

HB

4

HFIN

FILE

1 eligible for a dividend for the current dividend year.

2 * Sec. 5. AS 43.23.005(d) is amended to read:

3 (d) Notwithstanding the provisions of (a) - (c) of this section, an individual
4 [WHO HAS BEEN CONVICTED OF A FELONY] is not eligible for a permanent
5 fund dividend for a dividend year when (1) during the calendar year immediately
6 preceding that dividend year the individual was convicted of a felony; or (2) [.]
7 during all or part of the [PREVIOUS] calendar year immediately preceding that
8 dividend year, as a result of the conviction: of a felony or misdemeanor, the
9 individual was [IS] incarcerated. This subsection does not apply if the conviction
10 is reversed. An action taken under AS 12.55.085 - 12.55.110 does not constitute
11 reversal of a conviction for purposes of this subsection.

12 * Sec. 6. AS 43.23 is amended by adding a new section to read:

13 Sec. 43.23.008. ALLOWABLE ABSENCES. (a) Subject to (b) of this
14 section, an otherwise eligible individual who is absent from the state during the
15 calendar year immediately preceding the current dividend year remains eligible for the
16 dividend if the individual was absent

17 (1) receiving full-time technical training as part of a career education
18 program recognized by the Alaska Commission on Postsecondary Education;

19 (2) attending full-time an academic institution, seminar, or other
20 program for continuing professional educational development, including a sabbatical,
21 legal, or accounting program, recognized by the Alaska Commission on Postsecondary
22 Education;

23 (3) attending a special education program to assist in the treatment of
24 learning or physical disabilities or the treatment of mental disorders if attendance is
25 recommended by a licensed physician, psychologist, physical therapist, or the
26 commissioner of education;

27 (4) attending full-time at an educational institution in grades 7 through
28 12;

29 (5) attending full-time at an accredited college, university, or junior or
30 community college in a program leading to an associate, baccalaureate, or graduate
31 degree;

1 (6) serving on active duty as a member of the armed forces of the
2 United States;

3 (7) receiving continuous medical treatment recommended by a licensed
4 physician or convalescing as recommended by the physician that treated the illness if
5 the treatment or convalescence is not based on a need for climatic change;

6 (8) accompanying a minor who is absent under (7) of this subsection;

7 (9) serving as a member of the United States Congress;

8 (10) serving on the staff of a member of the United States Congress
9 from the state;

10 (11) serving as a full-time volunteer in the Peace Corps;

11 (12) serving as an employee of the state, including employment in a
12 field office;

13 (13) in the custody of the state;

14 (14) actively participating on a United States national athletic team as
15 an eligible athlete as defined by the International Federation and National Governing
16 Body for each nonprofessional sport;

17 (15) accompanying an eligible individual as the spouse, minor
18 dependent, or disabled dependent of the eligible individual;

19 (16) for a reason consistent with the individual's intent to remain a
20 resident, provided the absence or cumulative absences do not exceed

21 (A) 180 days if the individual is not claiming an absence under
22 (1) - (15) of this subsection and provided that the individual

23 (i) established the individual's principal home in this
24 state before leaving this state;

25 (ii) has not taken an action inconsistent with an intent
26 to maintain the individual's principal home in this state;

27 (iii) has not taken an action to establish or maintain a
28 principal home outside of this state;

29 (iv) returned to the individual's principal home in this
30 state at the conclusion of the absence;

31 (B) the greater of 90 days, one school semester during which

Alaska State Legislature

House of Representatives

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9843 CHICHAGOF LOOP
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PHONE (907) 694-7943

DURING SESSION:
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3777

Representative Pete Kott

SPONSOR STATEMENT

HB 4 - An Act relating to absences from the state...

This legislation would remedy a problem as a result of a recent court ruling. That ruling declared spouses of a Permanent Fund Dividend (PFD) recipient from being considered eligible to receive a dividend if they were accompanying an eligible spouse out of state on an allowable absence.

This legislation would allow individuals who accompany an eligible spouse out of state on an allowable absence to retain their eligibility for a PFD if that was the only reason that they would have been disallowed.

This correction applies retroactively to January 1, 1994, the first time the Permanent Fund Dividend Division disallowed dividends for that reason. It makes provision for those individuals to receive the previously denied dividend.

I encourage you to support this legislation.



HOUSE COMMITTEE REPORT

(11)

Date Referred: February 13, 1995

FURTHER REFERRALS:

Date of Committee Action: 2/20/95

The FINANCE Committee considered:

HB 4

HOUSE BILL NO. 4

PERMANENT FUND DIVIDEND ELIGIBILITY

"An Act relating to absences from the state for purposes of determining residency under the permanent fund dividend program; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 4 (STA) the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) Rev 2/1/95

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Mark Hamley</i>	Hamley	X			
<i>Glenn Mulder</i>	Mulder	X			
<i>Terry Martin</i>	Martin	X			
<i>Scott Parnell</i>	Parnell			X	
<i>Vicki Kohring</i>	Kohring	X			
<i>Pete Kelly</i>	Kelly	X			
<i>Gene Theriault</i>	Theriault	X			
<i>Arthur Navarre</i>	Navarre	X			
<i>Tan Brown</i>	Brown	X			
<i>Ben Grussendorf</i>	Grussendorf	X			

CHAIR'S SIGNATURE *Mark Hamley*

FISCAL NOTE

No. 10

Bill Version: HB 4

(H) Publish Date: 2/1/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: 1/25/95 Dept. Affected: Department of Revenue
 Title: Permanent Fund Dividend Eligibility BRU: Permanent Fund Dividend Division
 Component: Permanent Fund Dividend Division
 Sponsor: Representative KOTT
 Requester: House State Affairs COMPONENT SERIAL NO. 381

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.5

POSITIONS

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

This bill attempts to reinstate the historically allowable "piggyback" absence, which the Superior Court determined was invalid effective January 1, 1992.

