

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

CSHB 244 thru CSHB 245 310

CSHB

2444

SENATE COMMITTEE REPORT

FURTHER

4/19/88

DATE TURNED INTO OFFICE 5/10/88

Mr. President:

Finance Committee considered CSHB 244 (2d Res)

addition of land to Kachemak Bay State Park and Kachemak Bay State Wilderness Park

and recommended

[] replace with CS) [] same title
[] or adopt SCS CSHB 244 (Res)) [] new title

[] attached amendment(s) and

[] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [] attached or [] adopted fiscal note(s)

[] new [] updated or [] previous

[] zero [] fiscal impact 200

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Handwritten signatures of committee members:

Handwritten signature of Chairman:

Chairman signature and recommendation

[] Committee Backup attached

FISCAL NOTE

REQUEST:

Revision Date: 2/5/88
Title: Addition to Kachemak Bay
State Park
Sponsor: Navarre/Swackhammer
Requestor: House Resource Committee

Agency Affected: DNR--Div. Parks & Outdoor Rec.
BRU: Park Management
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES		16.5	16.5	16.5	16.5	16.5
TRAVEL		.5	.5	.5	.5	.5
CONTRACTUAL		1.0	1.0	1.0	1.0	1.0
SUPPLIES		1.0	1.0	1.0	1.0	1.0
EQUIPMENT		1.0				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		20.0	19.0	19.0	19.0	19.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		20.0	19.0	19.0	19.0	19.0
FEDERAL FUNDS						
OTHER						
TOTAL		20.0	19.0	19.0	19.0	19.0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary) (See Attachment)

HB244 provides for additions to Kachemak Bay State Park and Wilderness Park of important public access points, scenic and recreational values, marine and upland habitat and areas which will enhance the tourism potential of the area.

Prepared by: Neil C. Johannsen
Division: Parks & Outdoor Recreation

Phone: 762-2600
Date: 2/5/88

Approved by Commissioner: [Signature]
Agency: Department of Natural Resources

Date: 2-7-88

Distribution (by preparer):

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

BILL ANALYSIS

ADDITIONS TO KACHEMAK BAY STATE PARK

HB244 adds three parcels totaling 4,816 acres to Kachemak Bay State Park and one parcel of 42,000 acres to Kachemak Bay State Wilderness Park.

The Department of Natural Resources supports HB244 as amended. The completion of the University of Alaska land settlement and the Mental Health lands agreement remove any actively competing interests in these lands.

HB244 has enjoyed wide support from the community of Homer with resolutions of support expected from the City of Homer, the Kenai Peninsula Borough, Homer Businessmen's Association, Chamber of Commerce and Visitor's Association, and from Commercial Fishing Groups.

Lands included in HB244 include,

Aurora Lagoon : A 2,500 acre marine tidal estuary and rich habitat with associated uplands immediately adjacent to Kachemak Bay State Park. The lagoon is the site of several nesting eagles, and an important inter-tidal area. The area has a significant cultural history and is the location of the DeLaguna early man discovery. The lagoon is a major access point to the park and one of the very few safe boat anchorages along the parks' coastline.

McDonald Spit : A 16 acre parcel of land at the tip of McDonald Spit which is the only public access to the 1.5 mile long spit. The area is a popular site for recreational boats to land and for clamming.

Cottonwood/Eastland Creek : This 2,300 acre coastal bluff uplands on the Homer side of Kachemak Bay is the only public land along the entire coastline from Homer to the head of the Bay. The area is accessible by East End Road and offers excellent potential for outstanding scenic vistas, trails, camping and natural history interpretation. There is no other comparable parcel of land near Homer which offers such recreational opportunities for the local community and visitors.

Nuka Island & Uplands : Nuka Island and uplands associated with Petrof glacier are truly wilderness in character and make a logical addition to adjacent Kachemak Bay State Wilderness Park. The island is located along the outer Gulf Coast which experiences a rugged landscape and high energy beaches exposed to wind and waves. The island is largely mountainous but the west side has a number of attractive bays which offer good opportunities for recreational boat anchorages. The University land settlement provides the University with two 25 acre parcels in two bays for development of a wilderness lodge and recreational facilities associated with glacier trips, sealife tours, flight seeing and excursions. The island is home to several nesting bald eagles and is

a haul out area for the Stellar sea lion. Large concentrations of harbor seals and otters are common to the area. The island is an important seabird rookery with concentrations of kittiwakes, tufted and horned puffins, comorants, murrelets and petrels. A survey conducted by the USFWS found Nuka Island to be one of the most heavily used bald eagle nesting areas along the entire south Kenai coast.

Timber resources on the island are marginal due to the exposed coast, rugged terrain and a tree line ending at 500 feet elevation. The primary commercial tree stands are located on the mainland and are not included in this legislation.

Mineral potential on Nuka Island is considered poor for either minerals or sand, gravel, or construction materials. The geologic formation consists primarily of slates, greywacke and easily eroded thinly bedded phyllites which are not known for their mineral potential. The island is unusual in that it is not a granite rock island like others in the region which contain gold in lode deposits. There are no mining claims on the island.

Position Title Park Ranger I		No. of Positions 1	Range/Step 14A	Bag Unit GGL
Time Status PPT	Staff Months 5	Location Homer		Election District D, 5-A
Type of Expenditure		Justification HB244		
		Funding for a five month seasonal Park Ranger I to be stationed in Homer. The ranger will be responsible for visitor services, resource protection, recruiting and supervising volunteers, park development and emergency services. Access to the park is primarily by water and visitors often encounter difficult tidal and weather conditions. The ranger provides essential public safety services and visitor information.		
	2			
Salary	12.6			
Benefits	4.3			
Premium Pay				
Other				
Total Personal Services		16.2		
Travel		.5		
Contractual		1.0		
Commodities		1.0		
Equipment		1.0		
Other				
Total Cost		20.5		
Funding Source for Total Cost				
Federal Receipts 1002				
G. F. Match 1003				
General Fund 1004		20.5		
GF Program Receipts 1005				
Other				

**Request For
New Position**

Agency Natural Resources
 BRD Parks & Outdoor Recreation
 Component Park Management

Page 1 of 4
 Revised Date 2/5/88

FY 89

CORRECTED
 No. 2
 CSHB 244 (2PRES)
 HOUSE 2/10/88

Original sponsors: Navarre and Swackhammer

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 244 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the addition of land to Kachemak
7 Bay State Park and Kachemak Bay State Wilderness
8 Park."

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

10 * Section 1. LEGISLATIVE FINDINGS. The legislature, in its designation
11 of additional land to the Kachemak Bay State Wilderness Park, intends that
12 the land within the park be managed for its primitive recreational values
13 without preventing reasonable access to inholdings in the Petrof View
14 subdivision. On Nuka Island, in recognition of planning conducted by the
15 commissioner of natural resources under AS 38.04.065, the legislature
16 intends that the island support

- 17 (1) a commercial lodge in a suitable place;
18 (2) renovation of existing facilities at Herring Pete's Cove;
19 (3) the construction and operation of one or two public use
20 cabins;
21 (4) docks, trails, and moorings necessary to provide for recre-
22 ational use; and
23 (5) maintenance of Berger Bay in an undeveloped state.

