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# COMMITTEE REPORT

## SENATE

FURTHER: FINANCE

11/17/84

Date \_\_\_\_\_

Mr. President

The Committee on JUDICIARY considered CSNY 575 (Fin) 11/16/84

Permanent Fund dividends for individuals incarcerated after conviction for a felony, etc.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

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\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Chairman recommendation

Sec. 43.23.065. EXEMPTION OF PERMANENT FUND DIVIDENDS. Fifty percent of the annual permanent fund dividend payable to an individual is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. This exemption applies to an eligible individual's permanent fund dividend both before and after payment is made to the individual. No exemption is available under this section for permanent fund dividends taken to satisfy child support obligations required by court order or decision of the child support enforcement agency under AS 47.23.140 - 47.23.220. The exemption provided by this section does not apply to the collection of a debt owed to the state or to a court-ordered payment of restitution to the victim of a crime.

Original sponsors: Barnes, Hayes,  
Russell, et al

*By Josephson*

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 575 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to permanent fund dividends for  
7 individuals incarcerated after conviction for a  
8 felony; and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 43.23.005 is amended by adding new subsections to read:

11 (d) Notwithstanding the provisions of (a) - (c) of this section,  
12 an individual who has been convicted of a felony is not eligible for a  
13 permanent fund dividend for a year when, during all or part of the  
14 eligibility period for that year's dividend, as a result of the con-  
15 viction the individual is incarcerated for the felony. An individual  
16 incarcerated in accordance with this subsection is considered to be  
17 ineligible whether or not the individual has applied for the dividend.

18 (e) The spouse of an individual ineligible to receive a perma-  
19 nent fund dividend under (d) of this section may apply for and receive  
20 that individual's dividend if the spouse is an eligible individual  
21 under (a) of this section. If there is no spouse the <sup>dependent</sup> children of the  
22 ineligible individual or their authorized representative, may apply  
23 for and receive the permanent fund dividend in equal shares, but only  
24 children who are eligible individuals under (a) of this section may  
25 receive all or part of a dividend under this subsection.

26 \* Sec. 2. AS 43.23.025 is amended by adding a new subsection to read:

27 (b) for the purpose of calculating the amount of a permanent  
28 fund dividend under (a) of this section an individual who is ineli-  
29 gible to receive a dividend under the provisions of AS 43.23.005(d)

1 shall be considered to be an eligible individual.

2 \* Sec. 3. AS 43.23.055 is amended to read:

3 Sec. 43.23.055. DUTIES OF THE DEPARTMENT. The department shall

4 (1) annually pay permanent fund dividends from the dividend  
5 fund;

6 (2) adopt regulations under the Administrative Procedure  
7 Act (AS 44.62) that establish procedures and time limits for claiming  
8 a permanent fund dividend; the department shall set the time limit for  
9 applications for permanent fund dividends so that the number of eli-  
10 gible applicants is determined by December 1 of the year for which the  
11 dividend is declared and permanent fund dividends for a year are paid  
12 before April 30 of the year following that year;

13 (3) adopt regulations under the Administrative Procedure  
14 Act (AS 44.62) that establish procedures and time limits for an indi-  
15 vidual upon emancipation or upon reaching majority to apply for perma-  
16 nent fund dividends not received during minority because the parent,  
17 guardian, or other authorized representative did not apply on behalf  
18 of the individual;

19 (4) assist residents of the state, particularly in rural  
20 areas, who because of language, disability, or inaccessibility to  
21 public transportation need assistance to establish eligibility and to  
22 apply for permanent fund dividends;

23 (5) annually determine, in cooperation with the Department  
24 of <sup>Corrections</sup> Health and Social Services, the number and identity of individuals  
25 ineligible for a permanent fund dividend under AS 43.23.005(d);

26 (6) adopt other regulations that are necessary to implement  
27 the provisions of this chapter.


28 \* Sec. 4. This Act applies only to eligibility for permanent fund  
29 dividends for years after 1983.

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\* Sec. 5. It is the intent of the legislature that an amount approximately equal to the money that would otherwise be paid as permanent fund dividends to individuals ineligible under AS 43.23.005(d), enacted by sec. 1 of this Act, less the amount paid to the spouse and children of the ineligible individuals under AS 43.23.005(e), enacted by sec. 1 of this Act, be appropriated annually from the dividend fund to the crime victim compensation fund (AS 18.67.162), to be used for the purposes stated in AS 18.67 or be appropriated to the Department of Corrections to pay for prison operations.

