

SB

444

5/2/88
H (Jud)

FISCAL NOTE

REQUEST

Revision Date: _____
Title: An Act relating to eligibility
for permanent fund dividends
Sponsor: House State Affairs
Requestor: _____

Agency Affected: Revenue
BRU: Permanent Fund Dividend Division
Components: Permanent Fund Dividend
Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LANDS & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS: Please see attached.

Prepared By: Ervin B. Jones, Director Phone: 465-2323
Division: Permanent Fund Dividend Division Date: April 28, 1988

Approved by Commissioner: Hugh Malone Date: _____
Agency: Revenue

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

RECEIVED

APR 29 1988

LEGISLATIVE FINANCE

Department of Revenue
Permanent Fund Dividend Division
Fiscal Note Analysis
CSCSSB 444 (State Affairs)
As of April 28, 1988

This legislation would reduce the number of eligible applicants for Permanent Fund Dividends by approximately 6,000 in 1989. Although an exact figure is not possible, this reduction in applicants will serve to increase future Permanent Fund Dividends by approximately \$10.

Since persons now filing from out-of-state represent a substantial part of the Division's civil investigation effort, any real reduction will result in some decreased administrative costs in the FY 91 budget request, all else being equal. Some portion of the potential savings will be directed to increasing our efforts in criminal investigation, to reduce the potential for fraudulent filings. See attached position paper.

DEPARTMENT OF REVENUE
POSITION PAPER ON
HCS SB 444 (State Affairs)

Introduction

The Department of Revenue supports HCS SB 444 (State Affairs). This bill tightens up the rules on Permanent Fund Dividend eligibility and makes those rules easier to enforce. The bill would raise the annual dividend by at least \$15.

HCS SB 444 (State Affairs) would go a long way to reverse a trend allowed by current law. The number of people receiving Permanent Fund Dividends is falling, but the number of people receiving Permanent Fund Dividends who apply from out of state is rapidly increasing.

Approximately 12,500 dividends are now going to people who give out-of-state addresses when they file. This is more than two percent of all 1987 Permanent Fund Dividends, and represents a 25 percent increase over the figure for 1986. The Department of Revenue estimates that a minimum of two-thirds of this group -- at least 8,000 people -- are gone from the state for more than a year by the time they receive a dividend. Approximately 300 people are receiving 1986 and 1987 Permanent Fund Dividends who have not physically touched Alaska in more than five years.

Loopholes in the Eligibility Requirements for Permanent Fund Dividends

The substantial and growing number of people receiving Permanent Fund Dividends who apply from outside of Alaska is the product of some loopholes in the eligibility requirements for Permanent Fund Dividends.

Under current law, there are three requirements for someone to receive a Permanent Fund Dividend. First, the person must file an application between April 1 and June 30. Second, the person applying has to be a resident of Alaska for at least the six consecutive months between October 1 and March 31. Third, a person must be a state resident on the date of application. Thus, to get a dividend, someone must be a state resident for most of the fall and winter and still claim to be a resident for one day in the spring (AS 43.23.005 and 15 AAC 23.625).

There are two requirements for someone to be a state resident. First, the person must have an intent to remain permanently if that person is physically present in the state, and must have an intent to return and remain permanently if the person is absent (AS 43.23.095 and 15 AAC 23.665(k)). Second, the person either must be physically present in Alaska for 90 days or more between October 1 and March 31 or be absent for an allowable reason (called an "allowable absence"). The law also requires someone to have an allowable absence if he or she is absent more than 60 consecutive days from the state between October 1 and March 31.

Allowable absences thus draw a sharp line dividing those people who claim an intent to make Alaska their permanent home. If such a person is gone from Alaska for most of the winter or gone for all of the spring without an allowable absence, that person cannot legally receive that year's Permanent Fund Dividend. If a person has an allowable absence, on the other hand, that person may be gone for all of the winter window, gone for all of the spring filing period, and gone for all of the rest of the year -- year after year after year.

Under current law, there is no flat rule against someone coming to Alaska for a day, leaving the state on an allowable absence, and collecting Permanent Fund Dividends as long as he or she retains the allowable absence while never setting foot in the state again.

Approximately 95 percent of those people receiving 1987 dividends who applied for them from outside the state also claimed allowable absences. More than \$8 million in dividends went to this group.

Approach of CS SB 444 (Finance)

The legislation passed by the Senate would add two rules to current law concerning eligibility for Permanent Fund Dividends. The first additional rule is that, with several exceptions, applicants must be physically present the day they apply. Since the legislation does not change the application period, this would mean that applicants not fitting into the exceptions would have to be physically present in Alaska each spring for one day.

The exceptions to the physical-presence requirement at the time of application are:

1. active duty military members;
2. full-time secondary, postsecondary, or vocational students;
3. persons receiving medical treatment that is not available in the state;
4. members of Congress; and
5. any other group that the Commissioner of Revenue may allow by regulation.

The second additional rule established by CS SB 444 (Finance) is that applicants cannot claim an allowable absence for more than five consecutive years unless the applicant claims one of four exceptions. This rule means that after spending five winters in a row outside the state, all applicants not fitting into one of the exceptions must physically live in Alaska for most of the sixth winter.

The four exceptions to the "five-year cutoff" rule are:

1. persons receiving medical treatment that is not available in the state;
2. members of Congress;
3. spouses and dependents of persons receiving medical treatment that is not available in the state; and
4. spouses and dependents of members in Congress.

The effect of these rules and exceptions in CS SB 444 (Finance) is to create four classes of allowable absences. They are:

- A. Persons who have to come back one day each spring but do not have to move back after five years away to spend the sixth winter in Alaska. Included in this class are: (1) Congressional spouses and dependents; and (2) medical cases' spouses and dependents.
- B. Persons who have to come back to Alaska after five consecutive years away to spend the sixth winter in the state but do not have to return each spring to apply while physically present in the state: (1) active duty military members; (2) full-time secondary, postsecondary, or vocational students; and (3) any other persons the Commissioner of Revenue may allow by regulation.
- C. Persons not subject to either rule. Included in this class are: (1) persons receiving medical treatment that is not available in the state; and (2) members of Congress.
- D. Persons subject to both rules. Persons claiming all other allowable absences are subject to both rules.

The bill passed by the Senate also establishes civil penalties for applicants who engage in willful misrepresentation, gross negligence, or reckless disregard of material facts concerning eligibility.

Approach of HCS SB 444 (State Affairs)

The Senate bill is preferable to current law. The Department of Revenue favors HCS SB 444 (State Affairs), however, because the Department believes this bill is simpler, more fair, and more stable than the Senate version of the legislation. In addition, HCS SB 444 (State Affairs) draws a line between applicants consistent with the dividend program's philosophy. Finally, HCS SB 444 (State Affairs) will raise the dividend by a greater amount than the Senate bill would.