This fiscal note assumes that by June 30, 1995 the Division will mail each of the 1,317 denied 1994 "piggybacking" spouse a letter advising them of the change in the law along with a request to reapply application.

Prepared by: Thomas C. Williams, Director Phone: 465-2323
 Division: Permanent Fund Dividend Division Date: 1/25/95
 Approved by Commissioner: [Signature] Date: 1/25/95
 Agency: Department of Revenue

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January 23, 1995

Rep. Jeannette James, Chair
House State Affairs Committee
Room 102
State Capitol

Dear Rep. James,

I hope you will favorably consider Rep. Pete Kott's bill, HB 4, to correct what I believe is an error in the distribution of Permanent Fund dividends. Currently, a person who is outside of Alaska for medical treatment can qualify for a dividend, but their spouse and family members that accompany them cannot if they are out of state for an extended time.

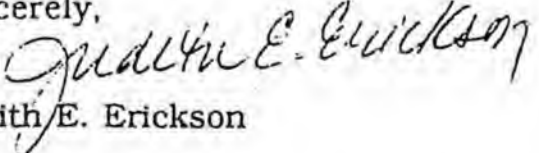
I learned of this last year when my former husband Eric Eckholm had to travel to Seattle for cancer treatment. He has advanced kidney cancer, and only experimental treatments found in the Seattle area can give him any chance of life. His wife has been at his side the entire time and she is needed as he is on pain medication 24 hours a day and needs everyday assistance. Our residents who are suffering such circumstances need the emotional support from their families. If we want marriages to survive such emotional and financial hardships, we shouldn't put an added burden on already taxed financial resources by refusing a dividend to the spouse.

Most of the last year Eric and his wife had to stay in Seattle. The cost of his health care has been a drain on both our families. Since they have been gone, they have continued to maintain their primary residence here in Juneau, renting it occasionally. As you all know, it is quite an expense to maintain two households. It is their intent to return to Juneau, we hope permanently, in April.

I hope you will consider repealing the current prohibition against a spouse or family member from receiving a dividend if they are outside the state for an extended period of time due to the illness of a family member. With cancer, there are many treatments that can't be performed in Alaska. There is so much pressure on a family when one is sick, both financial and emotional. This unjustly adds another.

Thank you for your consideration.

Sincerely,


Judith E. Erickson

cc: House State Affairs Committee members

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
SECTIONAL ANALYSIS OF CS HB 4 (STA)

As of February 10, 1995

- Section 1.* a. Redefines allowable absences as eligibility criteria instead of elements of residency, elimination any potential conflict between the requirements of AS 43.23.015(a) and the allowable absence provisions; and
b. eliminates redundant language.
- Section 2.* a. Moves into a new section those allowable absences already authorized by statute under AS 43.23.095(8), the current definition of "State Resident"; and
b. makes the historical "piggyback" allowable absence previously in regulation a statutorily allowable absence.
- Section 3.* a. Deletes the reference to absences in the definition of "state resident" since absences are redefined as eligibility criteria in *Sections 1 & 2*; and
b. makes it clear that while absent an individual must maintain at all times an intent to return to remain permanently in order to retain residency.
- Section 4.* Retroactively reinstates the eligibility of all otherwise eligible individuals accompanying their eligible resident spouse for 1992, 1993 and 1994 dividends. This will allow the Department to pay "piggybacking" spouses who were originally denied a 1992 or 1993 dividend but whose denial was subsequently overturned on appeal.
- Section 5.* Gives up to 1,317 1994 "piggybacking" spouses who had not appealed by December 31, 1994 the ability to submit an appeal until September 1, 1995 if the only reason they were ineligible was due to the invalidation of the "piggyback" allowable absence.
- Section 6.* Makes sections 1 - 3 retroactive to January 1, 1995, making the "piggyback" allowable absence effective for the 1995 dividend.
- Section 7.* Makes act effective immediately upon signature by the Governor.

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
ANALYSIS OF CS HB 4 (STA)
As of February 10, 1995

Background

On December 16, 1993 in *Zeiler vs the State of Alaska (Case #3AN-92-1567 Civil)* Alaska Superior Court Judge Dana Fabe ruled that 15 AAC 23.163(c)(15) and its predecessor regulations have been invalid since January 1, 1992, the effective date of an amendment to the Permanent Fund Dividend statutes. That amendment was intended to ensure the nonresidency of an individual's spouse would not inappropriately impact the eligibility of an Alaskan living in state or an Alaskan on his or her own allowable absence. Unfortunately, as Judge Fabe concluded, the technical language of the statutory amendment, in combination with how residency is defined in the Permanent Fund Dividend statutes, had the inadvertent effect of no longer allowing the spouses of eligible Alaskans accompanying their spouse on an absence to "piggyback" their eligibility on their spouse's eligibility.