\* Sec. 6. This Act takes effect immediately in accordance with AS 01.-10.070(c).

MEMO

TO: SEN JOE P. JOSEPHSON  
FR: REX L. BUTLER, ADMIN. ASS'T   
RE: SECTIONAL ANALYSIS AMENDMENTS TO CSHB575  
DA: APRIL 27, 1984

SECTION ONE:

The court is given the authority to order that the defendant's permanent fund dividend be used to satisfy a restitution order.

SECTION TWO:

(d) Establishes that the defendant is not entitled to a permanent fund dividend until the restitution order is fully complied with.

(e) Establishes that the entire permanent fund dividend or however much is needed be used to satisfy the restitution order.

SECTION THREE:

(i) Establishes that an unsatisfied order of restitution will operate as a dividend application for the purposes of carry forth the intent of this bill.

SECTION FOUR:

(b) Creates the eligibility requirement for the person against whom an outstanding order of restitution exist.

SECTION FIVE:

Sets out the duty of the Department of Revenue.

SECTION SIX:

Amends section 43.23.065. to clarify that when an outstanding order of restitution and an order for child support are competing for the permanent fund dividend, the child support order takes priority.

SECTION SEVEN:

Establishes that those defendants affected will be those who apply for permanent fund dividends after 1983.

A title change to the current bill is necessary to accommodate these changes. The new title should reflect defendants upon conviction rather than just those incarcerated.

DRAFT #2

\* Section 1. AS 12.55.045 is amended by adding a new subsection to read:

(d) If a defendant is unable to immediately satisfy an order of restitution, the court may order the payment of an eligible defendant's permanent fund dividend under AS 43.23 to satisfy the order. An order under this subsection carries over from permanent fund year to permanent fund year until total restitution is paid. A certified copy of a restitution order issued under this subsection shall be sent to the Department of Revenue.

Sec. 2. AS 43.23.005 is amended by adding a new subsections to read:

(d) Notwithstanding the provisions of (a)-(c) of this section, an individual who has an unsatisfied order of restitution issued under AS 12.55.045(d) is not eligible for a permanent fund dividend until the order of restitution is satisfied.

(e) An amount equal to the money that would otherwise be paid to an individual ineligible under (d) of this section shall be paid to the victim of the offense as set forth in the order of restitution issued under AS 12.55.045(d).

Sec. 3. AS 43.23.015 is amended by adding a new subsection to read:

(i) Notwithstanding the provisions of AS 43.23.005(a) and (a)-(f) of this section, an unsatisfied order of restitution issued under AS 12.55.045(d) against an individual operates as an application for a dividend for that individual.

Sec. 4. AS 43.23.025 is amended by adding a new subsection to read:

(b) for the purpose of calculating the amount of a permanent fund dividend under (a) of this section, an individual with an unsatisfied order of restitution issued under AS 12.55.045(d) shall be considered an eligible individual.

Sec. 5. A.S. 43.23.055 is amended to read:

Sec. 43.23.055. DUTIES OF THE DEPARTMENT. The department shall

(1) annually pay permanent fund dividends from the dividend fund:

(2) adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for claiming a permanent fund dividend; The

department shall set the time limit for applications for permanent fund dividends so that the number of eligible applicants is determined by December 1 of the year for which the dividend is declared and permanent fund dividends for a year are paid before April 30 of the following year;

(3) adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for an individual upon emancipation or upon reaching majority to apply for permanent fund dividends not received during minority because the parent, guardian, or other authorized representative did not apply on behalf of the individual;

(4) assist residents of the state, particularly in rural areas, who because of language, disability, or inaccessibility to public transportation need assistance to establish eligibility and to apply for permanent fund dividends;

(5) adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for payment of a permanent fund dividend to victims set forth in an unsatisfied order of restitution issued under AS 12.55.045(d). The department may provide a procedure for proof of satisfaction of an order issued under AS 12.55.045(d).

Sec. 6. AS 43.23.065 is amended to read:

Sec. 43.23.065. EXEMPTION OF PERMANENT FUND DIVIDENDS. Fifty percent of the annual permanent fund dividend payable to an individual is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. This exemption applies to an eligible individual's permanent fund dividend both before and after payment is made to the individual. No exemption is available under this section for permanent fund dividends taken to satisfy child support obligations required by court order [OR], a decision of the child support enforcement agency under AS 47.23.140 - 47.23.220, or an order of restitution under AS 12.55.045(d). In the event a child support obligation and an order of restitution are both outstanding against an individual, the child support obligation shall be given preference.

