

HOUSE FINANCE COMMITTEE  
February 12, 2010  
1:43 p.m.

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CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 1:43 p.m.

MEMBERS PRESENT

Representative Mike Hawker, Co-Chair  
Representative Bill Stoltze, Co-Chair  
Representative Bill Thomas Jr., Vice-Chair  
Representative Allan Austerman  
Representative Mike Doogan  
Representative Neal Foster  
Representative Les Gara  
Representative Reggie Joule  
Representative Mike Kelly  
Representative Woodie Salmon

MEMBERS ABSENT

Representative Anna Fairclough

ALSO PRESENT

Senator Kevin Meyer; Debbie Bitney, Director, Alaska Permanent Fund Dividend Division; Christine Mercy, staff for Senator Meyer; Michelle Kane, Assistant Attorney General, Department of Law; Jordan Marshall, Rasmuson Foundation; Ginger Blaisdell, Division Director, Department of Revenue

PRESENT VIA TELECONFERENCE

Mary Kay Neher, Anchorage; Michele Brown, United Way of Anchorage

SUMMARY

SB 171                    PERMANENT FUND DIVIDEND FOR DECEASED

SB 171 was HEARD and HELD in Committee for further consideration.

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#sb171  
CS FOR SENATE BILL NO. 171(FIN)

"An Act relating to the permanent fund dividend of an otherwise qualified individual who dies during the qualifying year; and providing for an effective date."

SENATOR KEVIN MEYER introduced SB 171 to grant eligible Alaskans their last Permanent Fund Dividend (PFD). He elaborated that the deceased must meet all the requirements to be eligible. Presently if the deceased passed away between January 1 and March 31 of a year, then the estate could apply for the PFD, but if the individual died during November or December of the eligible year, the deceased would not qualify. SB 171 would allow the estate to apply on behalf of the deceased for the year that the deceased qualified for. This dividend could help families with funeral costs or other monetary needs.

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Co-Chair Stoltze asked for comments regarding Vice-Chair Thomas' amendment. Senator Meyer announced that he supports the amendment introduced by Vice-Chair Thomas.

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Representative Doogan questioned if the law were changed then an Alaskan could be dead for 15 months and still receive the PFD benefit. Senator Meyer agreed it could be up to 15 months.

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Representative Salmon inquired if the deadline is March 31, how far is the look back to be eligible. Senator Meyer responded that the PFD would only apply to the previous year and the deceased would have to have been alive for at least 180 days of that year.

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DEBBIE BITNEY, DIRECTOR, ALASKA PERMANENT FUND DIVIDEND DIVISION, stated that the permanent fund division has no position on the bill. She indicated the division has worked with the sponsor on the language. Ms. Bitney noted the need for clarification on how to administrator this program in relation to AS 43.23.008 (a)(17). This statute relates to an individual's intent to remain a state resident as this is a requirement for the qualifying year.

Co-Chair Stoltze responded that the sponsor or his staff can clarify that. He asked if the division was capable of administering this provision. Ms. Bitney responded they could. Co-Chair Stoltze asked if the concern was the question of intent. Ms. Bitney agreed.

Representative Doogan referred to the need for an extra person listed in the fiscal note. Ms. Bitney responded it is anticipated that the workload will increase. Representative

Doogan asked what happens if no position is added. Ms. Bitney noted that the division would absorb the cost and eligibility decisions would take longer to complete for the dividend year.

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Representative Austerman asked if a student in an out-of-state college is eligible and, if so, then does the student not have to be in the state for six months. Ms. Bitney agreed that was her understanding. An applicant could be absent at the time they are deceased as long as they die within 180 days of the end of the qualifying year. Representative Austerman asked if this applies to a state resident who was at college, but not in Alaska for the 180 days. Ms. Bitney responded that there are people who retain their residency that allowed to be out of state for more than 180 days. This legislation only deals with the date of death.

Co-Chair Hawker requested the statute number again. Ms. Bitney responded AS 43.23.008 (a)(17).

CHRISTINE MERCY, STAFF FOR SENATOR MEYER, referenced the intent to stay in Alaska. The application is treated as though the person was following the eligibility of a live person. Intent means residency requirements such as not registering to vote in another state, possessing an Alaskan Drivers License, and having an Alaska address as the individual's home address.

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Representative Doogan questioned if someone dies in the 15 month period and someone else fills out the form, how can questions regarding intent be answered.