In January 1994 Representative Sean Parnell, with the Department's strong support, introduced House Bill (HB) 392. This legislation would have reinstated the eligibility of those historically eligible Alaskan spouses and would have made the technical changes necessary to correct the problem prospectively. This legislation passed the Alaska State House of Representatives 31-7. In the last hour of the legislative session the Alaska State Senate passed an amended version of HB 392 on a vote of 20-0. Unfortunately, in the final minutes before adjournment, the House did not consider the amended bill and the legislation died. Consequently, the invalidated "piggyback" absence was *not* reinstated and Alaskans who are "piggybacking" on their spouse's allowable absence are currently not eligible for a dividend.

Applicants Affected

The court decision impacted 1992, 1993 and 1994 applicants. By the time the court rendered a decision, virtually all 1992 and 1993 applications had been paid. After consultations with the Department of Law, the Department decided not to assess 1992 and 1993 "piggybacking" spouses who had already been paid. However, there were some 1992 and 1993 "piggybacking" spouses who had appealed denials issued for other reasons. In those cases, when the Department determined that an applicant was incorrectly denied for the other reason and overturned the denial, it still could not issue a dividend because the applicants' absence was no longer an allowable absence. Consequently, the Division has held off issuing those appeals decisions until such time as the legislature has had an opportunity to consider corrective legislation.

Since no 1994 dividends had been issued by the time the 1994 legislative session adjourned, the Department issued denials to 2,178 "piggybacking" spouses who had been absent more than 180 days during the qualifying year. Although the Department made a concerted effort to identify all "piggybacking" spouses absent 180 days or less that qualified for the general discretionary allowable absence under 15 AAC 23.163(c)(16),

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
ANALYSIS OF CS HB 4 (STA)
As of February 10, 1995

relatively few meet the criteria. Consequently, the Department denied another 512 spouses who were absent from 91 to 180 days during the qualifying year. In all cases the Department explained the reason for the denial was based on the invalidation of the "piggyback" allowable absence and that the Department had sought and was intending to seek corrective legislation. In conjunction with these denials, the Department gave all denied "piggybacking" spouses who were sponsoring children the opportunity to have the sponsorship of their children switched to their spouse. While many took advantage of that opportunity, some did not. Consequently, some children sponsored by denied "piggybacking" spouses were denied when the Department denied all children without an eligible sponsor.

Department Position

The Department strongly supports this legislation. In anticipation of legislation to retroactively and prospectively reinstate the historically allowable "piggyback" absence for spouses of residents, the PFD Division's Dividend Appeals Unit has placed a hold on all pertinent timely file informal conference appeals until such time as the legislature has had an opportunity to consider corrective legislation. If the law is retroactively changed, the *only* reason an applicant was ineligible was because of the original invalidation of the regulation, and the applicant has an timely filed appeal pending, the Department will overturn the applicant's denial. If not, the Dividend Appeals Unit will be required to uphold the denial of those applications.

While the Department denied 2,690 "piggybacking" spouses a 1994 dividend, the department had only received 1,373 appeals as of December 31, 1994. Section 5 of this bill will allow up to 1,317 1994 "piggybacking" spouses the opportunity to appeal their denial until September 1, 1995. The fiscal note assumes that by June 30, 1995 the Division will mail an appeal form to each of the denied spouses who are affected by this section.

For the 1995 Dividend, the Department advised "piggybacking" spouses of the invalidation of their allowable absence. However, as reflected on the attached copy of the back of the 1995 application as well as page 2 of the 1995 Household Application booklet, the instructions advised "piggybacking" spouses to apply if they were otherwise eligible.

Section 4 of this bill would effectively reinstate the "piggyback" allowable absence beginning January 1, 1992, the effective date of the invalidation of the regulation. This would allow the Department to pay those 1992 and 1993 pended appeals from "piggybacking" spouses who are otherwise eligible.

Attachments

Follow the directions which precede each set of questions. Failure to follow directions will cause a delay in the processing of your application.

Answer questions 14-17C ONLY if you answered NO to question 5.

Please Print Clearly!

14. Your Name as It Appears on Your Birth Certificate (See page 4, #14) First Name M.I. Last Name			15. State of Birth	16. Sex <input type="checkbox"/> M <input type="checkbox"/> F
17A. If married, enter your spouse's name First Name M.I. Last Name		17B. Spouse's Birth Date Month Day Year	17C. Spouse's Social Security Number	

Answer question 18 ONLY if you answered NO to questions 5 or 6 or answered YES to 7A or 7B.

18. Where Do You Physically Live? (Street Address or Physical Location - do not list a Post Office Box number)

Answer questions 19-21B ONLY if you answered NO to question 6 or answered YES to question 7A or 7B.

