

SENATE FINANCE COMMITTEE
February 20, 2018
9:04 a.m.

9:04:15 AM

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 9:04 a.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Anna MacKinnon, Co-Chair
Senator Click Bishop, Vice-Chair
Senator Peter Micciche
Senator Donny Olson
Senator Gary Stevens
Senator Natasha von Imhof

MEMBERS ABSENT

None

ALSO PRESENT

Doug Letch, Staff, Senator Gary Stevens; Laurie Wolf, President, Foraker Group; Sara Race, Director, Permanent Fund Dividend Division, Department of Revenue; Senator David Wilson, Sponsor; Gary Zepp, Staff, Senator David Wilson; Sara Race, Director, Permanent Fund Dividend Division, Department of Revenue.

PRESENT VIA TELECONFERENCE

Mary Bishop, Self, Fairbanks; Angela Cox, Vice President of External Affairs, Rasmussen Foundation, Anchorage; Laurie Wolf, President, Foraker Group, Anchorage; Randy Griffin, Self, Fairbanks; William Harrington, Self, Spenard; Glenn Gustafson, Assistant Attorney General, Anchorage.

SUMMARY

SB 8 PFD CONTRIBUTIONS TO TRIBAL GOVERNMENTS

SB 8 was HEARD and HELD in committee for further consideration.

SB 154 PFD CONTRIBUTIONS TO GENERAL FUND

SB 154 was HEARD and HELD in committee for further consideration.

#sb8

SENATE BILL NO. 8

"An Act allowing federally recognized tribal governments to receive contributions from permanent fund dividends."

[9:04:58 AM](#)

SENATOR STEVENS, SPONSOR, spoke to SB 8. He relayed that the bill was "remarkably simple." He reported that the bill allowed federally recognized tribal governments to receive contributions from the Permanent Fund Dividends (PFD) through the popular Pick.Click.Give. program.

DOUG LETCH, STAFF, SENATOR GARY STEVENS, addressed the bill. He related that the bill granted native non-profit organizations the opportunity to participate in the Pick.Click.Give. program. Currently, the program was reserved for 501(c)(3) non-profit organizations. Tribal governments were tax exempt organizations but were not designated as 501(c)(3). He elaborated that SB 8 required the Department of Revenue (DOR) to allow federally recognized tribal governments to appear on the Pick.Click.Give. eligible recipients list. Subsequently, the tribal entities would be subject to the same regulations and \$250 fees currently applied to the program's participants. The idea was derived from native organizations in Kodiak. He noted letters of support in the members bill packet. The sponsor had not encountered any opposition to the bill. He reminded the committee that since 2009, Pick.Click.Give. offered Alaskans an easier way to help hundreds of nonprofits fulfill their missions through direct contributions from their PFDs. The result was millions of dollars donated to eligible organizations over the years. The addition of federally recognized tribal governments to the list of Pick.Click.Give. recipients extended the program's reach, while opening another avenue of fundraising for these important organizations.

[9:07:25 AM](#)

Co-Chair MacKinnon requested that Mr. Letch provide a sectional analysis.

Mr. Letch addressed the Sectional Analysis:

Section I. Adds federally recognized tribal governments to AS 43.23.062(a), allowing federally recognized tribal governments to receive contributions from permanent fund dividends.

Section 2. Amends AS 43.23.062(b), requiring the department to place federally recognized tribal governments on the contribution list.

Section 3. Amends AS 43.23.062(c) to state that the department may not add a federally recognized tribal government to the contribution list unless the purpose of the federally recognized tribal government meets one of the purposes listed.

Section 4. Amends AS 43.23.062(d) to exempt federally recognized tribal governments from various requirements that other educational and charitable organizations must meet under the section.

Section 5. Adds federally recognized tribal governments to AS 43.23.062(t), which requires an application fee to be placed on the permanent fund dividend contribution list.

Section 6. Adds federally recognized tribal governments to AS 43.23.062(m), which allows the department to withhold a coordination fee from each entity that receives contributions from permanent fund dividends.

Section 7. Adds new subsection (o) to AS 43.23.062 stating that a person who claims a dividend on behalf of an unemancipated minor under AS 43.23.00S(c) when the minor is the subject of an adoption or guardianship proceeding pending in a tribal court may not elect to contribute from the minor's dividend to a federally recognized tribal government under (a) of this section.

