

SCOMM

80:2

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CS HB 41 (MLV)

Revision Date: February 16, 1991
Title: An Act relating to PFDs for
Alaskans on Military Duty
Sponsor: MARTIN, Finkelstein
Requestor:

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
OPERATING						
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LANDS & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (PFD)	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact: -0-

ANALYSIS: None required.

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

Phone: 465-2323
Date: February 16, 1991

Approved by Commissioner: [Signature]
Agency: Revenue

Date: 2-16-91

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

page 1 of 1

1991 LEGISLATIVE SESSION

BILL NO. HB 41

Revision Date: _____
 Title: An Act relating to PFDs for
Alaskans on Military Duty
 Sponsor: MARTIN, Finkelstein
 Requestor: _____

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
OPERATING						
PERSONAL SERVICES	13.3	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LANDS & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	13.3	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (PFD)	13.3	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact: \$125.2

ANALYSIS: See attached.

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

Phone: 465-2323
 Date: February 4, 1991

Approved by Commissioner: [Signature]
 Agency: Revenue

Date: 2-4-91

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

page 1 of 3

Department of Revenue
Permanent Fund Dividend Division
Fiscal Note Analysis

HB 41
As of February 4, 1991

As currently drafted:

The 1991 application form is already being printed. If this bill were to pass by the end of February, the PFD booklets will already have been printed, binded, and the printer should be preparing to ship them out. The printer is on a strict time schedule from the time of the bid award in order to print and ship the forms in time for the opening of the filing period April 1, 1991. In order to change the application forms and the instructions in the booklet, the Permanent Fund Dividend Division would have to re-contract for a revised booklet, incurring additional costs in printing. The time necessary to re-contract and re-print the booklet would delay the delivery of PFD booklets until May, at the very earliest.

A breakdown of costs is as follows:

1. <u>Positions</u>		<u>FY 91</u>	<u>FY 92</u>
Extend five PPT Document Processor II's, R8, @ \$2,661.31/mo for one month (FY92 only)	=		\$ 13.3
2. <u>Contractual</u>			
a) Re-print application booklet (FY91)	=	\$ 92.2	
b) Advertising associated with delay (FY91)	=	12.0	
c) Air freight charge (FY91)	=	<u>21.0</u>	
Total Cost		<u>\$125.2</u>	<u>\$ 13.3</u>

If the effective dates were amended:

If Sec. 6 was amended to read, "Section 3 takes effect January 1, 1992" and if Sec. 7 was amended to read, "This Act takes effect immediately under AS 01.10.070(c) except for Section 3," there would be no fiscal impact associated with this bill.

Department of Revenue
Permanent Fund Dividend Division
Policy Analysis
HB 41
As of February 4, 1991

We do not support this legislation as currently drafted for the following reasons:

Section 2 essentially eliminates the two-year return rule for members of the military and their families.

While we recognize that Operation Desert Storm is likely to hamper the ability of many Alaskan Service men and women to satisfy the two-year return rule, we will be drafting legislation to deal with this situation only as it pertains to the 1991 dividend. If similar unusual circumstances exist next year, we would consider dealing with those circumstances at that time.

The two-year return rule is an important physical indicator of an individual's good faith intention to remain an Alaska resident. Appropriately, it applies to all Alaskans, not just military personnel.

We do not want to throw out this two-year return rule simply to address what is hopefully an unusual one-time situation.

The concepts behind Sections 1 and 4 may be reasonable and workable if applied only to the 1991 dividend and to those service men and women unable to complete their own application as a result of Operation Desert Storm.

Section 5 is unnecessary under current policy and regulations.

Section 3 requires the application form to be modified, which would have a significant fiscal and program impact if the effective date in Sections 6 and 7 were not amended to January 1, 1992.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 41

Revision Date: _____ Department Affected: Military & Veterans AffairsTitle: Permanent Fund Dividend eligibility BRU: _____military personnel Component: _____Sponsor: Repr. MartinRequestor: House DMVA COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0					

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact on DMVA

Prepared By: Jeff Morrison, Director Phone: 463-4600Division: Administrative & Support Services Division Date: February 1, 1991Approved by Commissioner: HG John W. Schaeffer *by J Morrison*Agency: Military and Veterans Affairs Date: Feb. 1, 1991

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

Alaska State Legislature

House of Representatives

Rep. Ivan, Chair
Rep. Davidson
Rep. Foster
Rep. Gruenberg
Rep. M.W. Miller



P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4527

Special Committee on Military & Veterans Affairs

MEMORANDUM

TO: Representative Gene Kubina, Chair
House State Affairs Committee

FROM: Representative Ivan M. Ivan, Chair *Ivan*
Representative Max F. Gruenberg, Jr. *Max*
House Special Committee on Military and Veterans Affairs

DATE: February 27, 1991

RE: Request for Hearing on CS for HB 41 (MLV)

Please consider this request to hear CS for HB 41 (MLV): An act relating to qualifications for permanent fund dividends; and providing for an effective date. Due to the timely nature of this bill, it is important that a hearing be scheduled as soon as possible. It will be passed from our committee on Thursday, February 28th. A copy of the bill is attached for your review.

This bill makes several changes in the Permanent Fund dividend program in regards to military personnel. The most significant change allows Alaska residents, who list Alaska as their home of record upon initial entry into the military, to return to the state once every four years rather than the present two-year requirement. This creates less of a hardship on our "bona fide" military residents who have already lived in the state prior to entry into the military. Those military personnel who establish residency after serving in Alaska must still return once every two years in order to show they intend to return to Alaska once their military service is completed.