19. List the dates and the number of days you were gone from Alaska in 1994. If you left prior to January 1, 1994, enter the date you actually departed. Circle the reason(s) you were absent for each absence. Attach additional sheets as needed for explanation.

Circle only one absence reason per line from list below	Left	Returned	# of Days	Explanation
A B C D E F G H J K L	___/___/___	___/___/___	_____	_____
A B C D E F G H J K L	___/___/___	___/___/___	_____	_____
A B C D E F G H J K L	___/___/___	___/___/___	_____	_____
A B C D E F G H J K L	___/___/___	___/___/___	_____	_____

() Total # of Days during 1994 you were absent.

Absence Reasons Codes

A. Accompanying an eligible Alaska resident as the resident's spouse or disabled adult dependent. (See "FROM THE DIRECTOR" on Page 2 of the application booklet for an important notice.)

Name of Alaska Resident You Were With First Name M.I. Last Name		
Alaska Resident's Birth Date Month Day Year	Alaska Resident's Social Security Number	

- B. Enrolled as a full-time student.
- C. On active duty as a member of the U.S. Armed Forces.
- D. Continuous medical treatment under a doctor's care. (Attach doctor's statement)
- E. Service as a member of Alaska's congressional delegation or staff.
- F. Full time volunteer under the Peace Corp Act. (Attach Peace Corp statement)
- G. Member of a U.S. National Athletic Team. (Attach confirmation)
- H. As a requirement of employment by the State of Alaska.
- J. Vacation.
- K. Seeking employment or employed for a reason other than C, E, F or H. (Please explain)
- L. Other reasons, including business. (Please explain)

20. A. Have you ever physically lived in Alaska as an adult resident for at least six consecutive months prior to the first absence listed in question 19? Yes No

B. If YES, please list the dates of the most recent six consecutive month period prior to the first absence listed in question 19.

From ___/___/___ through ___/___/___
Month Day Year Month Day Year

21A. Were you physically present in Alaska at some time during 1993 or 1994? Yes No

B. If YES, which year were you most recently in Alaska? 1993 1994

If you were absent for more than 180 days in 1994, attach copies of supporting documents that show you were physically present at some time during 1993 or 1994. Examples of supporting documents can be found on page 5, line 21A-B of the instructions.

You are NOT ELIGIBLE for a 1995 dividend, and should not file if you were not physically present in Alaska at some time during 1993 or 1994.

Answer questions 22-24 ONLY if you answered NO to question 8.

22. What is your Alien Registration Number? A - _____	24. All non-U.S. citizens must submit a copy of the front and back of their Alien Registration Card with their application.
23. On December 31, 1993 what was your legal alien status? Resident <input type="checkbox"/> Asylee <input type="checkbox"/> Refugee <input type="checkbox"/> Other (Attach explanation) <input type="checkbox"/>	

FROM THE DIRECTOR

IMPORTANT NOTICE TO SPOUSES ABSENT FROM ALASKA

On December 16, 1993 the Alaska Superior Court determined that the "piggyback" allowable absence was invalid. This means that unless the legislature enacts legislation to reinstate this historically allowable absence, otherwise eligible spouses accompanying Alaska residents who are on an allowable absence *will not qualify* for a dividend. As the Department did last year, the Department will again ask the legislature to correct this situation. Accordingly, if you are an otherwise eligible Alaskan resident accompanying your spouse who is an eligible Alaska resident on an allowable absence, you should go ahead and apply for the 1995 dividend by the application deadline.

REMINDER TO STUDENTS

Students who are attending school out of state should remember that registering to vote in the other state will make you ineligible for a dividend. To register to vote in Alaska, use the voter registration forms contained in this booklet. See page 12 for instructions.

APPLICATION DEADLINE

The application period for the 1995 dividend is Tuesday, January 3, 1995 through *Friday, March 31, 1995*. Please file early to ensure you don't miss this deadline! If by *March 15, 1995* you have not received a batch card receipt confirming your application is on file, please contact a Dividend Information Office.

DEADLINE FOR PROVIDING REQUESTED INFORMATION

Please remember that the deadline for providing requested information is June 30, 1995. To provide the most amount of time to respond to a request for information, please file early.

DIRECT DEPOSIT

In 1994, nearly 246,000 qualified Alaska residents had their 1994 dividend directly deposited to their participating Alaska bank or credit union account. The number of Alaska financial institutions participating in direct deposit has increased this year to 28. If you qualify for direct deposit, you can have your and your children's dividends deposited directly to your or your child's savings or checking account. *All 1995 direct deposit payments will be made on Wednesday, October 11, 1995.* Please see page 10 of this booklet for participation requirements and instructions.

General Information

Statutory and Regulatory Authority. AS 43.23 and 15 AAC 23.

Application Receipt (Batch Card). You will be notified by mail when the applications from your household have been put on file. This receipt is not a guarantee of eligibility for the 1995 dividend. When you receive this notice will depend on the number of applications received at the same time.

IMPORTANT! If you don't have this receipt by March 15, 1995 please contact a Dividend Information Office. Dividend Information Offices do not issue receipts.

