

**HB**

**255**

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF  
HB 255

*PF Dividends/Incarcerated Felons*

Received March 29, 1989  
by Rep. Boyer

Heard April 19, 1989  
Heard April 20, 1989  
Heard April 25, 1989

Committee Substitute adopted April 25, 1989

Passed Out of Committee April 25, 1989  
2 Do Pass  
3 Do Not Pass  
2 No Recommendation

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STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY  
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POUCHY - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HB 255

House State Affairs

4/19/89

House State Affairs

4/25/89

# HOUSE COMMITTEE REPORT

(7)

Date Referred: March 29, 1989

FURTHER REFERRALS: JUDICIARY  
FINANCE

Date of Committee Action: \_\_\_\_\_

The STATE AFFAIRS Committee considered:

HB 255

HOUSE BILL NO. 255 [PF DIVIDENDS/INCARCERATED FELONS]  
"An Act relating to permanent fund dividends for certain incarcerated individuals; and providing for an effective date."

**RECOMMENDATIONS:**

- be replaced with CS HB 255 (SA)  the same title
- a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- 2.  fiscal impact DOR/HESS
- zero fiscal note \_\_\_\_\_
- zero with analysis \_\_\_\_\_

- fiscal note(s) \_\_\_\_\_
- zero fiscal note(s) \_\_\_\_\_
- zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS:**

\_\_\_\_\_  
*Conrad W. ...*  
 \_\_\_\_\_  
*Eileen P. Madson*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**SIGNING:**  
(Check approp. column)

	DO NOT PASS	No Rec	Amend
<i>Michael Douley</i>	<input checked="" type="checkbox"/>		
<i>Agnes Stanley</i>	<input checked="" type="checkbox"/>		
<i>Jim ...</i>		<input checked="" type="checkbox"/>	
<i>Jim ...</i>	<input checked="" type="checkbox"/>		
<i>Ed ...</i>		<input checked="" type="checkbox"/>	

*Ed ...*  
 \_\_\_\_\_  
 Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Relating to PFD for individuals  
incarcerated  
Sponsor: Boyer  
Requestor: \_\_\_\_\_

Agency Affected: Health & Social Services  
BRU: Assistance Payments BRU  
Components: AFDC

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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-
LAND & 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-
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REVENUE	-0-	260.0	260.0	260.0	260.0	260.0
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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 : (Attach a separate page if necessary)

GFM	(260.0)	(260.0)	(260.0)	(260.0)	(260.0)
GF/Program Receipts	260.0	260.0	260.0	260.0	260.0

SEE ATTACHED ANALYSIS

Prepared by: John R. Taber, Director  
Division: Public Assistance

Phone: 465-3347  
Date: 4/1/89

Approved by Commissioner: [Signature]  
Agency: Health & Social Services

Date: 4-10-89

Distribution (by preparer):

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

Department of Health and Social Services  
 Division of Public Assistance

This legislation allows the Department of Corrections to receive the PFD on behalf of incarcerated individuals. This will impact the level of Child Support Enforcement Division (CSED) claims against these dividends in cases with outstanding child support obligations. An AFDC case involving a living absent parent is potentially a child support enforcement case as well. Collection from the absent parent by the CSED reduces the net cost of welfare to the state.

Of the total CSED collections for Alaska welfare cases, 50% (less CSED incentive retention) is returned to the federal government as its share of the AFDC benefit paid out, the remaining 50% represents restricted GF/program receipts supporting AFDC formula program expenditures.

The impact of this proposed bill will increase CSED collections with some portion of the recovery used to reimburse AFDC entitlement expenditures. The Department of Revenue, CSED estimates the total collections for AFDC cases will be roughly \$520,000 (600 cases at \$800 collected from the Dividend). Of this total \$260,000 would be returned to the federal government and \$260,000 would be transferred to the Department of Health and Social Services to serve as AFDC GF/program receipts. These GF/program receipts supplant general fund match needed to fund the 50% state share of AFDC program expenditures. This legislation would potentially make available through CSED collections additional GF/program receipts.

Assuming the enhanced CSED collections result in an additional \$260,000 GF/program receipts the likely revised funding sources with this legislation are as follows:

	<u>TOTAL</u>	<u>FED</u>	<u>(GF) GFM</u>	<u>I/A</u>	<u>(GF) CSED</u>
FY90 Governor AFDC Budget	67322.0	30794.0	28094.0	5734.0	2700.0
Impact of Proposed Bill	<u>-0-</u>	<u>-0-</u>	<u>(260.0)</u>	<u>-0-</u>	<u>260.0</u>
FY90 REVISED	67322.0	30794.0	27834.0	5734.0	2960.0

The proposed legislation does not change the projected total AFDC program expenditure of 67322.0 or the total general fund need of 30794.0 (28904.0 + 2700.0). The only change is the mix of general fund sources between general fund match and GF/program receipts.