Sec. 7. This Act applies to eligibility for permanent fund dividends for years after 1983.

ALASKA

STATE LEGISLATURE

**MEMORANDUM**

Wally Kubley stopped by - He <sup>would like you</sup> Bill McIlroy -  
endorsed as one of the "public" members"  
on the Special Committee on Longevity Bonus -  
The Finances of Alaska are also going to  
send a letter to Governor Sheddwell endorsing  
Mr. McIlroy

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# Alaska State Legislature


## Senate

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

TO: Senator Bill Ray  
FROM: Senator Joe P. Josephson  
DATE: March 26, 1984

RE: Proposed Substitute for CSHB 575

 Pursuant to your suggestion that we consider CSHB 575 with new language which would transfer permanent fund money from a convicted felon to the felon's spouse, or children, I have had drawn up some proposed language for consideration. I asked the drafters to consider problems associated with the transfer of dedicated funds when they drafted the language. The attached proposed language reflects this effort.

Also, line 21 on page 1, dependent ought to be inserted before children.

Further, line 24 on page 2 will need to be changed from (Health and Social Services) to Corrections now that we have a Department of Corrections. My submittal of this material does not necessarily connote my support of this or any other version of CSHB 575.

TO: Senator Bill Ray  
FROM: Paula d. Scavera  
DATE: March 22, 1984  
RE: CSHB 575 (Finance) (Title am)

This bill prevents an convicted felony offender from collecting a Permanent Fund Dividend during any year that he is jail after the conviction. The money that would normally be paid to this class of recipients from the Permanent Fund is intended to be appropriate annually to the Victims Compensation Fund.

SECTION 1

Adds language to the Permanent Fund program preventing convicted incarcerated felons from collecting Permanent Fund checks.

SECTION 2

Amends Permanent Fund program to provide mechanism for determining amount of permanent fund dividend to paid annually including the now excluded class of convicted felons.

SECTION 3

Amends Permanent Fund program requiring Dept. of Revenue to determine those incarcerated felons who are now ineligible for a Permanent Fund Dividend check. This language refers to the Department of Health and Social Services and should refer to the Department of Corrections.

SECTION 4

Makes changes in Permanent Fund Dividend program apply for dividends awarded in 1984.

SECTION 5

Intent language for the purpose of Victims Crimes Compensation Fund to receive the Permanent Fund Dividend money that would previously gone to the incarcerated felons. However the victims eligible for compensation under this fund are a small percentage of all victims.

SECTION 6

Effective date clause.

# MEMORANDUM

# State of Alaska

TO: Bruce Botelho  
Deputy Commissioner  
Department of Revenue

DATE: February 15, 1984

FILE NO: 366-424-84

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch  
Attorney General

SUBJECT: Review of HB 575,  
relating to PFD pay-  
ments to prisoners

By: Diane T. Colvin *DTC*  
Assistant Attorney General  
Commercial-Juneau

You asked us to review House Bill 575, relating to payment of permanent fund dividends to convicted felons, for possible legal problems. Based on our review, we conclude that the bill, if enacted, could be challenged on a number of grounds. The provisions most vulnerable to legal challenge are summarized below.

HB 575 makes a convicted felon ineligible for a permanent fund dividend. The prohibition is applied not only to a felon who is in prison, but also to one who is on probation, on parole, or under a suspended imposition of sentence (Sec. 1).

There are other state laws that impose similar disabilities on convicted felons. Art. V, § 2, Alaska Constitution, implemented by AS 15.05.030, suspends the right to vote of a person convicted of a felony of moral turpitude. The disability continues until the individual's civil rights are restored by unconditional discharge. Unconditional discharge covers conviction and sentence, including, by definition (AS 15.60.010(32), probation and parole, and, according to an opinion of this office, suspended imposition of sentence. 1980 Inf. Op. Att'y. Gen. (Nov. 7).

Statutes imposing disabilities relating to suffrage have traditionally been upheld as necessary to preserve the purity of elections. The presumption is that one rendered infamous by conviction of a felony is not fit to exercise the privilege of voting. *State ex rel. Barrett v. Sartorius*, 351 Mo. 1237, 175 S.W.2d 787 (1943). See, also Annot., 36 A.L.R.2d 1238 (1954).

Other statutory provisions affect prisoners' civil rights. AS 33.30.310 provides as follows:

A judgment of imprisonment in the penitentiary for a term less than for life suspends the civil rights of the person sentenced, and forfeits all public offices and all private trusts, authority, or power during the term or duration of imprisonment.