Ms. Bitney responded that the way the statute is applied now, it is assumed the applicant had the intent to stay during the qualifying year. This legislation changes the intent now they are deceased. Representative Doogan asked if the department will have to judge the intent of someone who died during that period. Ms. Bitney responded that the current way the division applies the intent rule is that applicant must maintain it during the qualifying year. Representative Doogan understood that part, but if they die, how is the intent judged. Ms. Bitney responded that she is requesting from the committee how to judge intent.

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Representative Salmon inquired if there will there be a separate form for someone who is deceased. Ms. Bitney replied the form will be different; it is an estate application.

Representative Joule expounded that the issue of intent might sound like it applies to all those who may die in a year. He alleged that just a small number of people may apply. Senator Meyer responded that was correct. He added that only about half

of those that die the previous year would qualify because the individual had to live in the state for six months to qualify with the intent to remain in Alaska. Representative Joule maintained that any resident who died did have the intent to remain in Alaska if they had not died.

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Co-Chair Stoltze reminded that this provision could also apply to those residing outside Alaska. Senator Meyer agreed that was correct if they met the eligibility requirements.

Representative Kelly suggested asking the Department of Law if this program would be legal.

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MICHELLE KANE, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, responded that the reason for the discussion is that both sections are not being read together. If read simultaneously, the intent question arises. Both sections of the law will need to be read by the permanent fund division in determining eligibility in regards to intent or absences from the state the previous year.

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Representative Gara inquired what is the longest time period between when someone passes away and they can receive the allowable dividends now and what is different in SB 171. Ms. Bitney replied that currently the applicant must pass away during the filing period; therefore the maximum spread could be nine months. This legislation would back it up six more months for a total of fifteen months.

Representative Foster inquired about accidental and fraudulent filing. He wondered what would happen when the estate filed for a deceased person and all the information regarding the person is not known, such as the 180 day requirement. He asked what would be the consequence for the filer for an accidental filing and what mechanisms are in place to prevent fraud.

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Ms. Bitney replied that the deceased person does not have to be in Alaska when they died. The 180 days applied would come from the death certificate itself. The division would take the word of the filer that the information is correct. Ms. Kane interjected that the dividend eligibility technician deals with a variety of questionable issues all the time.

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Representative Doogan reiterated that the way the law works now is if a person lives to January 1 and fills out the permanent fund application, then dies, the right to the dividend would go

to the deceased estate. He questioned that under this new legislation if the deceased never filled out the form, then a right for the family to receive the dividend is created. Ms. Kane responded that the intent of the bill is not different from way the law is written today. The intent of the law is to say the deceased person still deserved the dividend.

Representative Doogan rephrased his question. He noted that today the right to the dividend goes to the estate if the steps are taken to ensure it, but in the new legislation the deceased did not file or take any steps to receive the dividend because they died. Ms. Kane responded that the intent of the bill is to create loopholes for those deceased who had been in the state for 180 days, so the estate can file on their behalf. Ms. Bitney interjected that Representative Doogan may see this as creating a different set of people who can apply for the deceased's person's dividend, but that is not the case. Currently the estate can file for a person who passed away and did not file for themselves.

Representative Doogan reiterated that he believed a different type of right was being created. Ms. Kane agreed that the legislation is changing the right, but not creating a new one.

Representative Doogan contended that this legislation is doing something more than extending this right for another six months. He believed it was creating a survivors' right. Ms. Kane agreed that this legislation is creating a right that was not there before.

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Representative Austerman returned to the eligibility of students out of the state. He stated that a student who has kept their Alaska residency and met all the requirements is eligible while out of state at school, but was confused by fifteen month issue. He asked if the student is only in the state for 90 days would they be eligible for the dividend. Ms. Kane declared that person would not be eligible. She contended that the problem occurs with the intent language because a student receiving an education can be outside of the state for 120 days. This is where the question of intent arises for the department.

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Co-Chair Stoltze remarked that some dividends are applied for by the state on behalf of felons. He wondered if the state could apply for a dividend of a deceased. Ms. Bitney responded that she was not aware that the state of Alaska would be the beneficiary of an estate of a deceased person.

Co-Chair Stoltze noted that the felon funds are redirected into state programs and wondered if the state would be able to apply on behalf of the deceased. Ms. Bitney responded that she did

not believe so because felon dividends are calculated on a formula, not to a specific individual.

Co-Chair Stoltze asked for more clarification on the handling of felon situations.

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Representative Kelly questioned the need for additional staff. He believed that the work would not be any more difficult than a standard dividend application and his intent would be to have a zero fiscal note, adding no new employees.