24 * Sec. 2. AS 41.21.131(a) is amended to read:

25 (a) The presently state-owned land and water, and all that
26 acquired in the future by the state, lying within the parcels describ-
27 ed in this section are designated as the Kachemak Bay State Park. In
28 order to protect and preserve this land and water for its unique and
29 exceptional scenic value, the park is established and shall be managed

1 as a scenic park. The land and water lying within the following
2 described parcels is reserved from all uses incompatible with its
3 primary function as a scenic park and is assigned to the department
4 for control, development and maintenance:

5 (1) Township 5 South, Range 10 West, Seward Meridian

6 Chugachik Island

7 Sections 31 - 32

8 (2) Township 5 South, Range 11 West, Seward Meridian

9 Section 2: Lot 1, excluding Tract A

10 Section 3: Lots 1 - 8, SW1/4NE1/4, S1/2NW1/4,

11 N1/2SW1/4

12 Section 4: Lots 1 - 4, S1/2N1/2, SE1/4, E1/2SW1/4

13 Section 8: E1/2NE1/4, E1/2SE1/4, NW1/4SE1/4,

14 SW1/4SE1/4

15 Section 9: Lots 1 and 2, NW1/4NE1/4, NE1/4NW1/4,

16 W1/2NW1/4, N1/2NE1/4SW1/4, SW1/4NE1/4SW1/4,

17 excluding Lot 6

18 Section 10: Lot 1

19 Section 16: Lot 1

20 Section 17: Lots 1, 3, 4, NW1/4SW1/4, S1/2NW1/4

21 Section 18: Lot 4, SE1/4, E1/2NE1/4

22 Section 19: Lots 1-6, NW1/4NE1/4, NE1/4NW1/4

23 Section 20: Lot 1

24 Sections 24 - 25, excluding tide and submerged land

25 within the Kachemak Bay Critical Habitat Area

26 Section 26: SE1/4, excluding tide and submerged land

27 within the Kachemak Bay Critical Habitat Area

28 Sections 35 - 36

29 (3) [(2)] Township 6 South, Range 11 West, Seward Meridian

1 (4) [(3)] Township 7 South, Range 11 West, Seward Meridian
2 Sections 1 - 4
3 Section 5: N1/2
4 Sections 7 - 36
5 (5) [(4)] Township 7 South, Range 12 West, Seward Meridian
6 Section 12, except N1/2 NE1/4
7 Section 13
8 Sections 19 - 36
9 (6) [(5)] Township 7 South, Range 13 West, Seward Meridian
10 Sections 25 - 26
11 Sections 35 - 36 [25, 26, 35 AND 36]
12 (7) [(6)] Township 8 South, Range 11 West, Seward Meridian
13 Sections 1 - 8
14 Section 9: N1/2
15 Section 10: N1/2
16 Section 11: N1/2
17 Section 12: N1/2
18 Sections 17 - 18 [17 AND 18]
19 (8) [(7)] Township 8 South, Range 12 West, Seward Meridian
20 (9) [(8)] Township 8 South, Range 13 West, Seward Meridian
21 Sections 1 - 2 [1 AND 2]
22 Sections 10 - 14
23 Section 15: E1/2
24 Section 18: Lot 10
25 Section 23: N1/2 and SE1/4
26 Sections 24 - 25 [24 AND 25]
27 Section 26: E1/2
28 Section 35: E1/2
29 Section 36

- 1 (10) Township 9 South, Range 8 West, Seward Meridian
2 Sections 7 - 10
3 Sections 15 - 22
4 Sections 27 - 34
5 (11) Township 9 South, Range 9 West, Seward Meridian
6 Section 13
7 Sections 24 - 25
8 Sections 35 - 36
9 (12) [(9)] Township 9 South, Range 12 West, Seward Meridian
10 Sections 1 - 6
11 Section 8: NE1/4
12 Sections 9 - 12
13 Section 13: N1/2
14 Section 14: N1/2
15 (13) [(10)] Township 9 South, Range 13 West, Seward Meridian
16 Sections 1 - 2 [1 AND 2]
17 (14) Township 10 South, Range 8 West, Seward Meridian
18 Sections 4 - 8
19 Sections 17 - 19
20 (15) Township 10 South, Range 9 West, Seward Meridian
21 Sections 1 - 4
22 Sections 10 - 15
23 Sections 22 - 24

24 * Sec. 3. AS 41.21.140(a) is amended to read:

25 (a) The presently state-owned land and water, and all that
26 acquired in the future by the state, lying within the parcels describ-
27 ed in this section are designated as the Kachemak Bay State Wilderness
28 Park. In order to protect and preserve this land and water for its
29 unique and exceptional wilderness value, the park is established and

1 shall be managed as a wilderness park. The land and water lying
2 within the following described parcels is reserved from all uses
3 incompatible with its primary function as a wilderness park and is
4 assigned to the department for control and maintenance:

5 (1) Township 8 South, Range 11 West, Seward Meridian

6 Section 9: S 1/2

7 Section 10: S 1/2

8 Section 11: S 1/2

9 Section 12: S 1/2

10 Sections 13 - 16

11 Sections 19 - 36

12 (2) Township 9 South, Range 8 West, Seward Meridian

13 Section 2: W1/2

14 Sections 3 - 6

15 (3) Township 9 South, Range 9 West, Seward Meridian

16 Sections 1 - 12

17 Sections 14 - 23

18 Sections 26 - 34

19 (4) Township 9 South, Range 10 West, Seward Meridian

20 Sections 1 - 3

21 Sections 10 - 15

22 Sections 22 - 27

23 Sections 34 - 36

24 (5) [(2)] Township 9 South, Range 12 West, Seward Meridian

25 Section 7

26 Section 8: S 1/2 and NW 1/4

27 Section 13: S 1/2

28 Section 14: S 1/2

29 Sections 15 - 36

1 (6) [(3)] Township 9 South, Range 13 West, Seward Meridian
2 Section 11: NE 1/4
3 Sections 12 - 13
4 (7) [(4)] Township 10 South, Range 9 West, Seward Meridian
5 Sections 5 - 7
6 (8) [(5)] Township 10 South, Range 10 West, Seward Meridian
7 (9) [(6)] Township 10 South, Range 11 West, Seward Meridian
8 (10) [(7)] Township 10 South, Range 12 West, Seward Meridian
9 (11) [(8)] Township 11 South, Range 10 West, Seward Meridian
10 (12) [(9)] Township 11 South, Range 11 West, Seward Meridian
11 (13) [(10)] Township 11 South, Range 12 West, Seward Merid-

12 ian

13 Sections 1 - 10
14 Section 11: W 1/2 and E 1/2
15 Sections 12 - 17
16 Sections 21 - 24.

17 * Sec. 4. AS 41.21.140 is amended by adding a new subsection to read:

18 (c) The tide and submerged land within the Aurora Lagoon is
19 assigned to the Department of Natural Resources to preserve its value
20 as a scenic park and to the Department of Fish and Game to preserve
21 its value as critical habitat.

22 * Sec. 5. This Act does not prohibit the commissioner of natural re-
23 sources from conveying 50 acres, more or less, on Nuka Island to the Uni-
24 versity of Alaska in accordance with the final finding of the commissioner
25 of natural resources issued December 4, 1987, or its amendments. This Act
26 does not apply to land conveyed to the University of Alaska under the
27 commissioner's decision dated December 4, 1987.

Alaska State Legislature

WHILE IN SESSION:
PO BOX 7
JUNEAU ALASKA 99811
907 465-3779

CHAIR RULES COMMITTEE



HOME ADDRESS
PO BOX 169
KENAI ALASKA 99511
907 262-9366

DISTRICT 5

Representative Mike Navarre

May 4, 1987

M E M O R A N D U M

TO: All members, House Finance Committee

FROM: Rep. Mike Navarre

SUBJECT: House Bill 244, "An Act relating to the addition of land to Kachemak Bay State Park and Kachemak Bay State Wilderness Park"

Attached is back-up material for the above legislation. This measure was introduced at the request of the Kachemak Bay State Park Advisory Board. I feel, as they do, that due to the high recreational and /or wilderness value of these lands, it is in the best public interest for them to not only to be maintained as public lands, but to be managed by the Division of Parks and Outdoor Recreation.