AS 33.30.320 relates to the civil rights of a person sentenced for life.

AS 33.30.310 was found unconstitutional by the Alaska Supreme Court to the extent the statute denied a parolee the right to initiate a civil suit in court. Bush v. Reid, 516 P.2d 1215 (1973). The court held that the statute denied the parolee the right to due process and equal protection. In its equal protection analysis, the court recognized that the state may have a reasonable basis for denying convicts while imprisoned access to the civil courts. Id. 1221. But, the court found, the administration of a parole system differs substantially from the administration of a prison. The reasons that support imposition of disabilities on prisoners cannot logically support the same restrictions on parolees. Id. Thus, the court concluded that although the state has a legitimate interest in restricting some activities of parolees, prohibiting a parolee from initiating a civil action has no logical connection with that interest. Therefore, the court held parolees were denied the right to equal protection.

We believe the court would make a similar finding in regard to the right to a permanent fund dividend while on parole. There may be a legitimate state interest in precluding a person incarcerated from receiving a permanent fund dividend. 1/ It is difficult, however, to construct a logical basis for denying a dividend to a parolee. The purpose of parole, recognized by the court in Bush v. Reid, is the parolee's constructive development and restoration into normal society. Cutting a parolee off from receipt of a permanent fund dividend does not further that purpose, but rather restricts it. We believe the same argument would apply to persons given a suspended imposition of sentence and placed on probation. The broad objectives sought by

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1/ HB 57 does not indicate what the legitimate state purpose is. It would be advisable for the legislature to make that determination, and to embody the purpose or purposes in a letter of intent to accompany the bill.

TO: Senator Bill Ray  
FROM: Paula d. Scavera  
DATE: March 22, 1984  
RE: CSHB 575 (Finance) (Title am)

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SECTION 6

Effective date clause.

Bruce Botelho, Deputy Commissioner  
Department of Revenue  
Our file no.: 366-424-84

February 15, 1984  
Page 3

probation are education and rehabilitation. These objectives are not furthered by restricting the right to receive a permanent fund dividend. Therefore, we believe that revising the bill to restrict receipt of a dividend only to convicted felons who are incarcerated would make the bill much less vulnerable to attack on equal protection grounds.

Another point on which the bill is vulnerable is the period of time for determination of ineligibility. Section 1 of the bill now makes a convicted felon ineligible for a dividend for a particular year if, during all or part of that year, the person is incarcerated, on probation, etc. AS 43.23.005 requires only six months of residency to qualify for a permanent fund dividend. We believe in order to be legally supportable the period of incarceration must coincide with at least some portion of the period of eligibility. 2/

Finally, section 1 of the bill provides that the money that would have been paid to persons made ineligible by the bill be transferred from the dividend fund to the crime victim compensation fund. This may raise problems under Art. IX, § 13, of the Alaska Constitution, relating to expenditures of state funds. A better approach would be for the bill to provide that the legislature may appropriate the amount that would have been paid to the crime victim's compensation fund. In order to effect the transfer, the amount that would otherwise have been paid must be set out in an appropriation bill to the crime victim's compensation fund.

We hope this information is helpful to you. If you have further questions, please contact us.

NCG:DTC:eja

cc: The Honorable Charlie Bussell  
Alaska State House of Representatives

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2/ 15 AAC 23.615(a) establishes for 1983 dividends an eligibility period from October 3, 1982 through March 31, 1983. This period will probably differ in 1984 and subsequent years because of changes in the statute.

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date 03/07/84

Page 1 of 3  
REQUEST  
Bill/Resolution No: CSHB 575 (Fin)  
Title: An Act relating to permanent fund dividends  
Sponsor: House Finance Committee  
Requestor: House Finance Committee  
Date of Request: March 6, 1984

FISCAL DETAIL  
Agency Affected: Revenue  
Program Category Affected: General Government  
BRU, Program or Subprogram(s) Affected: Permanent Fund Dividend

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	-	33.6	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	1.0	-	-	-	-
400 SUPPLIES	-	.2	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	34.8	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	34.8	-	-	-	-
TOTAL	-	34.8	-	-	-	-

POSITIONS:

FULL-TIME	-	1	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Dividend fund established by AS 43.23.045.

ANALYSIS: Please see attached narrative for analysis.

Prepared By: Thomas C. Williams, Director  
Division: Enforcement

Phone: 465-2366  
Date: March 7, 1984

Approved by Commissioner: Paul O'Leary  
Agency: DOR

Date: 3/7/84

Distribution (by Agency preparing fiscal note):

Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

nc (Fin) - adp.