In contrast to the two additional rules and multiple exceptions contained in the Senate bill, HCS SB 444 (State Affairs) includes one rule on eligibility. That rule is that any applicant claiming an allowable absence must also have been physically present in Alaska at some time since July 1 two years previous to the year of application.

Adding this requirement would establish a relatively easily measured indicator of the intent held by the person claiming Alaska residency while living elsewhere. The bill's enactment would reflect a legislative presumption that the person who truly intends to return and remain permanently will retain sufficient ties to the state to be present at least one day in two years. This additional requirement would also make sure that Permanent Fund Dividend recipients have not completely lost touch with Alaska.

Requiring the applicant to certify that he or she has been physically present at some time is an administratively simple way of testing a person's intent to return and remain permanently in Alaska. The application form already requires that an applicant certify his or her residency on the date of application, and also requires that two other persons certify the applicant's residency. This legislation would allow the Department of Revenue to require the applicant and these two certifying witnesses to attest to the additional simple fact that the applicant has been in Alaska since July 1 two years before.

This requirement will make it more likely that dividends will be spent in Alaska. Now, more than \$8 million in dividends goes to people who apply from outside Alaska.

Putting this money back into the state has another benefit. If this bill passed, the Department of Revenue estimates that in 1989 at least 10,000 fewer people will receive dividends than would under current law. This will increase the dividend by more than \$15 per Alaskan.

The proposed legislation also establishes civil penalties for both applicants and certifying witnesses for willful misrepresentation, gross negligence, or reckless disregard of material facts concerning eligibility. Current law allows two methods of dealing with individuals who have wrongly claimed permanent fund dividends. One method is available against all individuals who have received dividends to which they were not entitled, whatever their state of mind. This method is the assessment, an administrative procedure in which the Department of Revenue attempts to recover the dividend which the individual received (AS 43.23.035(b)). The other method is criminal prosecution, which is aimed only at those who have intentionally engaged in fraud (the crime is "unsworn falsification" under AS 11.56.210). Intent to defraud can be difficult to prove, especially to the high standard of beyond a reasonable doubt required by the criminal law.

The proposed legislation would authorize the Department of Revenue to seek civil penalties which could exceed the value of the dividend(s) wrongly obtained for those who have engaged in undesirable behavior short of intentional fraud. The bill would establish civil fines of up to \$5,000 for those who are found to have engaged in willful misrepresentation, gross negligence, or reckless disregard of material facts involving their eligibility for dividends. The standard of proof required would be lower than that required in criminal prosecutions.

The civil penalties would apply to such conduct by certifying witnesses as well as by the applicants. This approach is appropriate given the importance of the certifications given by the certifying witnesses that the applicant satisfies all the requirements.

Timing of SB 444

This bill would take effect January 1, 1989 and will have its first impact on the 1989 dividend distribution. This is appropriate, because printing deadlines make it too difficult to make the changes in the 1988 dividend application forms which would be required if the changes in the law went into effect this year.

Information about the loopholes in the Permanent Fund Dividend program appears to be spreading, however, which makes it critical for the Legislature to pass a bill this session which can go into effect for the 1989 dividend distribution. With the one-year lag between passage and implementation effectively forced by printing deadlines, the Legislature must take action this session, or the earliest dividend distribution it can affect will be in 1990.

Paying dividends to the people who claim to be Alaskans but have been gone for years is not what the program is all about. We believe this bill is needed to protect the integrity of the dividend program.

SENATE COMMITTEE REPORT

FURTHER

DATE TURNED INTO OFFICE 4/12/88

3/14/88
Mr. President:

Finance Committee considered SB 444

eligibility for permanent fund dividends and providing civil penalties for certain conduct involving permanent fund dividends; efd

and recommended

replace with CS SB 444 (Finance) same title
 or adopt CS new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)
 new updated or previous
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Jim Duncan
Paul Stark
Paul V. Ziegler

Dolores Bailey
Wanda R. ...
John ...

Rick Halford NO REC
Chairman signature and recommendation

Committee Backup attached

FISCAL NOTE

REQUEST

Revision Date: _____
Title: An Act relating to eligibility
for permanent fund dividends
Sponsor: Hensley, Kerttula, Abood et.al.
Requestor: _____

Agency Affected: Revenue
BRU: Permanent Fund Dividend Division
Components: Permanent Fund Dividend
Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LANDS & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS: Please see attached.

Prepared By: Ervin B. Jones, Director
Division: Permanent Fund Dividend Division

Phone: 465-2323
Date: March 10, 1988

Approved by Commissioner: [Signature]
Agency: Revenue

Date: 3/10/88

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Department of Revenue
Permanent Fund Dividend Division
Fiscal Note Analysis
CS SB 444 (Fin)
As of March 10, 1988

This legislation would reduce the number of eligible applicants for Permanent Fund Dividends by approximately 10,000 in 1989. Although an exact figure is not possible, this reduction in applicants will serve to increase future Permanent Fund Dividends by approximately \$15.

Since persons not filing from out-of-state represent a substantial part of the Division's civil investigation effort, any real reduction will result in some decreased administrative costs in the FY 91 budget request, all else being equal. Some portion of the potential savings will be directed to increasing our efforts in criminal investigation, to reduce the potential for fraudulent filings. See attached position paper.

Original sponsors: Hensley, Kerttula,
Abood and Eliason

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 444 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to eligibility for permanent fund
7 dividends and providing civil penalties for certain
8 conduct involving permanent fund dividends; and
9 providing for an effective date."

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

11 * Section 1. AS 43.23.005(a) is amended to read:

12 (a) An individual is eligible to receive one permanent fund
13 dividend each year in an amount to be determined under AS 43.23.025 if
14 the individual applies to the department, and if

15 (1) on the date of application the individual is a state
16 resident; [AND]

17 (2) the individual was a state resident for a period of at
18 least six consecutive months immediately preceding April 1 of the
19 current dividend year; and

20 (3) on the date of application the individual is physically
21 present in the state.

22 * Sec. 2. AS 43.23.015(b) is amended to read:

23 (b) The department shall prescribe and furnish an application
24 form for claiming a permanent fund dividend. The application must
25 contain a statement of eligibility and a certification of residency in
26 substantially the following form:

27 I certify that

28 () I am a state resident on the date of this ap-
29 plication, [AND] I have been a state resident for at

1 least six months immediately preceding April 1 of the
2 current dividend year, and I am physically present as
3 defined in AS 43.23.095 on the date of this applica-
4 tion; or

5 () (name), the individual on whose behalf I am
6 applying, is a state resident on the date of this
7 application, [AND] has been a state resident for at
8 least six months immediately preceding April 1 of the
9 current dividend year, and is physically present as
10 defined in AS 43.23.095 on the date of this applica-
11 tion.