As mentioned above, enhanced CSED collections do represent additional and available revenue to the State which have a positive fiscal impact. However, we indicate a zero general fund impact supporting AFDC program expenditures because we do not make a distinction between general fund match and GF/program receipts since they both represent the state financial share of AFDC entitlement.

It is our understanding that for fiscal note purposes both sources are "general fund."

FISCAL NOTE

REQUEST

Revision Date: \_\_\_\_\_  
Title: An Act relating to PFDs for certain incarcerated individuals  
Sponsor: Boyer  
Requestor: \_\_\_\_\_

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
<b>OPERATING</b>						
PERSONAL SERVICES	2.3	1.2	1.2	1.2	1.2	1.2
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	1.0	0.5	0.5	0.5	0.5	0.5
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-
<b>TOTAL OPERATING</b>	<b>3.3</b>	<b>1.7</b>	<b>1.7</b>	<b>1.7</b>	<b>1.7</b>	<b>1.7</b>
<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>REVENUE</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	3.3	1.7	1.7	1.7	1.7	1.7
<b>TOTAL</b>	<b>3.3</b>	<b>1.7</b>	<b>1.7</b>	<b>1.7</b>	<b>1.7</b>	<b>1.7</b>

POSITIONS:

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

ANALYSIS: See attached.

Prepared By: Ervin Jones  
Division: Permanent Fund Dividend Division

Phone: 465-2323  
Date: April 12, 1989

Approved by Commissioner: [Signature]  
Agency: Revenue

Date: 4/13/89

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  
HB 255  
April 12, 1989

Assumptions:

1. With an immediate effective date, this bill is intended to go in effect for the 1989 Dividend program, even though the application period (April 1-June 30) will be half over by the time this bill could become law.
2. The Department of Corrections will file an application for every incarcerated individual who was incarcerated on April 1 and who the Commissioner of Corrections believes to be an otherwise eligible resident. The Department of Corrections will file for such eligible incarcerated individuals, even if they are no longer incarcerated individuals at the time of filing.
3. The Department of Corrections will provide a list of all incarcerated individuals who were incarcerated on April 1. This list will contain full name, birthdate and social security number. The Department of Revenue will deny all applications by such individuals which were not signed by the Commissioner of Corrections or the Commissioner's designee.
4. Dividends will be paid to the Commissioner of Corrections on a weekly basis as the applications are approved for payment, starting in October.
5. All requests for additional information, denials and appeal notices will be sent to the Department of Corrections.
6. With the sudden repeal of AS 43.23.005(d), 43.23.025(b), 43.23.055(5) and 43.23.055(6), the Department of Revenue will be required to contact all felons who would have been ineligible under the repealed sections, and offer them the opportunity to file. The Department of Revenue will probably have to offer them a 90 day filing period, probably May 15-August 15.

Program Summary:

The Department of Revenue will use the list provided in assumption 3 to match against the PFD file. Any person who files an application on their own 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 Permanent Fund Dividend Division will hold informal conferences, and where requested by the applicant, the Commissioner will hold formal hearings and represent the Department in court. This is expected to generate approximately 500 additional denials in the first year, with a decreasing number in subsequent years, as felons realize that they may not file for the dividend without the participation of the Department of Corrections.

The Department of Revenue will include in the dividend calculation the total number of incarcerated felons for whom the Department of Corrections files.

Department of Revenue  
 Permanent Fund Dividend Division  
 Fiscal Note Analysis  
 HB 255  
 April 12, 1989

	<u>FY 89</u>	<u>FY 90</u>
1. <u>Positions:</u>		
1 PPT Document Processor I, R7, @ \$2319.66/mo. including salary and benefits for 1 month =	\$2.3	\$1.2
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 second and subsequent years.		
2. <u>Other Expenditures:</u>		
a. <u>Travel:</u> None.		
b. <u>Contractual:</u>		
Printing costs and postage for 500 additional denial notices, appeal forms and envelopes, plus special notice of law change. Reduced by half in second and subsequent years. =	1.0	0.5
c. <u>Supplies:</u> None.		
d. <u>Equipment:</u> Use existing.	<u>-0-</u>	<u>-0-</u>
TOTAL COST	<u>\$3.3</u>	<u>\$1.7</u>