Vice-Chair Thomas MOVED to ADOPT Amendment #1, 26-LS0804\P.4, Cook, 2/1/10 (copy on file):

**A M E N D M E N T**

OFFERED IN THE HOUSE BY REPRESENTATIVE THOMAS  
TO: CSSB 171(FIN)

Page 1, line 2, following "year":

Insert "**, relating to contributions from permanent fund dividends**"

Page 2, line 7:

Delete all material and insert:

**"\* Sec. 2.** AS 43.23.062(a) is amended to read:

(a) Notwithstanding AS 43.23.069, the Department of Revenue shall prepare the electronic Alaska permanent fund dividend application to allow an applicant who files electronically to direct that money be subtracted from the dividend payment and contributed to one or more of the educational organizations, community foundations, or charitable organizations that appear on the contribution list contained in the application. A contribution to an organization may be \$25, \$50, \$75, \$100, or more, in increments of \$50, up to the total amount of the permanent fund dividend that the applicant is entitled to receive. If the total amount of contributions elected by an applicant exceeds the amount of the permanent fund dividend that the applicant is entitled to receive, contributions shall be deducted from the dividend in the order of priority elected by the applicant on the application until the entire amount of the dividend that the applicant is entitled to receive is allocated for contribution. The electronic dividend application form must include notice that

[ (1) CONTRIBUTION CHANGES MAY NOT BE MADE AFTER THE APPLICANT FILES THE ELECTRONIC PERMANENT FUND DIVIDEND APPLICATION; AND

(2) ] no money contributed will be used for administrative costs incurred in implementing this section, and money from the dividend fund will not be used for that purpose.

- \* **Sec. 3.** AS 43.23.062(b) is amended to read:  
 (b) The department shall list each campus of the University of Alaska and shall list each other educational organization, community foundation, or charitable organization eligible under (c) and (d) of this section on the contribution list. The department shall maintain an electronic database for the contribution list that is accessible to the public and that permits searches by organization name, geographic location, and type [BY GEOGRAPHIC REGION IN RANDOM ORDER, AND THE ORDER SHALL BE CHANGED EACH YEAR. ON THE CONTRIBUTION LIST, ORGANIZATIONS SHALL ALSO BE GROUPED BY TYPE WITHIN EACH GEOGRAPHIC REGION]. The department shall provide a statement of the contributions made by an individual that is suitable for federal income tax purposes to each individual who elects to contribute under (a) of this section.
- \* **Sec. 4.** AS 43.23.062(c) is amended to read:  
 (c) The department may not include a charitable organization, other than a community foundation, on the contribution list for a dividend year unless the purpose of the charitable organization is to provide services [PROGRAMS] for youth development, workforce development, arts and culture, aid and services to the elderly, low-income individuals, individuals in emergency situations, victims of crime, disabled individuals, individuals with mental illness, primary, vocational, and higher education, health and dental care, recreational facilities, child abuse and neglect, economic development, food assistance, libraries, public broadcasting, recycling of waste, animal rescue, and zoos. The department may not include on the contribution list an educational organization, community foundation, or charitable organization that is the affiliate of a group. For purposes of this subsection,  
 (1) "Affiliate" means an organization or foundation that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, a group;  
 (2) "Group" has the meaning given in AS 15.13.400(8)(B).
- \* **Sec. 5.** AS 43.23.062(d) is amended to read:  
 (d) Except for each campus of the University of Alaska, the department may include an educational organization, community foundation, or charitable organization on the contribution list for a current dividend year only if the organization  
 (1) before March 31 [JUNE 15] of the qualifying year, files an application for inclusion on the list for that dividend year on the form required by the department;  
 (2) is exempt from taxation under 26 U.S.C. 501(c)(3) (Internal Revenue Code) as an educational or a charitable organization on the date of application;  
 (3) was qualified for tax exempt status under 26 U.S.C. 501(c)(3) (Internal Revenue Code) as an educational or a charitable organization during the two

calendar years that immediately precede the year the application is filed;

(4) unless exempted under federal law, has a current Internal Revenue Service Form 990 on file with the United States Department of the Treasury, Internal Revenue Service, or, if the Internal Revenue Service has granted a filing extension for the current year, has on file that form for the immediately preceding [PRECEEDING] year;

(5) is directed by a voluntary board of directors or local advisory board, a majority of whose members are residents of the state;

