

**ALASKA STATE LEGISLATURE**  
**HOUSE STATE AFFAIRS STANDING COMMITTEE**

March 20, 2020

2:10 p.m.

**MEMBERS PRESENT**

Representative Zack Fields, Co-Chair  
Representative Jonathan Kreiss-Tomkins, Co-Chair  
Representative Grier Hopkins  
Representative Andi Story  
Representative Steve Thompson  
Representative Sarah Vance  
Representative Laddie Shaw

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

**COMMITTEE CALENDAR**

HOUSE BILL NO. 190

"An Act relating to allowable absences for a permanent fund dividend; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 190

SHORT TITLE: PFD ALLOWABLE ABSENCES

SPONSOR(S): REPRESENTATIVE(S) TALERICO

01/21/20	(H)	PREFILE RELEASED 1/10/20
01/21/20	(H)	READ THE FIRST TIME - REFERRALS
01/21/20	(H)	STA, FIN
02/25/20	(H)	STA AT 3:00 PM GRUENBERG 120
02/25/20	(H)	Heard & Held
02/25/20	(H)	MINUTE(STA)
03/12/20	(H)	STA AT 3:00 PM GRUENBERG 120
03/12/20	(H)	<Bill Hearing Canceled>
03/17/20	(H)	STA AT 3:00 PM GRUENBERG 120
03/17/20	(H)	-- MEETING CANCELED --
03/20/20	(H)	STA AT 2:00 PM GRUENBERG 120

## **WITNESS REGISTER**

EMILY NAUMAN, Deputy Director  
Legislative Legal Services  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 190.

ANNE WESKE, Director  
Permanent Fund Dividend (PFD) Division  
Department of Revenue (DOR)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 190.

REPRESENTATIVE DAVE TALERICO  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 190, as prime sponsor.

## **ACTION NARRATIVE**

[2:10:57 PM](#)

**CO-CHAIR JONATHAN KREISS-TOMKINS** called the House State Affairs Standing Committee meeting back to order at [2:10] p.m. Present at the call back to order were Representatives Shaw, Hopkins, Story, Thompson, Vance, Fields, and Kreiss-Tomkins.

### **HB 190-PFD ALLOWABLE ABSENCES**

[2:11:09 PM](#)

**CO-CHAIR KREISS-TOMKINS** announced that the only order of business would be HOUSE BILL NO. 190, "An Act relating to allowable absences for a permanent fund dividend; and providing for an effective date."

[2:11:57 PM](#)

**CO-CHAIR FIELDS** moved to adopt the committee substitute (CS) for HB 190, Version 31-LS1273\S, Nauman, 3/19/20, as the working document.

**REPRESENTATIVE THOMPSON** objected.

CO-CHAIR KREISS-TOMKINS referred to the document, entitled "HB 190 Explanation of Changes - Ver. A to Ver. S," included in the committee packet. Under Version S, [Sections 3 and 4], there would be a 120-day limit on the number of out-of-state days allowable per year for someone receiving a permanent fund dividend (PFD). Under Section 1 of Version S, an out-of-state person receiving a PFD under an eligible absence, would be required to return to Alaska every two years for seven consecutive days, instead of 72 hours; as per Section 4, the person would be required to be physically present in Alaska every five years for 90 cumulative days, rather than 30 cumulative days.

REPRESENTATIVE THOMPSON offered the following scenario: someone in the army is stationed out of state and is eligible for the PFD; the person owns a house in Fairbanks and his/her children plan to attend the University of Alaska Fairbanks; the family needs their PFDs. He maintained that requiring the military person to return to Alaska for seven days is unfair to military personnel.

[2:15:20 PM](#)

REPRESENTATIVE THOMPSON continued by asserting that reducing the allowable absence days from 180 to 120 for settling an estate and for "snowbird" travel is also unfair.