Item 3

# Alaska State Legislature

REPRESENTATIVE  
MARK BOYER

VICE-CHAIRMAN, HOUSE  
HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

MEMBER, HOUSE LABOR AND  
COMMERCE COMMITTEE

CHAIR, CHILDREN'S CAUCUS



House of Representatives

FAIRBANKS

1098 LAKEVIEW TERRACE  
FAIRBANKS, ALASKA 99701  
(907) 456-6473

JUNEAU

P.O. BOX V  
STATE CAPITOL  
JUNEAU, ALASKA 99811  
(907) 465-3466

## MEMORANDUM

TO: Representative Red Boucher  
Chair, House State Affairs Committee

FROM: Representative Mark Boyer

DATE: April 13, 1989

SUBJECT: Explanation of HB 255 - "An Act relating to permanent fund dividends for certain incarcerated individuals and providing for an effective date."

I have sponsored this bill not to benefit felons but to benefit approximately 1600 children who are denied much needed child support because one of their parents is in jail because they have been convicted of a felony.

Last year when the legislature repealed the ability of convicted felons to receive permanent fund dividends, I think we forgot the effect that this action would have on their children and the victims of their crimes.

House Bill 255 is drafted so that the state can take 100% of the felon's dividend: first, for child support; second, for court ordered restitution payable to the victims of their crimes; and third, for court ordered fines which are deposited in the general fund. Any remaining money, and I doubt there will be, would be held in trust and used for gate money.

If you have any questions, please contact me or my staff, Nancy Groszek, at 465-3466. Attached is a copy of the bill and a position paper from the Department of Revenue.

MB/NJG/bhn

Attachments

cc: House State Affairs Committee Members

FAIRBANKS 20B

# Alaska State Legislature

Item 4

Sen. Pat Pourchot, Chairman

Sen. Jan Faika, Vice Chairman

Sen. Al Adams

Sen. Tim Kelly

Sen. Rick Uehling



P.O. Box V  
State Capitol  
Juneau, Alaska 99811

907-465-3712

## Senate State Affairs Committee

### MEMORANDUM

TO: Senate State Affairs Committee Members

FROM: Senator Pat Pourchot, Chairman

RE: Permanent Fund Dividends for Felons

DATE: April 8, 1989

During consideration of HB 57, relating to the Violent Crimes Compensation Board, reference was made to litigation over the provision in current statute (AS 43.23.005(d)) which prohibits convicted felons from receiving Permanent Fund Dividends. At the request of the committee, staff spoke with Marilyn May of the Attorney General's Office in Anchorage and received the following report.

Two lawsuits were filed in 1987. They are being tried in the Palmer court under Judge Cutler.

Smith v. State argues that the prohibition violates the ex post facto provision of the state and federal constitutions, which, simply put, protects against an act becoming a crime after it was committed. Smith argues that at the time he committed his crime, he didn't know that his action would result in not receiving the dividend.

Anthony v. State argues that the prohibition violates the constitutional provisions of equal protection (by treating felons differently than others similarly situated), due process (by enactment without input from felons), ex post facto, and Section 1983, which deals with civil rights.

Since these suits were filed, 15 other felons have joined Anthony v. State. A motion to establish a class action suit is pending before the court.

The plaintiffs were to have filed summary judgment with the court by April 1, 1989 with the state responding by May 1. However, an extension of the April filing deadline is currently before the court so it is hard to predict when a final decision might occur. Ms. May assumes early fall as the judge has indicated her desire to rule prior to the distribution of Permanent Fund Dividends in October. Ms. May thinks that the decision will be appealed regardless of who wins.

Felons' PFDs  
April 8, 1989  
Page 2

Smith has requested an injunction against state expenditure of the felons' PFDs prior to a ruling in the lawsuit. Ms. May thinks it unlikely that the court will grant an injunction. Should the state spend the PFDs and lose the lawsuit, the state will likely have to repay the felons.

The Governor's FY 90 budget proposes appropriation of an anticipated \$1.5 million in felons' PFDs. Each of the following proposals represents an increase to the FY 89 funding level:

201.0	Violent Crimes Compensation Board
1073.5	Dept. Corrections rehabilitation programs
200.0	vocational/postsecondary education
200.0	substance abuse treatment
123.5	sex offender treatment
150.0	anger management
400.0	forensic halfway house
225.0	Dept. Corrections gate money

Based on the number of incarcerated felons, the Department of Revenue estimated that their PFDs would total \$2 million. OMB chose to program only \$1.5 million, anticipating that not all felons would apply for the PFD and that not all who applied would be eligible. The Governor's budget reduction plan, presented to the Budget Summit on April 4, deleted the increments in the rehabilitation programs and used the PFD money to fund existing sex offender and alcohol treatment programs.