[9:09:35 AM](#)

Co-Chair MacKinnon OPENED public testimony.

LAURIE WOLF, PRESIDENT, FORAKER GROUP, testified in support of the bill. She articulated that the Foraker Group was a statewide nonprofit organization with the purpose to strengthening nonprofits including tribal governments across the state. The group worked with thousands of nonprofits statewide, which included small remote rural communities. The group provided education, facilitation, and planning services. She emphasized that the group was non-partisan. She had been involved in the Pick.Click.Give program since its inception. The program was implemented by the Foraker Group, Rasmussen Foundation, United Way of Anchorage, and DOR. Currently the program was run by the Alaska Community Foundation. The unique program had three goals; to grow the number of donors, to increase the amount of donations to nonprofits, and to raise awareness of the power of individual philanthropy.

[9:13:01 AM](#)

Ms. Wolf continued her testimony. She reported that the "implementation partners" of the program had wanted to include tribal entities lacking 501(c)(3) status as eligible participants. She understood the impetus of the legislation was to assist tribes provide services for youth development, workforce development, arts and culture, and services for the elderly and low income individuals. She emphasized that the group was not opposed to clarifying the statutes to allow the participation of tribal governments in the program.

Senator von Imhof asked about the difference between a 501(c)(3) nonprofit, which was not politically active; versus the 501(c)(4), that had the liberty to engage in political action. She asked about the designated differences and what the status of tribal organizations were. Ms. Wolf qualified that she was not an attorney and could not provide a precise definition of the terms. She acknowledged that Alaskan tribes were independent governments, and many had filed for 501(c)(3) status and some carried 501(c)(4) status. She indicated that the tribal organization was required to meet the criteria established by the program for 501(c)(3) organizations to provide human resource and service needs across the state

to qualify. Regardless of their tax status the program's criteria must be met to qualify for Pick.Click.Give. under the bill. Senator von Imhof understood that the tribal organization was required to meet the fundamental criteria of a 501(c)(3) to qualify under the bill. She relayed that currently one could access the annual financial income for any 501(c)(3) nonprofit with the Form 990. She asked whether the same ability would exist with the non-501(c)(3) tribal governments that qualified for Pick.Click.Give under the bill to determine if they were good stewards of the money. Ms. Wolf was uncertain of the answer. She did not know what the filing requirements were for tribal governments. She offered to provide the information later.

Co-Chair MacKinnon asked for the information to be delivered to her office for committee distribution.

[9:17:35 AM](#)

MARY BISHOP, SELF, FAIRBANKS (via teleconference), spoke in opposition to the bill. She stated that while tribes were endeavoring to carry out worthwhile programs for their members, tribal governments had immunity from lawsuits for activities like misuse of funds, unless a waiver of sovereign immunity was signed. She mentioned a lawsuit between two tribes in Southeast Alaska. She believed the issue was problematic in relation to the bill. She purported that tribes in the Lower 48 were often politically active, and she saw no reason why tribal governments in Alaska would not act similarly. She thought the funds could be used for political purposes. She encouraged the sponsor to amend the legislation to avoid the stated issues.

[9:19:45 AM](#)

Co-Chair MacKinnon CLOSED public testimony.

Co-Chair MacKinnon asked if there was a reason that the bill was not limited to federally recognized tribes in Alaska rather than all federally recognized tribes. Senator Stevens answered in the negative. He furthered that the purpose of the bill was specifically for Alaskan tribes. He reminded the committee that the donated funds in question were from individuals that received PFDs who could choose how to distribute the funds however they desired.

Co-Chair MacKinnon did not see the distinction in the bill and worried that lower 48 tribes could apply for the program. Senator Stevens stated that he had no objection to limiting the bill to Alaskan tribal governments only.

Senator Olsen voiced his support of the bill.