I respectfully urge your favorable consideration of CSHB 244 (Resources).

CSHB 244 (Resources)

JUSTIFICATION SUMMARY

NUKA ISLAND and NUKA UPLANDS: 62,766 acres total
42,092 acres land
20,674 acres water

Nuka Island has been identified in the U.S. Congressional Record for inclusion (and originally was) within the boundary designated for the Kenai Fjords National Park. As state land, it obviously cannot be part of the Kenai Fjords, but this is a good illustration of the nationally significant values this island area possesses.

Some of these values include:

Nuka Island area has some of the most varied life representation of littoral and sub-littoral marine ecosystem along Kenai Fjord area.

The outstanding scenic beauty, complementing hiking, fishing, boating, and similar recreational opportunities.

Management of a commercial lease for facility development on the west side of the island corresponds with the current DNR Nuka Island Management Plan. Development of recreational use and tourism growth by the Division of Parks would make Nuka Island the logical "jumping off" point for enjoyment of Kachemak Bay State Wilderness Park, Kenai Fjords National Park, and the island itself.

It is the only potential development link between Seward and Homer, via cruise ship and state ferry system, and is also the only sheltered potential development site from Gore Point to Cape Resurrection that is also safe from earthquake and tsunami waves.

NOTE:

Portions of Nuka Island have been made part of the current pool of lands offered in settlement to the University of Alaska by the DNR, Division of Land and Water Management. While this conflicts with the proposal to convert these lands to park status, the following facts should be given consideration:

1. Nuka Island has been identified by the Kachemak Bay State Park Advisory for inclusion into the park since 1982. The tentative selections by the DNR and University are recent - 1987. The Nuka Island Management Plan, completed in December of 1986, cites the island's high recreational potential.

CSHB 244 (Resources)
JUSTIFICATION SUMMARY (cont'd)

NUKA ISLAND and NUKA UPLANDS, cont'd.

2. In Appendix D of the DNR's Proposed Preliminary Decision ADL 223456 (dated March 24, 1987) creating the pool offered in settlement to the University, the Division of Parks and Outdoor Recreation position concerning the Nuka Island parcels was noted as follows:

"(DPOR) Objects to this transfer due to high public recreation and wildlife values. That division expressed concern that, even with covenants which restrict uses according to the management plan, a careful balancing is needed which may be incompatible with trust principles."

The Division of Land and Water Management has chosen not to follow this recommendation. Comments from agencies outside DNR were apparently not solicited during the preparation of this preliminary decision.

3. Though any conveyance on Nuka Island by the DNR to the University will be subject to the restrictions of the management plan, a question arises as to which agency becomes responsible for amendment of the management plan. It could be reasonably argued that any changes to the existing management plan on lands granted to the University would then become a function of the University, not DNR.

While this legislation is certainly not an attempt to prevent a successful settlement between the University and the state, for the above reasons the prime sponsor of HB 244 feels that the public interest is best served if management of Nuka Island is left to the DNR, Division of Parks and Outdoor Recreation, and not the University.

CSHB 244 (Resources)
JUSTIFICATION SUMMARY (cont'd)

AURORA LAGOON: 2,008 acres total
1,273 acres land
735 acres water

This is a logical boundary adjustment of the park. In discussion with former legislators, it seems apparent that the omission of Aurora Lagoon from the original legislation creating Kachemak Bay State Park was an oversight.

One landowner in the area has indicated a willingness to grant public easements and some land title if the area is added to the park. The lagoon is currently heavily utilized for recreational pursuits.

Other justification:

Excellent camping and hiking potential.

Potential as a public use cabin site.

Good fishing in area: salmon, crab, clams.

Aurora Lagoon offers not only high scenic and recreational values, but is one of the few areas of safe high tide moorage in this area of Kachemak Bay that is unaffected by inclement weather. In addition, there are good beach landing sites for small craft.

NOTE:

Aurora Lagoon lands are currently contained in the pool of lands offered in settlement to the University of Alaska by the DNR, Division of Land and Water Management. While this conflicts with the proposal to convert these lands to park status, the following facts should be given consideration:

1. The Kachemak Bay State Park Advisory Board identified Aurora Lagoon for inclusion in the Park in 1984, long before it was included in any University settlement.
2. In Appendix D of the DNR's Proposed Preliminary Decision ADL 223456 (dated March 24, 1987) creating the pool offered in settlement to the University, the Division of Parks and Outdoor Recreation position concerning Aurora Lagoon was noted:

"(DPOR) The land should be retained as it is proposed for an addition to Kachemak Bay State Park as partial compensation for land removed from the park by ANSCA and has high recreation and scenic values."

CSHB 244 (Resources)
JUSTIFICATION SUMMARY (cont'd)

AURORA LAGOON, cont'd:

The Division of Land and Water Management has chosen not to follow the Division of Parks recommendation, and comments from resource agencies outside DNR were apparently not solicited during this portion of the decision making process.

Once again, it has never been the intent of this legislation to prevent a successful settlement between the University and the state. It is the prime sponsor's belief, however, that recreational development of Aurora Lagoon by the Division of Parks, rather than the University, far better serves the public interest.

CSHB 244 (Resources)
JUSTIFICATION SUMMARY (cont'd)

BEAR COVE: 1,280 acres total - all uplands

The Bear Cove lands that conflicted with the settlement pool of lands offered to the University are not part of the House Resources Committee version of the bill. The Bear Cove lands remaining in CSHB 244 (Resources) are all uplands. Along with the adjacent Aurora Lagoon parcels, they are also a logical extension of the northern park boundary.

Commercial development (a wilderness lodge) is taking place on private land at nearby Bear Cove, and state park status of these public lands would enhance and encourage recreation in the Bear Cove area. This is an excellent area for trail development, with high scenic and recreational use.

COTTONWOOD CREEK & EASTLAND CREEK 2,310 acres total
all uplands

The Cottonwood-Eastland Creek parcels have been under consideration as potential park for nearly a decade - in 1979, the Division of Parks and Outdoor Recreation completed a recreation development feasibility study on these parcels.

While these lands are not contiguous with the balance of Kachemak Bay State Park, they will meet a need for recreational park land near Homer. The nearest developed state park facility is the Anchor River State Recreational Area (10 miles north of Homer), primarily used for fishing and camping.

There are also identified archaeological sites in the area. The 1979 feasibility study noted this, and recommended investigation, evaluation and excavation, if necessary, to preserve and protect these sites. The prime sponsor feels transfer to park status would help assure this protection.

Other justification for inclusion of these parcels:

High scenic and wildlife values.

Developed road to area.

Strong possibility for year-round use, once facilities are developed.

None of the lands within these parcels are identified within the pool of lands offered the University settlement.

CSHB 244 (Resources)
JUSTIFICATION SUMMARY (cont'd)

McDONALD SPIT 16 acres total (uplands)

This is an extremely small parcel of land at the end of McDonald Spit in Homer, consisting of approximately 16 acres. Currently, there is a good deal of local use of this spit, with increasing tourist use, particularly as a "stop over" for kayakers while boating between Halibut Cove and Seldovia. Aside from the obvious scenic values, there is an eagle nesting area on the spit.

