

SCOMM

80:10

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HB 364

Revision Date: _____
Title: Qualification for a PFD
Sponsor: Taylor, B. Davis
Requestor: Ivan

Agency Affected: Revenue
BRU: Permanent Fund Dividend Division
Components: Permanent Fund Dividend
Division
COMPONENT SERIAL NO. 9 8 1

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
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-

Estimate of current year impact: None.

ANALYSIS: See Attached.

Prepared By: Thomas C. Williams
Division: Permanent Fund Dividend Division

Phone: 465-2323
Date: January 17, 1992

Approved by Commissioner: David R. Jensen
Agency: Revenue

Date: 1/21/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

page 1 of 2

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
FISCAL NOTE ANALYSIS

HB 364

As of January 17, 1992

This legislation was likely introduced as the result of the Division's denial of a maritime employee. Please refer to the attached copy of an article that appeared last year in the Anchorage Times and a September 17, 1991 letter from IOMMP President Timothy Brown to the Governor.

This legislation creates another reason why an individual can be out of Alaska for the entire year and still retain eligibility for a permanent fund dividend. It would allow an individual and their immediate family to actually move out of state, establish their principle domicile in another state and still collect permanent fund dividends.

It does not make clear what the "merchant marine of the United States" embodies, an estimated number of the individuals whom this would affect, nor the reason why merchant mariners should be afforded an employment exception similar to the Armed Forces, Alaska's U.S. Senators and U.S. Representative or Peace Corp volunteers.

As a practical matter, an individual who maintains their domicile inside Alaska, has no ties to any other state, and is simply absent for such maritime service would be eligible anyway. Accordingly, this legislation is not necessary in order to ensure bona fide Alaska residents domiciled in Alaska receive a dividend.

Alaska State Legislature

COMMITTEES:

MEMBER

RULES

INTERNATIONAL TRADES & TOURISM

LABOR & COMMERCE

ETHICS

WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE



P.O. BOX 1441
WRANGELL, ALASKA 99929
(907) 874-2316

While in Juneau
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4905

House of Representatives

ROBIN L. TAYLOR
MINORITY LEADER

MEMORANDUM

TO: Representative Ivan, Chair
House Special Committee on Military & Veteran Affairs

FROM: Representative Robin L. Taylor *RT*

DATE: 1/23/92

REF: House Bill 364

Mr. Chairman:

Here is some backup material and my sponsor statement on HB 364. I appreciate the early hearing on this legislation.

I will be out of the Capital beginning at noon tomorrow and will be unable to attend the hearing. My aide, Joe Ambrose, will be present and available to answer questions.

Alaska State Legislature

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House of Representatives

ROBIN L. TAYLOR
MINORITY LEADER

SPONSOR STATEMENT

HB 364

House Bill 364 was introduced at the behest of a constituent who feels he has been denied his Permanent Fund Dividend unfairly. This constituent contends he has been ruled ineligible for the dividend because his employment as a merchant seaman takes him away from the state for periods longer than those allowed under current law.

Current exemptions allow for absences for education, military service, medical treatment, service in Congress or service in the Peace Corps. The U.S. Merchant Marine has long been recognized as a de facto branch of the U.S. Military and in fact played a major role in the transportation of troops and materiel in Operation Desert Storm.

The U.S. Coast Guard, which administers the Merchant Marine, estimates that fewer than 70 bona fide Alaskans would fall under the exemption provided by HB 364. This group was identified by the Coast Guard from the more than 900 mariners documented by the MSO's in Juneau and Anchorage as those with Specific Oceans documents that require certificates of discharge. Completion of the attached certificate is required by law and should provide a mechanism by which the Division can track eligible merchant seamen.

The nature of their work requires merchant seamen to be away from home and family for extended periods of time. This does not, in my opinion, make them second class citizens. These people move the very oil that fuels the Dividend. They face the hazards of military conflict when called upon to do so by their country. We have granted an exemption to our U.S. Senators and Congressman as they face the hazards of Washington, D.C. Fairness requires that documented merchant mariners be granted the same exemption. I ask your support for HB 364.

SUMMARY of HOUSE BILL 364

House Bill 364 adds as an allowable absence to the Permanent Fund Dividend program, service in the Merchant Marines. The bill has a zero fiscal note and I believe it is important for the committee to read the analysis by the Permanent Fund Dividend Division attached with the fiscal note. Your packets also include statements and correspondence from William Webster, a member of the merchant marines and a statement from the bill sponsor, Representative Taylor.