[9:21:46 AM](#)

Vice-Chair Bishop addressed the fiscal impact note, FN1 (REV), from DOR, allocated to the Permanent Fund Dividend Division which was in the amount of \$9,000 in FY 19. He read from page 2 of the analysis:

Additional programming will be required on the PFD application as well as the participation application as tribal governments do not have the same requirements as the other participants, nor are there search options that fit their criteria. As fees are collected, continued administrative costs will be covered. However, since AS 43.23.062(e) states that "the department may not use money from the dividend fund for administrative costs incurred in implementing this section, even if it has been appropriated for costs of administering the dividend program" a onetime amount of \$9,000 will be necessary. This is an estimate of 75 hours of programming at a rate of \$120 per hour.

Senator von Imhof believed that non-profits that received funds from Pick.Click.Give pay a 7 percent annual administrative fee. She asked whether she was correct.

SARA RACE, DIRECTOR, PERMANENT FUND DIVIDEND DIVISION, DEPARTMENT OF REVENUE, answered in the affirmative. She informed committee members that participants in the program pay an initial \$250 application fee and subsequently, 7 percent annually was withheld from contributions for administering the program. She asked if it would make sense to extend the annual fee to any native entities that enter the program via the bill. Ms. Race believed that the bill contained a provision to collect the 7 percent assessment. Senator von Imhof asked if the one-time fee was also included in the bill. Ms. Race stated that the \$250 application fee was included in the legislation.

Co-Chair MacKinnon appreciated the clarity.

[9:25:03 AM](#)

Co-Chair MacKinnon asked whether Ms. Race wanted to provide comments on the bill. She referenced testimony that suggested tribes should currently qualify, and the bill was a clarification rather than a new provision. She also noted the testimony about tribal sovereignty and the potential difficulty in tracking how funds were spent. Ms. Race understood that not all tribal governments had 501(c)(3) status. She clarified that the tribal organizations were subject to the same fees and requirements under the bill. Therefore, from the administrative and agency standpoint the tribal organizations would be like the other organizations the program currently worked with. Co-Chair MacKinnon asked if the bill should require that tribal organizations gain 501(c)(3) status in order to participate in the program. Ms. Race felt that she should not speak to the question.

Senator Micciche inquired why Co-Chair MacKinnon was asking the question. He favored the ability to check the financial records of the tribal participants. Co-Chair MacKinnon stated she was referencing the two previous speakers, one of which had suggested that the bill address the legal immunity issue. She referred to Senator von Imhof's comments about the Form 990 disclosure that 501(c)(3) nonprofits were subject to. She commented that she had asked the question to determine whether the state had legal recourse if the contributions were misused. Senator Micciche requested information regarding how many tribal organizations that could potentially participate in the program were 501(c)(3) nonprofits and how many were not.

Co-Chair MacKinnon asked the sponsor to find the answer.

[9:28:38 AM](#)

Senator von Imhof stated that the Pick.Click.Give program was the "brain child of the Rasmussen Foundation," of which she was a member. She emphasized that the original intent of the program was to provide money to nonprofit organizations designated by its 501(c)(3) status.

Co-Chair MacKinnon asked whether the administration had a position on the bill and whether participation should extend to all federal tribes or exclusively Alaskan tribes.

Ms. Race answered that the agency was neutral on the bill but believed the tribes should be Alaskan.

Co-Chair MacKinnon stated that amendments to the bill were due to her office by the following Thursday at 5:00 p.m.

SB 8 was HEARD and HELD in committee for further consideration.

#sb154

SENATE BILL NO. 154

"An Act relating to contributions from permanent fund dividends to the general fund."

9:30:10 AM

SENATOR DAVID WILSON, SPONSOR, discussed the bill. He voiced that if enacted, Senate Bill 154 would allow Alaskans applying for a Permanent Fund Dividend (PFD) to donate all or a portion of their PFD directly to the state's General Fund (GF). He related that he had heard from many Alaskans who said they would not mind giving "their fair share" to the State of Alaska. This bill would create a process where Alaskans could donate their PFDs to the State General Fund using the Click.Pick.Give program. He indicated that the donations would be tax exempt and exempt from the annual fee and the 7 percent administrative fee. He furthered that a provision in the bill allowed for children in state custody to hold the donations in a trust until the child turns 18 years of age.

GARY ZEPP, STAFF, SENATOR DAVID WILSON, discussed the Sectional Analysis for the bill:

Section 1: Amends AS 43.23.62(a) by adding "to the general fund" and "the general fund" to allow a contribution from the electronic Alaska permanent fund dividend to the state general fund.