This land is currently in "mental health land" status, and would be included in the park only if this status changed as a result of the mental health land settlement.

Original sponsors: Navarre and Swackhammer

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2

CS FOR HOUSE BILL NO. 244 (2d Resources)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the addition of land to Kachemak

7

Bay State Park and Kachemak Bay State Wilderness

8

Park."

9

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

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* Section 1. LEGISLATIVE FINDINGS. The legislature, in its designation

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4 for control, development and maintenance:

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6 Chugachik Island

7 Sections 31 - 32

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9 Section 2: Lot 1, excluding Tract A

10 Section 3: Lots 1 - 8, SW1/4NE1/4, S1/2NW1/4,

11 N1/2SW1/4

12 Section 4: Lots 1 - 4, S1/2N1/2, SE1/4, E1/2SW1/4

13 Section 8: E1/2NE1/4, E1/2SE1/4, NW1/4SE1/4,

14 SW1/4SE1/4

15 Section 9: Lots 1 and 2, NW1/4NE1/4, NE1/4NW1/4,

16 W1/2NW1/4, N1/2NE1/4SE1/4, SW1/4NE1/4SW1/4,

17 excluding Lot 6

18 Section 10: Lot 1

19 Section 16: Lot 1

20 Section 17: Lots 1, 3, 4, NW1/4SW1/4, S1/2NW1/4

21 Section 18: Lot 4, SE1/4, E1/2NE1/4

22 Section 19: Lots 1-6, NW1/4NE1/4, NE1/4NW1/4

23 Section 20: Lot 1

24 Sections 24 - 25, excluding tide and submerged land

25 within the Kachemak Bay Critical Habitat Area

26 Section 26: SE1/4, excluding tide and submerged land

27 within the Kachemak Bay Critical Habitat Area

28 Sections 35 - 36

29 (3) [(2)] Township 6 South, Range 11 West, Seward Meridian

1 (4) [(3)] Township 7 South, Range 11 West, Seward Meridian
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19 (8) [(7)] Township 8 South, Range 12 West, Seward Meridian
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23 Section 15: E1/2
24 Section 18: Lot 10
25 Section 23: N1/2 and SE1/4
26 Sections 24 - 25 [24 AND 25]
27 Section 26: E1/2
28 Section 35: E1/2
29 Section 36

- 1 (10) Township 9 South, Range 8 West, Seward Meridian
2 Sections 7 - 10
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5 (11) Township 9 South, Range 9 West, Seward Meridian
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14 Section 14: N1/2
15 (13) [(10)] Township 9 South, Range 13 West, Seward Meridian
16 Sections 1 - 2 [1 AND 2]
17 (14) Township 10 South, Range 8 West, Seward Meridian
18 Sections 4 - 8
19 Sections 17 - 19
20 (15) Township 10 South, Range 9 West, Seward Meridian
21 Sections 1 - 4
22 Sections 10 - 15
23 Sections 22 - 24

24 * Sec. 3. AS 41.21.140(a) is amended to read:

25 (a) The presently state-owned land and water, and all that
26 acquired in the future by the state, lying within the parcels describ-
27 ed in this section are designated as the Kachemak Bay State Wilderness
28 Park. In order to protect and preserve this land and water for its
29 unique and exceptional wilderness value, the park is established and

1 shall be managed as a wilderness park. The land and water lying
2 within the following described parcels is reserved from all uses
3 incompatible with its primary function as a wilderness park and is
4 assigned to the department for control and maintenance:

5 (1) Township 8 South, Range 11 West, Seward Meridian
6 Section 9: S 1/2
7 Section 10: S 1/2
8 Section 11: S 1/2
9 Section 12: S 1/2
10 Sections 13 - 16
11 Sections 19 - 36

12 (2) Township 9 South, Range 8 West, Seward Meridian
13 Section 2: W1/2
14 Sections 3 - 6

15 (3) Township 9 South, Range 9 West, Seward Meridian
16 Sections 1 - 12
17 Sections 14 - 23
18 Sections 26 - 34

19 (4) Township 9 South, Range 10 West, Seward Meridian
20 Sections 1 - 3
21 Sections 10 - 15
22 Sections 22 - 27
23 Sections 34 - 36

24 (5) [(2)] Township 9 South, Range 12 West, Seward Meridian
25 Section 7
26 Section 8: S 1/2 and NW 1/4
27 Section 13: S 1/2
28 Section 14: S 1/2
29 Sections 15 - 36

SENATE COMMITTEE REPORT

5-0976N

FURTHER Finance

3/2/88

DATE TURNED INTO OFFICE _____

Mr. President:

Resources _____ Committee considered CSHB 244 (2d Res)

addition of land to Kachemak Bay State Park and Kachemak Bay State Wilderness Park

and recommended

[x] replace with _____ SCSB 244 (res) [x] same title
[] or adopt _____ CS _____ [] new title

[] attached amendment(s) and

to do pass

[x] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [] attached or [x] adopted fiscal note(s)

[] new [] updated or [x] previous
[] zero [x] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]

Paul Fitch

Julia Jurgens

[Signature]
Chairman signature and recommendation

[] Committee Backup attached

SENATE COMMITTEE REPORT

FURTHER Resources
Finance

2/22/88

DATE TURNED INTO OFFICE _____

Mr. President:

C&RA Committee considered CSHB 244 (2d Resources)

An Act relating to the addition of land to Kachemak Bay State Park and Kachemak Bay State Wilderness Park

and recommended

Reports et back to Finance
[] replace with _____ CS _____) [] same title
[] or adopt _____ CS _____) [] new title

[] attached amendment(s) and

[] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [] attached or [] adopted fiscal note(s)

[] new [] updated or [] previous
[] zero [] fiscal impact - *house fiscal note*

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]

[Signature] No Rec

[Signature] No Pass
Chairman signature and recommendation

[] Committee Backup attached

HRB

245

HOUSE COMMITTEE REPORT

Date referred: 2/4/88

FURTHER REFERRALS:

DATE: 2-5-88

The Finance Committee has considered HB 245

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

RECOMMENDS:

- replace with CS HB 245 (JUD) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

ADAMS [Signature]

PURCHOT [Signature]

LARSON Ronald L. Larson

SWACK [Signature]

SIGNING OTHER RECOMMENDATIONS:

GOL [Signature] N.R.

BOYER [Signature] N.R.

RIEGER [Signature] No Recommendation

BROWN [Signature] No Recommendation

DAVIS [Signature] No Rec

[Signature]
Chairman's signature

FISCAL NOTE

REQUEST

Revision Date: 01/27/88
Title: An act relating to permanent fund dividends for incarcerated felons
Sponsor: Judiciary
Requestor: House Finance

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-	-	2.2	1.1	1.1	1.1
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	1.1	.5	.5	.5
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	3.3	1.6	1.6	1.6
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (PFD)	-	-	3.3	1.6	1.6	1.6
TOTAL	-	-	3.3	1.6	1.6	1.6

POSITIONS:

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

ANALYSIS: See attached

Prepared By: Ervin Jones
Division: Permanent Fund Dividend Division

Phone: 465-2323
Date: January 27, 1988

Approved by Commissioner: [Signature]
Agency: Revenue

Date: 1/29/88

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

Department of Revenue
Permanent Fund Dividend Division
Fiscal Note Analysis
CSHB 245 (Judiciary)
01/27/38

Assumptions:

1. The bill will be effective for the 1939 dividend.
2. Per the Department of Corrections, there are approximately 3,200 felons who would be incarcerated during part or all of a given fiscal year.
3. The Department of Corrections will provide the Department of Revenue with a list, via magnetic tape, which includes:
 - a. All persons, including full name, birthdate, and social security number, who were incarcerated during all or part of the previous fiscal year for a felony conviction. This list will be provided by August 1 of each year.