A. Program Effects

Section 1 further defines the eligibility requirements of AS 43.23.005 by adding a new subsection which declares convicted felons who are incarcerated ineligible to receive a permanent fund dividend if they were incarcerated for said felony during any part of the eligibility period for a particular year's dividend. For example, the six-month eligibility period for the 1984 dividend is October 1, 1983 through March 31, 1984. Under this bill, an individual who was incarcerated for a felony conviction during this period or was incarcerated during any part of this period, would be ineligible for a 1984 permanent fund dividend.

Section 1 also provides that the Department of Health & Social Services will provide a magnetic tape to the Department of Revenue, once a year within 60 days of the close of the PFD eligibility period, listing all convicted felons who were incarcerated during any part of the eligibility period. Modifications will need to be made to the PFD system to do a cross-match on at least all adult applications, so those which appear to be felons can be individually identified and reviewed. The Department of Revenue will, of course, have to be extremely careful that a "non-felon" is not accidentally denied on the grounds of felony conviction. The estimated resources necessary to accomplish this task are identified below under C. Program Summary.

Section 2, combined with the added subsections in Section 3, require the Department of Revenue to estimate the number of convicted felons under sentence for felony as described in Section 1.

Under Section 5, the dividends otherwise payable to the estimated number of individuals, whether or not they file, would then be presumably reappropriated the next legislative session to the Crime Victim Compensation Fund. Since the value of an individual dividend is not known until some time in the fall of a given dividend year, the Legislature would not be able to appropriate the amount described in Section 5 until the session following the dividend year. Since the funds were originally appropriated for the purpose of paying dividends, a reappropriation for the purpose described in AS 18.67 would seem appropriate.

B. Assumptions

1. The PFD program is retained and there are no other substantive changes to the program.
2. The Department of Health and Social Services can provide the Department of Revenue with a magnetic tape accurately identifying all convicted felons who were incarcerated during any part of the eligibility period.

C. Program Summary

This bill would require one full time PFD Investigator who would be assigned felons on a project basis. The primary functions of this position would be to conduct confirming investigations on a portion of applicants identified as felons, resolve instances where an individual was inappropriately identified as a felon, respond to related inquiries, process denials of felons under sentence who do apply, and hold informal conferences related to appeals from felons under sentence. In addition, there would be associated contractual services and supply costs.

Personnel Services (100)

PFD Investigator II (RL3) 12 months @ \$2,800/mo. \$33,600

Contractual Services (300)

Telephone, form letters, postage, etc. 1,000

Supplies (400)

General Office Supplies 200

Total \$34,800

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date 03/07/84

Page 1 of 3

REQUEST  
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<b>CAPITAL</b>						
	-	-	-	-	-	-
<b>REVENUE</b>						
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FUNDING: (Thousands of Dollars)

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POSITIONS:

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ANALYSIS: Please see attached narrative for analysis.

Prepared By: Thomas C. Williams, Director  
 Division: Enforcement

Phone: 465-2366  
 Date: March 7, 1984

Approved by Commissioner: [Signature]  
 Agency: DOR

Date: 3/7/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

*oc (Fin) - adp.*

A. Program Effects

Section 1 further defines the eligibility requirements of AS 43.23.005 by adding a new subsection which declares convicted felons who are incarcerated ineligible to receive a permanent fund dividend if they were incarcerated for said felony during any part of the eligibility period for a particular year's dividend. For example, the six-month eligibility period for the 1984 dividend is October 1, 1983 through March 31, 1984. Under this bill, an individual who was incarcerated for a felony conviction during this period or was incarcerated during any part of this period, would be ineligible for a 1984 permanent fund dividend.

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B. Assumptions

1. The PFD program is retained and there are no other substantive changes to the program.
2. The Department of Health and Social Services can provide the Department of Revenue with a magnetic tape accurately identifying all convicted felons who were incarcerated during any part of the eligibility period.

C. Program Summary

This bill would require one full time PFD Investigator who would be assigned felons on a project basis. The primary functions of this position would be to conduct confirming investigations on a portion of applicants identified as felons, resolve instances where an individual was inappropriately identified as a felon, respond to related inquiries, process denials of felons under sentence who do apply, and hold informal conferences related to appeals from felons under sentence. In addition, there would be associated contractual services and supply costs.