The other significant change addresses the short term problem faced by military personnel who cannot return to the state this year due to the Persian Gulf crisis. Language in section 3 waives the return rule for this year only for military personnel who might not be able to come back to Alaska due to cancelled leaves or actual presence in the gulf.

A tremendous amount of committee time and effort has been expended on this proposed legislation. The changes recommended are substantive and will have a positive, long-term effect for our "resident" military personnel.

I appreciate your consideration of my request. If you have any questions, please call me or my aide, Tom Wright, at 465-4527.

Thank you.

IMI/tw

cc: Representative Terry Martin

Alaska State Legislature

House of Representatives

Rep. Ivan, Chair
Rep. Davidson
Rep. Foster
Rep. Gruenberg
Rep. M.W. Miller



P.O. Box V
State Capitol
Juneau, Alaska 99811
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Special Committee on Military & Veterans Affairs

SUMMARY OF CS for HB 41 (MLV)

This bill makes several changes in the Permanent Fund dividend program in regards to military personnel. The most significant change allows Alaska residents, who list Alaska as their home of record upon initial entry into the military, to return to the state once every four years rather than the present two-year requirement. This creates less of a hardship on our "bona fide" military residents who have already lived in the state prior to entry into the military. Those military personnel who establish residency after serving in Alaska must still return once every two years in order to show they intend to return to Alaska once their military service is completed.

The other significant change addresses the short term problem faced by military personnel who cannot return to the state this year due to the Persian Gulf crisis. Language in section 3 waives the return rule for this year only for military personnel who might not be able to come back to Alaska due to cancelled leaves or actual presence in the gulf.

The bill has a zero fiscal note from the Department of Revenue.

Alaska State Legislature

House of Representatives

Rep. Ivan, Chair
Rep. Davidson
Rep. Foster
Rep. Gruenberg
Rep. M.W. Miller



P.O. Box V
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Juneau, Alaska 99811
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Special Committee on Military & Veterans Affairs

DIFFERENCES BETWEEN DRAFTS OF CSHB 41 (2-19-91 & 2-21-91)

1. The legislative findings and purpose found in the 2/19/91 draft have been eliminated from the latest bill draft. These findings stated the committee's intent to exempt Alaska military personnel on active duty from the two-year return rule.
2. The second change is the elimination of Section 3 found in the 2/19/91 draft. This section would have placed the responsibility on the courts to determine the longest duration for residency should they find the 12 month residency requirement invalid.
3. Section 5 (a) found in the 2/19/91 draft has also been deleted. This subsection allowed a waiver of the return rule in 1991 for all military personnel. This change means that only military personnel stationed in the gulf would be allowed a waiver this year. Those personnel whose leaves are frozen or cannot return due to the circumstances involving the military's presence in the gulf would not be eligible.
4. The last change is the elimination of the effective date of the bill. This would have assured the Department of Revenue that changes would not have to be made on this year's permanent fund dividend form. This would allow Revenue to write a zero fiscal note on this proposed legislation.

Alaska State Legislature

House of Representatives

Rep. Ivan, Chair
Rep. Davidson
Rep. Foster
Rep. Gruenberg
Rep. M.W. Miller



P.O. Box V
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Special Committee on Military & Veterans Affairs

SECTIONAL ANALYSIS FOR CSHB 41 (Dated 2/20/91)

Wholesale changes have been incorporated into Committee Substitute for House Bill 41, dated 2/20/91, when compared to the original version.

These incorporated changes are based on committee member remarks during the last hearing on this proposed legislation, staff meetings with Permanent Fund Division personnel who also represented the administration and the Attorney General's office.

The following is a sectional analysis of the proposed committee substitute:

SECTION 1: Amends AS 43.23.005 (a) by changing the residency requirement from 24 months to 12 months for dividend applicants. This section also changes the two-year requirement for physical presence to four years for those military personnel who list Alaska as the home of record upon entry into military service. The resident dependents of those certain personnel are also included in the four year return requirement.

SECTION 2: Amends AS 43.23.015 (b) by referring to the 12 month residency requirements on the permanent fund dividend forms and also addresses new statutory changes in the two and four-year return requirements addressed under AS 43.23.005 (a) (3) of this draft.

SECTION 3: Incorporates the administration's concerns about short term problems concerning receipt of the dividend for those personnel stationed in the Persian Gulf. Allows the individual stationed in the Persian Gulf to execute a power of attorney to apply for the dividend. Should application not be made, a Persian Gulf veteran may apply for the 1991 dividend during the 1992 application period. Provisions are also made for application by a personal representative should an individual be killed in action during the Persian Gulf crisis. This section also outlines the Department of Revenue's duties in adopting regulations for applicants involved in the Persian Gulf. Most of these provisions are a result of language contained in Senate Bill 98, sponsored by Senator Schultz, that includes suggestions by the director of the Permanent Fund Division, Tom Williams.

SECTION 4: Immediate effective date for section 5.

SECTIONAL ANALYSIS FOR CSHB 41 (Dated 2/19/91)

Wholesale changes have been incorporated into Committee Substitute for House Bill 41, dated 2/19/91, when compared to the original version.

These incorporated changes are based on committee member remarks during the last hearing on this proposed legislation, staff meetings with Permanent Fund Division personnel who also represented the administration and the Attorney General's office.

The following is a sectional analysis of the proposed committee substitute:

SECTION 1: This findings section states the intent of this committee's findings and purpose in regards to the proposed changes established under CSHB 41. The premise of the findings states that due to the unique nature of the military, the legislature finds it appropriate to exempt military personnel, who list Alaska as their home of record upon initial enlistment or commission, and their dependents from the requirement that they be physically present in the state during the two years immediately preceding application for the Permanent Fund dividend.