12 I understand that a false claim of eligibility
13 [RESIDENCY] to obtain a permanent fund dividend for
14 myself or for another is a criminal offense, [AND]
15 that if convicted I will forfeit future [PERMANENT
16 FUND] dividends, and that I must repay all [PERMA-
17 NENT FUND] dividends that have been paid to me. I
18 understand that if I wilfully misrepresent, exer-
19 cise gross negligence, or recklessly disregard a
20 material fact regarding my eligibility for a perma-
21 nent fund dividend I will forfeit the dividend, be
22 subject to a civil fine of up to \$5,000, and lose
23 my eligibility for the next five dividends. I un-
24 derstand that these penalties are [THIS PENALTY IS]
25 in addition to any criminal penalties imposed.

26 _____
27 (signature of individual,
28 parent, guardian, or other
29 authorized representative)

1 * Sec. 3. AS 43.23.035 is amended by adding a new subsection to read:

2 (c) An individual who, in claiming a permanent fund dividend,
3 wilfully misrepresents, exercises gross negligence, or recklessly
4 disregards a material fact pertaining to eligibility forfeits the
5 dividend, is subject to a civil fine of up to \$5,000, and loses eli-
6 gibility to receive the next five dividends following the forfeited
7 dividends. The commissioner may commence proceedings in court to
8 enforce this subsection.

9 * Sec. 4. AS 43.23.095 is amended to read:

10 Sec. 43.23.095. DEFINITIONS. In this chapter,

11 (1) "Alaska permanent fund" means the fund established by
12 art. IX, sec. 15 of the state constitution;

13 (2) "commissioner" means the commissioner of revenue;

14 (3) "department" means the Department of Revenue;

15 (4) "dividend fund" means the fund established by AS 43.-
16 23.045;

17 (5) "individual" means a natural person;

18 (6) "permanent fund dividend" means a right to receive a
19 payment from the dividend fund;

20 (7) "physically present" means being physically present in
21 the state, or, if not physically present, absent only for

22 (A) medical treatment that is not available in the
23 state;

24 (B) service in Congress;

25 (C) military service;

26 (D) full-time secondary, postsecondary, or vocational
27 education; or

28 (E) other reasons that the commissioner may establish
29 by regulation;

1 (8) "state resident" means an individual who is physically
2 present [IN THE STATE] with the intent to remain permanently in the
3 state or, if the individual is not physically present [IN THE STATE],
4 intends to return to the state and

5 (A) is absent only for any of the following reasons:

6 (i) medical treatment that is not available in
7 the state;

8 (ii) service in the Congress; or

9 (iii) to accompany, as a spouse or dependent, an
10 individual who is eligible for a permanent fund dividend under
11 (i) or (ii) of this subparagraph; or

12 (B) has not been absent during the six months immedi-
13 ately preceding April 1 for more than five consecutive years and
14 is absent only for any of the following reasons:

15 (i) [(A)] vocational, professional, or other spe-
16 cific education for which a comparable program was not
17 reasonably available in the state;

18 (ii) [(B)] secondary or postsecondary education;

19 (iii) [(C)] military service;

20 [(D) MEDICAL TREATMENT;

21 (E) SERVICE IN CONGRESS;]

22 (iv) [(F)] other reasons that [WHICH] the commis-
23 sioner may establish by regulation; or

24 (v) [(G)] service in the Peace Corps;

25 (9) [(8)] "year" means a calendar year.

26 * Sec. 5. This Act takes effect January 1, 1989.

Adopted by SFC
4/12/88

5-1919B
Cook
4/11/88

Original sponsors: Hensley, Kerttula,
Abood and Eliason

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 444 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to eligibility for permanent fund
7 dividends and providing civil penalties for certain
8 conduct involving permanent fund dividends; and
9 providing for an effective date."

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

11 * Section 1. AS 43.23.005(a) is amended to read:

12 (a) An individual is eligible to receive one permanent fund
13 dividend each year in an amount to be determined under AS 43.23.025 if
14 the individual applies to the department, and if

15 (1) on the date of application the individual is a state
16 resident; [AND]

17 (2) the individual was a state resident for a period of at
18 least six consecutive months immediately preceding April 1 of the
19 current dividend year; and

20 (3) on the date of application the individual is physically
21 present in the state.

22 * Sec. 2. AS 43.23.015(b) is amended to read:

23 (b) The department shall prescribe and furnish an application
24 form for claiming a permanent fund dividend. The application must
25 contain a statement of eligibility and a certification of residency in
26 substantially the following form:

27 I certify that

28 () I am a state resident on the date of this ap-
29 plication, [AND] I have been a state resident for at

1 least six months immediately preceding April 1 of the
2 current dividend year, and I am physically present as
3 defined in AS 43.23.095 on the date of this applica-
4 tion; or

5 () (name), the individual on whose behalf I am
6 applying, is a state resident on the date of this
7 application, [AND] has been a state resident for at
8 least six months immediately preceding April 1 of the
9 current dividend year, and is physically present as
10 defined in AS 43.23.095 on the date of this applica-
11 tion.

12 I understand that a false claim of eligibility
13 [RESIDENCY] to obtain a permanent fund dividend for
14 myself or for another is a criminal offense, [AND]
15 that if convicted I will forfeit future [PERMANENT
16 FUND] dividends, and that I must repay all [PERMA-
17 NENT FUND] dividends that have been paid to me. I
18 understand that if I wilfully misrepresent, exer-
19 cise gross negligence, or recklessly disregard a
20 material fact regarding my eligibility for a perma-
21 nent fund dividend I will forfeit the dividend, be
22 subject to a civil fine of up to \$5,000, and lose
23 my eligibility for the next five dividends. I un-
24 derstand that these penalties are [THIS PENALTY IS]
25 in addition to any criminal penalties imposed.

26
27 _____
28 (signature of individual,
29 parent, guardian, or other
authorized representative)

1 * Sec. 3. AS 43.23.035 is amended by adding a new subsection to read:

2 (c) An individual who, in claiming a permanent fund dividend,
3 wilfully misrepresents, exercises gross negligence, or recklessly
4 disregards a material fact pertaining to eligibility forfeits the
5 dividend, is subject to a civil fine of up to \$5,000, and loses eli-
6 gibility to receive the next five dividends following the forfeited
7 dividends. The commissioner may commence proceedings in court to
8 enforce this subsection.