(6) if a community foundation, provided in the state aid during the two calendar years that immediately precede the year the application is filed, or, if an education organization or charitable organization, provided in the state services during the two calendar years that immediately precede the year the application is filed;

(7) receives at least \$100,000 or five percent of its total annual receipts, whichever is less, from contributions;

(8) has completed and provided to the department a financial audit with an unqualified opinion conducted by an independent certified public accountant for the fiscal year to which the Internal Revenue Service Form 990 required under (4) of this subsection applies, or if the organization is exempted from filing Form 990, for the fiscal year of the organization that ended immediately before the current fiscal year; this paragraph applies only to an organization with a total annual budget that exceeds \$250,000 during the fiscal year to which the audit [INTERNAL REVENUE SERVICE FORM 990] required under [(4) OF] this paragraph [SUBSECTION] applies; and

(9) does not make grants or contributions to an organization that is exempt from taxation under 26 U.S.C. 501(c)(4) or (6).

\* **Sec. 6.** AS 43.23.062(i) is amended to read:

(i) The department may adopt regulations under AS 44.62 (Administrative Procedure Act) to carry out the provisions of this section. Notwithstanding this subsection and other provisions of law, a state agency, including the department, may not adopt regulations or otherwise impose requirements or procedures on organizations to implement, interpret, make specific, or otherwise carry out the provisions of this section unless required by the federal government. If an organization disagrees with an action of the department under this section and requests an administrative hearing, the hearing shall be conducted by the office of administrative hearings (AS 44.64.010).

\* **Sec. 7.** AS 43.23.062 is amended by adding a new subsection to read:

(1) A community foundation may not deposit contributions received under this section into a fund that would be included in the definition of a donor advised fund under 26 U.S.C. 4966(d)(2) (Internal Revenue Code).

- \* **Sec. 8.** Sections 4 and 6, ch. 41, SLA 2008 are repealed.
- \* **Sec. 9.** Sections 1 - 7 of this Act take effect January 1, 2011.

Co-Chair Stoltze OBJECTED for discussion.

JORDAN MARSHALL, RASMUSON FOUNDATION, reviewed the history of the private family foundation that supports Alaska's non-profit sector. He indicated that the foundation has awarded \$170 million to organizations based in the state. He spoke to the Pick. Click. Give. charitable contributions program created by the legislature in 2008. Mr. Marshall indicated that the Rasmuson Foundation contributed \$900,000 to cover start up costs for the program over a three year period. The technology has been implemented so individuals can make online contributions to non-profit organizations during the filing for the PFD. The purpose of program is to expand giving in Alaska through their PFD. He contended that if every Alaska gave \$25 the result would be an additional \$15 million each year. Pick. Click. Give. encourages Alaskans to use their dividends wisely. Mr. Marshall stressed in 2009 over \$500,000 was pledged from over 5100 individuals. There is strong growth evidence this year with a possible 50 percent growth over last year.

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Mr. Marshall emphasized that up to 92 percent of those making contributions this year are new donors. Statewide outreach, along with the \$900,000 from the Rasmussen Foundation is supported by cash from the Mental Health Mental Trust Authority, BP Alaska, Conoco Philips Alaska, and the MatSu Health Foundation. The proposed amendment would streamline the Pick. Click. Give. program and extend it past the initial three year authorization. Mr. Marshall walked through the amendment line by line (copy on file).

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Representative Doogan questioned under the provision on page 3, line 13, what sort of organization would be eligible that is not eligible now. Mr. Marshall replied that organizations federally exempt from filing an IRS Form 990, such as the Salvation Army, Volunteers of America, and faith based organizations would now be eligible.

Mr. Marshall thanked the committee for its support.

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MARY KAY NEHER, ANCHORAGE (via teleconference), shared her personal experience when she tried to file for her deceased daughter's permanent fund dividend. She noted that the filing requirements for deceased individuals were not equal. She argued that the rules for the deceased varied and the qualifying dates did make sense to her. She thought that the

present eligibility requirements caused problems and wanted it fixed.

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MICHELE BROWN, UNITED WAY OF ANCHORAGE (via teleconference), strongly supported the legislation.

Co-Chair Stoltze closed public testimony

Co-Chair Stoltze WITHDREW his OBJECTION to Amendment #1. There being NO further OBJECTION, Amendment #1 was adopted.

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Co-Chair Hawker addressed the fiscal note and asked if the department had to absorb the costs would it change the department's neutral position on the bill. Ms. Bitney responded that the decision whether to extend the point in the year to complete the work is the legislature's decision. She added that more cases would take longer and there would be additional costs for appeals.