Program Summary:

The Department of Revenue will use the list provided in assumption 3(a) to match against the PFD file. Any person who files an application and who appears on that list will be denied their dividend. A denial notice will be sent to the applicant, with notice of right to appeal. If appeals are forthcoming, the 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 2,000 additional denials in the first year, with a decreasing number in subsequent years, as felons realize that they are ineligible for the dividend.

The Department of Revenue will include in the dividend calculation the total number of incarcerated felons as provided by Corrections.

1. Positions:

1 PPT Document Processor I, R7, @ \$2158.32/mo. including salary and benefits for 1 month	\$2.2
---	-------

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 the second and subsequent years.

2. Other Expenditures:

a. Travel: None.

b. Contractual:

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

= 1.1

c. Supplies: None.

d. Equipment: Use existing.

-0-

TOTAL COST

13.3

FISCAL NOTE

REQUEST: _____

Revision Date: _____
Title: "An Act relating to permanent fund dividends for individuals incarcerated."
Sponsor: Rep. Barnes, Adams, Collins
Requestor: _____

Agency Affected: Department of Corrections
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
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						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Susan E. Knighton, Director
Division: Administrative Services
Approved by Commissioner: Susan Humphrey-Barnett
Agency: Department of Corrections

Phone: 465-3376
Date: 1-29-88
Date: 1-29-88

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

Original sponsors: Barnes, Adams,
Collins, et al.

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 245 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION
5 A BILL
6 For an Act entitled: "An Act relating to permanent fund dividends for
7 individuals incarcerated after conviction for a
8 felony; and providing for an effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 43.23.005 is amended by adding a new subsection to
11 read:
12 (d) Notwithstanding the provisions of (a) - (c) of this section,
13 an individual who has been convicted of a felony is not eligible for a
14 permanent fund dividend for a year when, during all or part of the
15 fiscal year ending June 30 of the current year, as a result of the
16 conviction the individual is incarcerated. This subsection applies
17 whether or not the individual has applied for the dividend.
18 * Sec. 2. AS 43.23.025 is amended by adding a new subsection to read:
19 (b) For the purpose of calculating the amount of a permanent
20 fund dividend under (a) of this section, an individual who is ineli-
21 gible to receive a dividend under AS 43.23.005(d) is counted as an
22 eligible individual whether or not the individual has applied for the
23 dividend.
24 * Sec. 3. AS 43.23.055 is amended to read:
25 Sec. 43.23.055. DUTIES OF THE DEPARTMENT. The department shall
26 (1) annually pay permanent fund dividends from the dividend
27 fund;
28 (2) adopt regulations under the Administrative Procedure
29 Act (AS 44.62) that establish procedures and time limits for claiming

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).

Proposed Amendment to CSHB 245(Jud)

Insert page 2, line 27, after "dividend fund":

to the child support enforcement agency to carry out the purposes of AS 47.23 and

Insert page 2, after line 28:

It is the further intent of the legislature that the amount appropriated to the child support enforcement agency be approximately equal to the money that the agency would have received, by execution or other legal process on the dividends, from those individuals determined to be ineligible under AS 43.23.005(d).

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701-4679

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600

January 29, 1988

The Honorable Al Adams
Representative, State of Alaska
Chairman, House Finance Committee
P.O. Box V
Juneau, AK 99811

Re: CSHB 245(Jud); permanent fund
dividends for felons

Dear Representative Adams:

You have requested an update of my letter of March 2, 1987, to Representative Ramona Barnes, concerning a draft bill proposing to make incarcerated felons ineligible for permanent fund dividends. The draft bill was subsequently introduced as HB 245.

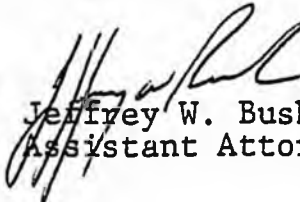
We continue to believe that the bill is constitutional, although we recognize that constitutional issues may exist in denying permanent fund dividends to incarcerated felons. We also repeat that, at the present time, the Department of Law has no opinion on the merits of this proposed legislation.

In my March 2, 1987 letter, I suggested a number of minor changes to the draft bill. All of these changes are incorporated in CSHB 245(Jud), and I have no further recommendations at this time.

I hope this answers your questions.

Sincerely yours,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: 
Jeffrey W. Bush
Assistant Attorney General

JWB:nb

cc: Honorable Ramona Barnes
Royce Weller, Special Assistant
Department of Revenue

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

February 2, 1988

SUBJECT: Making certain incarcerated individuals
ineligible for permanent fund dividend
(CSHB 245(Finance))

TO: Representative Al Adams
Chairman
House Finance Committee

FROM: Tamara Brandt Cook
Director
Division of Legal Services

I have been informed that the Finance Committee has considered CSHB 245 (Jud) and adopted one amendment to that version. The amendment would alter Section 5 of the bill to read:

It is the intent of the legislature that an amount approximately equal to the money that would otherwise be paid as permanent fund dividends to individuals determined to be ineligible under AS 43.23.005(d), as enacted by sec. 1 of this Act, be appropriated annually from the dividend fund to the child support enforcement agency to carry out the purposes of AS 47.23 and crime victim compensation fund (AS 18.67.162) to carry out the purposes of AS 18.67. It is the further intent of the legislature that the amount appropriated to the child support enforcement agency be approximately equal to the money that the agency would have received by execution or other legal process, on the dividends from those individuals determined to be ineligible under AS 43.23.005(d). (Underlined portions represent amendment language.)

As a preliminary matter let me note that section 5, as a statement of legislative intent only, is not binding and can be entirely ignored by the legislature. The substantive portions of this bill are not affected by the amendment. Nevertheless, I must point out that, assuming the

Representative Al Adams
Page 2
February 2, 1988

legislature does make an appropriation to the child support enforcement agency in accordance with the intent expressed, that agency cannot use the money for any child support payments.

Unlike the crime victim compensation fund, the child support enforcement agency does not administer a fund of state money from which payments may be made to an identifiable group of intended recipients. Rather, the child support enforcement agency is akin to a collection agency in that it attempts to collect money owed by one individual to another and pay that money to the claimant. If the agency fails to collect on an obligation, it does not pay the claimant from some other source. The obligation continues, unsatisfied.

The child support enforcement agency has no statutory authority to pay support obligations from state funds, but if the agency did and were to pay a support obligation owed by an incarcerated felon, the state would, essentially, be paying off a private debt with public funds. This probably does not meet the constitutional "public purpose" requirement that attaches to expenditures of state funds. On the other hand, if, despite the clear language in the bill that incarcerated felons do not qualify for permanent fund dividends, the money were presumed to come from them, then the state would be, essentially, forcing these individuals to accept income -- taxable income. On the advice of the Department of Law, the governor has vetoed a bill containing a similar scheme. (See Senate Journal, June 22, 1984, page 3646, governor's veto message regarding SCS SHB 575(Jud) am S.)

For the foregoing reasons, I recommend that the Finance Committee reconsider its adoption of the amendment to SHB 245(Jud) and report the bill out without the amendment. In the alternative, if the committee wishes to aid in the child support enforcement effort in general, an amendment could be included to section 5, expressing legislative intent to appropriate money from the dividend fund to the child support enforcement agency for administrative costs incurred by the agency in carrying out AS 18.67.