Deadline to Provide Requested Information. You are required to answer all questions and provide all requested information and documentation. The information requested on the application, supplemental schedule and other requests is used by the department to identify the applicant, determine eligibility and determine how the eligible applicant wants to have their dividend paid.

IMPORTANT! If you do not provide the required information with your original application or if the division requests additional information, you will only have until the later of June 30, 1995 or 30 days from the date of the request to provide the information. If you do not provide all requested information by the deadline, your application will be denied.

When Payments Will Be Made. The Department of Revenue will begin making payments Wednesday October 11, 1995. All payments to eligible applicants will be made by December 31, 1995. Eligible applicants who qualify for direct deposit will have their dividends

deposited as part of the first payment run. All other checks will be issued in the order in which the applications are approved for payment. Applications awaiting an eligibility determination will be paid on a weekly basis as they are approved for payment.

Name and Address Changes. If your name or mailing address changes after you have submitted your application but before you get your check, you must let the Permanent Fund Dividend Division know in writing. Use form 04-083 Name Change, Address Change or Social Security Number Addition in the back of this booklet. You must advise the department of any address change even if you requested your dividend to be directly deposited.

Lost Checks. If you lose your check, please contact the nearest Dividend Information Office. You will be asked to complete a Request for Stop Payment form. If the check has not been cashed, it will be reissued.

Applicants Who Die. If an eligible Alaskan dies after completing a timely filed application, their dividend check belongs to the estate and may be cashed by an heir. However, an heir may not apply for someone who died before signing their application. You may contact a Dividend Information Office for further information.

Note to Minors Regarding Extended Filing Deadline. If your parent or guardian did not claim a dividend on your behalf or did not file a completed application, or if you did not receive a dividend as

FILE DEADLINE MARCH 31, 1995

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
HANDOUT FOR HB 4 TESTIMONY
As of January 23, 1995

Background

On December 16, 1993 in *Zeiler vs the State of Alaska (Case #3AN-92-1567 Civil)* Alaska Superior Court Judge Dana Fabe ruled that 15 AAC 23.163(c)(15) and its predecessor regulations have been invalid since January 1, 1992, the effective date of an amendment to the Permanent Fund Dividend statutes. That amendment was intended to ensure the nonresidency of an individual's spouse would not inappropriately impact the eligibility of an Alaskan living in state or an Alaskan on his or her own allowable absence. Unfortunately, as Judge Fabe concluded, the technical language of the statutory amendment, in combination with how residency is defined in the Permanent Fund Dividend statutes, had the inadvertent effect of no longer allowing the spouses of eligible Alaskans accompanying their spouse on an absence to "piggyback" their eligibility on their spouse's eligibility.

In January 1994 Representative Sean Parnell, with the Department's strong support, introduced House Bill (HB) 392. This legislation would have reinstated the eligibility of those historically eligible Alaskan spouses and would have made the technical changes necessary to correct the problem prospectively. This legislation passed the Alaska State House of Representatives 31-7. In the last hour of the legislative session the Alaska State Senate passed an amended version of HB 392 on a vote of 20-0. Unfortunately, in the final minutes before adjournment, the House did not consider the amended bill and the legislation died. Consequently, the invalidated "piggyback" absence was *not* reinstated and Alaskans who are "piggybacking" on their spouse's allowable absence are currently not eligible for a dividend.

Applicants Affected

The court decision impacted 1992, 1993 and 1994 applicants. By the time the court rendered a decision, virtually all 1992 and 1993 applications had been paid. After consultations with the Department of Law, the Department decided not to assess 1992 and 1993 "piggybacking" spouses who had already been paid. However, there were some 1992 and 1993 "piggybacking" spouses who had appealed denials issued for other reasons. In those cases, when the Department determined that an applicant was incorrectly denied for the other reason and overturned the denial, it still could not issue a dividend because the applicants' absence was no longer an allowable absence. Consequently, the Division has held off issuing those appeals decisions until such time as the legislature has had an opportunity to consider corrective legislation.

Since no 1994 dividends had been issued by the time the 1994 legislative session adjourned, the Department issued denials to 2,178 "piggybacking" spouses who had been absent more than 180 days during the qualifying year. Although the Department made

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
HANDOUT FOR HB 4 TESTIMONY

As of January 23, 1995

a concerted effort to identify all "piggybacking" spouses absent 180 days or less that qualified for the general discretionary allowable absence under 15 AAC 23.163(c)(16), relatively few meet the criteria. Consequently, the Department denied another 512 spouses who were absent from 91 to 180 days during the qualifying year. In all cases the Department explained the reason for the denial was based on the invalidation of the "piggyback" allowable absence and that the Department had sought and was intending to seek corrective legislation. In conjunction with these denials, the Department gave all denied "piggybacking" spouses who were sponsoring children the opportunity to have the sponsorship of their children switched to their spouse. While many took advantage of that opportunity, some did not. Consequently, some children sponsored by denied "piggybacking" spouses were denied when the Department denied all children without an eligible sponsor.