SECTION 2: Amends AS 43.23.005 (a) by changing the residency requirement from 24 months to 12 months for dividend applicants. This section also changes the two-year requirement for physical presence to four years for those military personnel who list Alaska as the home of record upon entry into military service. The resident dependents of those certain personnel are also included in the four year return requirement.

SECTION 3: Amends AS 43.23.005 (e) to address new 12 month residency requirement for the dividend program. Under this change, the courts would be responsible for deciding the longest duration for residency requirements, should the 12 month period be ruled invalid.

SECTION 4: Amends AS 43.23.015 (b) by referring to the 12 month residency requirements on the permanent fund dividend forms and also addresses new statutory changes in the two and four-year return requirements addressed under AS 43.23.005 (a) (3) of this draft.

SECTION 5: Incorporates the administration's concerns about short term problems concerning receipt of the dividend for those personnel stationed in the Persian Gulf. Allows the individual stationed in the Persian Gulf to execute a power of attorney to apply for the dividend ~~during the period between April 1, 1991, and June 30, 1991.~~ Should application not be made, a Persian Gulf veteran may apply for the 1991 dividend during the 1992 application period. Provisions are also made for application by a personal representative should an individual be killed in action during the Persian Gulf crisis. This section also outlines the Department of Revenue's duties in adopting regulations for applicants involved in the Persian Gulf. Most of these provisions are a result of language contained in Senate Bill 98, sponsored by Senator Schultz, that includes suggestions by the director of the Permanent Fund Division, Tom Williams.

SECTION 6: Immediate effective date for section 5.

~~**SECTION 7:** Effective date of January 1, 1992, for sections 1 through 4.~~

REP. TERRY MARTIN

ELECTIVE DISTRICT 13
MOUNTAIN VIEW
RUSSIAN JACK SPRINGS
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DURING SESSION
P. O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE 465-3783

Alaska House of Representatives

MEMORANDUM

To: Committee Members
Special Committee on Military & Veterans Affairs

From: Rep. Terry Martin *jm*

Date: February 4, 1991

Subject: Explanation of Changes In Proposed CS For HB 41

The changes in the proposed committee substitute are essentially technical in nature, and are as follows:

1). On page 1, line 9, the phrase "temporary duty assignment" (appropriate military jargon) is substituted for "short-term transfer"; and the language "or as a reservist called into active duty" is added to clarify that reservists are covered by the change the bill makes to the PFD requirements.

2). On page 1, lines 13 & 14, the phrase "on active duty" is substituted for "on a tour of duty". "Tour of duty" is too narrow a phrase, and would not cover service personnel who are at basic training, or who are at school for advanced training in their specialized field.

3). On page 2, line 3, the phrase "assignment to the individual's current duty station" is substituted for "the individual's tour of duty." Again, the new language provides a broader description. There are still at least two policy questions that must be determined in section 2. First, an individual may not get any leave between his or her assignments, making it impossible to return to Alaska and meet this requirement. Second, some assignments are only a year in length, which means this change would effectively shorten the interval of time those particular Alaskans would have to come home to remain qualified for their PFDs.

4). On page 3, line 6, the same changes as were made in (1) above are repeated.



A BRIEF SYNOPSIS

of HB 41 -

"An Act relating to permanent fund dividends for individuals serving in the military and their spouses and dependents; and providing for an effective date."

Sec. 1 allows the commanding officer, spouse or parent of an active duty Alaskan who has been called away on emergency or short term duty to claim a permanent fund dividend on that person's behalf. This provision would help to ensure that qualified Alaskans are not denied a PFD just because they were unexpectedly away during the PFD application period.

Sec. 2 adds a new subsection that would exempt Alaskans who are in the military from the PFD physical presence rule that requires applicants to return to the state once every two years, and would instead require them to come home between their tours of duty. This change would apply to military spouses and dependents, as well.

Sec. 3 is a technical change to the sworn statement on the PFD application form to reflect the physical presence change made in section 2.

Sec. 4 makes two additions to the "applications and proof of eligibility" section of the PFD law. The first change is the same as the one in section 1. The second change would allow active duty Alaskans and their spouses and dependents to file their PFD applications by fax. This would make filing easier, and reflects the policy of the division of elections that allowed Alaskans stationed in Saudi Arabia to vote by fax this past election.

Sec. 5 amends the list of acceptable absences allowed under PFD eligibility to clarify that "military service" includes spouses and dependents.

Sec. 6 makes the bill's changes retroactive to Jan. 1, 1991.

JAN 22 1991

REP. TERRY MARTIN

ELECTIVE DISTRICT 13
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RUSSIAN JACK SPRINGS
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DURING SESSION
P. O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE 465-3783

Alaska House of Representatives

January 22, 1991

Rep. Ivan M. Ivan, Chairman
House Special Committee on
Military and Veteran's Affairs
P.O. Box V
Juneau, Alaska 99811

Dear Rep. Ivan:

House Bill 41 was referred to your new committee this morning. By this letter, I am asking that you please review the bill and the attached background material, and schedule the bill for a hearing as soon as is practicable.

This bill makes several changes to the PFD program, most significantly to the "physical presence" requirement, for the benefit of Alaska's military men and women and their families. As you may know, Alaskans who chose to serve their country in the military soon find out that they lose their eligibility for the PFD when they are assigned to far-away duty stations. The long distances make it difficult, if not impossible, to return to the state once every two years. Many find themselves with the hard choice of using all their money to take a commercial flight, or all their leave time to fly military hops.

This, of course, is the situation during normal times. Now that the U.S. is engaged in war in the Persian Gulf, there is no chance that these Alaskan men and women can even get the time off. Some have written to me and said they have had their leave cancelled due to the current situation.