COHM (907) 463-2450
FIS 871-2450
FAX: 907-463-2445

TELECOPIER COVER SHEET

DATE: 23 Jan 1992

TIME: 0820

FROM: CDR Rome

TO: MR Joe Ambrose

MSO Juneau

Rep Taylor's Office

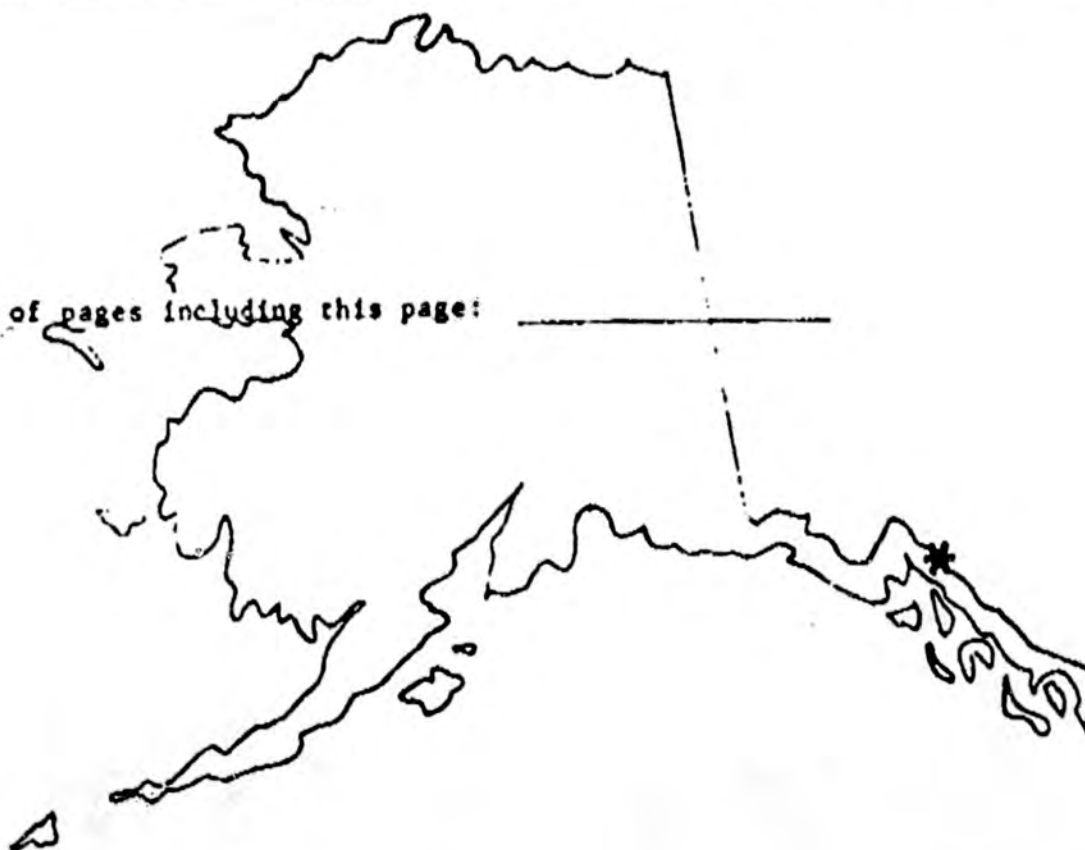
463-2450

FAX 465-2294

SUBJ: TRACKING Merchant Mariners on International or
Coastwise Voyages on vessels over 100 Gross Tons.

1. Merchant Mariners can produce this document or
a similar statement from a shipping company to verify
time/location.

Number of pages including this page: _____



OMB No. 2115-0042
CG-718A (REV. 3-85)

Serial No. 1 1917926

UNITED STATES COAST GUARD

Certificate of Discharge
to Merchant Seaman



Name of Seaman _____

(Signature of Seaman)

(Print in full)

Citizenship _____

DOCUMENT NO. _____

I HEREBY CERTIFY that the above entries were made
by me and are correct and that the signatures hereto
were witnessed by me.

Dated this _____ day of _____, 19____

(Master of Vessel)

Note—This form is required by law (46 USC 643). Failure
to submit can result in a civil penalty of \$50 for each offense
as prescribed by 46 USC 643(k).

