

HB

245

HB 245      An Act relating to permanent fund dividends  
for individuals incarcerated after conviction for  
a felony; and providing for an effective date.

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- 8)      House HESS minutes, 5/6/87
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HB 245

amendment:

pg. 2, line ~~28~~ 29 - delete:

[ the Dept. of Corrections to  
be used for upkeep of  
inmates. ]

insert - the crime victim  
compensation fund  
(AS 18.67.162), to  
be used for the  
purposes stated in  
AS 18.67.

# STATE OF ALASKA 1987 LEGISLATIVE SESSION

## FISCAL NOTE

**REQUEST:** \_\_\_\_\_  
 Bill Version: HR 45  
 Publish Date: 04-03-87  
 Revision Date: \_\_\_\_\_ Agency Affected: Department of Corrections  
 Title: "An Act relating to permanent fund dividends for individuals incarcerated" BRU: \_\_\_\_\_  
 Sponsor Rep Barnes, Adams, Collins Components: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

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

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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**FUNDING:** (Thousands of Dollars)

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

**POSITIONS:**

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

**ANALYSIS :** (Attach a separate page if necessary)

*Susan Knighton*

Prepared by: Susan Knighton, Research Analyst IV Phone: 04-22-87  
 Division: Statewide Programs Date: 465-3376  
 Approved by Commissioner: Susan Humphrey-Barnett *SHB* Date: 04-22-87  
 Agency: Department of Corrections

Distribution (by preparer):

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: HB 245

Publish Date: \_\_\_\_\_

REQUEST \_\_\_\_\_

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

Title: An act relating to permanent fund dividends for individuals.

Sponsor: Barnes, et al

Requestor: HESS

Agency Affected: Revenue

BRU: Permanent Fund Dividend

Components: Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	2.1	1.1	1.1	1.1	1.1
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	1.1	0.5	0.5	0.5	0.5
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	3.2	1.6	1.6	1.6	1.6
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (PFD)	-	3.2	1.6	1.6	1.6	1.6
TOTAL	-	3.2	1.6	1.6	1.6	1.6

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

(See attached)

Prepared By: Ervin Barnes  
Division: Administrative Services

Phone: 465-2313

Date: 5/4/87

Approved by Commissioner: [Signature]  
Agency: Revenue

Date: 5/4/87

Distribution (by Agency preparing fiscal note):

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

Department of Revenue  
Administrative Services Division  
Fiscal Note Analysis  
HB 245  
5/4/87

Assumptions:

1. The bill will become law in 1987.
2. Per the Department of Corrections, there are approximately 3,200 felons who would be incarcerated during part or all of a given fiscal year.
3. The Department of Corrections will provide the Department of Revenue with a list, via magnetic tape, which includes:
  - a) All persons, including full name, birthdate, and social security number, who were incarcerated during all or part of the previous fiscal year for a felony conviction. This list will be provided by August 1 of each year.
  - b) On a paper copy, an annotation of all persons who the Commissioner of Corrections determines are "otherwise eligible under AS 43.23.005(a)(1) and (2)."

Program Summary:

The Department of Revenue will use the list provided in assumption 3(a) to match against the PFD file. Any person who files an application and who appears on that list will be denied their dividend. A denial notice will be sent to the applicant, with notice of right to appeal. If appeals are forthcoming, the Enforcement Division will hold informal conferences, and where requested by the applicant, the Commissioner will hold formal hearings and represent the Department in Superior Court. This is expected to generate approximately 2,000 additional denials in the first year, with a decreasing number in subsequent years, as felons realize that they are ineligible for the dividend.

Using the list prepared as described in assumption 3(b) and using denied applications filed by felons, the Enforcement Division will review all persons listed by the Commissioner of Corrections as residents. This may extend to direct contact with incarcerated felons as to their intent to remain. Those persons determined to be "otherwise eligible" will be included in the denominator under AS 43.23.025.

1. Positions:

1 PPT Document Processor I, R7, @ \$2117.76/Mo including salary and benefits for 1 month	=	\$2.1
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This position will assist in the determination of filings by felons and in the processing and mailing of denial notices, appeals, and correspondence. Reduced by half in the second and subsequent years.