9 * Sec. 4. AS 43.23.095 is amended to read:

10 Sec. 43.23.095. DEFINITIONS. In this chapter,

11 (1) "Alaska permanent fund" means the fund established by
12 art. IX, sec. 15 of the state constitution;

13 (2) "commissioner" means the commissioner of revenue;

14 (3) "department" means the Department of Revenue;

15 (4) "dividend fund" means the fund established by AS 43.-
16 23.045;

17 (5) "individual" means a natural person;

18 (6) "permanent fund dividend" means a right to receive a
19 payment from the dividend fund;

20 (7) "physically present" means being physically present in
21 the state, or, if not physically present, absent only

22 (A) for medical treatment that is not available in the
23 state;

24 (B) for service in Congress; or

25 (C) for military service;

26 (D) for full time secondary, postsecondary, or vocational education; or

27 (8) "state resident" means an individual who is physically
28 present [IN THE STATE] with the intent to remain permanently in the
29 state or, if the individual is not physically present [IN THE STATE],
intends to return to the state and

Noted Am. #1

Am. #2
Adopted

DIFF: (E) other reasons the -3- commissioner may establish by regulation;

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(A) is absent only for any of the following reasons:

(i) medical treatment that is not available in the state;

(ii) service in the Congress; or

(iii) to accompany, as a spouse or dependent, an individual who is eligible for a permanent fund dividend under (i) or (ii) of this subparagraph; or

(B) has not been absent during the six months immediately preceding April 1 for more than five consecutive years and is absent only for any of the following reasons:

(i) [(A)] vocational, professional, or other specific education for which a comparable program was not reasonably available in the state;

(ii) [(B)] secondary or postsecondary education;

(iii) [(C)] military service;

[(D) MEDICAL TREATMENT;

(E) SERVICE IN CONGRESS;]

(iv) [(F)] other reasons that [WHICH] the commissioner may establish by regulation; or

(v) [(G)] service in the Peace Corps;

(9) [(8)] "year" means a calendar year.

* Sec. 5. This Act takes effect January 1, 1989.

Alaska State Senate

P.O. Box V
Juneau, AK 99811
Phone: (907) 465-2444
465-3862/465-4923



Senate Finance Committee
State Affairs Committee
Vice-Chair, Rules Committee
Chair, Administrative Regulation Review

William L. Hensley

SENATE BILL 444

A BILL TO REDUCE
THE FLOW OF PERMANENT FUND DIVIDENDS
OUT OF ALASKA

Summary

Alaska's population is falling and so is the number of permanent fund dividends paid -- but the number of people filing for and receiving dividends outside the state is growing. The number of people applying for 1987 dividends from out of Alaska and receiving the checks out of Alaska is expected to increase by more than 25 percent over the figure for 1986. The total will be about 12,500 people, which represents more than two percent of all recipients for 1987. More than \$8 million will be sent to those filing for and receiving dividends outside of Alaska.

The proposed legislation would add to the eligibility requirements for dividends the condition that an applicant be physically present in the state on the date of application, which can anytime be between April 1 and June 30. In addition, the proposed legislation would cut off a person's ability to receive dividends if he or she was not physically present in Alaska during most of the eligibility period (October 1 - March 31) for more than five consecutive years.

The Problem

Alaska statutes set out two requirements before someone can receive a permanent fund dividend. A person is eligible to apply if that person (1) has been a state resident for at least the six consecutive months between October 1 and March 31, and (2) is a state resident on the date of application (AS 43.23.005). The requirement of the intent to make Alaska a permanent home is absolute.

The requirement of physical presence in Alaska, however, does not mean that a person has to spend each day of the October 1 - March 31 eligibility period in the state. By regulation, a person is allowed to spend up to 60 consecutive days -- and 90 total days -- outside the state during the winter eligibility period without it affecting eligibility (15 AAC 23.665(k)). If a person is gone more than two months straight or more than three months total, however, that person is only eligible if he or she has an "allowable absence."

Back-up from Senator Hensley

Absences which are allowable by statute are: (1) vocational, professional and other education which is not reasonably available in Alaska; (2) postsecondary or secondary education; (3) military service; (4) medical treatment; (5) service in Congress; and (6) service in the Peace Corps (AS 43.23.095).

The statute provides that the Department of Revenue, which administers the program, may add other allowable absences. Absences made allowable by regulation are: (1) service on the staff of a U.S. Senator or U.S. Representative for Alaska; (2) prisoners and minors committed to state custody; (3) service as a state employee; (4) any absence whose "nature and duration . . . are temporary and are consistent with an intent to return to the state and remain permanently in the state" (the "catch-all" exception); and (5) spouses, children, and other dependents of residents who are absent for allowable reasons (15 AAC 23.665(a-j and l)).

Allowable absences thus draw a sharp line dividing those people who claim an intent to make Alaska their permanent home. If such a person is gone from Alaska for most of the winter or gone for all of the spring without an allowable absence, that person cannot legally receive that year's permanent fund dividend. If a person has an allowable absences, on the other hand, that person may be gone for all of the winter window, gone for all of the spring filing period, and gone the whole rest of the year -- year after year after year.

Under current law, there is no flat rule against someone coming to Alaska for a day, leaving the state on an allowable absence, and collecting permanent fund dividends as long as he lives while never setting foot in the state again. There are some regulations requiring the Department of Revenue to scrutinize with particular care absences claimed for state employment, medical purposes, certain educational purposes, or the catch-all exception. There is also a regulation placing the burden on the applicant to prove intent to return and remain permanently in Alaska if absences claimed for secondary or postsecondary education, military service in Congress or Congressional staff, state employment, or the catch-all exception exceed five years.

Despite these regulations, 300 people who have not been in Alaska for more than five years were paid 1986 dividends. The growing use of allowable absences has caused a substantial increase in the number of people applying for and receiving permanent fund dividends outside of Alaska. The total is estimated to be about 12,500 for 1987. This is more than a 25% jump over the 1986 at a time when the state's estimated population and total number of dividend recipients are both dropping. More than two percent of 1987 dividends will go to this group, which represents more than \$8 million. About 95% of this group claimed an allowable absence in 1987.

The Proposed Remedy: SB 444

The proposed legislation adds a requirement of physical presence in the state on the date of application. Formerly, a person could be gone all year, after year, and still claim a dividend if that person claimed an allowable absence and an intent to return and remain permanently. This requirement will provide an additional test of a person's intent to return to and remain permanently in the state. It will also make sure that the person has not completely lost touch with Alaska. Finally, this requirement will make it more likely dividends will be spent in Alaska.

Requiring the applicant to certify that he or she is physically present on the date of application and provide two other persons who will certify the same is an administratively feasible way of accomplishing these goals. This requirement will not be an excessive burden on the applicant, as he or she can choose any day to file among the 90 days of the April 1 - June 30 filing period. The only exceptions for this requirement of physical presence are medical treatment not available in Alaska and service in Congress. Spouses and dependents of the first two groups will also be eligible.

The proposed legislation also makes a flat rule cutting off allowable absences after five consecutive years (with the same narrow exceptions as proposed for the requirement of physical presence on the date of application). The effect of this, when combined with the requirement of physical presence when applying, is to allow a person to be gone for most of the winter five years in a row while being present for one day in the spring each year, but after that time require an applicant to return to Alaska to spend most of the winter.