Rating _____
(Capacity in which employed)

Date of Shipment _____

Place of Shipment _____

Date of Discharge _____

Place of Discharge _____

Name of Ship _____

Name of Employer _____

Official No. _____ Class of Vessel _____
(Steam, Motor, Sail or Barge)

Nature of Voyage _____
(Foreign, Intercoastal or Coastwise)

☐ CHECK IF ENTRY MADE IN CONTINUOUS DISCHARGE BOOK

To:
Darrel Rexwinkel
Deputy Commissioner
Alaska Dept of Revenue
Juneau, Alaska 99811

Sept 25, 1991

From:
William D. Webster
P.O. Box 5072
Ketchikan, Alaska 99901
SS# 535-46-8171

Mr. Rexwinkel,

Thank you very much for your letter of Sept. 20, 1991. As you state, service in the U.S. Merchant Marine outside of Alaska is not specifically listed by the law as an allowable absence. Till specific laws are passed for Merchant Mariners, (and the laws will be passed!), I believe you can cover this oversight by using 15 AAC 23.150, pat "C"

"C" An absence for any purpose other than one stated in (b) of this section will, in the departments discretion, be allowed by the department if the nature and duration of the absence are temporary and are consistent with an intent to return to Alaska and remain permanently in the state.

By calling Sec. 15 AAC 23.150 part "c" into play, the state of Alaska can save itself (and me), a lot of time, money and publicity this case will bring in the future. As I stated to Mr. Mike McGee in my letter to him in Jan '91, I am not "just going to go away!") When push comes to shove in the future 15 AAC 23.150 part "c" will be in my favor, (I have records to prove it!) Also I consider the denial of my 1991 perm. fund the worst kind of harassment by the Dept of Revenue (once again!)

William D. Webster



cc:
Representative Cheri Davis
Representative Robin L. Taylor
Office of the Governor, Walter J. Hickel



International Organization of

Masters, Mates & Pilots

700 Maritime Blvd., Linthicum Heights, MD. 21090-1941 / Tel. No.: (301) 850-8700
Cable BRIDGEDECK WASHINGTON D.C. / Telex No.: 750-831 / Telecopier No.: (301) 850-8725

TIMOTHY A. BROWN
International President

JAMES T. HOPKINS, JR.
International Secretary-Treasurer

September 17, 1991

Office of the Governor of Alaska
Walter J. Hickel
P. O. Box "S"
Juneau, Alaska 99811-0400

Dear Sir:

As President of the International Organization of Masters, Mates and Pilots, I represent numerous merchant marine officers and seamen that reside in the state of Alaska. I have been informed by several of my members that they are excluded from receiving their dividend from the "Permanent Fund" because their work takes them out of state. I hereby request that a waiver be implemented by the appropriate legislative body for the following reasons:

- 1) These mariners are not non-residents.
- 2) Alaska is their domiciliary state. (Legal Residence)
- 3) Many of these mariners bring their ships into Valdez and load the North Slope crude into their tankers for carriage to refineries elsewhere. It is this same North Slope crude that generates the money for the fund in the first place.
- 4) Airline pilots who live in Alaska but earn their living for all practical purposes outside the state, do receive their dividend portion of the "Permanent Fund."

Please amend the Permanent Fund statutes as soon as possible to eliminate this apparent inequity.

Sincerely and fraternally,

Timothy A. Brown
International President
TAB/g

GETTING YOUR CUT OF THE

Permanent Fund

Crusade

Continued from page D1

leave the state in order to get ahead," said Tom Williams, director of the PFD division. "But they cannot keep their eligibility for dividends."

Alaska statutes allow for specific work-related absences, but state or federal government service is about the only exception to the rule. In fact, working out of state amounts to almost an immediate disqualification.

"If you're out of state for more than 180 days, the presumption is that you're not eligible," Williams said. The eligibility period runs from April 1 to the subsequent March 31.

But Webster, an oiler on the ferries, is protesting that he and other merchant mariners have no choice but to go south for hiring because there are no major hiring halls in Alaska, a fact confirmed by major shippers in the area.

"There are 100 of us in the engine room in the ferry system. A lot of the guys are ex-Coast Guard and have done deep sea elsewhere. I still have to go out, and do it to get hands-on experience to upgrade my license," Webster said.