A copy of the law prohibiting felons from receiving Permanent Fund Dividends is attached. Section 5 contains legislative intent providing for an amount equal to the felons' PFDs to be annually appropriated from the dividend fund to the Violent Crimes Compensation Board.

cc: Senator Uehling  
    Senator Binkley  
    Senator Frank

Chapter 53

Chapter 54

for the interest deposited in  
The annual estimated balance  
the legislature to the public

ly under AS 31.10.070(c).

AN ACT

Relating to permanent fund dividends for individuals  
incarcerated after conviction for a felony; and pro-  
viding for an effective date.

\* Section 1. AS 43.23.005 is amended by adding a new subsection to  
read:

(d) Notwithstanding the provisions of (a) - (c) of this section,  
an individual who has been convicted of a felony is not eligible for a  
permanent fund dividend for a year when, during all or part of the  
fiscal year ending June 30 of the current year, as a result of the  
conviction the individual is incarcerated. This subsection applies  
whether or not the individual has applied for the dividend.

43.23.005(d)

\* Sec. 2. 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 who is ineli-  
gible to receive a dividend under AS 43.23.005(d) is counted as an  
eligible individual whether or not the individual has applied for the  
dividend.

43.23.025(b)

\* Sec. 3. AS 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

43.23.055

Chapter 54

1 a permanent fund dividend; the department shall set the time limit for  
2 applications for permanent fund dividends so that the number of eli-  
3 gible applicants is determined by October 1 of the year for which the  
4 dividend is declared and permanent fund dividends for a year are paid  
5 before April 30 of the year following that year;

6 (3) adopt regulations under the Administrative Procedure  
7 Act (AS 44.62) that establish procedures and time limits for an indi-  
8 vidual upon emancipation or upon reaching majority to apply for perma-  
9 nent fund dividends not received during minority because the parent,  
10 guardian, or other authorized representative did not apply on behalf  
11 of the individual; [AND]

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

16 (5) annually determine, in cooperation with the Department  
17 of Corrections, the number and identity of individuals ineligible for  
18 a permanent fund dividend under AS 43.23.005(d); and

19 (6) adopt regulations that are necessary to implement  
20 AS 43.23.005(d).

21 \* Sec. 4. This Act applies only to eligibility for permanent fund  
22 dividends for years after 1988.

23 \* Sec. 5. It is the intent of the legislature that an amount approxi-  
24 mately equal to the money that would otherwise be paid as permanent fund  
25 dividends to individuals determined to be ineligible under AS 43.23.005(d),  
26 as enacted by sec. 1 of this Act, be appropriated annually from the divi-  
27 dend fund to the crime victim compensation fund (AS 18.67.162) to carry out  
28 the purposes of AS 18.67.

29 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).  
CSHR 245(Jud)

EFF. 5/26/88

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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) annually determine, in cooperation with the Department of Corrections, the number and identity of individuals ineligible for a permanent fund dividend under AS 43.23.005(d); and

(6) adopt regulations that are necessary to implement AS 43.23.005(d). (§ 1 ch 102 SLA 1982; am § 2 ch 55 SLA 1983; am § 3 ch 43 SLA 1984; am § 3 ch 54 SLA 1988)

Revisor's notes. — Section 11, ch. 99, SLA 1985, amends this section. The amendment is effective if § 1, ch. 99, SLA 1985 is repealed (see § 25, ch. 99, SLA 1985). If the amendment becomes law, the section will read: "The department shall  
"(1) annually make payments to individuals who elect to receive cash under AS 43.23.005(d);

"(2) adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for claiming a permanent fund dividend or for electing an annuity credit; the department shall set the time limit for applications for permanent fund dividends so that the number of eligible applicants is determined by October 1 of the year for which the dividend is declared and permanent fund dividends for a year are paid before April 30 of the year following that 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 credited or 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; and

"(5) provide the commissioner of administration with information necessary to maintain individual annuity account records and administer the annuity program."

Effect of amendments. — The 1984 amendment substituted "October" for "December" in paragraph (2).

The 1988 amendment, effective May 26, 1988, deleted "and" at the end of paragraph (3), and added paragraphs (5) and (6).

Editor's notes. — Section 4, ch. 54, SLA 1988 provides that the amendments made to this section by ch. 54, SLA 1988 apply "only to eligibility for permanent fund dividends for years after 1988."

Sec. 43.23.065. Exemption of permanent fund dividends.

(a) Except as provided in (b) of this section, 50 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.

(b) An exemption is not available under this section for permanent fund dividends taken to satisfy

(1) child support obligations required by court order or decision of the child support enforcement agency under AS 47.23.140 — 47.23.220;

(2) court ordered restitution under AS 12.55.045 — 12.55.051 or 12.55.100;

(3) a court ordered probation fee under AS 12.55.105; or

(4) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired.