Finally, the proposed legislation establishes civil penalties for willful misrepresentation, gross negligence, or reckless disregard of material facts concerning eligibility. Current law allows two methods of dealing with individuals who have wrongly claimed permanent fund dividends. One method is available against all individuals who have received dividends to which they were not entitled, whatever their state of mind. This method is the assessment, an administrative procedure in which the Department of Revenue attempts to collect the dividend which the individual received. (AS 43.23.035b)) The other method is criminal prosecution, which is aimed only at those who have intentionally engaged in fraud. (The crime is "unsworn falsification" under AS 11.56.210.) Intent to defraud can be difficult to prove, especially to the high standard of beyond a reasonable doubt required by the criminal law.

The proposed legislation would authorize the Department of Revenue to seek civil penalties which could exceed the value of the dividend(s) wrongly obtained for those who have engaged in undesirable behavior short of intentional fraud. The bill would establish civil fines of up to \$5,000 for those who are found to have engaged in willful misrepresentation, gross negligence or reckless disregard of material facts involving their eligibility for dividends. The standard of proof required would be lesser than that required on criminal prosecutions.

My office was assisted in the preparation of this explanation of SB 444 by Cliff Groh, Special Assistant to the Commissioner of Revenue - 465-2323.

Alaska State Senate

P.O. Box V
Juneau, AK 99811
Phone: (907) 465-2444
465-3862/465-4923



Senate Finance Committee
State Affairs Committee
Vice-Chair, Rules Committee
Chair, Administrative Regulation Review

William L. Hensley

QUESTIONS AND ANSWERS ON SB 444

LEGISLATION TIGHTENING UP PERMANENT

FUND DIVIDEND ELIGIBILITY

REQUIREMENTS

Q. What are the requirements for someone to receive a Permanent Fund Dividend under the law today?

A. First, the person applying has to be a resident of Alaska for at least the six consecutive months between October 1 - March 31. Second, a person must be a state resident on the date of application, sometime between April 1 and June 30 of each year. (AS 43.23.005 and 15 AAC 23.625) Thus to get a dividend, someone must be a state resident for most of the fall and winter and still claim to be a resident for one day in the spring.

Q. What does it take to be a state resident?

A. First, that the person either must be physically present in Alaska for 90 days or more between October 1 and March 31 or be absent for an allowable reason (called an "allowable absence").

Second, the person must have an intent to remain permanently if that person is physically present in the state, and must have an intent to return and remain permanently if the person is absent. (AS 43.23.095 and 15 AAC 23.665(k)) (The law also requires someone to have an allowable absence if he or she is absent more than 60 total days in the state between October 1 and March 31.)

Q. Which absences are allowable?

A. Absences which are allowable by statute are: (1) vocational, professional, and other specific education which is not reasonably available in Alaska; (2) postsecondary or secondary education; (3) military service; (4) medical treatment; (5) service in Congress; and (6) service in the Peace Corps (AS 43.23.095).

The statute also provides that the Department of Revenue, which administers the program, may add other allowable absences. Absences made allowable by regulation are: (1) service on the staff of a U.S. Senator or U.S.

Representative for Alaska; (2) prisoners and minors committed to state custody; (3) service as a state employee; (4) any absence whose "nature and duration . . . are temporary and are consistent with an intent to return to the state and remain permanently in the state" (the "catch-all" exception); and (5) spouses, children and other dependents of residents who are absent for allowable reasons (15 AAC 23.665(a-j and 1)).

Q. If the law recognizes allowable absences, does this mean that someone applying for the dividend does not have to be physically present in the state even for one day of the year?

A. That's right. Allowable absences draw a sharp line dividing those people who claim an intent to make Alaska their permanent home. If such a person is gone from Alaska for most of the winter or gone for all of the spring without an allowable absence, that person cannot legally receive that year's permanent fund dividend. If a person has an allowable absence, on the other hand, that person may be gone for all of the winter residency period, gone for all of the spring filing period, and gone the whole rest of the year - year after year after year.

Q. Are there any barriers under current law to stop completely someone from coming to Alaska for a day, leaving on an allowable absence, and receiving Permanent Fund Dividends for as long as the person keeps the allowable absence without ever setting foot in the state again?

A. No, there is no flat rule preventing that from happening.

There are some regulations requiring the Department of Revenue to scrutinize with particular care absences claimed for state employment, medical purposes, certain educational purposes, or the catch-all exception. There is also a regulation placing the burden on the applicant to prove intent to return and remain permanently in Alaska if absences are claimed for more than five years for secondary or postsecondary education, military service, service in Congress or Congressional staff, state employment, or the under catch-all exception.

Q. Do these regulations prevent people from receiving dividends who have not been in Alaska for five years or more?

A. No. Three hundred people received dividends in 1986 who stated that they had not been physically present in Alaska for five years or more.

Q. What is the effect of the law permitting allowable absences on the number of people receiving dividends out of Alaska?

A. The growing use of allowable absences has caused a substantial increase in the number of people applying for and receiving permanent fund dividends outside of Alaska. The total is estimated to be about 12,500 for 1987. This is more than a 25% jump over 1986 at a time when the state's estimated population and total number of dividend recipients are both dropping. More than two percent of 1987 dividends will go to this group, which represents more than \$8 million. About 95% of this group claimed an allowable absence in 1987.

Q. How would SB 444 remedy this problem?

- A. SB 444 would: (1) require that an applicant for a Permanent Fund Dividend be physically present in the State on the date of application (the application period is April 1 - June 30); (2) establish a flat prohibition on a person's ability to receive a Permanent Fund Dividend after five consecutive years claiming any allowable absence; and (3) establish civil penalties for willful misrepresentation, gross negligence, or reckless disregard of material facts concerning eligibility.
- Q. What effect would this legislation have on what a person would need to receive a permanent Fund Dividend?
- A. A person would always need an intent to make Alaska his or her permanent home. A person could still be absent on an allowable absence during the entire eligibility period of October 1 - March 31. The person would have to return to be physically present in Alaska on the date the person applies - which could be during the filing period of April 1 - June 30. The person could be absent five years in a row during the October 1 - March 31 eligibility period, but would need to return to Alaska to spend most of the October 1 - March 31 period in the sixth year to be eligible for that sixth year.
- Q. Why does the legislation add a requirement of physical presence?
- A. This requirement will provide an easily measured indicator of a person's intent to return to Alaska and remain permanently. If enacted, the bill would reflect a legislative presumption that the person who truly intends to return and remain permanently will retain sufficient ties to the state to be present at least one day during the 90-day filing period.
- Q. Why does the legislation set the date of application as the time the applicant must be physically present in the state?
- A. Requiring the applicant to certify that he or she is physically present on the date of application is an administratively simple way of testing a person's intent to return and remain permanently in Alaska. The application form already requires that an applicant certify his or her residency on the date of application, and also requires that two other persons certify the applicant's residency. This legislation would allow the Department of Revenue to require the applicant and these two certifying witnesses to attest to the additional simple fact that the applicant is here in Alaska the date he or she signs the form.
- Q. Will this requirement of physical presence on the date of application be an excessive burden on the applicant?
- A. No. The applicant can choose any day of the 90-day filing period (April 1 - June 30) to return to file.
- Q. Are there any exceptions to the proposed rules that applicants must be physically present on the date of application and cannot claim allowable absences after five consecutive years of being gone from the state during the eligibility period?