REPRESENTATIVE THOMPSON referred to Section 4 of Version S, which would change the number of allowable absence days in each of the five preceding qualifying years from 180 to 120. He asked whether under Version S, someone who had been receiving a PFD for the five preceding years would now be denied a PFD because he/she had been following the 180-day allowance rule for the five preceding years.

REPRESENTATIVE SHAW clarified the question: Would a person, who has been absent for 170 days each year for the previous three years, have that count against him/her for receiving a PFD for the current year?

CO-CHAIR KREISS-TOMKINS answered that Section 4 refers to people who are out of state for a large part of the year and qualify for the PFD under eligible absences. The statute requires a person, who is out of state for more than half the year for many years, be physically present in Alaska a certain amount of time after five years to still qualify for a PFD under his/her eligible absence. He expressed his belief that the answer to

Representative Thompson's question is no, so long as every five years the person spends 90 cumulative days in Alaska and seven consecutive days in Alaska every two years.

[2:20:27 PM](#)

EMILY NAUMAN, Deputy Director, Legislative Legal Services, relayed that the answer to the question depends in part on the Department of Revenue (DOR) interpretation of the change in statute. She stated that for someone who was absent from Alaska 180 days [per year] for the past four years, the 120-day standard under Version S would make that person ineligible. She expressed her belief that such would be the likely interpretation of DOR. She suggested that Version S could be amended to give people in that situation a grace period to adjust to the 120-day standard. She stated that under Section 4 of Version S, subparagraph (d), the 120-day absence represents a presumption that the individual is no longer a state resident; the individual could rebut that presumption by demonstrating physical presence in the state for 90 [cumulative] days during the past five years and meeting the state resident qualifications as defined by AS 43.23.295(7).

CO-CHAIR KREISS-TOMKINS added that in answer to Representative Thompson's question, the person could still qualify for a PFD as long as he/she satisfied the requirement of [providing evidence of being in Alaska] 90 cumulative days every five years and seven consecutive days every two years. If the person failed to meet that standard, then he/she would be ineligible.

MS. NAUMAN concurred. She stated that AS 43.23.008(d) could be considered an additional paperwork trigger; it constitutes a point at which the PFD Division notices the person's absence and requires additional proof of residency using additional standards.

[2:24:06 PM](#)

REPRESENTATIVE THOMPSON asked how changing the requirement from 30 days to 90 days under Section 4 of Version S would affect people receiving PFDs under the current law. He asked, "Would they now be ineligible for PFDs?"

CO-CHAIR KREISS-TOMKINS answered yes. He explained that under the current provision, an out-of-state Alaskan who qualifies for a PFD under the eligible absences, proves residency and intent to live in Alaska by fulfilling the requirements of 72 hours in

Alaska every two years and 30 days in Alaska every five years. He offered that those requirements are very lenient. He maintained that the new requirements under Version S are more appropriate.

[2:25:31 PM](#)

REPRESENTATIVE HOPKINS asked whether Version S, if passed, would impact those applying this year for the PFD distributed October 2020.

MS. NAUMAN explained that the applicability language on page 4, lines 29-30, states that the changes under Version S would apply to qualification for a 2020 PFD paid out in 2021.

REPRESENTATIVE HOPKINS suggested that changing line 30 to specify 2022 instead of 2021 would allow people to plan for their absences in 2021.

MS. NAUMAN replied, that's correct.

[2:27:20 PM](#)

REPRESENTATIVE THOMPSON reiterated the scenario: a military member is registered to vote in Fairbanks, owns a house in Fairbanks, pays property tax in Fairbanks, plans to retire to Fairbanks, and is close to retirement. He maintained that requiring that person to return to Alaska for seven consecutive days is burdensome. He acknowledged that there are many military personnel with no intention of returning to Alaska who continue to collect PFDs for their families.

CO-CHAIR KREISS-TOMKINS stated that he shared Representative Thompson's concern; however, under Version S, people would be required to demonstrate that they are "serious about Alaska" by being physically present for one week every two years.

