Olson

**Also Attending:** SENATOR JOHN COWDERY; CRYSTAL MOORE, Staff to Senator Cowdery; LANDA BAILY, Special Assistant and Legislative Liaison, Department of Revenue; SHARON BARTON, Director, Division of Administrative Services, Department of Revenue; MARK RIEHLE, Staff to Senator Cowdery; KIERKE KUSSART;

**Attending via Teleconference:** From an offnet location: DWAYNE BANNOCK, Director, Division of Motor Vehicles, Department of Administration

**SUMMARY INFORMATION**

SB 58-PFD INELIGIBILITY/MOTOR VEHICLE INSURANCE

The Committee heard from the sponsor and the Department of Revenue. The bill was held in Committee.

SB 59-PERMANENT FUND INELIGIBILITY FOR DUI

The Committee heard from the sponsor and the Department of Revenue. The bill was held in Committee.

SB 148-PFD: ALLOWABLE ABSENCE FOR MILITARY SVC

The Committee heard from the sponsor, the Department of Revenue and a member of the public. The bill was held in Committee.

HB 159-FINANCIAL INSTITUTION EXAMINATIONS/CFAB

This bill was scheduled but not heard.

#SB58

CS FOR SENATE BILL NO. 58(JUD)

"An Act relating to permanent fund dividend program notice requirements and to the ineligibility for permanent fund dividends of certain persons sentenced for crimes involving mandatory motor vehicle liability insurance."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken explained this bill "makes a person convicted of failing to carry mandatory vehicle liability insurance of proof thereof, ineligible for a permanent fund dividend for the qualifying year in which he or she was convicted. The person is ineligible for five years for a second or subsequent offense."

CRYSTAL MOORE, Staff to Senator Cowdery, testified that this legislation pertains to uninsured motorists who cause an accident or are otherwise caught without proper insurance coverage.

SENATOR JOHN COWDERY expressed his intent that dividends would not be denied to motorists who have adequate insurance coverage, but are unable to provide proof at the time of an accident.

Co-Chair Wilken clarified that a motorist would have an opportunity to provide proof of insurance and upon such proof would not be subject to forfeiture of the permanent fund dividend.

Senator Cowdery noted similar provisions apply to proof of vehicle registration whereby a motorist is allowed a certain period of time to provide proof of registration.

Senator Taylor understood State statute contains no current requirement to carry insurance unless the vehicle is involved in an accident. He suggested that a person of "imminent wealth" is not required to purchase insurance coverage.

Senator Cowdery informed that motorists must sign an affidavit attesting to insurance coverage when obtaining a drivers' license.

Senator Taylor corrected that the affidavit affirms that the motorist either has purchased insurance or has the means to pay the costs incurred in any accident.

Senator Cowdery acquiesced but noted proof is required to demonstrate the motorist has adequate means.

Senator Taylor commented that the absence of a "totally mandatory system" is "troubling".

Senator Cowdery countered that the ability to pay for any damages caused is essentially insurance.

Senator Taylor opined that some people allege to have adequate funding, but in actuality do not. He noted that in these instances, the motorist's drivers' license is revoked.

Senator Taylor admitted this would impact a small percentage of population, but that the issue could be problematic to those motorists who have the means to pay accident expenses. He explained that an uninsured motorist involved in an accident who pays the costs incurred, should not be denied a permanent fund dividend.

Senator Cowdery had understood that insurance coverage is mandatory. He emphasized the intent of the bill is to make drivers responsible, whether they purchase insurance coverage or have adequate means to pay costs themselves.

Senator Taylor stated this legislation would be appropriate if statute required every motorist to carry insurance. He asserted that reimbursement must be paid to accident victims, noting that Alaska operates as a "fault system".

Senator Taylor surmised that the Child Support Enforcement Division and other State agencies oppose this legislation arguing that denying some people a permanent fund dividend would result in creditors unable to collect repayment of debt. He expressed his primary concern relates to victims of an accident caused by an uninsured motorist, having no means to collect damages because the perpetrator was denied a dividend.

Senator Cowdery remarked that a person made ineligible to receive a dividend is similar to a nonresident, felon or other individual ineligible to receive a dividend. Therefore, he stated, "There is no dividend to divvy up. There is nobody to fight over anything." He furthered, "and nobody will be out anything - the child support people or anything - unless the guy violates the law."