The Department strongly supports legislation to correct this problem. In anticipation of legislation to retroactively and prospectively reinstate the historically allowable "piggyback" absence for spouses of residents, the PFD Division's Dividend Appeals Unit has placed a hold on all pertinent timely file informal conference appeals until such time as the legislature has had an opportunity to consider corrective legislation. If the law is retroactively changed, the *only* reason an applicant was ineligible was because of the original invalidation of the regulation, and the applicant has an timely filed appeal pending, the Department will overturn the applicant's denial. If not, the Dividend Appeals Unit will be required to uphold the denial of those applications.

The Department of Law has advised the Department that there is some question as whether Section 1 of this legislation as drafted will actually reinstate the "piggyback allowable absence. As was the case with the invalidated regulation, this section leaves allowable absences defined as a component of state residency. However, AS 43.23.015(a) does not allow the residency of an individual's spouse to be the principal factor in determining the residency of an applicant. Consequently, the same conflicting relationship that existed with the regulation would exist between two statutes.

Recommendation

This conflict can be eliminated by moving allowable absences from the definition of state resident and placing it in a new section that describes allowable absences as an eligibility criteria. Sections 1-3 of the attached Proposed CS for House Bill No. 4 (STA) would accomplish this.

Section 2 of HB 4 allows piggybacking spouses until September 1, 1995 to apply for 1994 and 1995 dividends for themselves or their sponsored children. While the Department denied 2,690 "piggybacking" spouses a 1994 dividend, the department had

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
HANDOUT FOR HB 4 TESTIMONY

As of January 23, 1995

only received 1,373 appeals as of December 31, 1994. This provision would allow up to 1,317 "piggybacking" spouses to reapply for a 1994 dividend. The fiscal note assumes that by June 30, 1995 the Division will mail each denied 1994 "piggybacking" spouse a letter advising them of the change in the law along with a request to reapply application.

Section 5 of the Proposed CS for House Bill No. 4 (STA) would allow 1994 applicants the opportunity to appeal their denial until September 1, 1995. Instead of mailing denied applicant another application, the Department would mail them an appeal form. This would avoid additional processing of duplicate applications.

For the 1995 Dividend, the Department advised "piggybacking" spouses of the invalidation of their allowable absence. However, as reflected on the attached copy of the back of the 1995 application as well as page 2 of the 1995 Household Application booklet, the instructions advised "piggybacking" spouses to apply if they were otherwise eligible.

Section 4 of the Proposed CS for House Bill No. 4 (STA) would effectively reinstate the "piggyback" allowable absence beginning January 1, 1992, the effective date of the invalidation of the regulation. This would allow the Department to pay those 1992 and 1993 pended appeals from "piggybacking" spouses who are otherwise eligible.

Attachments

PROPOSED CS FOR HOUSE BILL NO. 4 (STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to absences from the state for purposes of determining eligibility for
2 the permanent fund dividend program; and providing for an effective date."

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

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

5 (a) An individual is eligible to receive one permanent fund dividend each
6 year in an amount to be determined under AS 43.23.025 if the individual

7 (1) [THE INDIVIDUAL] applies to the department;

8 (2) [ON THE DATE OF APPLICATION THE INDIVIDUAL] is a
9 state resident on the date of application;

10 (3) [THE INDIVIDUAL] was a state resident for at least the
11 calendar year immediately preceding January 1 of the current dividend year;

12 (4) [THE INDIVIDUAL] has been physically present in the state
13 at some time during the prior two calendar years before the current dividend
14 year; [AND]

15 (5) [THE INDIVIDUAL] is

16 (A) a citizen of the United States;

- 1 (B) an alien lawfully admitted for permanent residence in
2 the United States;
3 (C) an alien with refugee status under federal law; or
4 (D) an alien that has been granted asylum under federal
5 law: and

6 (6) was. during the entire period described in (3) of this
7 subsection. present in the state or, if absent, was absent only as allowed
8 in AS 43.23.008.

9 * Sec. 2. AS 43.23 is amended by adding a new section to read:

10 Sec. 43.23.008. ALLOWABLE ABSENCES. An otherwise eligible
11 individual who is absent from the state during the calendar year immediately
12 preceding the current dividend year remains eligible for the dividend if the
13 individual was absent for

14 (1) vocational, professional, or other specific education for which
15 a comparable program was not reasonably available in the state;

16 (2) secondary or postsecondary education;

17 (3) military service;

18 (4) medical treatment;

19 (5) service in congress;

20 (6) service in the peace corps;

21 (7) other reasons which the commissioner may establish by
22 regulation; or

23 (8) accompanying another eligible resident who is absent for a
24 reason permitted under this section as the spouse, minor dependent, or
25 disabled dependent of the eligible resident.