[2:30:08 PM](#)

ANNE WESKE, Director, Permanent Fund Dividend (PFD) Division, Department of Revenue (DOR), concurred with Representative Kreiss-Tomkins's assessment. She added that the changes to statute under Version S would apply to individuals gone from Alaska for over 358 days per year; this applies to a small group of applicants - about 825 per year.

[2:31:37 PM](#)

REPRESENTATIVE THOMPSON offered that settling the estate of a deceased family member could possibly take longer than 120 days. He asked whether there is any leeway for that period.

CO-CHAIR KREISS-TOMKINS expressed his understanding that settling a family estate constitutes an eligible absence under the statute; therefore, under Version S, a person settling a family estate would be allowed to be absent an additional 120 days over the [120] days allowed. He maintained that "allowable absences don't count against your quota of time you have to spend in Alaska."

MS. WESKE concurred.

[2:34:05 PM](#)

REPRESENTATIVE VANCE asked for clarification of the maritime registered apprenticeship program under Section 3(a)(17) of Version S.

CO-CHAIR FIELDS explained that registered apprenticeship programs exist under the National Apprenticeship Act [1937], also known as the Fitzgerald Act, which has governed post-secondary industry-funded training programs since 1937. Alaska has some of the most robust apprenticeship programs in the country. Under the maritime apprenticeship program, Alaskans attend the Paul Hall Center for Maritime Training and Education in Maryland for classroom training; on-the-job training takes place in waters all over the world; the training is funded by the shipping industry. He relayed that in 2014, DOR promulgated regulations that in effect precluded participants in the industry-funded training programs from receiving PFDs, because those programs are not subject to receive financial aid. Participants of tuition-based training institutions are eligible to receive PFDs.

CO-CHAIR FIELDS mentioned the support of Alaska's U.S. Representative Don Young and former U.S. Senator Ted Stevens, who encouraged and supported recruiting Alaskans to work in the maritime industry. He cited AS 43.23.008(a), which read in part:

(a) Subject to (b) and (d) of this section, an otherwise eligible individual who is absent from the state during the qualifying year remains eligible for a current year permanent fund dividend if the

individual was absent

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

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

CO-CHAIR FIELDS pointed out that paragraph (2) is the basis for the Alaska Commission on Postsecondary Education's (ACPE's) determination that participants can only receive PFDs if the training program receives financial aid. He emphasized that the students should not be discriminated against because the industry pays for the program.

[2:38:59 PM](#)

MS. WESKE relayed that the Division is working with the Department of Law (DOL) to find a remedy to the situation described. She maintained that the Paul Hall Center for Maritime Training and Education in Maryland is a credible school; however, the division must be careful not to give too much latitude regarding eligible programs; the solution to the issue may be to specify the maritime career path in statute.

CO-CHAIR FIELDS added that there was a time when the federal government squandered money on for-profit training programs that didn't have good outcomes. He stated that he didn't want to encourage participants to go out of state and subsidize a for-profit training program that was not connected to employment. He maintained that the language in Version S specifically states a "registered apprenticeship" program; under the federal definition of apprenticeship, the program must be connected to employment.

[2:40:55 PM](#)

REPRESENTATIVE HOPKINS asked how many Alaskans are in the registered maritime apprenticeship program.

MS. WESKE responded that she cannot report the number, because there is no specific data element with that information.

CO-CHAIR FIELDS offered that he believes that there are two individuals.

[2:41:50 PM](#)

REPRESENTATIVE THOMPSON asked whether Version S should be amended to address allowable absences by people displaced by COVID-19 [a novel coronavirus disease].

CO-CHAIR KREISS-TOMKINS mentioned an upcoming amendment on that issue.

CO-CHAIR FIELDS asked to what extent AS 43.23.008(a)(5), "receiving continuous medical treatment," addresses the issue of COVID-19.

MS. WESKE responded that unless a person has COVID-19, he/she would not be eligible for a PFD under the allowable absences. She stated that it is still early in the COVID-19 situation and the division is open to suggestions.