Section 2: Amends AS 43.23.062(b) to add "the general fund" to the list of organizations, community foundations, or charitable organizations eligible to be added to the contributions list.

Section 3: Amends AS 43.23.062(m) by adding "general fund or to the" to the list of organizations that do not have a coordination fee withheld.

Mr. Zepp noted that the DOR fiscal note covered all the cost associated with the bill, which was why the donations were exempted from fees.

[9:34:59 AM](#)

Co-Chair MacKinnon OPENED public testimony.

ANGELA COX, VICE PRESIDENT OF EXTERNAL AFFAIRS, RASMUSSEN FOUNDATION, ANCHORAGE (via teleconference), testified in opposition to the bill. She explained that the foundation spearheaded and funded the implementation of the Click.Pick.Give program in 2007 in support of the state's nonprofit sector. The program had raised \$20 million since its exemption. The foundation felt that the bill was not aligned with the "intent of the true spirit" of the program. She stressed that the program was never intended to fund state government. She believed the contributions should be subject to the administrative and application fees if the bill was enacted.

Co-Chair Hoffman asked if Ms. Cox's position represented a formal action from the board. Ms. Cox replied that no formal action was taken but the members "weighed in" on the matter.

[9:37:51 AM](#)

LAURIE WOLF, PRESIDENT, FORAKER GROUP, ANCHORAGE (via teleconference), testified in opposition to the bill. She conveyed that the group was grateful over the success of the program and the charitable spirit of Alaskans. She noted the group supported efforts to enhance the program to better serve nonprofits in pursuit of their mission. The group was concerned that the bill was inconsistent with the original intent of the PFD charitable contributions program and she pointed to the eligibility criteria. The state's GF was not a charitable purpose. She believed the contributions should be subject to the administrative fee if the bill was enacted. The fee exemption would unfavorably add to the burden of the charitable organizations who participated in the program and was a matter of fairness. She maintained that the bill posed a clear policy call to the legislature whether the program should remain true to its original intent. She offered to read the eligibility criteria of the program.

[9:41:54 AM](#)

RANDY GRIFFIN, SELF, FAIRBANKS (via teleconference), testified in support of the legislation. He stated that he had given his dividend to the state for the last three years. He believed that there was a variety of ways to administer the program. He indicated that he had endorsed the PFD check and mailed it to DOR with a list of things he wanted done and requested a receipt. He encouraged people to donate to the state.

[9:43:15 AM](#)

WILLIAM HARRINGTON, SELF, SPENARD (via teleconference), spoke in support of the bill. He reported that he had heard many people endorse taxation and wanted to contribute to government but doubted that many people ever had. He characterized the 7 percent administrative fee as "greedy" and "disgusting."

[9:44:43 AM](#)

Co-Chair MacKinnon CLOSED public testimony.

Senator von Imhof wondered whether federal taxes would be assessed on the PFD amount if it was donated to the GF.

SARA RACE, DIRECTOR, PERMANENT FUND DIVIDEND DIVISION, DEPARTMENT OF REVENUE, stated that she was not a tax expert but surmised that the PFD amount would be taxed as income at the federal level. However, if donated the contribution could be an itemized deduction. Senator von Imhof suggested that it depended on an individual's tax status whether it was a tax deduction. Ms. Race believed that the statement was correct.

Co-Chair MacKinnon thought that Ms. Race had communicated that the PFD was considered as income for federal taxes but could be a deduction if applicable to the individual.

GLENN GUSTAFSON, ASSISTANT ATTORNEY GENERAL, ANCHORAGE (via teleconference), answered in the affirmative and confirmed the statement. He referenced the testifier from Fairbanks, who had to declare the PFD as income but take a deduction as a charitable contribution.

[9:48:44 AM](#)

Senator Micciche thought that if a person gave the entire dividend through the program, a person would have a greater deduction than if the check was sent and subsequently contributed to the state. Mr. Gustafson confused Senator Micciche's question with a deduction regarding the 7 percent administrative fee and how it impacted an individual's deduction. He concluded that there would be no net effect of contributing the PFD and additional taxes were not owed.