2. Other Expenditures:

a) Travel: None.

b) Contractual:

Printing costs and postage for 2,000 additional denial notices, appeal forms and envelopes. Reduced by half in second and subsequent years. =

1.1

c) Supplies: None.

d) Equipment: Use existing.

-0-

TOTAL COST

\$3.2

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 2, 1987

The Hon. Ramona Barnes  
Alaska State House  
P.O. Box V  
Juneau, AK 99811

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

P.O. BOX K-STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

Re: Proposed bill relating to incarcerated convicted felons  
Our File No. 663-87-0381

Dear Representative Barnes:

In response to your memorandum of February 21, 1987, we have reviewed the draft bill proposing to make incarcerated felons ineligible for permanent fund dividends. Except for minor technical differences, this bill is the same as CSHB 575(Fin)(title am), passed by the House of Representatives in 1984. As you know, this office reviewed the 1984 bill and concluded that, although constitutional issues may exist, in our opinion the denial of permanent fund dividends to convicted, incarcerated felons is constitutional. 1984 Inf. Op. Att'y Gen. 366-525-84 (April 23). At this time, we see no reason to alter our earlier opinion, and therefore we believe your proposal would withstand a constitutional challenge.

On February 15, 1984, this office issued an informal opinion that the original version of HB 575 introduced in the House had some serious constitutional problems. 1984 Inf. Op. Att'y Gen. 366-424-84 (February 15). Most of the potential problems identified in that memorandum were corrected in subsequent versions of the bill, however, and are not present either in the bill which passed the House that year or in the bill which you submitted to us for review.

We do not, at this time, have any opinion on the merits of this proposed legislation. However, we would like to suggest a few minor changes. In sec. 1, the bill refers to individuals who are incarcerated "during all or part of the eligibility period for that year's dividend." Under AS 43.23.005(a)(2), the eligibility period for any individual is not a definite period of time, but rather is a floating six month period prior to the date the individual files an application. Since we can assume that these people will not actually submit an application, it may be difficult to decide what six month period should be utilized. We recommend that this language be changed to specify a definite

The Hon. Ramona Barnes  
Alaska State House  
AG File No. 663-87-0381

March 2, 1987  
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period of time, such as "during all or part of the fiscal year." This change also makes some intuitive sense, because the dividends are based upon earnings during the fiscal year, and because this legislation is designed to reimburse the Department of Corrections for expenses incurred during the fiscal year in which the person is incarcerated.

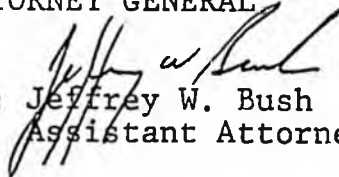
With respect to sec. 3 of the bill, proposed paragraph (5) is probably unnecessary, since this provision is already covered in sec. 2 of the bill. Also, in paragraph (6), we recommend that the words "in cooperation with the Department of Corrections" be inserted after "regulations."

Finally, with respect to the effective date of the Act (sec. 6), it might be simpler to have the Act take effect at the beginning of FY 88; this would also eliminate the need for sec. 4 of the bill.

Please contact me if you wish to discuss this further.

Sincerely,

GRACE BERG SCHAIBLE  
ATTORNEY GENERAL

By:   
Assistant Attorney General

JWB:lb

cc: Arthur H. Peterson  
Mike Stark

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 27, 1987

SUBJECT: Permanent fund dividends of incarcerated individuals (Work Order No. 15-0701A)

TO: Representative Ramona Barnes

FROM: Tamara Brandt Cook *TBC*  
Director  
Division of Legal Services

Here is the sectional analysis that you requested of a draft bill dealing with permanent fund dividends and incarcerated individuals.

Section 1. A new provision is added making a person convicted of a felony ineligible for a permanent fund dividend if, during all or part of the fiscal year ending before checks are mailed, the individual is incarcerated. This provision applies whether or not the individual has applied for the dividend.

Section 2. This is a new provision. For the purposes of calculating the amount of the dividend for a year an individual who is ineligible due to incarceration but who is otherwise eligible under residency requirements will be counted as an eligible individual whether or not the individual applies for a dividend.