The legislature, when it passed the "physical presence" requirement, did so with misinformation. I have no argument with requiring Alaskans to return to the state periodically to show they are sincere or "bona fide" Alaskans, if they are able to do so. I don't believe it is fair, though, to penalize Alaskans who chose to serve their country. The current policy serves no public purpose, and results primarily in the harassment of those who can least afford to travel.

It is important that the changes in HB 41 be passed early on in this session. PFD applications go in the mail the first part of April, and the deadline for returning them is June 30.



Rep. Ivan
Jan. 22, 1991
Page 2

Obviously, it would be counterproductive for us to pass the bill too late in the session to do our service men and women any good for this year's dividend.

It is also of value to us to address this problem with the law in order to preven a potentially costly lawsuit that the federal government is considering and may file on behalf of Alaskan service men and women, and which, in my mind is most justifiable. The attached will give you more information on this particular aspect of this issue of fair treatment for all Alaskans.

Thank you for your expeditious response to this request. I have attached pertinent background material for the bill, and would be pleased to provide any further information you might need.

Best regards,



Rep. Terry Martin

/jwm
enclosures

7-LS0361N
Cook
2/21/91

CS FOR HOUSE BILL NO. 41 ()

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES MARTIN, Finkelstein, Gonzales, C.Davis, Foster, M.A.Miller, G.Phillips, Larson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to qualifications for permanent fund dividends; and providing for an
2 effective date."

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

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

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

7 (1) on the date of application the individual is a state resident;

8 (2) the individual was a state resident for a period of at least 12 [24] consecutive
9 months immediately preceding April 1 of the current dividend year; and

10 (3) the individual has been physically present in the state at some time during the
11 period beginning July 1

12 (A) two years before the date of application and ending on the date of
13 application; or

14 (B) four years before the date of application and ending on the date

1 of application if the individual was on active duty in the military forces of the United
2 States during that entire period and this state was the home of record for that
3 individual filed with the military upon entry into military service; or

4 (C) four years before the date of application and ending on the date
5 of application if the individual is a dependent of an individual described in (B) of
6 this paragraph.

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

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

11 I certify that

12 () I am a state resident on the date of this application, I have been a state resident for
13 at least 12 [24] months immediately preceding April 1 of the current dividend year, and
14 I have been physically present in the State of Alaska in accordance with
15 AS 43.23.005(a)(3) [AT SOME TIME DURING THE PERIOD BEGINNING JULY 1
16 TWO YEARS BEFORE THE DATE OF APPLICATION AND ENDING ON THE
17 DATE OF THIS APPLICATION]; or

18 () (name), the individual on whose behalf I am applying, is a state resident on the date
19 of this application, has been a state resident for at least 12 [24] months immediately
20 preceding April 1 of the current dividend year, and has been physically present in the
21 State of Alaska in accordance with AS 43.23.005(a)(3) [AT SOME TIME DURING
22 THE PERIOD BEGINNING JULY 1 TWO YEARS BEFORE THE DATE OF
23 APPLICATION AND ENDING ON THE DATE OF THIS APPLICATION].

24 I understand that a false claim of eligibility to obtain a permanent fund dividend for
25 myself or for another is a criminal offense, that if convicted I will forfeit future dividends,
26 and that I must repay all dividends that have been paid to me. I understand that if I
27 wilfully misrepresent, exercise gross negligence, or recklessly disregard a material fact
28 regarding my eligibility for a permanent fund dividend I will forfeit the dividend, be
29 subject to a civil fine of up to \$5,000, and lose my eligibility for the next five dividends.

30 I understand that these penalties are in addition to any criminal penalties imposed.
31

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

4 * Sec. 3. PERMANENT FUND DIVIDENDS FOR CERTAIN INDIVIDUALS. (a) Notwithstanding
5 AS 43.23.015(c), an individual absent from the state while serving in the military forces of the United
6 States and stationed in the Persian Gulf war zone may execute a power of attorney authorizing another
7 person to apply for the 1991 permanent fund dividend on behalf of the individual. An individual
8 stationed in the Persian Gulf war zone at any time during April 1, 1991 through June 30, 1991, may
9 apply for a 1991 permanent fund dividend during the 1992 application period if no application was
10 submitted on the individual's behalf during the 1991 application period and the individual otherwise
11 qualifies for a 1991 dividend. The dividend shall be paid in the same manner as prior year dividends
12 under AS 43.23.025(a)(1)(C) and 43.23.055(3) and (7).

13 (b) Notwithstanding AS 43.23.005(a) and 43.23.015(c), if an individual was killed in action
14 while serving in the military forces of the United States and stationed in the Persian Gulf war zone at
15 any time during April 1, 1991 through June 30, 1991, the personal representative of the individual's
16 estate may apply for the 1991 permanent fund dividend on behalf of the individual's estate at any time
17 during the 1991 or 1992 permanent fund dividend application period.

18 (c) Notwithstanding AS 43.23.015(b), the Department of Revenue shall prescribe and furnish an
19 application form for claiming a dividend under this section. The department shall adopt regulations
20 defining the limits of the Persian Gulf war zone and prescribing any additional evidence the department
21 may require to determine eligibility, including evidence of the applicant's assignment to the Persian Gulf
22 war zone during the 1991 application period.

23 * Sec. 4. Section 3 of this Act takes effect immediately under AS 01.10.070(c).

7-LS0361NG ✓
Cook
2/19/91

CS FOR HOUSE BILL NO. 41 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MARTIN, Finkelstein, Gonzales, C.Davis, Foster, M.A.Miller, G.Phillips, Larson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to qualifications for permanent fund dividends; and providing for an
2 effective date."