26 * Sec. 3. AS 43.23.095 is amended to read:

27 Sec. 43.23.095. DEFINITIONS. In this chapter,

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

1 (2) [REPEALED

2 (3) REPEALED

3 (4)] "disabled" means physically or mentally unable to complete
4 and sign an application due to a serious emotional disturbance, visual,
5 orthopedic, or other health impairment, or developmental disability that is
6 attributable to mental retardation, cerebral palsy, epilepsy, autism or other
7 cause; "disabled" does not mean "incompetent";

8 (3) [(5)] "dividend fund" means the fund established by
9 AS 43.23.045;

10 (4) [(6)] "individual" means a natural person;

11 (5) [(7)] "permanent fund dividend" means a right to receive a
12 payment from the dividend fund;

13 (6) [(8)] "state resident" means an individual who is physically
14 present in the state with the intent to remain permanently in the state under the
15 requirements of AS 01.10.055 or, if the individual is not physically present in the
16 state, maintains and demonstrates at all times an intent [INTENDS] to return
17 to the state to [AND] remain permanently in the state under the requirements
18 of AS 01.10.055 [, AND IS ABSENT ONLY FOR ANY OF THE FOLLOWING
19 REASONS:

20 (A) VOCATIONAL, PROFESSIONAL, OR OTHER
21 SPECIFIC EDUCATION FOR WHICH A COMPARABLE PROGRAM
22 WAS NOT REASONABLY AVAILABLE IN THE STATE;

23 (B) SECONDARY OR POSTSECONDARY EDUCATION;

24 (C) MILITARY SERVICE;

25 (D) MEDICAL TREATMENT;

26 (E) SERVICE IN CONGRESS;

27 (F) OTHER REASONS WHICH THE COMMISSIONER
28 MAY ESTABLISH BY REGULATION; OR

29 (G) SERVICE IN THE PEACE CORPS;

1 (9) "YEAR" MEANS A CALENDAR YEAR].

2 * Sec. 4. PERMANENT FUND DIVIDENDS FOR CERTAIN SPOUSES AND
3 DEPENDENTS. Notwithstanding the provision in AS 43.23.015(a) that the residency
4 of an individual's spouse may not be the principal factor relied upon in determining the
5 residency of the individual, an otherwise eligible individual who applied for a 1992,
6 1993 or 1994 permanent fund dividend within the time prescribed by law is eligible for
7 the dividend even if the individual was absent from the state while accompanying as
8 the spouse, minor dependent, or disabled dependent another person who was absent
9 for a reason permitted under former AS 43.23.095(8) and was eligible for that dividend.

10 * Sec. 5. APPEAL PERIOD. Notwithstanding permanent fund dividend appeal
11 procedures or deadlines established by law or regulation, an individual or the parent,
12 guardian, or authorized representative of a minor who qualified for the 1994 dividend
13 because of AS 43.23.008(8) enacted in sec. 2 of this Act, may appeal a denial of a
14 1994 dividend by September 1, 1995. The Department of Revenue shall prepare a
15 form for appeal under this section.

16 * Sec. 6. This Act take effect immediately under AS 01.10.070(c).

17 * Sec. 7. Sections 1 - 3 of this Act are retroactive to January 1, 1995.

Follow the directions which precede each set of questions. Failure to follow directions will cause a delay in the processing of your application.

Answer questions 14-17C ONLY if you answered NO to question 5.

Please Print Clearly!

14. Your Name as it Appears on Your Birth Certificate (See page 4, #14)			15. State of Birth	16. Sex
First Name	M.I.	Last Name		<input type="checkbox"/> M <input type="checkbox"/> F
17A. If married, enter your spouse's name		17B. Spouse's Birth Date	17C. Spouse's Social Security Number	
First Name	M.I. Last Name	Month Day Year		

Answer question 18 ONLY if you answered NO to questions 5 or 6 or answered YES to 7A or 7B.

18. Where Do You Physically Live? (Street Address or Physical Location - do not list a Post Office Box number)

Answer questions 19-21B ONLY if you answered NO to question 6 or answered YES to question 7A or 7B.

19. List the dates and the number of days you were gone from Alaska in 1994. If you left prior to January 1, 1994, enter the date you actually departed. Circle the reason(s) you were absent for each absence. Attach additional sheets as needed for explanation.

Circle only one absence reason per line from list below	Left	Returned	# of Days	Explanation
A B C D E F G H J K L	___/___/___	___/___/___	_____	_____
A B C D E F G H J K L	___/___/___	___/___/___	_____	_____
A B C D E F G H J K L	___/___/___	___/___/___	_____	_____
A B C D E F G H J K L	___/___/___	___/___/___	_____	_____

() Total # of Days during 1994 you were absent.

Absence Reasons Codes

A. Accompanying an eligible Alaska resident as the resident's spouse or disabled adult dependent. (See "FROM THE DIRECTOR" on Page 2 of the application booklet for an important notice.)

Name of Alaska Resident You Were With		
First Name	M.I.	Last Name
Alaska Resident's Birth Date		Alaska Resident's Social Security Number
Month	Day Year	

- B. Enrolled as a full-time student.
- C. On active duty as a member of the U.S. Armed Forces.
- D. Continuous medical treatment under a doctor's care. (Attach doctor's statement)
- E. Service as a member of Alaska's congressional delegation or staff.
- F. Full time volunteer under the Peace Corp Act (Attach Peace Corp statement)
- G. Member of a U.S. National Athletic Team. (Attach confirmation)
- H. As a requirement of employment by the State of Alaska.
- J. Vacation.
- K. Seeking employment or employed for a reason other than C, E, F or H. (Please explain)
- L. Other reasons, including business. (Please explain)

20. A. Have you ever physically lived in Alaska as an adult resident for at least six consecutive months prior to the first absence listed in question 19? Yes No

B. If YES, please list the dates of the most recent six consecutive month period prior to the first absence listed in question 19.