(c) Claims listed in (b) of this section have priority in the order listed over other claims on a permanent fund dividend. (§ 1 ch 102 SLA 1982; am § 1 ch 157 SLA 1984; am § 1 ch 57 SLA 1985; am § 67 ch 138 SLA 1986)

**Revisor's notes.** — Sections 12 and 13, ch. 99, SLA 1985, amend this section and add new (b) and (c). The amendments are effective if § 1, ch. 99, SLA 1985 is repealed (see § 25, ch. 99, SLA 1985). If the amendments become law, the section will read: "(a) Fifty percent of a cash permanent fund dividend payment 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. An exemption is not available under this section for cash permanent fund dividend payments taken to satisfy (1) child support obligations required by court order or decision of the child support enforcement agency under AS 47.23.140 — 47.23.220; (2) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired; or (3) court ordered restitution under AS 12.55.045 — 12.55.051 or 12.55.100. A child support obligation under (1) of this section has priority over a debt owed to an agency of the state, and a permanent fund dividend may not be taken to satisfy a debt under (2) of this section until any portion of the dividend necessary to satisfy a child support obligation has been taken.

"(b) The department shall require an in-

dividual to take 100 percent of the permanent fund dividend in cash if the department receives a levy, execution, garnishment, attachment or other legal remedy for the collection of a past due debt described in (a)(1) or (2) of this section.

"(c) The courts of this state may, as a condition of any civil judgment or restitution order under AS 12.55.045 — 12.55.051 or 12.55.100, require the defendant to take the defendant's permanent fund dividend in cash."

**Effect of amendments.** — The 1984 amendment added the last sentence and, in the next-to-last sentence, substituted "An exemption is not" for "No exemption is," inserted "(1)," and added the language beginning with "(2) a debt" at the end of the sentence. Section 2, ch. 157, SLA 1984 limits the application of the 1984 amendment to dividends issued for 1984 and subsequent years.

The first 1985 amendment added "or (3) court ordered restitution under AS 12.55.045 — 12.55.051 or 12.55.100" at the end of the next-to-last sentence and in the last sentence inserted "or court ordered restitution" and "and court ordered restitution."

The second 1985 amendment, effective if § 1, ch. 99, SLA 1985 is repealed, rewrote subsection (a) and added subsections (b) and (c).

The 1986 amendment rewrote this section.

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

Item 5

STEVE COWPER, GOVERNOR

P.O. BOX 5  
JUNEAU, ALASKA 99811-0400  
PHONE: (907) 465-2300  
TELEFAX: (907) 465-2389

### POSITION PAPER ON HB 255

The Department of Revenue supports this legislation. This bill will insure that the Permanent Fund Dividends of incarcerated convicted felons will be available for the support of their children.

Without this legislation, more than 600 children will lose the Permanent Fund Dividends they are due from their parents in prison. In addition, the state will need to provide additional public assistance to another 1,000 children on public assistance who will also lose the child support formerly available from the Permanent Fund Dividends of their imprisoned parents.

The law passed in the 1988 session to make incarcerated convicted felons ineligible for Permanent Fund Dividends hits hard at the felons. That is understandable. This law hits hard as well at their children. That is wrong.

The felons are criminals who deserve punishment. Their children are victims who deserve our help.

In many cases the children are literally the victims of their fathers' physical or sexual abuse. In all cases the children have at least one parent in jail, and in many other cases the other parent is a poor provider.

The children of prisoners are among the neediest of those receiving child support. The Permanent Fund Dividend is about the only source of child support available from incarcerated felons.

Much of the support for the passage of the law last year came from the belief that convicted felons in prison should not be able to spend Permanent Fund Dividends. This is obviously sensible, and House Bill 255 would make it a crime for a convicted incarcerated felon to apply for a Dividend without the sponsorship of the Department of Corrections.

HB 255 protects the rights of the felons' children to child support and the rights of other creditors to repayment of the felons' debts. The legislation provides that the Department of Corrections will hold the felon's Permanent Fund Dividend until the felon is released. By law child support will have first call on the Dividend above other creditors. This will also provide every opportunity for other claims to be satisfied -- including restitution for victims, court fines and the like.

We urge the legislature to enact HB 255. It will protect the rights of society without stepping on any of our weakest members.

BILL NO: HB 255

DATE: 04/17/89

TITLE: An Act relating to permanent fund dividends for certain incarcerated individuals; and providing for an effective date.