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

4 * Section 1. LEGISLATIVE FINDINGS AND PURPOSE. Because of the unique nature and special
5 circumstances of military service, including the extraordinary difficulties for Alaska military personnel
6 in returning to the state while stationed outside the state, and the importance to national security of
7 encouraging people to become members of the military services without thereby sustaining undue
8 hardship, the legislature finds that it is appropriate to exempt military personnel from the normal
9 requirement that applicants for permanent fund dividends be physically present in the state during the
10 two years immediately preceding application. The legislature finds that it is more reasonable to require
11 military personnel who claim this state as their home of record upon entry into military service, and their
12 spouses and dependents, only to be present during the preceding four years.

13 * Sec. 2. AS 43.23.005(a) is amended to read:

14 (a) An individual is eligible to receive one permanent fund dividend each year in an

amount to be determined under AS 43.23.025 if the individual applies to the department, and if

(1) on the date of application the individual is a state resident;

(2) the individual was a state resident for a period of at least 12 [24] consecutive months immediately preceding April 1 of the current dividend year; and

(3) the individual has been physically present in the state at some time during the period beginning July 1

(A) two years before the date of application and ending on the date of application; or

(B) four years before the date of application and ending on the date of application if the individual is in the military forces of the United States and this state was the home of record for that individual filed with the military upon entry into military service; or

(C) four years before the date of application and ending on the date of application if the individual is a spouse or dependent of an individual described in (B) of this paragraph.

* Sec. 3. AS 43.23.005(e) is amended to read:

(e) If a court finds the durational residency requirement under (a)(2) of this section is invalid and no appeal is pending, [THE RESIDENCY REQUIREMENT IS ONE YEAR. IF A COURT FINDS THE ONE YEAR RESIDENCY REQUIREMENT IS INVALID AND NO APPEAL IS PENDING,] the residency requirement is the longest duration permitted by law. The department shall change the statement of eligibility under AS 43.23.015(b) as necessary to conform to this subsection.

* Sec. 4. AS 43.23.015(b) is amended to read:

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

I certify that

() I am a state resident on the date of this application, I have been a state resident for at least 12 [24] months immediately preceding April 1 of the current dividend year, and I have been physically present in the State of Alaska in accordance with AS 43.23.005(a)(3) [AT SOME TIME DURING THE PERIOD BEGINNING JULY 1

TWO YEARS BEFORE THE DATE OF APPLICATION AND ENDING ON THE DATE OF THIS APPLICATION]; or

() (name), the individual on whose behalf I am applying, is a state resident on the date of this application, has been a state resident for at least 12 [24] months immediately preceding April 1 of the current dividend year, and has been physically present in the State of Alaska in accordance with AS 43.23.005(a)(3) [AT SOME TIME DURING THE PERIOD BEGINNING JULY 1 TWO YEARS BEFORE THE DATE OF APPLICATION AND ENDING ON THE DATE OF THIS APPLICATION].

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

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

* Sec. 5. PERMANENT FUND DIVIDENDS FOR CERTAIN INDIVIDUALS. (a) Notwithstanding AS 43.23.005(a)(3), an individual absent from the state while serving in the military forces of the United States, or a spouse or dependent of that individual, is eligible to receive a 1991 permanent fund dividend if the commissioner of revenue determines that the individual, spouse, or dependent is otherwise qualified.

(b) Notwithstanding AS 43.23.015(c), an individual absent from the state while serving in the military forces of the United States and stationed in the Persian Gulf war zone may execute a power of attorney authorizing another person to apply for the 1991 permanent fund dividend on behalf of the individual. An individual stationed in the Persian Gulf war zone at any time during April 1, 1991 through June 30, 1991, may apply for a 1991 permanent fund dividend during the 1992 application period if no application was submitted on the individual's behalf during the 1991 application period and the individual otherwise qualifies for a 1991 dividend. The dividend shall be paid in the same manner

1 as prior year dividends under AS 43.23.025(a)(1)(C) and 43.23.055(3) and (7).

2 (c) Notwithstanding AS 43.23.005(a) and 43.23.015(c), if an individual was killed in action while
3 serving in the military forces of the United States and stationed in the Persian Gulf war zone at any time
4 during April 1, 1991 through June 30, 1991, the personal representative of the individual's estate may
5 apply for the 1991 permanent fund dividend on behalf of the individual's estate at any time during the
6 1991 or 1992 permanent fund dividend application period.

7 (d) Notwithstanding AS 43.23.015(b), the Department of Revenue shall prescribe and furnish
8 an application form for claiming a dividend under this section. The department shall adopt regulations
9 defining the limits of the Persian Gulf war zone and prescribing any additional evidence the department
10 may require to determine eligibility, including evidence of the applicant's assignment to the Persian Gulf
11 war zone during the 1991 application period.

12 * Sec. 6. Section 5 of this Act takes effect immediately under AS 01.10.070(c).

13 * Sec. 7. Sections 1 - 4 of this Act take effect January 1, 1992.

7-LS0361NG

Cook

2/14/91

CS FOR HOUSE BILL NO. 41 ()

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES MARTIN, Finkelstein, Gonzales, C.Davis, Foster, M.A.Miller, G.Phillips, Larson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to qualifications for permanent fund dividends; and providing for an
2 effective date."