A. Yes, there are two narrow exceptions. The only exceptions to both proposed rules are to obtain medical treatment not available in Alaska or service in Congress. Spouses and dependents of these two groups will also be eligible.

Q. What effect will these charges have on each dividend?

A. The Department of Revenue has estimated that if this bill became law, in the first year each dividends would be at least \$15 higher than it would otherwise be.

Q. How do the new proposed civil penalties work?

A. The proposed legislation establishes civil penalties for willful misrepresentation, gross negligence, or reckless disregard of material facts concerning eligibility. Current law allows two methods of dealing with individuals who have wrongly claimed permanent fund dividends. One method is available against all individuals who have received dividends to which they were not entitled, whatever their state of mind. This method is the assessment, an administrative procedure in which the Department of Revenue attempts to collect the dividend which the individual received. (AS 43.23.035(b)) The other method is criminal prosecution, which is aimed only at those who have intentionally engaged in fraud. (The crime is "unsworn falsification" under AS 11.56.210.) Intent to defraud can be difficult to prove, especially to the high standard of beyond a reasonable doubt required by the criminal law.

The proposed legislation would authorize the Department of Revenue to seek civil penalties which could exceed the value of the dividend(s) wrongly obtained for those who have engaged in undesirable behavior short of intentional fraud. The bill would establish civil fines of up to \$5,000 for those who are found to have engaged in willful misrepresentation, gross negligence, or reckless disregard of material facts involving their eligibility for dividends. The standard of proof required would be over them that required on criminal prosecutions.

Q. What is the overall effect of this bill?

A. This legislation both tightens up the rules for eligibility for Permanent Fund Dividends and makes those rules easier to apply.

My office was assisted in preparation of this explanation of SB 444 by Cliff Groh, Special Assistant to the Commissioner of Revenue - 465-2323.

How many PFD s were paid?

1986- 532,000 1987- 530,000

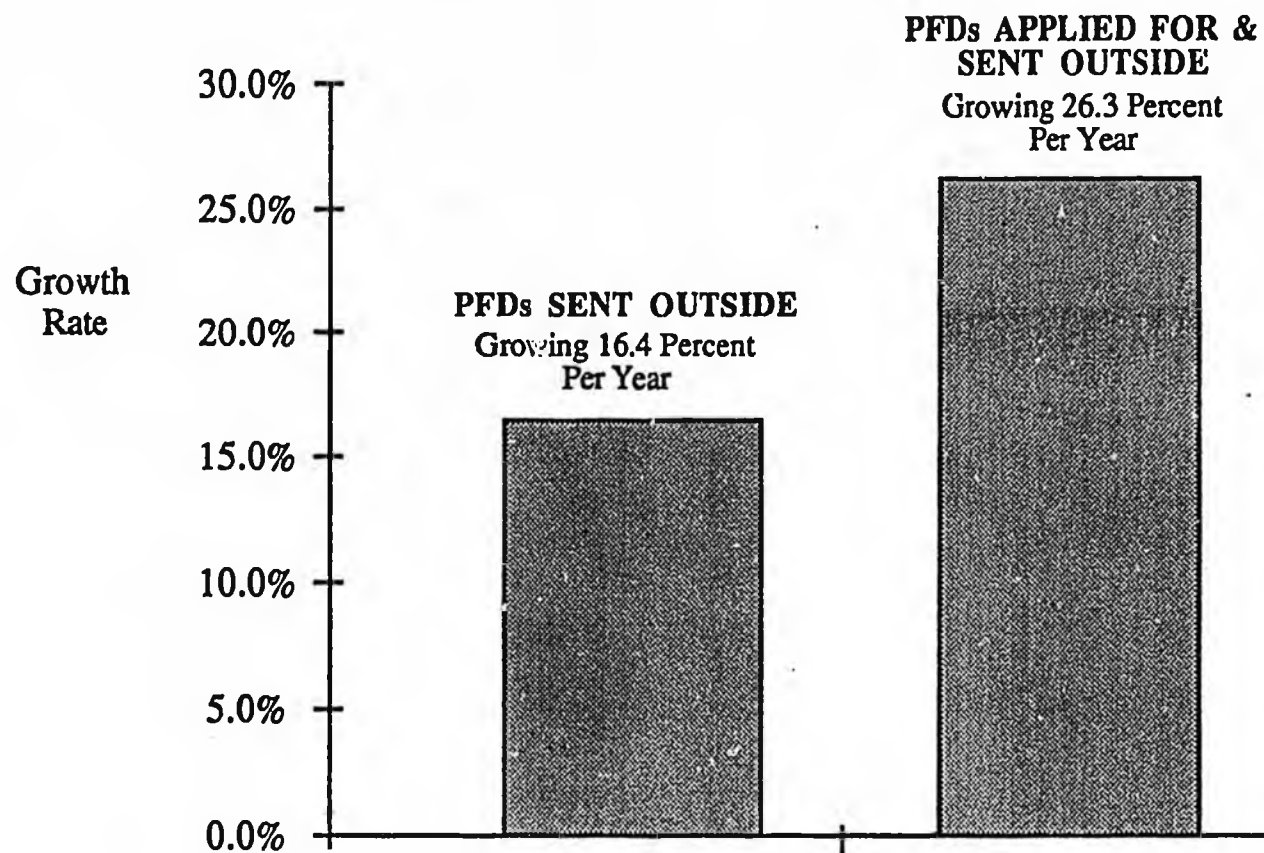
How many of these PFDs were paid to out-of-state addresses?

1986- 19,500 1987- 22,700

*Of these PFDs,
how many were paid
to persons who also
applied from out-of-state?*