He has been an Alaska resident and received Permanent Fund checks since 1976, working as a chef, a cab driver, an employee for the city of Nome, and a Seward ferry worker.

Webster was out of state from late November 1989 through June of 1990, first working on the American Kestrel in the Persian Gulf and then taking a vacation in Southeast Asia.

The year before that he did not apply for the dividend because he was absent a full year working on a boat out of Diego.

"I figured that with Diego Garcia (the Navy base he worked out of in 1989), I was working a short period of time and then on vacation. I was still a state employee and a resident," he said.

But the PFD division doesn't see it that way.

"We don't see anything unique to Mr. Webster's case. The fact is that where you're living and working is a good indication of your residency. It's just another situation of somebody who had to move to enhance his career," Williams said.

Review supervisor Wendy Hughes said follow-up checking revealed that Webster's seaman papers showed a Seattle address and his listed post office box in Alaska actually belonged to someone else.

"We follow up on that sort of

See Crusade, page D8



David Webster, junior engineer on the M/V Alubra, waits at the Ketchikan Ferry Terminal. He wants to change the rules for receiving dividends.

Ketchikan fisherman embarks on campaign to collect fund check

By PATRICIA SOLOVEICHIK

Times Business Writer

Ketchikan ferry worker Dave Webster has launched a crusade to recoup what he believes to be his rightful due as an Alaskan despite the regulations in the Permanent Fund Dividend Division books. Webster, 46, is upset that the state does not recognize his need to further his education as a merchant mariner through experience on deep sea vessels, as it does the furtherance of accredited education in Lower 48 schools.

"They denied my application on the grounds that I went out of state looking for work and shipped out of a union hall in Seattle. If you go out of state for work, you're ineligible," he said.

The PFD division does not argue that fact, Alaska statutes and regulations specify that any absence of more than 180 days that does not fall within 12 stated allowable absences may cost an Alaska resident his or her dividend.

"Lots of folks in this state have jobs and for reasons of promotion must

See Crusade, page D7.

Crusade

Continued from page D7

thing," she said. And while Webster can explain that the papers were obtained during his time in Seattle and that he shares the expense of the box with someone else, the PFD reviewers say they must work on documentation.

Webster is one of thousands who appeal their cases every year in the hope that the PFD reviewers will see the light for their particular exception.

"I've gone through two different appeals, and I'm about to get a lawyer. At this point, the money doesn't matter. I want things changed," Webster said.

He also was denied his 1991 dividend because of the same

long-term absence.

"I figured I would be honest and they would be honest. I was on vacation after I left Diego and spent some time in Southeast Asia, where I've been taking my vacation for 11 years now," Webster said.

"Basically, they're saying you can't take a vacation," he said.

Hughes said the facts in the case show that Webster took a leave of absence from the ferry system to work on a ship out of Seattle.

"And when his 120 days of employment ended, he still didn't return to the state," she said.

While reasons for discrepancies may be explained away, it remains the responsibility of the reviewer to document and verify every variable.

"There has got to be a clear intent to remain here and be living here," Williams said.

"These people earn over \$130,000 a year and two out of three are worth 2 million plus each. Is this really fair for them to receive special treatment when the common worker doesn't?"

Getting a permanent fund check while Outside

1. Secondary education (grades 7-12).
2. Postsecondary education (bachelor's or master's degree).
3. Vocational education unavailable in Alaska.
4. Other special educational assistance.
5. Active duty as a member of the armed services.
6. Staff of a representative or senator for Alaska.
7. Full-time volunteer under the Peace Corps Act.
8. Full-time volunteer under the Peace Corps Act.
9. Full-time volunteer under the Peace Corps Act.
10. Full-time volunteer under the Peace Corps Act.
11. Full-time volunteer under the Peace Corps Act.
12. Full-time volunteer under the Peace Corps Act.

JAN 22 1992

To:
Ivan M. Ivan
Akiak, Alaska

From:
William D. Webster
P.O. Box 5072
Ketchikan, Alaska 99901

Subject: Permanent Fund Dividends
for Merchant Mariners

Dear Mr. Ivan,

I am writing this letter in regard to legislation Rep. Robin Taylor has pre-filed in advance of the upcoming legislative session. The legislation in question would make it possible for Merchant Mariners who live in Alaska to receive their fair part of the Permanent Fund.