Personal Services (100)

PFD Investigator II (R13) 12 months @ \$2,800/mo. \$33,600

Contractual Services (300)

Telephone, form letters, postage, etc. 1,000

Supplies (400)

General Office Supplies 200

Total \$34,800

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date 03/07/84

Page 1 of 3

REQUEST

Bill/Resolution No: CSHB 575 (Fin)  
 Title: An Act relating to permanent fund dividends  
 Sponsor: House Finance Committee  
 Requestor: House Finance Committee  
 Date of Request: March 6, 1984

FISCAL DETAIL

Agency Affected: Revenue  
 Program Category Affected: General Government  
 BRU, Program or Subprogram(s) Affected: Permanent Fund Dividend

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<u>OPERATING</u>						
100 PERSONAL SERVICES	-	33.6	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	1.0	-	-	-	-
400 SUPPLIES	-	.2	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
<u>TOTAL OPERATING</u>	-	34.8	-	-	-	-
<u>CAPITAL</u>	-	-	-	-	-	-
<u>REVENUE</u>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	34.8	-	-	-	-
<u>TOTAL</u>	-	34.8	-	-	-	-

POSITIONS:

FULL-TIME	-	1	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Dividend fund established by AS 43.23.045.

ANALYSIS: Please see attached narrative for analysis.

Prepared By: Thomas C. Williams, Director  
 Division: Enforcement

Phone: 465-2366

Date: March 7, 1984

Approved by Commissioner: [Signature]  
 Agency: DFR

Date: 3/7/84

Distribution (by Agency preparing fiscal note):

Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

100 (Fin) - adp.

A. Program Effects

Section 1 further defines the eligibility requirements of AS 43.23.005 by adding a new subsection which declares convicted felons who are incarcerated ineligible to receive a permanent fund dividend if they were incarcerated for said felony during any part of the eligibility period for a particular year's dividend. For example, the six-month eligibility period for the 1984 dividend is October 1, 1983 through March 31, 1984. Under this bill, an individual who was incarcerated for a felony conviction during this period or was incarcerated during any part of this period, would be ineligible for a 1984 permanent fund dividend.

Section 1 also provides that the Department of Health & Social Services will provide a magnetic tape to the Department of Revenue, once a year within 60 days of the close of the PFD eligibility period, listing all convicted felons who were incarcerated during any part of the eligibility period. Modifications will need to be made to the PFD system to do a cross-match on at least all adult applications, so those which appear to be felons can be individually identified and reviewed. The Department of Revenue will, of course, have to be extremely careful that a "non-felon" is not accidentally denied on the grounds of felony conviction. The estimated resources necessary to accomplish this task are identified below under C. Program Summary.

Section 2, combined with the added subsections in Section 3, require the Department of Revenue to estimate the number of convicted felons under sentence for felony as described in Section 1.

Under Section 5, the dividends otherwise payable to the estimated number of individuals, whether or not they file, would then be presumably reappropriated the next legislative session to the Crime Victim Compensation Fund. Since the value of an individual dividend is not known until some time in the fall of a given dividend year, the Legislature would not be able to appropriate the amount described in Section 5 until the session following the dividend year. Since the funds were originally appropriated for the purpose of paying dividends, a reappropriation for the purpose described in AS 18.67 would seem appropriate.

B. Assumptions

1. The PFD program is retained and there are no other substantive changes to the program.
2. The Department of Health and Social Services can provide the Department of Revenue with a magnetic tape accurately identifying all convicted felons who were incarcerated during any part of the eligibility period.

C. Program Summary

This bill would require one full time PFD Investigator who would be assigned felons on a project basis. The primary functions of this position would be to conduct confirming investigations on a portion of applicants identified as felons, resolve instances where an individual was inappropriately identified as a felon, respond to related inquiries, process denials of felons under sentence who do apply, and hold informal conferences related to appeals from felons under sentence. In addition, there would be associated contractual services and supply costs.