[2:43:58 PM](#)

REPRESENTATIVE HOPKINS asked whether the division currently has the authority to create a waiver for the COVID-19 [pandemic] situation regarding an individual's inability to return to Alaska.

MS. WESKE answered no.

REPRESENTATIVE VANCE asked the sponsor for comment on Version S.

[2:44:56 PM](#)

REPRESENTATIVE DAVE TALERICO, Alaska State Legislature, expressed his appreciation for the concerns brought forth by committee members, the proposed amendments, and committee discussion. He acknowledged that the appropriateness of the number of days allowed for absences has been a question for him for many years. He offered that "stacking" absences does give someone significant time out of state. He mentioned that he supports the CS and the amendments.

[2:49:02 PM](#)

REPRESENTATIVE VANCE acknowledged that the statutory changes under Version S would not be applicable until the deadline for filing the 2020 PFD application but expressed a need for more

transition time for the sake of public awareness and future travel arrangements.

CO-CHAIR KREISS-TOMKINS asked Ms. Weske whether she anticipates any complications for transitioning under Version S, page 4, lines 19-26.

MS. WESKE answered that adding in an adjustment period of one calendar year would be reasonable. It would give individuals more opportunity to plan.

[2:52:54 PM](#)

REPRESENTATIVE VANCE relayed that with the concerns offered about military personnel returning for 7 days, she would like input from the military as to the feasibility of fulfilling this requirement.

MS. WESKE responded that the division attempts to be careful not to require more time in Alaska than the average military person receives in leave. She offered that 72 hours is an extremely safe amount of time.

[2:54:50 PM](#)

REPRESENTATIVE HOPKINS asked whether Version S closes the loophole which allows military families to be stationed out of state, collect PFDs, but have no intention of returning to Alaska.

MS. WESKE replied that under Version S, the individuals who do the bare minimum - returning for 72 hours - would be eliminated from the PFD rolls; a higher level of action would be required for them to prove that Alaska is truly their home. Many military members rent out their Alaska homes and come back regularly to do maintenance. She clarified for Representative Hopkins that currently if the military members do not return to Alaska for 72 hours every two years, they would not qualify for the PFD and their residency is broken. She stated that currently there are some military members who return only for the 72 hours or only for the 30 consecutive days.

[2:57:47 PM](#)

CO-CHAIR FIELDS asked what effect extending the 72 hours to seven days would have on a military member, who is eligible by

virtue of the allowable absence stated under AS 43.23.008(a)(3), which read:

(3) serving on active duty as a member of the armed forces of the United States or accompanying, as that individual's spouse, minor dependent, or disabled dependent, an individual who is  
(A) serving on active duty as a member of the armed forces of the United States; and

(B) eligible for a current year dividend;

MS. WESKE suggested that the seven days adds another layer of insurance that the individual will return to Alaska.

CO-CHAIR KREISS-TOMKINS responded that currently a person may qualify for a PFD under the allowable absences; if the person is absent year after year, a second layer of qualification is required as proof - the 72-hour and 30-day provisions. The second layer only applies to people collecting PFDs year after year under an allowable absence while not physically present in Alaska.

MS. NAUMAN concurred.

[3:01:40 PM](#)

REPRESENTATIVE VANCE referred to the 825 applicants to whom Version S would apply and asked for the categories of allowable absences of the group.

MS. WESKE answered that there are three main categories - military, students, and those with medical concerns.

[3:04:17 PM](#)

REPRESENTATIVE THOMPSON withdrew his objection.

CO-CHAIR KREISS-TOMKINS objected. He commented that he is committed to providing more information to address the concerns and questions of the committee. He withdrew his objection. There being no further objection, Version S was before the committee as the working document.

[HB 190 was held over.]

[3:05:15 PM](#)

The House State Affairs Standing Committee meeting was recessed at 3:05 p.m. to a call of the chair. [The meeting reconvened March 21, 2020.]