As it now stands, if a Merchant Mariner travels to a major seagoing union hall and ships out deep-sea, they cannot receive their Permanent Fund, (and are not Alaskans).

We Merchant Mariners bring you your food, gas, cars, building materials etc. and haul away the very oil that the Permanent Fund is based on, if there were no Merchant mariners there would be no Permanent Fund!

As the law now stands, if you go outside the 12-mile limit of Alaska waters to work you are no longer an Alaskan and will not receive your Permanent Fund Dividend, the group of Alaskans effected include fishermen, merchant mariners and airline pilots, just to name a few.

I myself have been denied a permanent fund because I was on a ship full of bombs in the indian ocean, this ship was contracted to the U.S. Government (as is over 30 other ships at Diego Garcia), and eventually was in operation Desert Storm (all the bombs were dropped on Iraq).

I am not a lawyer, but I have been researching Federal laws and I believe the Alaska Dept. of Revenue is in violation of Federal Civil Rights laws.

CFR 18/245 FEDERALLY PROTECTED ACTIVITIES:

(2B) WHOEVER, WHETHER OR NOT ACTING UNDER COLOR OF LAW, BY FORCE OR THREAT OF FORCE WILLFULLY INJURES, INTIMIDATES OR INTERFERES WITH, OR ATTEMPTS TO INJURE, INTIMIDATE OR INTERFERE WITH-

(1) ANY PERSON BECAUSE HE IS OR HAS BEEN, OR IN ORDER TO INTIMIDATE SUCH PERSON OR ANY PERSON OR CLASS OF PERSONS FROM-

(B) PARTICIPATING IN OR ENJOYING ANY BENEFIT, SERVICE, PRIVILEGE, PROGRAM, FACILITY, OR ACTIVITY PROVIDED OR ADMINISTERED BY THE UNITED STATES;

(E) PARTICIPATING IN OR ENJOYING THE BENEFITS OF ANY PROGRAM OR ACTIVITY RECEIVING FEDERAL FINANCIAL ASSISTANCE.---

---SHALL BE FINED NOT MORE THAN \$1000, OR IMPRISONED NOT MORE THAN ONE YEAR OR BOTH

CFR 18/241 CONSPIRACY AGAINST RIGHTS OF CITIZENS
IF TWO OR MORE PERSONS CONSPIRE TO INJURE, OPPRESS, THREATEN
OR INTIMIDATE ANY CITIZEN IN THE FREE EXERCISE OR ENJOYMENT
OF ANY RIGHT OR PRIVILEGE SECURED TO HIM BY THE CONSTITUTION OR
LAWS OF THE UNITED STATES, OR BECAUSE OF HIS HAVING SO
EXERCISED THE SAME.---
THEY SHALL BE FINED NOT MORE THAN \$10,000 OR IMPRISONED NOT MORE
THAN TEN YEARS OR BOTH.

The United States Merchant Marine is administered by the U.S
Coast Guard, the Alaska Dept of Revenue states that if you
try to enjoy this Federally administered program you will not be
an Alaskan resident and will not receive your Permanent Fund. Most
United States shipping receives federal assistance of one
kind or another, (the Alaska Marine Hwy System who I work for
receives federal highway money).

I am at this time filing a complaint with the United States
Attorney Generals office against the following people in the Alaska
Dept of Revenue for violating CFR 18/245 and CFR 18/241:

Mr. Mike McGee, Chief of Permanent Fund Operations
Mr. David W. Haas - Assistant Ombudsman
Mr. Thomas C. Williams - Director Permanent Fund Dividend Division
Mr. Darrel Rexwinkel - Acting Commissioner, Alaska Dept of revenue

The people who run the Alaska Dept of Revenue are very much
against this bill Mr. Taylor has introduced, because it would be
just that fewer people that their department could investigate,
thus assuring their office a fat budget for next year, (I have
provided the Anchorage Times News paper with dollar figures in
the past for an article on the permanent fund).

I have been in direct contact with the office of Lane Kirkland,
President of the AFL, CIO and Capt. Tim Brown, International
President of the Masters, Mates & Pilots, and they are 100% behind
this bill.

In closing, I wish to thank you for taking the time to read this
letter and hope that you will look favorably on this bill that
would stop the Alaska Dept. of Revenue from treating Merchant
Mariners like second class citizens.

Sincerely,