Personal Services (100)

PFD Investigator II (R13) 12 months @ \$2,800/mo. \$33,600

Contractual Services (300)

Telephone, form letters, postage, etc. 1,000

Supplies (400)

General Office Supplies 200

Total \$34,800

Revision Date \_\_\_\_\_

**REQUEST**

Bill/Resolution No: HB 575  
Title: An act relating to permanent fund dividends.  
Sponsor: Barnes  
Requestor: Judiciary  
Date of Request: 02/06/84

**FISCAL DETAIL**

Agency Affected: Revenue  
Program Category Affected: General Government  
BRU, Program of Subprogram(s) Affected: Permanent Fund Dividend

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES	-	33,600	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	4,502	-	-	-	-
400 SUPPLIES	-	200	-	-	-	-
500 EQUIPMENT	-	3,225	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	41,527	-	-	-	-
<b>CAPITAL</b>	-	-0-	-	-	-	-
<b>REVENUE</b>	-	-0-	-	-	-	-

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<b>TOTAL</b>	-	-0-	-	-	-	-

**POSITIONS:**

FULL-TIME	-	-1-	-	-	-	-
PART-TIME	-	-0-	-	-	-	-
TEMPORARY	-	-0-	-	-	-	-

**SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:**

ANALYSIS: See attached analysis.

Prepared By: Ervin B. Jones  
Division: Administrative Services

Phone: 465-2313  
Date: 02/10/84

Approved by Commissioner: George Annello  
Agency: Revenue

Date: 2/15/84

**Distribution (by Agency preparing fiscal note):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

COMMITTEE REPORT

HOUSE

(7)

FURTHER: FINANCE

Date: 2-27-84

2/6/84

The Committee on JUDICIARY has had HB 575

"An Act relating to permanent fund dividends; and providing for an effective date."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 575 (Judiciary)  same title  
 new title.
- and recommends "THAT" IT DO PASS

- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

[Signature] No Rec.

[Signature] - no rec

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature]  
CHAIRMAN



POUCH V  
JUNEAU, ALASKA 99811  
(507) 465-4990

Alaska State Legislature  
HOUSE OF REPRESENTATIVES

REPRESENTATIVE  
CHARLIE BUSSELL  
CHAIRMAN

# Committee on Judiciary

HB 575  
TABLE OF CONTENTS

- A. Proposed Committee Substitute for House Bill No. 575
- B. House Bill No. 575  
"An act relating to permanent fund dividends; and providing for an effective date."
- C. Fiscal Note/Analysis  
Ervin A. Jones, Director, Administrative Services, Department of Revenue.
- D. Analysis  
Tom Williams, Director, Enforcement Division, Department of Revenue.
- E. Letter of Opinion  
Diane T. Colvin, Assistant Attorney General, Department of Law.
- F. Pertinent News Clipping

MEMBERS:  
REP. JOHN LISKA, VICE CHAIRMAN; REP. RAMONA BARNES, EMERITUS;  
REP. JOE HAYES; REP. HUGH MALONE; REP. DON CLOCKSIN; REP. RON WENDTE

## Analysis:

Section 1 of the bill provides for two changes to the current law. First, it provides that convicted felons are ineligible for a permanent fund dividend for any year, when during all or part of that year as a result of their felony conviction, the individual was:

- a. incarcerated
- b. on probation
- c. on parole
- d. under a suspended imposition of sentence.

Secondly, it provides that an amount equal to the foregone dividend would be transferred to the crime victim compensation fund.

There are several major factors which make the provisions of this section, as written, difficult to administer:

1. The permanent fund dividend program is designed by statute to make payments for the same given year for which applications are filed. For example, the 1983 dividend was declared on September 1, 1983, and largely paid by December 31, 1983, based on applications received during the filing period April 1 - June 30, 1983. Assuming the Department of Revenue was able to sort out applications filed by convicted felons who met the requirements of Section 1, we would have to hold all payments until the end of the dividend year, in order to review all applications for "felon status" through the whole year including December. This would not necessarily change the filing period or the declaration date, but would mandate payments being made no sooner than January or February of the year following the dividend year. After the department makes one last massive cross examination of all applications filed, probably in January following the dividend year. The department would still attempt to make all payments by April 30 of the year following the dividend year.
2. The second problem is determining which PFD applicants are convicted felons who meet the statutory test (i.e. incarcerated, on probation, etc.). For the department to identify those persons would require a one-time matching of the PFD master file for a given year against a currently non-existent data base of all Alaskans who met the prescribed condition during the preceding dividend year. This cross match is the one described above as taking place in January following the dividend year. Creating the needed data base would involve two steps:
  - a) Using the OPSIS data base recently established by the Corrections Department, Health & Social Services would need to build a file of all convicted felons who as a result of their felony conviction were, at any time during the dividend year:
    - 1) incarcerated (in or out of Alaska)
    - 2) on probation (in or out of Alaska)
    - 3) on parole (in or out of Alaska).