Senator Bunde shared concerns that in some instances a permanent fund dividend could be only funds a victim could recover. He asked if consideration was given to surrendering these dividends into the State general fund. He opined this would put

Senator Cowdery reiterated his comment that if no funds are available via a permanent fund dividend, there would be no dispute over which creditor is entitled to garnishment. He therefore, argued that no party would lose money over this legislation rather "they're not going to lose it unless they break the law."

Senator Bunde asserted this would only punish people who would have otherwise benefited from garnishment of a dividend.

LANDA BAILY, Special Assistant and Legislative Liaison, Department of Revenue, stressed, "any policy intended to deter the type of conduct that Senator Cowdery seeks to deter, is absolutely a good endeavor." She qualified that her forthcoming comments are not intended to be oppositional but informational. She reported that the Child Support Enforcement Division was one of the top ten garnishers of the permanent fund dividend in FY 01. She elaborated that the Division submitted 12,821 records with 10,448 requests paid, amounting to \$12,846,911.89 for delinquent child support payments. She estimated that one to ten percent of those records could be impacted by this legislation.

Ms. Baily cautioned that the Division would be unable to access the "offending parent's" permanent fund dividend in order to pay child support arrearages, which would be an unintended consequence of this legislation.

Co-Chair Wilken asked for a response to Senator Bunde's suggestion to relinquish the permanent fund dividends of these offenders to the State general fund.

Ms. Baily relayed her consultation with Larry Persily, Deputy Commissioner of Department of Revenue, and his efforts to punish offenders without causing unintended consequences to others. She stated she would continue these efforts.

Senator Olson asked the number of qualified dividend recipients who chose to not apply for a dividend, knowing that dividend would have been garnished.

Ms. Baily responded that she would attempt to provide that information, noting she was unsure whether such data was available.

Ms. Baily commented on a need to identify the number of people who would be denied a dividend under this legislation and who are also in arrearage.

Senator Bunde understood the existence of a program whereby the State could apply for the dividend of those qualified residents who refused to apply for a dividend knowing it would be garnished.

Ms. Baily deferred to others within the Department of Revenue.

Co-Chair Wilken suggested working with the bill sponsor to address this matter.

Co-Chair Wilken referenced statutes relating to mandatory insurance requirements.

Senator Taylor noted the requirement to obtain a certificate of self-insurance upon completion of an affidavit asserting the holder has the ability to pay damages of any accident the motorist might cause.

Senator Taylor suggested amending this legislation to include "insurance or self-insurance" coverage.

Senator Taylor surmised that many of the motorists operating a vehicle without insurance also do not have a valid driver's license, as it was suspended after the motorist caused an accident or was convicted of a Driving Under the Influence (DUI), or similar offense. He noted these motorists are unable to pay the higher premiums of the "SR22" insurance, required for motorists convicted of these offenses. He commented this provides victims little financial recourse in future incidents. He was concerned that withholding permanent fund dividends would further hinder these motorists in their ability to purchase insurance.

Senator Cowdery asserted that if a person could afford a vehicle and gasoline, that person must take responsibility.

Senator B. Stevens directed attention to Fiscal Note #5 from the Department of Law, noting the analysis references a "unit" as follows.

The collections unit of the Department of Law is responsible for collecting civil and criminal judgments owed to the State of Alaska, and beginning in January 2002, restitution on behalf of victims of all types of crimes (violent, non-violent, and property crimes) and delinquent acts...

...During FY 02, the unit collected \$3,574,907 of which \$2,960,210 was through the dividend attachment.

Senator B. Stevens asked for an explanation of this unit.

Senator Taylor replied that this section operates within the Department of Law with the sole function to collect fines and restitution payments.

Senator B. Stevens asked if this unit collects funds for distribution to victims or collects revenue for the Department of Law.

SHARON BARTON, Director, Division of Administrative Services, Department of Revenue, shared that in her experience at the Department of Administration, she learned that some funds collected by this unit are transferred to the Office of Public Advocacy.

Senator B. Stevens supported the collection of funds for distribution to victims but opposed collection for the Department of Law.

Senator Taylor commented that the unit collects funds for both victims and the Department. He explained the unit acts as the enforcement "arm" of restitution requirements and operates as a "pass through" for funding.

Co-Chair Wilken stated this issue would be addressed later.

DWAYNE BANNOCK, Director, Division of Motor Vehicles, Department of Administration, testified via teleconference from an offnet location that he was available for questions.