As requested by Ms. Martha Stewart, I have contacted Mr. Jeff Bush from the Department of Law and he has expressed agreement with the substance of this memorandum.

TBC:bb
wkb2/035

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

February 2, 1988

SUBJECT: Making certain incarcerated individuals
ineligible for permanent fund dividend
(CSHB 245(Finance))

TO: Representative Al Adams
Chairman
House Finance Committee

FROM: Tamara Brandt Cook
Director
Division of Legal Services

I have been informed that the Finance Committee has considered CSHB 245 (Jud) and adopted one amendment to that version. The amendment would alter Section 5 of the bill to read:

It is the intent of the legislature that an amount approximately equal to the money that would otherwise be paid as permanent fund dividends to individuals determined to be ineligible under AS 43.23.005(d), as enacted by sec. 1 of this Act, be appropriated annually from the dividend fund to the child support enforcement agency to carry out the purposes of AS 47.23 and crime victim compensation fund (AS 18.67.162) to carry out the purposes of AS 18.67. It is the further intent of the legislature that the amount appropriated to the child support enforcement agency be approximately equal to the money that the agency would have received by execution or other legal process, on the dividends from those individuals determined to be ineligible under AS 43.23.005(d). (Underlined portions represent amendment language.)

As a preliminary matter let me note that section 5, as a statement of legislative intent only, is not binding and can be entirely ignored by the legislature. The substantive portions of this bill are not affected by the amendment. Nevertheless, I must point out that, assuming the

Representative Al Adams
Page 2
February 2, 1988

legislature does make an appropriation to the child support enforcement agency in accordance with the intent expressed, that agency cannot use the money for any child support payments.

Unlike the crime victim compensation fund, the child support enforcement agency does not administer a fund of state money from which payments may be made to an identifiable group of intended recipients. Rather, the child support enforcement agency is akin to a collection agency in that it attempts to collect money owed by one individual to another and pay that money to the claimant. If the agency fails to collect on an obligation, it does not pay the claimant from some other source. The obligation continues, unsatisfied.

The child support enforcement agency has no statutory authority to pay support obligations from state funds, but if the agency did and were to pay a support obligation owed by an incarcerated felon, the state would, essentially, be paying off a private debt with public funds. This probably does not meet the constitutional "public purpose" requirement that attaches to expenditures of state funds. On the other hand, if, despite the clear language in the bill that incarcerated felons do not qualify for permanent fund dividends, the money were presumed to come from them, then the state would be, essentially, forcing these individuals to accept income -- taxable income. On the advice of the Department of Law, the governor has vetoed a bill containing a similar scheme. (See Senate Journal, June 22, 1984, page 3646, governor's veto message regarding SCS CSHB 575(Jud) am S.)

For the foregoing reasons, I recommend that the Finance Committee reconsider its adoption of the amendment to CSHB 245(Jud) and report the bill out without the amendment. In the alternative, if the committee wishes to aid in the child support enforcement effort in general, an amendment could be included to section 5, expressing legislative intent to appropriate money from the dividend fund to the child support enforcement agency for administrative costs incurred by the agency in carrying out AS 18.67.

As requested by Ms. Martha Stewart, I have contacted Mr. Jeff Bush from the Department of Law and he has expressed agreement with the substance of this memorandum.

TBC:bb
wkb2/035

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 2, 1987

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

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

Dear Representative Barnes:

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

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

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

STEVE COWPER, GOVERNOR

REPLY TO:

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

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

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

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

March 2, 1987
Page 2

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

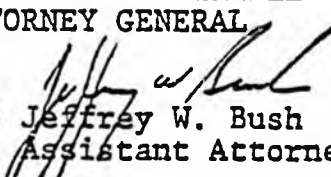
With respect to sec. 3 of the bill, proposed paragraph (5) is probably unnecessary, since this provision is already covered in sec. 2 of the bill. Also, in paragraph (6), we recommend that the words "in cooperation with the Department of Corrections" be inserted after "regulations."

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

Please contact me if you wish to discuss this further.

Sincerely,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL


By: Jeffrey W. Bush
Assistant Attorney General

JWB:lb

cc: Arthur H. Peterson
Mike Stark

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 20, 1988

SUBJECT: Permanent fund dividends of incarcerated individuals (CSHB 245 (HESS))

TO: Representative Ramona Barnes

FROM: Tamara Brandt Cook ^{TBC}
Director
Division of Legal Services

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

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

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

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

Section 4. The bill applies only to dividends for years after 1987. Since the bill has been held over from the

Representative Ramona Barnes
Page 2
January 20, 1988

first session, thought should be given to changing this date to 1988.

Section 5. The legislature intends to appropriate from the dividend fund to the crime victim compensation fund an amount equal to money that would otherwise be paid as dividends to incarcerated individuals.

Section 6. The bill has an immediate effective date.

TBC:bb
WKB1/078

provision, see § 22, ch. 99, SLA 1985 in the Temporary and Special Acts.
Effect of amendments. — The 1984

amendment substituted "October" for "December" in paragraph (2).

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 § 57 SLA 1985; am § 67 ch 136 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 individual 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."

Section 22, ch. 99, SLA 1985 provides for an advisory vote to be held at the general election in 1986. For the text of that

provision, see § 22, ch. the Temporary and Spe

Effect of amendment
amendment added the la
in the next-to-last sent
"An exemption is not" fo
is," inserted "(1)," and ad
beginning with "(2) a de
the sentence. Section 2, c
limits the application of
ment to dividends issue
subsequent years.

The first 1985 amendm

Sec. 43.23.075. E

Revisor's notes. — Se
SLA 1985, amends thi
amendment is effective if
1985 is repealed (see § :
1985). If the amendment t
section will read: "(a) In
eligibility of an individua
assistance program admi
Department of Health anc
in which eligibility for ass
on financial need, the
Health and Social Servic
sider a permanent fund
come or resources receive
ent of public assistance or
the recipient's household
to do so by federal law or
Department of Health and
shall notify all recipients
tance of the effects of a p
dividend credit or cash p

"(b) An individual who
cal assistance under 42
1396p (Social Security A
solely because of the credi
permanent fund dividend
ual or by a member of t
household is eligible for sta
ical assistance under the g
assistance program (AS

Sec. 43.23.095. De

Revisor's notes. — Sec
SLA 1985, amends (6) of th
amendment is effective if §
1985 is repealed (see § 23
1985). If the amendment be
paragraph will read: "(6) 'p
dividend' means a credit to
count or a cash payment us
ter."

In addition, § 16, -h, 99,

April 24, 1987

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

Dear Representative Koponen:

HB295
I'm going to have a tough time getting anyone to listen, but I have to try. ~~HB13~~ and SB177, the proposal to use prisoners' dividend funds for something other than giving it to the prisoner, is wrong. Maybe wrong is the wrong word; how about unjust since everyone talks about being just.

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

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

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

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

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

Sincerely,



L.S. (Dusty) Rhodes

Original sponsors: Barnes, Adams,
Collins, et al.

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 245 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to permanent fund dividends for
7 individuals incarcerated after conviction for a
8 felony; and providing for an effective date."

9

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

10

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

12

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

18

* Sec. 2. AS 43.23.025 is amended by adding a new subsection to read:

19

(b) For the purpose of calculating the amount of a permanent
20 fund dividend under (a) of this section, an individual who is ineli-
21 gible to receive a dividend under AS 43.23.005(d) is counted as an
22 eligible individual whether or not the individual has applied for the
23 dividend.