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

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

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

7 (1) on the date of application the individual is a state resident;

8 (2) the individual was a state resident for a period of at least 12 [24] consecutive
9 months immediately preceding April 1 of the current dividend year; and

10 (3) the individual has been physically present in the state at some time during the
11 period beginning July 1

12 (A) two years before the date of application and ending on the date of
13 application; or

14 (B) four years before the date of application and ending on the date

1 of application if the individual is in the military forces of the United States and this
2 state was the home of record for that individual filed with the military upon entry
3 into military service; or

4 (C) four years before the date of application and ending on the date
5 of application if the individual is a spouse or dependent of an individual described
6 in (B) of this paragraph.

7 * Sec. 2. AS 43.23.005(e) is amended to read:

8 (e) If a court finds the durational residency requirement under (a)(2) of this section is
9 invalid and no appeal is pending, [THE RESIDENCY REQUIREMENT IS ONE YEAR. IF A
10 COURT FINDS THE ONE YEAR RESIDENCY REQUIREMENT IS INVALID AND NO
11 APPEAL IS PENDING,] the residency requirement is the longest duration permitted by law. The
12 department shall change the statement of eligibility under AS 43.23.015(b) as necessary to
13 conform to this subsection.

14 * Sec. 3. AS 43.23.015(b) is amended to read:

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

18 I certify that

19 () I am a state resident on the date of this application, I have been a state resident for
20 at least 12 [24] months immediately preceding April 1 of the current dividend year, and
21 I have been physically present in the State of Alaska in accordance with
22 AS 43.23.005(a)(3) [AT SOME TIME DURING THE PERIOD BEGINNING JULY 1
23 TWO YEARS BEFORE THE DATE OF APPLICATION AND ENDING ON THE
24 DATE OF THIS APPLICATION]; or

25 () (name), the individual on whose behalf I am applying, is a state resident on the date
26 of this application, has been a state resident for at least 12 [24] months immediately
27 preceding April 1 of the current dividend year, and has been physically present in the
28 State of Alaska in accordance with AS 43.23.005(a)(3) [AT SOME TIME DURING
29 THE PERIOD BEGINNING JULY 1 TWO YEARS BEFORE THE DATE OF
30 APPLICATION AND ENDING ON THE DATE OF THIS APPLICATION].

31 I understand that a false claim of eligibility to obtain a permanent fund dividend for

1 myself or for another is a criminal offense, that if convicted I will forfeit future dividends,
2 and that I must repay all dividends that have been paid to me. I understand that if I
3 wilfully misrepresent, exercise gross negligence, or recklessly disregard a material fact
4 regarding my eligibility for a permanent fund dividend I will forfeit the dividend, be
5 subject to a civil fine of up to \$5,000, and lose my eligibility for the next five dividends.
6 I understand that these penalties are in addition to any criminal penalties imposed.

7 _____
8 (signature of individual,
9 parent, guardian, or other
10 authorized representative)

11 * Sec. 4. AS 43.23.015 is amended by adding a new subsection to read:

12 (i) An individual in the military forces of the United States who is absent from the state
13 due to a temporary duty assignment, due to emergency duty, or as a reservist or member of the
14 National Guard called to active duty may file an application for a dividend within one year after
15 the application deadline for that dividend if the individual submits a certified statement signed
16 by the individual's immediate commanding officer adequately explaining why the individual was
17 unable to file a timely application.

18 * Sec. 5. AS 43.23.025(a) is amended to read:

19 (a) By October 1 of each year the commissioner shall determine the value of each
20 permanent fund dividend for that year by

21 (1) determining the total amount available for dividend payments, which equals

22 (A) the amount of income of the Alaska permanent fund transferred to the
23 dividend fund under AS 43.23.045(b) during the current year;

24 (B) plus the unexpended and unobligated balances of prior fiscal year
25 appropriations that lapse into the dividend fund under AS 43.23.045(d);

26 (C) less the amount necessary to pay dividends from the dividend fund in
27 the current year under ~~AS 43.23.015(i)~~ ^{delete} and 43.23.055(3) [AS 43.23.055(3)] and (7);

28 (D) less the amount necessary to pay dividends from the dividend fund
29 due to eligible applicants who, as determined by the department, filed for a previous
30 year's dividend by the filing deadline but who were not included in a previous year's
31 dividend computation;

1 (E) less appropriations from the dividend fund during the current year,
2 including amounts to pay costs of administering the dividend program and the hold
3 harmless provisions of AS 43.23.075;

4 (2) determining the number of individuals eligible to receive a dividend payment
5 for the current year; and

6 (3) dividing the amount determined under (1) of this section by the amount
7 determined under (2) of this section.

8 * Sec. 6. PERMANENT FUND DIVIDENDS FOR CERTAIN INDIVIDUALS. (a) Notwithstanding
9 AS 43.23.005(a)(3), an individual absent from the state while serving in the military forces of the United
10 States, or a spouse or dependent of that individual, is eligible to receive a 1991 permanent fund dividend
11 if the commissioner of revenue determines that the individual, spouse, or dependent is otherwise
12 qualified.

13 (b) Notwithstanding AS 43.23.015(c), an individual absent from the state while serving in the
14 military forces of the United States and stationed in the Persian Gulf war zone may execute a power of
15 attorney authorizing another person to apply for the 1991 permanent fund dividend on behalf of the
16 individual. An individual stationed in the Persian Gulf war zone at any time during April 1, 1991
17 through June 30, 1991, may apply for a 1991 permanent fund dividend during the 1992 application
18 period if no application was submitted on the individual's behalf during the 1991 application period and
19 the individual otherwise qualifies for a 1991 dividend. The dividend shall be paid in the same manner
20 as prior year dividends under AS 43.23.025(a)(1)(C) and 43.23.055(3) and (7).