Senator Olson noted some rural areas have no state road system and vehicles are operated on private land, for example in a mining area, and are not required to be registered. He asked if this proof of insurance would be necessary in this situation.

Senator Cowdery responded the legislation is intended only for vehicles traveling on publicly maintained roads.

Senator B. Stevens referenced a spreadsheet titled, "DWI Misdemeanors & Felonies FY 02 and July-Department of Environmental Conservation. FY 03, Driving Without Insurance" [copy on file] compiled by the Alaska Court System.

Ms. Moore detailed the spreadsheet lists the number of first time and multiple Driving While Intoxicated (DWI) incidences. She

exemplified that in Homer during FY 03, of the four first time DWI arrests and 76 second or more DWI arrests, 19 of the offenders did not have insurance.

Senator Cowdery stated he would clarify the information.

Co-Chair Wilken noted questions remain on this matter and ordered the bill HELD in Committee.

#SB59

CS FOR SENATE BILL NO. 59(JUD)

"An Act relating to permanent fund dividend program notice requirements and to the ineligibility for permanent fund dividends of certain persons sentenced for driving while under the influence of an alcoholic beverage, inhalant, or controlled substance, or for refusal to submit to a chemical test."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated this bill, sponsored by Senator Cowdery "makes the person convicted of driving under the influence of alcoholic beverage or refusal to submit to a chemical test, ineligible for a permanent fund dividend for the qualifying year in which he or she was convicted.

CRYSTAL MOORE, Staff to Senator Cowdery, testified this bill is identical to SB 58 with the exception that it applies to Driving Under the Influence (DUI) offenses rather than uninsured motorists. She noted that after the first offence, the dividend is forfeited for one year, and following subsequent offenses, the dividend is denied for five years.

Senator Cowdery reiterated his earlier comments to SB 58 stressing they apply to this legislation as well: "Nobody is going to lose anything unless they're caught". He added that the provisions in both bills are not retroactive.

LANDA BAILY, Special Assistant and Legislative Liaison, Department of Revenue stated the intent of this bill is "to deter specific conduct that we as a society absolutely do not condone." She opined that any policy intended to deter driving while under the influence is of "critical importance to the State of Alaska, to everyone who lives here." She repeated that her comments are not intended to be oppositional, rather informational.

She again reported that the Child Support Enforcement Division was one of the top ten garishers of the permanent fund dividend in FY 01. She elaborated that the Division submitted 12,821 records with 10,448 requests paid, amounting to \$12,846,911.89 for delinquent child support payments. She estimated that one to ten percent of those records could be impacted by this legislation.

Ms. Baily repeated her caution that the Division would be unable to access the "offending parent's" permanent fund dividend in order to pay child support arrearages, which would be an unintended consequence of this legislation.

Senator Cowdery asserted that most Driving While Intoxicated (DWI) offenders honor their obligations to their family. He was unsure how to address those that do not.

Senator Taylor asked if this legislation requires a conviction of DUI or rather an arrest or refusal to submit to a chemical test.

Senator Cowdery assumed a conviction would be required before the legislation would apply.

Senator Taylor noted that when a motorist refuses to submit to a chemical test, the driver's license is suspended as an administrative action.

Co-Chair Wilken asked if the intent is to deny a dividend only in instances of a conviction and not in the case of a motorist who refuses to submit to a chemical test.

Senator Cowdery understood that a refusal to submit to a chemical test is the same as a conviction.

Senator Taylor corrected that these are separate crimes, although the penalties are the same.

Co-Chair Wilken noted several of the questions posed to SB 58 also apply to this bill and would be addressed at a later date.

Senator Bunde posed a scenario of an uninsured motorist arrested for DWI and asked if the offender would be denied a permanent fund dividend to two years given the two offenses.

Senator Olson asked if the provision of this bill would apply to operators of boats, off-road vehicles, etc.

Senator Cowdery expressed his intent that this legislation would

apply only to vehicles traveling on publicly maintained roadways. He stated he does not intend the bill to impact pilots or watercraft operators.

Co-Chair Wilken ordered the bill HELD in Committee.

#SB148

SENATE BILL NO. 148

"An Act relating to allowable absences for certain members of the armed forces and their spouses and dependents for purposes of eligibility for permanent fund dividends; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated this bill sponsored by Senator Cowdery "amends the State statute governing allowable absences for the permanent fund dividend for members of the United States armed forces."