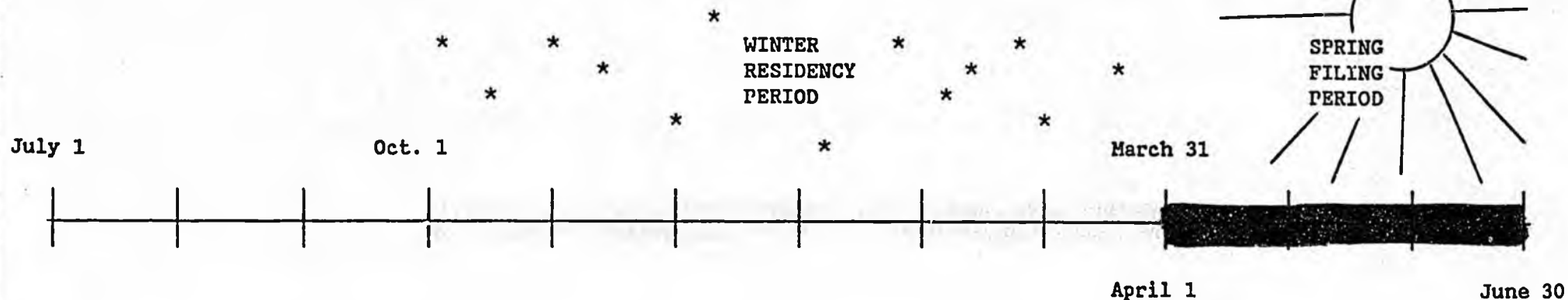
1986- 9,900 1987- 12,500

Changes In Permanent Fund Dividends: 1986-87



SB 444
TIGHTENING UP ON ELIGIBILITY REQUIREMENTS
FOR PERMANENT FUND DIVIDENDS

THE PERMANENT FUND DIVIDEND YEAR



Requirements for PFD eligibility

Winter Residency Period

1. Intent to make Alaska a permanent home.
2. Physical presence for more than half of the winter or an allowable absence.

CURRENT
LAW

Applicant's Application Day
During Spring Filing Period

1. Timely application.
2. Intent to make Alaska a permanent home.
3. Physical presence on the date of application or an allowable absence.

SB 444 includes all current requirements and adds these additional requirements.

SB 444:
ADDITIONAL
REQUIREMENTS

Requires physical presence for most of the winter after five years of allowable absences (cuts off allowable absences after five years out of the state).

Physical presence on the date of application.

Senate Bill 444

- * Requires physical presence on the date of application during spring filing period (with a few narrow exceptions) in addition to existing eligibility requirements.

- * Absences during winter residency period not allowed after five years (with the same narrow exceptions).

- * Establishes civil penalties for misconduct in application. (Intentional fraud still a criminal offense).

- * Adds at least \$8 million to Alaska economy in 1989.

- * Effective date: January 1, 1989.

DEPARTMENT OF REVENUE
POSITION PAPER ON
SB 444

Introduction

The Department of Revenue supports SB 444. This bill tightens up the rules on Permanent Fund Dividend eligibility and makes those rules easier to enforce. The bill would raise the annual dividend by at least \$15, and carries a zero fiscal note.

SB 444 would go a long way to reverse a trend allowed by current law. Both the state population and the number of people receiving Permanent Fund Dividends are falling. But the number of people receiving Permanent Fund Dividends who apply from out of state is rapidly increasing.

More than 12,000 dividends are now going to people who give out-of-state addresses when they file. This is more than two percent of all 1987 Permanent Fund Dividends, and represents a 25 percent increase over the figure for 1986. The Department of Revenue estimates that a minimum of two-thirds of this group -- at least 8,000 people -- are gone from the state for more than a year by the time they receive a dividend. Approximately 300 people are receiving 1986 and 1987 Permanent Fund Dividends who have not physically touched Alaska in more than five years.

Loopholes in the Eligibility Requirements for Permanent Fund Dividends

The substantial and growing number of people receiving Permanent Fund Dividends who apply from outside of Alaska is the product of some loopholes in the eligibility requirements for Permanent Fund Dividends.

Under current law, there are three requirements for someone to receive a Permanent Fund Dividend. First, the person must file an application between April 1 and June 30. Second, the person applying has to be a resident of Alaska for at least the six consecutive months between October 1 and March 31. Third, a person must be a state resident on the date of application. Thus, to get a dividend, someone must be a state resident for most of the fall and winter and still claim to be a resident for one day in the spring (AS 43.23.005 and 15 AAC 23.625).

There are two requirements for someone to be a state resident. First, the person must have an intent to remain permanently if that person is physically present in the state, and must have an intent to return and remain permanently if the person is absent (AS 43.23.095 and 15 AAC 23.665(k)). Second, the person either must be physically present in Alaska for 90 days or more between October 1 and March 31 or be absent for an allowable reason (called an "allowable absence"). The law also requires someone to have an allowable absence if he or she is absent more than 60 consecutive days from the state between October 1 and March 31.

Allowable absences thus draw a sharp line dividing those people who claim an intent to make Alaska their permanent home. If such a person is gone from Alaska for most of the winter or gone for all of the spring without an allowable absence, that person cannot legally receive that year's Permanent Fund Dividend. If a person has an allowable absence, or the other hand, that person may be gone for all of the winter window, gone for all of the spring filing period, and gone for all of the rest of the year -- year after year after year.

Under current law, there is no flat rule against someone coming to Alaska for a day, leaving the state on an allowable absence, and collecting Permanent Fund Dividends as long as he or she retains the allowable absence while never setting foot in the state again.

Approximately 95 percent of those people receiving 1987 dividends who applied for them from outside the state also claimed allowable absences. More than \$8 million in dividends went to this group.

SB 444's Approach

If enacted, SB 444 would make several changes consistent with the dividend program's philosophy. First, the legislation adds to current law a requirement that an applicant be physically present in Alaska on the date of application, which can be anytime between April 1 and June 30. The bill provides for only narrow exceptions to this requirement: (1) medical treatment not available in Alaska; (2) service in Congress; and (3) spouses and dependents of these people in (1) and (2).

Adding the requirement of physical presence on the date of application would establish a relatively easily measured indicator of the intent held by the person claiming Alaska residency while living elsewhere. The bill's enactment would reflect a legislative presumption that the person who truly intends to return and remain permanently will retain sufficient ties to the state to be present at least one day during the three-month filing period. This additional requirement would also make sure that Permanent Fund Dividend recipients have not completely lost touch with Alaska.

Requiring the applicant to certify that he or she is physically present on the date of application is an administratively simple way of testing a person's intent to return and remain permanently in Alaska. The application form already requires that an applicant certify his or her residency on the date of application, and also requires that two other persons certify the applicant's residency. This legislation would allow the Department of Revenue to require the applicant and these two certifying witnesses to attest to the additional simple fact that the applicant is here in Alaska the date he or she signs the form. This requirement of physical presence on the date of application will not be an excessive burden on the applicant as the applicant can choose any day of the three-month filing period (April 1 - June 30) to file.

This requirement will also make it more likely that dividends will be spent in Alaska. Now, more than \$8 million in dividends goes to people who apply from outside Alaska.

Putting this money back into the state has another benefit. If this bill passed, the Department of Revenue estimates that in 1989 at least 10,000 fewer people will receive dividends than would under current law. This will increase the dividend by more than \$15 per Alaskan.

SB 444 also cuts off allowable absences after five consecutive years (with the few narrow exceptions that apply to the physical presence rule). When combined with the requirement of physical presence when applying, the effect of this is to allow a person to be gone for most of the winter five years in a row while being present for one day in the spring each year. The following year, the applicant would have to return to Alaska to spend most of the winter.