Section 3. Two new requirements are added to the list of duties of the Department of Revenue: (1) to annually determine the number and identity of individuals ineligible for permanent fund dividends because of incarceration and the number of ineligible individuals counted as eligible for purposes of determining the amount of a dividend for the year; (2) to adopt regulations necessary to implement the new ineligibility provision that applies to certain incarcerated individuals.

Section 4. The bill applies only to dividends for years after 1987.

Representative Barnes  
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March 27, 1987

Section 5. The legislature intends to appropriate from the dividend fund to the Department of Corrections for upkeep of inmates an amount equal to money that would otherwise be paid as dividends to incarcerated individuals.

Section 6. The bill has an immediate effective date.

TBC:csh  
c7/109

April 24, 1987

Representative Niilo Koponen  
P.O. Box V  
Juneau, AK 99811

Dear Representative Koponen:

HB245  
I'm going to have a tough time getting anyone to listen, but I have to try. ~~HB13~~ and SB177, the proposal to use prisoners' dividend funds for something other than giving it to the prisoner, is wrong. Maybe wrong is the wrong word; how about unjust since everyone talks about being just.

First, the "sentence" imposed by the court did not say five years and \$5,000. plus your permanent fund dividend for the next five years. Secondly, the sentence imposed did not say 5 years and \$5,000. plus whatever expenses the State incurs in keeping you in prison. Third, the sentence imposed varied from individual to individual, depending on the crime committed. Let's say Sam is serving ten years for breaking into a ladie's home and raping her; Joe is serving a five-year term for driving drunk, causing an accident in which someone was seriously hurt; Jim is serving a two-year term for shop-lifting an \$8,000. Rolex watch. The sentence imposed was different but is now amended by HB13 and SB177 to say they each give up their permanent fund dividend. Fourth, the legislature keeps getting into the judicial process further and further. Whatever happended to "separation of powers" theory? We have presumptive sentences, which I doubt you could get one judge in the United States to agree with, dictated by the legislative action. Now the legislative branch wants to dictate monetary penalties (that is exactly what HB13 and SB177 will do.

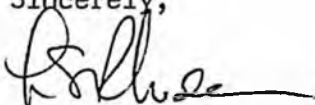
I would also wager that not more than 10 House or Senate members voting on this bill have ever visited one of our correctional facilities for more than "a guided tour". For example, what percentage of the inmates have families that bring them needed items, i.e. underwear, shirts, pants, shoes, socks, hairbrushes, deodorant, and the other things we use in our daily lives? What percentage of the inmates have more than a few dollars in their accounts to buy these things, plus cigarettes, treats, sodas, etc., on the approximately 50 cents per hour they make while in prison? What percentage of the prisoners are still wearing the same clothes they came in with? The answer to those questions should be disturbing if you knew the truth. Contrary to what you may have been told, the facility I am familiar with doesn't provide any of those things - the inmates must purchase them from the Company Store. Inmates are not allowed to borrow each other's clothes, even for a short period of time, while they wash and dry the ones they had

on. In many, many, many cases the dividend check is the year-round source of income to provide these necessities. Finally, the hope of many of these inmates is to have enough saved when they do get released to get a place to live and a means of transportation. The approximately 50 cents per hour they earn will never amount to (1) a months rent in advance (2) a deposit on the electric/telephone bill (3) the second-hand "junker" with minimum insurance to get back and forth to work. The dividend at least gives them hope.

Finally, just how much "justice" do we want? Too many of us who have never committed a crime seem to think the criminal deserves everything bad we can dish out. Prison, the loss of freedom, is only one of the penalties a criminal must pay. A felon loses his/her citizenship rights - many job opportunities are closed to them for a lifetime because of bonding requirements - many friends and relatives no longer will socialize with them - families are separated and sometimes permanently divided (especially where children are concerned) - and certainly the criminal is financially reduced to ruin with legal costs and fines assessed before prison begins. The power to dig in one more time - to deliver one more punishment - is just too great for some people to leave alone! Besides, who cares what happens to the prisoner? Even if they complain, who cares? They deserve what they get - right?

Well, I say it's WRONG and I hope someone listens!

Sincerely,



L.S. (Dusty) Rhodes