CONTACT: Nola K. Cap, 465-3040

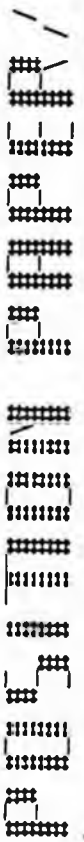
DEPARTMENT OF PUBLIC SAFETY

The Violent Crimes Compensation Board opposes this bill.

HB 255 would repeal existing law under which incarcerated felons lose the right to apply for their permanent fund dividend checks. The monies which would have been paid to the felons are available for appropriation to a "crime victim compensation fund", and may be used to pay compensation to innocent victims of violent crimes. The Board strongly endorses the concept that criminal offenders should pay for victim compensation; there would be no need for a compensation program if there were no offenders.

Approximately 40 other states fund their victim compensation programs by fines and penalties assessed against convicted criminals. Alaska's present law is based on the policy that offenders should be held responsible for the injuries they have caused, and help pay for damages suffered by innocent victims. This existing law should not be changed.

*Millard Ingraham*  
Millard Ingraham, Chairman  
Violent Crimes Compensation Board



Item 7



Alaska Court System  
State of Alaska  
OFFICE OF ADMINISTRATIVE DIRECTOR

JANALEE R. STRANDBERG  
Staff Counsel

303 K Street  
Anchorage, AK 99501  
(907) 264-9228

April 17, 1989

Representative Mark Boyer  
House of Representatives  
P. O. Box V  
Juneau, AK 99811


Re: HB 255 An act relating to permanent fund dividends for certain incarcerated individuals; and providing for an effective date.

Dear Representative Boyer:

Although the Court System does not collect statistics on the number of court-ordered fines and orders of restitution, generally in felony cases the trial courts do order that the defendant pay fines and, in appropriate cases, restitution. These monies go into the general fund in the cases of fines and to the victims in the case of restitution.

If I can provide further information to you or answer any questions, please let me know.

Sincerely,

  
Jan Strandberg  
Staff Counsel

JS:gb



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

### MEMORANDUM

TO: Committee Staff

FROM: Dennis J. Burns, Aide  
House State Affairs Committee

DATE: April 28, 1989

RE: CSHB 255(SA)

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The CS for HB 255 passed out of the State Affairs Committee will need further work. My instructions were to include amendments offered by Representative's Boyer and Donely -I was further instructed by Representative's Donely and Boucher to delete language in the State Affairs CS which they felt was necessary for consistency. Tam Cook, however, indicated a need to further clarify the changes - I was given no instructions to proceed further.

Please note the attached memorandum from Tam Cook.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 28, 1989

SUBJECT: Permanent Fund Dividends  
(CSHB 255(L&C))

TO: Representative H.A. "Red" Boucher, Chairman  
House State Affairs Committee

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

Here is the change to the committee substitute requested by Mr. Dennis Burns. I was directed to make no drafting changes as a result of this request, so I must alert you to the fact that the change garbles the effect of AS 43.23.065 by eliminating the distinction between subsection (a) type claims and subsection (b) type claims. The entire section needs to be redrafted for clarity.

TBC:lmb  
L7/077

Enclosure

b. Example / Checklist Contact Sheet

LEGISLATIVE

SPONSOR: House State Affairs  
 Pub. Hear Work Ses. Inv. Hear <sup>Testimony</sup>

TC DATE/DAY: Wed, Apr 19

TIME: 8:30-10:00 AM

LEGISLATIVE REFERENCE: HB 255

JUNEAU ROOM: C-102

SUBJECT: FD Dividends /

BRIDGE: \_\_\_\_\_

Imprisoned Felons

# OF PORTS: \_\_\_\_\_

CONTACT: Ann PH: 4963

DATE TAKEN/BY: Becky 4/14/89

\*\*\*\*\*

TELECONFERENCE SITES:

LIO'S

LTC'S

VTS'S

- Anchorage
- Barrow \*
- Bethel
- Delta Junction \*
- Dillingham \*
- Fairbanks
- Glennallen \*
- Juneau
- Ketchikan
- Kodiak
- Kotzebue
- Mat-Su
- Nome
- Petersburg \*
- Sitka
- Soldotna
- Valdez \*

- Homer
- Wrangell

See List on Reverse Side

ALL LIO'S

OTHER SITES WELCOME WITH PRIOR NOTIFICATION

CHAIRING SITE: Juneau

CHAIRPERSON: Becky

[ ] CONFORMS TO LEGISLATIVE COUNCIL POLICY 4/85

\_\_\_\_\_  
SIGNATURE OF SPONSOR/CONTACT PERSON

\_\_\_\_\_  
DATE

*cancel 4/18*  
~~William Ingraham~~  
 OFFNETS: ~~5776 18th Ave~~  
*add:* Linda Langston  
 Ave 263-6270  
 Marcia Payne  
 283-7171 Nikiski  
 PO Box 8664  
 Nikiski, AK 99635  
*ok by Becky 4/18*  
 CSOR-CSED  
 550 W. 7th Ave, Rm 310  
 Anchorage 99501