21 (c) Notwithstanding AS 43.23.005(a) and 43.23.015(c), if an individual was killed in action while
22 serving in the military forces of the United States and stationed in the Persian Gulf war zone at any time
23 during April 1, 1991 through June 30, 1991, the personal representative of the individual's estate may
24 apply for the 1991 permanent fund dividend on behalf of the individual's estate at any time during the
25 1991 or 1992 permanent fund dividend application period.

26 (d) Notwithstanding AS 43.23.015(b), the Department of Revenue shall prescribe and furnish
27 an application form for claiming a dividend under this section. The department shall adopt regulations
28 defining the limits of the Persian Gulf war zone and prescribing any additional evidence the department
29 may require to determine eligibility, including evidence of the applicant's assignment to the Persian Gulf
30 war zone during the 1991 application period.

31 * Sec. 7. Section 6 of this Act takes effect immediately under AS 01.10.070(c).

WORK DRAFT

WORK DRAFT

WORK DRAFT

1 * Sec. 8. Sections 1 - 5 of this Act take effect January 1, 1992.

7-LS0361ND✓

Cook

2/1/91

CS FOR HOUSE BILL NO. 41 ()

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES MARTIN, Finkelstein, Gonzales, C.Davis, Foster

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to permanent fund dividends for individuals serving in the military and
2 their spouses and dependents; and providing for an effective date."

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

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

5 (c) A parent, guardian, or other authorized representative may claim a permanent fund
6 dividend on behalf of an unemancipated minor or on behalf of a disabled or an incompetent
7 individual who is eligible to receive a payment under this section. The commanding officer,
8 spouse, or parent of an individual in the military forces of the United States who is absent
9 from the state due to a temporary duty assignment, due to emergency duty, or as a reservist
10 called into active duty may claim a dividend on behalf of the individual.

11 * Sec. 2. AS 43.23.005 is amended by adding a new subsection to read:

12 (f) Notwithstanding (a)(3) of this section, an individual absent from the state while on
13 active duty in the military forces of the United States or a spouse or dependent accompanying
14 an individual absent from the state while on active duty is eligible to receive a dividend if the

1 individual, spouse, or dependent

2 (1) has been physically present in the state at some time during the month
3 immediately preceding assignment to the individual's current duty station; and

4 (2) is otherwise eligible for the dividend.

5 * Sec. 3. AS 43.23.015(b) is amended to read:

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

9 I certify that

10 () I am a state resident on the date of this application, I have been a state resident for
11 at least 24 months immediately preceding April 1 of the current dividend year, and I have
12 been physically present in the State of Alaska at some time during the period beginning
13 July 1 two years before the date of application and ending on the date of this application
14 or I have been physically present in accordance with AS 43.23.005(f); or

15 () (name), the individual on whose behalf I am applying, is a state resident on the date
16 of this application, has been a state resident for at least 24 months immediately preceding
17 April 1 of the current dividend year, and has been physically present in the State of
18 Alaska at some time during the period beginning July 1 two years before the date of
19 application and ending on the date of this application or has been physically present in
20 accordance with AS 43.23.005(f).

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

28

29

30

31

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

1 * Sec. 4. AS 43.23.015(d) is amended to read:

2 (d) The application and certification of residency of an unemancipated individual under
3 18 years of age or of a disabled or an incompetent individual must be signed by the individual's
4 parent, legal guardian, or other authorized representative. The application and certification of
5 residency of an individual in the military forces of the United States who is absent from the
6 state due to a temporary duty assignment, due to emergency duty, or as a reservist called
7 to active duty may be signed by the individual's commanding officer, spouse, or parent.
8 An individual absent from the state while on active duty in the military forces of the United
9 States or a spouse or dependent accompanying an individual absent from the state while on
10 active duty may apply by sending a copy or facsimile of the application and certification
11 of residency to the department.

12 * Sec. 5. AS 43.23.095(8) is amended to read

13 (8) "state resident" means an individual who is physically present in the state with
14 the intent to remain permanently in the state or, if the individual is not physically present in the
15 state, intends to return to the state and is absent only for any of the following reasons:

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

18 (B) secondary or postsecondary education;

19 (C) military service or to accompany as a spouse or dependent an
20 individual who is absent due to military service;

21 (D) medical treatment;

22 (E) service in Congress;

23 (F) other reasons which the commissioner may establish by regulation; or

24 (G) service in the Peace Corps;

25 * Sec. 6. This Act is retroactive to January 1, 1991.

26 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

MEMORANDUM

State of Alaska

Department of Law

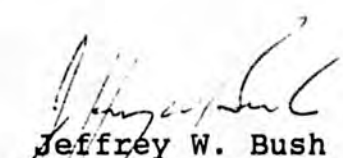
TO: Hon. Hugh Malone
Commissioner
Department of Revenue

DATE: April 2, 1990

FILE NO: 663-90-0319

TEL. NO: 465-3600

SUBJECT: Application of PFD law to
military personnel and
dependents

FROM: 
Jeffrey W. Bush
Assistant Attorney General
Commercial Section-Juneau

You have asked several questions regarding the application of the Alaska Permanent Fund Dividend (PFD) laws to military employees and their dependents. We will deal with each question in turn.

1. Does the statutory requirement that a person must be present in the state sometime during the two-year period before applying for a dividend (AS 43.23.005(a)(3)) apply to members of the military and their dependents?

We have been unable to locate any basis or authority for exempting military personnel and their dependents from all statutory requirements of the Permanent Fund Dividend program, including the requirement that a person must be present in the state sometime during the two-year period prior to application for a dividend. */

2. Is it appropriate for the department to require that members of the military and their dependents moving to Alaska under military orders demonstrate their intention of residency by a preponderance of information sufficient to overcome a presumption that they are visitors and not residents?