24

* Sec. 3. AS 43.23.055 is amended to read:

25

Sec. 43.23.055. DUTIES OF THE DEPARTMENT. The department shall

26

(1) annually pay permanent fund dividends from the dividend

27

fund;

28

(2) adopt regulations under the Administrative Procedure

29

Act (AS 44.62) that establish procedures and time limits for claiming

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. 0

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

Original sponsors: Barnes, Adams,
Collins, et al.

1 IN THE HOUSE BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE
2 CS FOR HOUSE BILL NO. 245 (HESS)
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 permanent fund dividends for
7 individuals incarcerated after conviction for a
8 felony; and providing for an effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 43.23.005 is amended by adding a new subsection to
11 read:
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14 permanent fund dividend for a year when, during all or part of the
15 fiscal year ending June 30 of the current year, as a result of the
16 conviction the individual is incarcerated. This subsection applies
17 whether or not the individual has applied for the dividend.
18 * Sec. 2. AS 43.23.025 is amended by adding a new subsection to read:
19 (b) For the purpose of calculating the amount of a permanent
20 fund dividend under (a) of this section, an individual who is ineli-
21 gible to receive a dividend under AS 43.23.005(d), but who is other-
22 wise eligible under AS 43.23.005(a)(1) and (2), is counted as an
23 eligible individual whether or not the individual has applied for the
24 dividend.
25 * Sec. 3. AS 43.23.055 is amended to read:
26 Sec. 43.23.055. DUTIES OF THE DEPARTMENT. The department shall
27 (1) annually pay permanent fund dividends from the dividend
28 fund;
29 (2) adopt regulations under the Administrative Procedure

1 Act (AS 44.62) that establish procedures and time limits for claiming
2 a permanent fund dividend; the department shall set the time limit for
3 applications for permanent fund dividends so that the number of eli-
4 gible applicants is determined by October 1 of the year for which the
5 dividend is declared and permanent fund dividends for a year are paid
6 before April 30 of the year following that year;

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10 nent fund dividends not received during minority because the parent,
11 guardian, or other authorized representative did not apply on behalf
12 of the individual; [AND]

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

17 (5) annually determine, in cooperation with the Department
18 of Corrections, the number and identity of individuals ineligible for
19 a permanent fund dividend under AS 43.23.005(d), and the number of
20 ineligible individuals counted as eligible under AS 43.23.025; and

21 (6) adopt regulations that are necessary to implement
22 AS 43.23.005(d).

23 * Sec. 4. This Act applies only to eligibility for permanent fund
24 dividends for years after 1987.

25 * Sec. 5. It is the intent of the legislature that an amount approxi-
26 mately equal to the money that would otherwise be paid as permanent fund
27 dividends to ineligible individuals counted as eligible under AS 43.23.025,
28 as enacted by sec. 2 of this Act, be appropriated annually from the divi-
29 dend fund to the crime victim compensation fund (AS 18.67.162) to carry out

1 the purposes of AS 18.67.

2 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

Introduced: 4/3/87
Referred: Health, Education &
Social Services, Judiciary and
Finance

5-0701A

BY BARNES, ADAMS, COLLINS,
FURNACE, GRUENBERG, HANLEY,
HUDSON, MARTIN, MILLER,
NAVARRE, PEARCE, PHILLIPS,
SWACKHAMMER, TAYLOR AND
ZAWACKI

1 IN THE HOUSE

2 HOUSE BILL NO. 245

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 permanent fund dividends for
7 individuals incarcerated after conviction for a
8 felony; and providing for an effective date."

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

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

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13 an individual who has been convicted of a felony is not eligible for a
14 permanent fund dividend for a year when, during all or part of the
15 fiscal year ending June 30 of the current year, as a result of the
16 conviction the individual is incarcerated. This subsection applies
17 whether or not the individual has applied for the dividend.

18 * Sec. 2. AS 43.23.025 is amended by adding a new subsection to read:

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20 fund dividend under (a) of this section, an individual who is ineli-
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14 areas, who because of language, disability, or inaccessibility to
15 public transportation need assistance to establish eligibility and to
16 apply for permanent fund dividends;

17 (5) annually determine, in cooperation with the Department
18 of Corrections, the number and identity of individuals ineligible for
19 a permanent fund dividend under AS 43.23.005(d), and the number of
20 ineligible individuals counted as eligible under AS 43.23.025; and

21 (6) adopt regulations that are necessary to implement
22 AS 43.23.005(d).

23 * Sec. 4. This Act applies only to eligibility for permanent fund
24 dividends for years after 1987.

25 * Sec. 5. It is the intent of the legislature that an amount approxi-
26 mately equal to the money that would otherwise be paid as permanent fund
27 dividends to ineligible individuals counted as eligible under AS 43.23.025,
28 as enacted by sec. 2 of this Act, be appropriated annually from the
29 dividend fund to the Department of Corrections to be used for upkeep of in-

1 mates.

2 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

CSHB

245

SENATE COMMITTEE REPORT

FURTHER

3/10/88

DATE TURNED INTO OFFICE 4/22/88

Mr. President:

Finance Committee considered CSHB 245 (JUD)

permanent fund dividends for individuals incarcerated after conviction for a felony; efd

and recommended

[] replace with _____ CS _____) [] same title
[] or adopt _____ CS _____) [] new title

[] attached amendment(s) and

[] do pass

[] do not pass

[] no recommendation

[x] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [] attached or [x] adopted fiscal note(s)

[] new [] updated or [x] previous

[x] zero 1/24/88 DOR [] fiscal impact

MEMBERS SIGNING DO PASS

[Handwritten signatures]

OTHER RECOMMENDATIONS

Stump up on - No Rec
Paul H. Hancock - No Rec

Rich Halford do pass
Chairman signature and recommendation

[] Committee Backup attached

FISCAL NOTE

REQUEST

Revision Date: 01/27/88
Title: An act relating to permanent fund dividends for incarcerated felons
Sponsor: Judiciary
Requestor: House Finance

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-	-	2.2	1.1	1.1	1.1
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	1.1	.5	.5	.5
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	3.3	1.6	1.6	1.6
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (PFD)	-	-	3.3	1.6	1.6	1.6
TOTAL	-	-	3.3	1.6	1.6	1.6

POSITIONS:

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

ANALYSIS: See attached

Prepared By: Ervin Jones
Division: Permanent Fund Dividend Division

Phone: 465-2323
Date: January 27, 1988

Approved by Commissioner: [Signature]
Agency: Revenue

Date: 1/29/88

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

Department of Revenue
Permanent Fund Dividend Division
Fiscal Note Analysis
CSHB 245 (Judiciary)
01/27/88

Assumptions:

1. The bill will be effective for the 1989 dividend.
2. Per the Department of Corrections, there are approximately 3,200 felons who would be incarcerated during part or all of a given fiscal year.
3. The Department of Corrections will provide the Department of Revenue with a list, via magnetic tape, which includes:
 - a. All persons, including full name, birthdate, and social security number, who were incarcerated during all or part of the previous fiscal year for a felony conviction. This list will be provided by August 1 of each year.

Program Summary:

The Department of Revenue will use the list provided in assumption 3(a) to match against the PFD file. Any person who files an application and who appears on that list will be denied their dividend. A denial notice will be sent to the applicant, with notice of right to appeal. If appeals are forthcoming, the 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 2,000 additional denials in the first year, with a decreasing number in subsequent years, as felons realize that they are ineligible for the dividend.

The Department of Revenue will include in the dividend calculation the total number of incarcerated felons as provided by Corrections.

1. Positions:

1 PPT Document Processor I, R7, @ \$2158.82/mo. including salary and benefits for 1 month	=	\$2.2
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This position will assist in the determination of filings by felons and in the processing and mailing of denial notices, appeals, and correspondence. Reduced by half in the second and subsequent years.