Co-Chair MacKinnon asked if Mr. Gustafson was a tax attorney. Mr. Gustafson specified that he was an accountant, and not a tax attorney. Co-Chair MacKinnon thought it was important to ensure the information was accurate on the public's behalf.

Senator Micciche clarified that if an individual denied the check as a contribution back to GF, then there was no income to report. He added that charitable contributions were worth a proportion of the contribution as a deduction.

Co-Chair MacKinnon stated that currently, there was a process at the PFD Division by which residents could withdraw the application, so a check was not received. She noted that the way Mr. Griffin contributed was complex and noted the tax effect would impact individuals in different ways. She informed the committee that everyone else's dividend would proportionately increase by the total amount of everyone who chose to withdraw their application and forego a dividend. She noted that approximately 700,000 Alaskans applied for a dividend out of a population 735,000. She asked Ms. Race whether she was correct.

[9:53:03 AM](#)

Ms. Race answered in the affirmative. She commented that once the dividend was paid out, it became taxable income. Co-Chair MacKinnon asked whether the PFD was reported as income on the form 1099 from the state. Ms. Race answered in the affirmative. She assumed that the testifier from Fairbanks received a 1099 and wanted a receipt for tax reporting.

Senator von Imhof wondered what "accounting mechanism was triggered for the filer" by applying for the PFD and then checking the box to donate it to the GF. Ms. Race reiterated that in the scenario provided an individual that

applied for the PFD would still receive a 1099. The 1099 would include a breakdown of distribution, which would include the donation to the GF. She added that an individual applicant could be subject to other garnishments, which would be paid before the donation to the state.

[9:55:24 AM](#)

Co-Chair Hoffman thought that the problem with not applying for the dividend did not benefit the state, but rather benefitted the other recipients since it did not go back to the GF, but rather made each dividend larger.

Senator Micciche thought it would be beneficial for individuals to be able to donate a dividend to the state without having a tax liability. He communicated that he was a donor to the Pick.Click.Give, and a board member to a "couple" of nonprofits that benefit from the program. He thought it appeared that there were concerns about competition regarding the bills proposed use of the program. He understood the concern among the Rasmussen Foundation and Foraker Group. He believed that the program was a good mechanism to employ for ideas like the one in SB 154. He hoped the committee and organizations could find a way for the appropriate use of the program without complicating the "good ideas" presented during the meeting.

Senator Olson thought his constituents would find it peculiar that an individual would apply for a dividend and then surrender it to the state. He asked how many individuals had done so. Ms. Race relayed that only a handful of individuals had contacted the division. She indicated that when the request was made a staff member provided instructions that the person must endorse the check and send it to DOR with a directive to deposit it to the GF.

[9:58:54 AM](#)

Co-Chair MacKinnon directed attention to the DOR fiscal note, FN2 (REV).

Ms. Race addressed the fiscal impact note. She indicated that the bill was associated with costs in FY 19 and in ensuing years. She read from the analysis on page 2:

Currently, funds collected through the coordination fee and the application fee are used for administrative costs. AS 43.23.062(e) states that "the department may not use money from the dividend fund for administrative costs incurred in implementing this section, even if it has been appropriated for costs of administering the dividend program." For that reason, financial costs will be associated with this bill because no fees will be collected to cover the administrative costs.

Ms. Race stated that because all other organizations were philanthropic, and the proposed state program was not, the department would administer the program instead of the Alaska Community Foundation. The cost was for programming time, application processing, financial reporting, and general administration of the program.

Senator Micciche asked if Ms. Race had an opinion on the matter. He thought that it would be beneficial to employ the same 7 percent administrative fee versus a fiscal note. Ms. Race replied that a 7 percent coordination fee would be one way to reduce ongoing costs for the bill.

[10:01:36 AM](#)

Senator Wilson thought many people had different opinions as to what government was. He listed the many government services the state provided. He envisioned the program to work similarly to the Pick.Click.Give program with a one click option to contribute to the state.

SB 154 was HEARD and HELD in committee for further consideration.

Co-Chair MacKinnon asked for amendments to be turned in to her office by 5:00 p.m. on the following Thursday. She stated that her office would work with the department to modify the fiscal note.

ADJOURNMENT

[10:04:18 AM](#)

The meeting was adjourned at 10:04 a.m.