From ___/___/___ through ___/___/___
Month Day Year Month Day Year

21A. Were you physically present in Alaska at some time during 1993 or 1994? Yes No

B. If YES, which year were you most recently in Alaska? 1993 1994

If you were absent for more than 180 days in 1994, attach copies of supporting documents that show you were physically present at some time during 1993 or 1994. Examples of supporting documents can be found on page 5, line 21A-8 of the instructions.

You are NOT ELIGIBLE for a 1995 dividend, and should not file if you were not physically present in Alaska at some time during 1993 or 1994.

Answer questions 22-24 ONLY if you answered NO to question 8.

22. What is your Alien Registration Number?	A - _____	24. All non-U.S. citizens must submit a copy of the front and back of their Alien Registration Card with their application.
23. On December 31, 1993 what was your legal alien status?	Resident <input type="checkbox"/> Asylee <input type="checkbox"/> Refugee <input type="checkbox"/> Other (Attach explanation) <input type="checkbox"/>	

FROM THE DIRECTOR

IMPORTANT NOTICE TO SPOUSES ABSENT FROM ALASKA

On December 16, 1993 the Alaska Superior Court determined that the "piggyback" allowable absence was invalid. This means that unless the legislature enacts legislation to reinstate this historically allowable absence, otherwise eligible spouses accompanying Alaska residents who are on an allowable absence *will not qualify* for a dividend. As the Department did last year, the Department will again ask the legislature to correct this situation. Accordingly, if you are an otherwise eligible Alaskan resident accompanying your spouse who is an eligible Alaska resident on an allowable absence, you should go ahead and apply for the 1995 dividend by the application deadline.

REMINDER TO STUDENTS

Students who are attending school out of state should remember that registering to vote in the other state will make you ineligible for a dividend. To register to vote in Alaska, use the voter registration forms contained in this booklet. See page 12 for instructions.

APPLICATION DEADLINE

The application period for the 1995 dividend is Tuesday, January 3, 1995 through *Friday, March 31, 1995*. Please file early to ensure you don't miss this deadline! If by *March 15, 1995* you have not received a batch card receipt confirming your application is on file, please contact a Dividend Information Office.

DEADLINE FOR PROVIDING REQUESTED INFORMATION

Please remember that the deadline for providing requested information is June 30, 1995. To provide the most amount of time to respond to a request for information, please file early.

DIRECT DEPOSIT

In 1994, nearly 246,000 qualified Alaska residents had their 1994 dividend directly deposited to their participating Alaska bank or credit union account. The number of Alaska financial institutions participating in direct deposit has increased this year to 28. If you qualify for direct deposit, you can have your and your children's dividends deposited directly to your or your child's savings or checking account. *All 1995 direct deposit payments will be made on Wednesday, October 11, 1995*. Please see page 10 of this booklet for participation requirements and instructions.

General Information

Statutory and Regulatory Authority. AS 43.23 and 15 AAC 23.

Application Receipt (Batch Card). You will be notified by mail when the applications from your household have been put on file. This receipt is not a guarantee of eligibility for the 1995 dividend. When you receive this notice will depend on the number of applications received at the same time.

IMPORTANT! If you don't have this receipt by March 15, 1995 please contact a Dividend Information Office. Dividend Information Offices do not issue receipts.

Deadline to Provide Requested Information. You are required to answer all questions and provide all requested information and documentation. The information requested on the application, supplemental schedule and other requests is used by the department to identify the applicant, determine eligibility and determine how the eligible applicant wants to have their dividend paid.

IMPORTANT! If you do not provide the required information with your original application or if the division requests additional information, you will only have until the later of June 30, 1995 or 90 days from the date of the request to provide the information. If you do not provide all requested information by the deadline, your application will be denied.

When Payments Will Be Made. The Department of Revenue will begin making payments Wednesday October 11, 1995. All payments to eligible applicants will be made by December 31, 1995. Eligible applicants who qualify for direct deposit will have their dividends

deposited as part of the first payment run. All other checks will be issued in the order in which the applications are approved for payment. Applications awaiting an eligibility determination will be paid on a weekly basis as they are approved for payment.

Name and Address Changes. If your name or mailing address changes after you have submitted your application but before you get your check, you must let the Permanent Fund Dividend Division know in writing. Use form 04-083 Name Change, Address Change or Social Security Number Addition in the back of this booklet. You must advise the department of any address change even if you requested your dividend to be directly deposited.

Lost Checks. If you lose your check, please contact the nearest Dividend Information Office. You will be asked to complete a Request for Stop Payment form. If the check has not been cashed, it will be reissued.

Applicants Who Die. If an eligible Alaskan dies after completing a timely filed application, their dividend check belongs to the estate and may be cashed by an heir. However, an heir may not apply for someone who died before signing their application. You may contact a Dividend Information Office for further information.

Note to Minors Regarding Extended Filing Deadline. If your parent or guardian did not claim a dividend on your behalf or did not file a completed application, or if you did not receive a dividend as

BEING DEADLINE MARCH 31 1995