Finally, the proposed legislation establishes civil penalties for willful misrepresentation, gross negligence, or reckless disregard of material facts concerning eligibility. Current law allows two methods of dealing with individuals who have wrongly claimed permanent fund dividends. One method is available against all individuals who have received dividends to which they were not entitled, whatever their state of mind. This method is the assessment, an administrative procedure in which the Department of Revenue attempts to recover the dividend which the individual received (AS 43.23.035(b)). The other method is criminal prosecution, which is aimed only at those who have intentionally engaged in fraud (the crime is "unsworn falsification" under AS 11.56.210). Intent to defraud can be difficult to prove, especially to the high standard of beyond a reasonable doubt required by the criminal law.

The proposed legislation would authorize the Department of Revenue to seek civil penalties which could exceed the value of the dividend(s) wrongly obtained for those who have engaged in undesirable behavior short of intentional fraud. The bill would establish civil fines of up to \$5,000 for those who are found to have engaged in willful misrepresentation, gross negligence, or reckless disregard of material facts involving their eligibility for dividends. The standard of proof required would be lower than that required in criminal prosecutions.

Timing of SB 444

This bill would take effect January 1, 1989 and will have its first impact on the 1989 dividend distribution. This is appropriate, because printing deadlines make it too difficult to make the changes in the 1988 dividend application forms which would be required if the changes in the law went into effect this year.

Information about the loopholes in the Permanent Fund Dividend program appears to be spreading, however, which makes it critical for the Legislature to pass a bill this session which can go into effect for the 1989 dividend distribution. With the one-year lag between passage and implementation effectively forced by printing deadlines, the Legislature must take action this session, or the earliest dividend distribution it can affect will be in 1990.

Paying dividends to the people who claim to be Alaskans but have been gone for years is not what the program is all about. We believe this bill is needed to protect the integrity of the dividend program.

1 IN THE SENATE

BY HENSLEY, KERTTULA, ABOOD
AND ELIASON

2

SENATE BILL NO. 444

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to eligibility for permanent fund
7 dividends and providing civil penalties for certain
8 conduct involving permanent fund dividends; and
9 providing for an effective date."

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

11 * Section 1. AS 43.23.005(a) is amended to read:

12

(a) An individual is eligible to receive one permanent fund
13 dividend each year in an amount to be determined under AS 43.23.025 if
14 the individual applies to the department, and if

15

(1) on the date of application the individual is a state
16 resident; [AND]

17

(2) the individual was a state resident for a period of at
18 least six consecutive months immediately preceding April 1 of the
19 current dividend year; and

20

(3) on the date of application the individual is physically
21 present in the state.

22

* Sec. 2. AS 43.23.015(b) is amended to read:

23

(b) The department shall prescribe and furnish an application
24 form for claiming a permanent fund dividend. The application must
25 contain a statement of eligibility and a certification of residency in
26 substantially the following form:

27

I certify that

28

() I am a state resident on the date of this ap-

29

plication, [AND] I have been a state resident for at

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least six months immediately preceding April 1 of the current dividend year, and I am physically present as defined in AS 43.23.095 on the date of this application; or

() (name), the individual on whose behalf I am applying, is a state resident on the date of this application, [AND] has been a state resident for at least six months immediately preceding April 1 of the current dividend year, and is physically present as defined in AS 43.23.095 on the date of this application.

I understand that a false claim of eligibility [RESIDENCY] to obtain a permanent fund dividend for myself or for another is a criminal offense, [AND] that if convicted I will forfeit future [PERMANENT FUND] dividends, and that I must repay all [PERMANENT FUND] dividends that have been paid to me. I understand that if I wilfully misrepresent, exercise gross negligence, or recklessly disregard a material fact regarding my eligibility for a permanent fund dividend I will forfeit the dividend, be subject to a civil fine of up to \$5,000, and lose my eligibility for the next five dividends. I understand that these penalties are [THIS PENALTY IS] in addition to any criminal penalties imposed.

(signature of individual,
parent, guardian, or other
authorized representative)

1 * Sec. 3. AS 43.23.035 is amended by adding a new subsection to read:

2 (c) An individual who, in claiming a permanent fund dividend,
3 wilfully misrepresents, exercises gross negligence, or recklessly
4 disregards a material fact pertaining to eligibility forfeits the
5 dividend, is subject to a civil fine of up to \$5,000, and loses eli-
6 gibility to receive the next five dividends following the forfeited
7 dividends. The commissioner may commence proceedings in court to
8 enforce this subsection.

9 * Sec. 4. AS 43.23.095 is amended to read:

10 Sec. 43.23.095. DEFINITIONS. In this chapter,

11 (1) "Alaska permanent fund" means the fund established by
12 art. IX, sec. 15 of the state constitution;

13 (2) "commissioner" means the commissioner of revenue;

14 (3) "department" means the Department of Revenue;

15 (4) "dividend fund" means the fund established by AS 43.-
16 23.045;

17 (5) "individual" means a natural person;

18 (6) "permanent fund dividend" means a right to receive a
19 payment from the dividend fund;

20 (7) "physically present" means being physically present in
21 the state, or, if not physically present, absent only

22 (A) for medical treatment that is not available in the
23 state;

24 (B) for service in Congress; or

25 (C) to accompany, as a spouse or dependent, an indi-
26 vidual who is eligible for a permanent fund dividend under (A) or
27 (B) of this paragraph;

28 (8) "state resident" means an individual who is physically
29 present [IN THE STATE] with the intent to remain permanently in the

1 state or, if the individual is not physically present [IN THE STATE],
2 intends to return to the state and

3 (A) is absent only for any of the following reasons:

4 (i) medical treatment that is not available in
5 the state;

6 (ii) service in the Congress; or

7 (iii) to accompany, as a spouse or dependent, an
8 individual who is eligible for a permanent fund dividend
9 under (i) or (ii) of this subparagraph; or

10 (B) has not been absent during the six months immedi-
11 ately preceding April 1 for more than five consecutive years and
12 is absent only for any of the following reasons:

13 (i) [(A)] vocational, professional, or other spe-
14 cific education for which a comparable program was not
15 reasonably available in the state;

16 (ii) [(B)] secondary or postsecondary education;

17 (iii) [(C)] military service;

18 [(D) MEDICAL TREATMENT

19 (E) SERVICE IN CONGRESS;]

20 (iv) [(F)] other reasons that [WHICH] the commis-
21 sioner may establish by regulation; or

22 (v) [(G)] service in the Peace Corps;

23 (9) [(8)] "year" means a calendar year.

24 * Sec. 5. This Act takes effect January 1, 1989.

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 3/2/88 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

2/16/88
Mr. President:

DATE TURNED INTO OFFICE 3/11/88

State Affairs Committee considered SB 444

eligibility for permanent fund dividends and providing civil penalties for certain conduct involving permanent fund dividends; efd

and recommended:

replace with CS _____ same title
 new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]

[Signature]
Chairman signature and recommendation

Committee Backup Attached