MARK RIEHLE, Staff to Senator Cowdery, testified this legislation is a "correction of an oversight" in allowable permanent fund dividend absences. He shared that a discrepancy arose in the instance of a 20-year Alaska resident and member of the Navy Reserve who was activated to military service following the terrorist events of September 11, 2001. This resident, Mr. Riehle reported, was recently denied a dividend after serving overseas for ten months and upon return to the country, spending seven weeks in California caring for his quadriplegic brother. Mr. Riehle pointed out the time spent on active military duty is an allowable absence and that under normal circumstances a seven week absence from the State is also allowable. However, he stated that because the seven-week absence immediately followed discharge from active duty, the resident was disqualified from receiving a dividend. He explained this is due to separate requirements applied to military personal that require a resident to return to Alaska within 45 days of discharge.

Mr. Riehle requested the Committee join Senator Cowdery "in sponsoring this cause in demonstrating your patriotic thank you to the members of the Reserves, the Guards, and those in active duty military."

KIERKE KUSSART testified as a private citizen although she is employed by the Permanent Fund Dividend Division. She stated the

argument that because civilians are allowed to be absent 180 days during a qualifying year, military personnel should be granted the same allowance.

Ms. Kussart referenced a handout titled, "A brief overview of PFD rules pertaining to SB 148," which reads as follows.

Civilian (no special circumstances)

Can be gone up to 180 days in a calendar year for any reason as long as home is maintained in state (own, rent, storage) and residency ties are not created in other states.

Military Active Duty

Must have AK as home of record.

Can be gone a whole year - must return for 3 days every 2 years minimum.

After 5 years absence must have 30 days in AK.

Does not have to maintain home in AK.

Can obtain other states drivers license, vehicle registration, resident hunting and fishing licenses.

Can purchase home in another state.

Spouse can work full time in another state.

Once out of AK for over 180 days in a calendar year only 45 days can be for non-military reasons.

Main Points

1. Discharge is a scheduled event and can be planned for. Upon discharge the military will ship the applicant's belongings to any address the applicant chooses.
2. Once returns to civilian status the applicant may have many more ties to outside than to AK. Needs to return to fulfill statement of intent.
3. In my opinion six months is an excessive amount of time for a move back to AK, especially since military members are used to moving without much notice. Now that they are free from military obligation it is time to come home.

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Ms. Kussart opined that six months is an excessive amount of time to be absent from Alaska for discharged military personnel who have possibly established residency in another state. She suggested two or three months was adequate.

Senator Cowdery commented that military personnel should be given some freedoms when not on active duty.

Senator Bunde clarified that while on active duty, military personnel could be absent from the State more than 180 but that only 45 of those days could be for non-military activities.

Ms. Kussart affirmed.

Senator Cowdery indicated he had been unaware of the 45-day absence limitation.

Ms. Kussart noted for the record that she was on leave status from the State during this hearing.

Senator Olson asked the percentage of military personnel who become ineligible for the permanent fund dividend after leaving military duty.

Ms. Kussart did not have that information as a private citizen and indicated the Division could provide it upon request.

Senator B. Stevens pointed out the matter addresses two different types of active duty. He listed one as regular military personnel serving on active duty and the other as reservists or National Guard members called to deployment. He told of a reservist residing in his district who was deployed and is now "facing a similar challenge" in eligibility for Public Employees Retirement System (PERS) benefits. He asked whether the differences could be defined in statute.

Senator Cowdery learned this situation is a rare occurrence. He shared that the Department had suggested granting discretionary authority to the commissioner to grant exceptions; however, Senator Cowdery indicated he does not favor this option.

Senator B. Stevens expressed that a distinction must be made.

Senator Cowdery stated the intent of the legislation would apply to those military personnel on active duty and that no specific distinction was made.

Senator B. Stevens stressed the issue is that the resident in question was not on active duty but rather a reservist who was deployed. He stated that if the resident had not been deployed, his seven-week absence would not have disqualified him from receiving a dividend.

Senator Taylor remarked that this resident should have been treated as any other citizen. He agreed with Senator B. Stevens that a

distinction should be made. He surmised that this affects many residents, as many reservists have been deployed.

Co-Chair Wilken ordered the bill HELD in Committee.

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**ADJOURNMENT**

Co-Chair Gary Wilken adjourned the meeting at 10:03 AM