Becky will call me - SPECIAL INSTRUCTIONS  
 w/a bridge # - Jim to call  
 offnets w/ bridge #  
 562-2867

LINDA LANGSTON  
ANCH. 263-6270

~~FIRST SECTION~~

MARCIA PAYNE

283-7171

POB 86609

NISKI 90635

OFF-NET

A

NO TELECONFERENCE ON  
HB 255 by WILLARD INQUIRY  
276-1263

D

A M E N D M E N T

OFFERED IN THE HOUSE

BY BOYER

TO: HB 255

Page 1, line 7:

Delete "incarcerated"

After "individuals", insert "convicted of crimes"

Page 1, after line 9:

Insert new bill sections to read:

"\* Section 1. AS 18.67.162 is amended to read:

Sec. 18.67.162. CRIME VICTIM COMPENSATION FUND. There is created a crime victim compensation fund which shall be administered by the Violent Crimes Compensation Board. The fund consists of money appropriated to it by the legislature and of deposits made under (b) of this section. The fund shall be administered in accordance with the provisions of this chapter. Money distributed from the fund shall be in addition to other sources of compensation provided in this chapter.

\* Sec. 2. AS 18.67.162 is amended by adding a new subsection to read:

(b) Notwithstanding any other law, the Department of Revenue shall withhold \$50 from the permanent fund dividend of each individual convicted of an offense listed under AS 18.67.101 and pay that amount into the crime victim compensation fund. A payment into the fund under this subsection has priority over other claims to the dividend

except those listed under AS 43.23.065(b)(1) and (2). Money shall be withheld under this subsection from a dividend for a year if, on April 1 of that year as a result of the conviction of an offense listed under AS 18.67.101, the individual is

- (1) in a correctional facility;
- (2) on furlough under AS 33.30.101 - 33.30.131;
- (3) in a community residential center as a condition of probation or parole;
- (4) in a correctional restitution center under AS 33.30.-151 - 33.30.181; or
- (5) on probation or parole."

Page 1, line 10:

Delete "Section 1"

Insert "Sec. 3"

Re:umber the following sections accordingly.

PERSON WHO OWES (FINES) + those if = would  
Also to be to keep = 100.00

5-0866A  
Cook  
3/13/87

1 IN THE HOUSE

BY DONLEY

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the exemption for permanent fund  
7 dividends from remedies for the collection of debt."

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

9 \* Section 1. AS 43.23.065(a) is amended to read:

10 \* 50  
11 (a) One hundred dollars [EXCEPT AS PROVIDED IN (b) OF THIS  
12 SECTION, 50 PERCENT] of the annual permanent fund dividend payable to  
13 an individual is exempt from levy, execution, garnishment, attachment,  
14 or any other remedy for the collection of debt. This exemption  
15 applies to an eligible individual's permanent fund dividend both  
16 before and after payment is made to the individual.

17 \* Sec. 2. Section 13. ch. 99, SLA 1985 is amended to read:

18 Sec. 13. AS 43.23.065 is amended by adding new subsections to  
19 read:

20 (d) [(b)] The department shall require an individual to take 100  
21 percent of the permanent fund dividend in cash if the department  
22 receives a levy, execution, garnishment, attachment or other legal  
23 remedy for the collection of a past due debt [DESCRIBED IN (a)(1) OR  
24 (2) OF THIS SECTION].

25 (e) [(c)] The courts of this state may, as a condition of any  
26 civil judgment or restitution order under AS 12.55.045 - 12.55.051 or  
27 12.55.100, require the defendant to take the defendant's permanent  
28 fund dividend in cash.

29 \* Sec. 3. AS 43.23.065(b) and (c) are repealed.

6-1111E ✓  
Cook  
4/24/89

Original sponsor: Boyer

*Child support \$100 KCCCT  
court order - AS 14.14.010 - D*

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 255 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to permanent fund dividends for  
7 certain individuals convicted of crimes; and provid-  
8 ing for an effective date."

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

10 \* Section 1. AS 18.67.162 is amended to read:

11 Sec. 18.67.162. CRIME VICTIM COMPENSATION FUND. There is  
12 created a crime victim compensation fund which shall be administered  
13 by the Violent Crimes Compensation Board. The fund consists of money  
14 appropriated to it by the legislature and of deposits made under (b)  
15 of this section. The fund shall be administered in accordance with  
16 the provisions of this chapter. Money distributed from the fund shall  
17 be in addition to other sources of compensation provided in this  
18 chapter.