Co-Chair Hawker remarked that the fund sources are other interagency receipts and inquired if this would be charged to permanent fund receipts. Ms. Bitney replied that was correct.

Co-Chair Stoltze remarked on the draft fiscal note and asked if this reflected the cost of the Pick. Click. Give. program. Ms. Bitney responded that it does not. The draft fiscal note is specific to the amendment and would be on top of the other fiscal note.

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Representative Joule proposed that if a zero fiscal note was passed out that it should be revisited in one year. He stressed this could affect the appeal process.

Representative Gara asserted that the draft fiscal note for the additional person sounds like Vice-Chair Thomas's amendment is being charged for last year's bill. Ms. Bitney declared that the original Pick. Click. Give. program came with a fiscal note. The original fiscal note included a position that was not filled, but the costs were absorbed by the management team. She added it was not foreseen how much time programmers would spend on this project. The Rasmuson Foundation has reimbursed the costs, but a substantial amount of time has been focused on this project that has taken away from other projects. The new position requested in the present fiscal note is for a new programmer position with the previous fiscal note falling away.

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Representative Gara remarked that the bulk of the work has already been approved, therefore the governor should request

general funds for the new position instead of charging it to the amendment. Ms. Bitney noted that the Pick. Click. Give. program integrates within a number of the existing PFD programs forming a complicated interface that requires changes every year that affect the workload of the division.

Representative Gara maintained that if the administration is taking over the other program then it should be in the governor's budget proposal. He asserted that he did not understand how a new programmer was necessary to run fixes to the program.

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GINGER BLAISDELL, DIVISION DIRECTOR, DEPARTMENT OF REVENUE, interjected that there are two parts to the fiscal note. She informed that part of the \$42,000 was to pay the United Way for their list. The position is charged to the fiscal note which goes away next year so funding is needed. Programmer time has been dedicated to this program by rotating positions, but if the new program has to be assumed by the department as ongoing, it would be best to have a permanent full time person dedicated to that work.

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Co-Chair Hawker agreed with Representative Joule that in regard to the first fiscal note it would best to operate for a year then have the department return and look at the position as a full time budget request. The way the costs are being imposed on the state of Alaska is on general fund program receipts. Under current statute, the provision for operating the program is that the department may establish an application fee to the charitable organizations not to exceed \$50. He believed that with the success and projected increasing success of the program, the proposed \$132,000 was an unnecessary financial burden for the state. Co-Chair Hawker proposed there be a further amendment for the program to be self sustaining and pay for itself. He believed that commitments must stop that increase the state's financial obligation. The funding source should be restricted to general fund receipts to cover the costs.

Co-Chair Stoltze observed that there were overhead costs of 26 percent to 27 percent.

Representative Kelly voiced his concern and suggested giving a zero fiscal note to the program and returning next year to see if the non-profits could cover the additional costs. He believed that the present bill needs to be simplified since it covers such a small percentage of deceased individuals. He assumed that the option to Pick. Click. Give. should apply to the deceased population and asked if this has been provided in this special application. Ms. Bitney answered that would not be possible because the Pick, Click, Give program is only

available to those who apply online. At present an estate application is not offered online.

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Co-Chair Hawker supported Representative Kelly's suggestion of moving the bill forward with a zero fiscal note. He asked if the second fiscal note was zeroed out would the department still have a neutral stance to the bill. Ms. Bitney replied that she did not know if the division would be in the position to accept applications from non-profits because part of the \$40,000 request is to pay a contractor to qualify the non-profits.

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Representative Joule inquired about the personal services line of the fiscal note for \$84,000 and asked if it was for one year then would go away. Ms. Bitney replied that the position would be ongoing because the division anticipates that the program will not become any less complex.

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Representative Kelly asked if it was possible for the Rasmuson Foundation to pay for this position over the next year. He emphasized his support of a zero fiscal note. Mr. Marshall maintained that the original \$900,000 is the extent of what the Rasmuson Foundation has pledged to the program. Any additional funds would require approval from the Board of Directors.

Vice-Chair Thomas suggested holding this bill to investigate covering the costs through other resources.

CSSB171 was HEARD and HELD in Committee for further consideration.

Senator Meyer agreed that to holding the bill to work out the problems. The intent brought up by the Department of Law could be met with regulations.

#

ADJOURNMENT

The meeting was adjourned at 3:03 PM.