It should be noted that Corrections has no control over, or records of, convicted felons under suspended imposition of sentence, nor does Corrections have any record of, or knowledge of, Alaska residents who

Analysis (cont.)

are convicted of felonies outside Alaska and are still outside Alaska imprisoned, on parole, on probation, or under suspended sentence. Roger Lang, Deputy Commissioner of Administration for Corrections expressed the opinion that the incidences of the latter would be negligible.

- b) Literally building a tracking system of those felons under suspended sentence. Apparently, individual courts keep these records separately, in a non-computerized fashion. If it is the Legislature's final decision that such a system be created, I think a great deal of study and research, probably by a consultant, would be needed before even an estimate of cost could be arrived at. Deputy Commissioner Lang suggests that the number of convicted felons under suspended sentence in Alaska might be so low as to render the search cost-ineffective.
3. Transferring an amount equivalent to the dividend that is denied the felon applicant to the crime victim compensation fund indirectly funds the crime victim compensation fund (previously strictly a general fund appropriation) from the earnings of the Permanent Fund. Since the number of felons filing will very shortly drop off sharply (when they realize they won't be paid), a more direct appropriation to the crime victims compensation fund would appear to be more beneficial.

In summary, to the extent that a data base is available which identifies the subject felons, and to the extent that they file applications, the Department of Revenue will be able to deny their applications. The cost of doing so, with the exception of suspended sentences, will be very low. The Enforcement Division will need one full-time investigator as reflected on the attached analysis. The postponement of all payments by several months will obviously irritate the general public. For this reason, the department recommends that lines 13, 14 and 15 of the bill be changed to read " . . . permanent fund dividend for a year when, during all or part of the eligibility period for that year's dividend, [that year] as a result of the conviction the individual is incarcerated, on probation, on parole or under a suspended imposition of sentence." This would enable the department to process applications against a fixed file of subject felons and to make payments as soon as the dividend amount is declared.

Enforcement Division Analysis of HB 575  
February 10, 1984

A. Assumptions

1. The PFD program is retained and there are no other substantive changes to the program.
2. It would be possible and practical to obtain information on individual's convicted of a felony. (Please see the discussion under C.)

B. Program Summary

This bill would require one full time PFD Investigator who would be assigned felons on a project basis. In addition, there would be associated contractual services, supply costs, and equipment costs.

	<u>FY '84</u>
<u>Personal Services (100)</u>	
PFD Investigator II (R13)    12 months @ \$2,800/mo.	<u>\$33,600 (1)</u>
<u>Contractual Services (300)</u>	
Telephone	
Telephone purchase    1 phone @    \$60	60 (2)
Installation            1 phone @    \$90	90 (2)
Local Centrex           12 months @ \$46/mo.	552
Long Distance           12 months @ \$150/mo.	1,800
Computer Terminal	
Installation            1 terminal @ \$2,000	<u>2,000 (2)</u>
<u>Total Contractual Services (300)</u>	<u>4,502</u>
<u>Supplies (400)</u>	
General Office Supplies	<u>200</u>
<u>Equipment (500)</u>	
Computer Terminal	1,600 (2)
Desk	575 (2)
Chair	175 (2)
File	275 (2)
Partitions                    2 @ \$300/ea.	<u>600 (2)</u>
<u>Total Equipment (500)</u>	<u>3,225</u>
<u>Total Enforcement</u>	<u>\$41,527</u>

- (1) In FY '85 the cost of the salary and benefits for the investigator is estimated to increase by the negotiated 3.8% salary increase. Accordingly, the FY '85 and subsequent year costs are projected to be \$34,877.
- (2) Several items in contractual services and all equipment items are one time and are not included in FY '85 and subsequent year cost projections.

C. Additional Comments on the Legislation

This legislation is likely to be difficult to administer. The preceding cost analysis was based on the assumption that we would be able to obtain information from several federal, state, and local law enforcement agencies, court systems, and corrections agencies which would have information on the status of felons. Because the bill declares a convicted felon ineligible if at any time during the year he/she was incarcerated, on probation, on parole, or under a suspended sentence the number of ineligibles would grow with each passing day. Since there is not one comprehensive criminal justice system within the United States, it would be a difficult task, at best, to try to obtain and keep that information updated.

Under current law PFD payments could be made in calendar year 1984 for the 1984 program. If subsequent to receiving a PFD payment an applicant became ineligible due to felony conviction, Enforcement would be faced with the task of trying to recover from the felon.

The appeals process may also be impacted as any person who applies and is denied has the right to appeal. It is conceivable that some incarcerated convicted felons, although ineligible by law, may file appeals for the lack of anything else better to do.

TCW/dlr