*INACCURATE FELONS WHO LACK  
NO CALL ON HIS GETTING MAJOR  
P \$*

19 \* Sec. 2. AS 18.67.162 is amended by adding a new subsection to read:

20 (b) Notwithstanding any other law, the Department of Revenue  
21 shall withhold ~~from~~ *fel* the permanent fund dividend of each individual  
22 convicted of an offense listed under AS 18.67.101 and pay that amount  
23 into the crime victim compensation fund. A payment into the fund  
24 under this subsection has priority over other claims to the dividend  
25 except those listed under AS 43.23.065(b)(1) and (2). Money shall be  
26 withheld under this subsection from a dividend for a year if, on  
27 April 1 of that year as a result of the conviction of an offense  
28 listed under AS 18.67.101, the individual is

29 (1) in a correctional facility;

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every fr. 2003  
with no*

1 (2) on furlough under AS 33.30.101 - 33.30.131;

2 (3) in a community residential center as a condition of  
3 probation or parole;

4 (4) in a correctional restitution center under AS 33.30.-  
5 151 - 33.30.181; or

6 (5) on probation or parole.

7 \* Sec. 3. AS 43.23 is amended by adding a new section to read:

8 Sec. 43.23.007. DIVIDENDS OF INCARCERATED INDIVIDUALS. (a)  
9 Notwithstanding the application requirements of AS 43.23.005, only the  
10 Department of Corrections may apply during a year for a dividend for  
11 an incarcerated individual who is incarcerated on April 1 of that  
12 year. An application under this subsection must be signed by the  
13 incarcerated individual and the commissioner of corrections or an  
14 employee of the Department of Corrections authorized by the commis-  
15 sioner to sign applications.

16 (b) The Department of Corrections shall notify each incarcerated  
17 individual of the requirements of this section and apply for a perma-  
18 nent fund dividend for each individual who qualifies for a dividend  
19 and agrees to sign the application.

20 (c) The Department of Corrections shall, by June 30 of each  
21 dividend year, provide the Department of Revenue with a list of all  
22 incarcerated individuals for whom the Department of Corrections has  
23 applied for a dividend and all incarcerated individuals who are incar-  
24 cerated on April 1 for whom the department has not applied for a  
25 dividend. The Department of Revenue shall pay a dividend to the  
26 Department of Corrections for an incarcerated individual who is eligi-  
27 ble for a dividend and on whose behalf a timely application was filed.  
28 The Department of Corrections shall hold in trust each permanent fund  
29 dividend it receives for an incarcerated individual and shall pay the

1 dividend to the individual upon the individual's release from incar-  
2 ceration or upon receipt of the dividend, whichever is later.

3 (d) In this section, "incarcerated individual" means an indi-  
4 vidual who is incarcerated as a result of conviction of a felony and  
5 is

6 (1) in a correctional facility;

7 (2) on furlough under AS 33.30.101 - 33.30.131;

8 (3) in a community residential center as a condition of  
9 probation or parole; or

10 (4) in a correctional restitution center under AS 33.30.-  
11 151 - 33.30.181.

12 \* Sec. 4. AS 43.23.015(e) is amended to read:

13 (e) Except as provided in AS 43.23.007, if [IF] a public agency  
14 claims a permanent fund dividend on behalf of an individual, the  
15 public agency shall hold the dividend in trust for the individual.  
16 Money held in trust under this subsection shall be invested by the  
17 commissioner in accordance with AS 37.10.070.

18 \* Sec. 5. AS 43.23.035 is amended by adding a new subsection to read:

19 (d) An individual who intentionally violates AS 43.23.007(a) is  
20 guilty of a class A misdemeanor.

21 \* Sec. 6. AS 43.23.065(a) is amended to read:

22 (a) Except as provided in (b) of this section, 50 percent of the  
23 annual permanent fund dividend payable to an individual or to the  
24 Department of Corrections under AS 43.23.007 is exempt from levy,  
25 execution, garnishment, attachment, or any other remedy for the col-  
26 lection of debt. This exemption applies to an eligible individual's  
27 permanent fund dividend both before and after payment is made to the  
28 individual.

29 \* Sec. 7. AS 43.23.005(d), 43.23.025(b), 43.23.055(5) and 43.23.055(6)

1 are repealed.

2 \* Sec. 8. Section 5, ch. 54, SLA 1988 is repealed.

3 \* Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

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