2. Other Expenditures:

a. Travel: None.

b. Contractual:

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

= 1.1

c. Supplies: None.

d. Equipment: Use existing.

-0-

TOTAL COST

\$3.3

Original sponsors: Barnes, Adams,
Collins, et al.

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 245 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to permanent fund dividends for
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25 dividends to individuals determined to be ineligible under AS 43.23.005(d),
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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).

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 245 (Judiciary)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST

Revision Date: 01/27/88
Title: An act relating to permanent fund dividends for incarcerated felons
Sponsor: Judiciary
Requestor: House Finance

Agency Affected: Revenue
BRU: Permanent Fund Dividend
Components: Permanent Fund Dividend
Operations -

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TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	1.1	.5	.5	.5
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	3.3	1.6	1.6	1.6
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (PFD)	-	-	3.3	1.6	1.6	1.6
TOTAL	-	-	3.3	1.6	1.6	1.6

POSITIONS:

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

ANALYSIS: See attached

Prepared By: Ervin Jones
Division: Permanent Fund Dividend Division

Phone: 465-2323
Date: January 27, 1988

Approved by Commissioner: [Signature]
Agency: Revenue

Date: 1/29/88

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

Department of Revenue
Permanent Fund Dividend Division
Fiscal Note Analysis
CSHB 245 (Judiciary)
01/27/88

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 - a. All persons, including full name, birthdate, and social security number, who were incarcerated during all or part of the previous fiscal year for a felony conviction. This list will be provided by August 1 of each year.

Program Summary:

The Department of Revenue will use the list provided in assumption 3(a) to match against the PFD file. Any person who files an application and who appears on that list will be denied their dividend. A denial notice will be sent to the applicant, with notice of right to appeal. If appeals are forthcoming, the 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 2,000 additional denials in the first year, with a decreasing number in subsequent years, as felons realize that they are ineligible for the dividend.

The Department of Revenue will include in the dividend calculation the total number of incarcerated felons as provided by Corrections.

1. Positions:

1 PPT Document Processor I, R7,
@ \$2158.82/mo. including salary
and benefits for 1 month = \$2.2

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 the second and subsequent years.

2. Other Expenditures:

a. Travel: None.

b. Contractual:

Printing costs and postage for
2,000 additional denial notices,
appeal forms and envelopes.

Reduced by half in second and
subsequent years.

= 1.1

c. Supplies: None.

d. Equipment: Use existing.

-0-

TOTAL COST

\$3.3

Representative Ramona Barns
Pouch V
Juneau, AK 99811,

Dear Ramona,

I would like you to have this petition in support of your bill, HB245. This petition is signed by Correctional Officers who see first hand what use these checks go for. When the first batch of checks are recieved, commissary purchases increase to over \$13,000. The inmates purchase color TV's, stereos, electric guitars, personal computers, etc., etc. They even assign thier checks to other inmates to pay-off gambeling debts, sex debts, and drug debts (i.e. Inmate Kozeroff assigned PFD to Inmate Kusmider, check #511159).

I can assure you that they do not send it to thier spouses, dependant children, or thier victims. It should also be noted that inmates can work and be paid while incarcerated, but a vast number choose to sleep all day and play cards and watch cable TV, (which the State provides) all night.

Inmate Cordell Boyd and Inmate Winona Fletcher savagely murdered Tom and Ann Facio and Emelia Elliott in thier Anchorage home in April of 1985. Both recieved 297 year sentences. The State of Alaska now houses, feeds, clothes, provides free medical and dental care, cable TV, and numerous other programs for these two. Do we really owe them them a share in Alaska's productivity? I wonder what Tom, Ann, and Emelia would say? Well, Alaska Correctional Officers say, "No" and hope Legislators vote that way.

Thank you.

provision. see § 22, ch. 99, SLA 1985 in amendment substituted "October" for the Temporary and Special Acts. "December" in paragraph (2).
Effect of amendments. — The 1984

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 § 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 individual 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."

Section 22, ch. 99, SLA 1985 provides for an advisory vote to be held at the general election in 1986. For the text of that

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In addition

3/11/88

Give to Cheryl
for SFC file
approval

April 24, 1987

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

Dear Representative Koponen:

HB 245
I'm going to have a tough time getting anyone to listen, but I have to try. ~~HB13~~ and SB177, the proposal to use prisoners' dividend funds for something other than giving it to the prisoner, is wrong. Maybe wrong is the wrong word; how about unjust since everyone talks about being just.

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

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

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

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

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

Sincerely,



L.S. (Dusty) Rhodes

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701-4679

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99901-0300
PHONE: (907) 465-3600

January 29, 1988

The Honorable Al Adams
Representative, State of Alaska
Chairman, House Finance Committee
P.O. Box V
Juneau, AK 99811

Re: CSHB 245(Jud); permanent fund
dividends for felons

Dear Representative Adams:

You have requested an update of my letter of March 2, 1987, to Representative Ramona Barnes; concerning a draft bill proposing to make incarcerated felons ineligible for permanent fund dividends. The draft bill was subsequently introduced as HB 245.

We continue to believe that the bill is constitutional, although we recognize that constitutional issues may exist in denying permanent fund dividends to incarcerated felons. We also repeat that, at the present time, the Department of Law has no opinion on the merits of this proposed legislation.

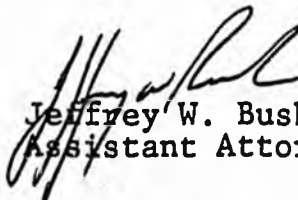
In my March 2, 1987 letter, I suggested a number of minor changes to the draft bill. All of these changes are incorporated in CSHB 245(Jud), and I have no further recommendations at this time.

I hope this answers your questions.

Sincerely yours,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By:


Jeffrey W. Bush
Assistant Attorney General

JWB:nb

cc: Honorable Ramona Barnes
Royce Weller, Special Assistant
Department of Revenue

Original sponsors: Barnes, Adams,
Collins, et al.

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 245 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to permanent fund dividends for
7 individuals incarcerated after conviction for a
8 felony; and providing for an effective date."

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

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

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

18 * Sec. 2. AS 43.23.025 is amended by adding a new subsection to read:

19 (b) For the purpose of calculating the amount of a permanent
20 fund dividend under (a) of this section, an individual who is ineli-
21 gible to receive a dividend under AS 43.23.005(d) is counted as an
22 eligible individual whether or not the individual has applied for the
23 dividend.

24 * Sec. 3. AS 43.23.055 is amended to read:

25 Sec. 43.23.055. DUTIES OF THE DEPARTMENT. The department shall
26 (1) annually pay permanent fund dividends from the dividend
27 fund;
28 (2) adopt regulations under the Administrative Procedure
29 Act (AS 44.62) that establish procedures and time limits for claiming

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).

SENATE COMMITTEE REPORT

FURTHER FINANCE

DATE TURNED INTO OFFICE 3/9/88

2/16/88
Mr. President:

HESS Committee considered CSHB 245 (JUD)

permanent fund dividends for individuals incarcerated after conviction for a felony; efd

and recommended

[] replace with _____ CS _____) [] same title
[] or adopt _____ CS _____) [] new title

[] attached amendment(s) and

maple
[x] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [x] attached or [] adopted fiscal note(s)

[] new [] updated or [x] previous

[] zero [x] fiscal impact

NO

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signatures]

Carl Frick. Do Pass
Chairman signature and recommendation

[x] Committee Backup attached