Our short answer to this question is "yes." In general, a person's domicile (referred to in Alaska as residence) is presumed to follow the person's place of abode. However, for military personnel, cases have established that physical location in the state is "a neutral factor in determining domicile, creating

*/ We do not here discuss the general issue regarding the constitutionality of AS 43.23.005(a)(3). As you know, we have consistently argued in the past that the "touch the earth" requirement is constitutional. See Osterman v. State, 3AN-88-7027 Civ., Memorandum in Support of State's Motion to Dismiss filed November 22, 1988, at 17-21.

no presumption, and leaving the court to ascertain domicile from [the serviceman's] intent as manifested by his acts." Jizmejian v. Jizmejian, 492 P.2d 1208, 1212 (Ariz. App. 1972). In fact, absent any evidence except mere physical location of a military person, the person's domicile will be presumed to be unaffected by his military assignment. Blessley v. Blessley, 577 P.2d 62, 63 (N.M. 1978). As one court stated:

[W]here a change of residence . . . is occasioned by the exercise of duties in the armed services, only clear and unambiguous evidence of an intention to abandon the old domicile and adopt a new one will be adequate to prove that change.

Johnson v. Johnson, 53 Cal. Rptr. 567, 570 (Cal. App. 1966).

In addition, the Alaska Supreme Court has held that mere declarations of domicile advantageous to the declarant are to be viewed with suspicion and accorded little weight. Kjarstad v. State, 703 P.2d 1167, 1171 (Alaska 1985). Whether the individual has formed the requisite intent should be determined by reference to the individual's conduct, rather than his oral or written statements. Id. at 1171-72.

Given the supreme court's skepticism of mere declarations of residency and the general presumption that military personnel retain their original domicile when transferred to a new state, we believe it is appropriate for the department to require evidence sufficient to overcome the presumption that military personnel stationed in Alaska retain their original domicile elsewhere.

3. Would it be permissible within the current law for the department to hold that military employees and their dependents living on a U.S. military reservation in Alaska are not residents for the purpose of the Permanent Fund Dividend Program?

This question is, in fact, an extension of the prior one. However, although we believe that the department may presume that military personnel transferred to Alaska under military orders are not residents and the department may require sufficient evidence to overcome such a presumption, we do not believe that the department may establish an irrebuttable or conclusive presumption that certain military personnel are nonresidents. Domicile, or residence, is a matter of intent that must be determined on a case-by-case basis. As the court stated in Jizmejian,

each case [must] be decided on the basis of its own peculiar facts, using as indicia the habits of the

person, his business and domestic relations, declarations, exercise of political rights, community activities, payment of taxes, ownership of property and other pertinent objective facts ordinarily arising out of the existence of the requisite intent.

492 P.2d at 1212. Although we believe that the fact that a military person lives "on base" or "off base" may be a relevant factor for consideration in the residency determination, we do not believe it is conclusive either way. See Volmer v. Volmer, 371 P.2d 70, 72 (Or. 1962). In fact, at least one case has held that a military person's purchase of a home in the state where he is assigned may be strong evidence bearing on the question of intent, but even that fact is not necessarily conclusive evidence of an abandonment of original domicile. Blessley, 577 P.2d at 64.

In short, each case must be decided on its individual facts, and it would be inappropriate for the department to establish a conclusive presumption that those persons living "on base" cannot acquire residency.

4. Does the Soldiers' and Sailors' Civil Relief Act confer any specific exemptions upon military employees and their dependents from the eligibility requirements for the Permanent Fund Dividend under AS 43.23?

I concur in the assessment of your staff that the Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. § 501 et seq., has no effect on the application of the PFD program under AS 43.23. The only section of the Act that arguably could apply is § 574, cited by Commander Kusiak in his letter to you dated May 9, 1989. Section 574 provides that for purposes of taxation, military personnel shall not be deemed to have lost their residence or domicile solely by reason of being absent from a state in compliance with military orders, nor shall they be deemed to have acquired a new residence solely by being absent. This section is specifically limited to the area of taxation, primarily to protect servicemen from the risk of double taxation occasioned by temporary duty in a state other than their domicile. U.S. v. Champaign County, Illinois, 525 F.2d 374 (7th Cir. 1975). As we have indicated in the past, however, the Permanent Fund Dividend Program is not a tax program (1987 Inf. Op. Att'y Gen. (July 15; 663-87-0598)), and therefore this section is inapplicable. I have discussed this conclusion with Commander Kusiak, and he agrees that, so long as the dividend program is not a tax program, then the Soldiers' and Sailors' Civil Relief Act is inapplicable.

Hon. Hugh Malone, Commissioner
Department of Revenue

April 2, 1990
Page 4

I hope this answers your questions. Please do not
hesitate to contact me if I can be of further assistance.

JWB:jf

cc: Representative Terry Martin

Commander Patrick Kusiak
Department of Defense
Armed Forces Tax Council
Washington, D.C. 20301-4000

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

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

March 2, 1990

The Honorable Doug Bailly
Department of Law
P.O. Box K
Juneau, AK 99811

Dear Mr. Bailly:

Recently there have been inquiries to the Department of Revenue from the Department of Defense and a member of the Legislature on the application of some aspects of the Alaska Permanent Fund Dividend law to military employees and their dependents.

In order to help in resolving these questions I would like to request that you have your staff provide the Department with a legal analysis on the following questions:

(1) Does the statutory requirement that a person must be present in the State sometime during the two year period before applying for a dividend (AS 43.23.005(a)(3)) apply to members of the military and their dependents? The Department has been applying this requirement to all applicants.

(2) Is it appropriate for the Department to require that members of the military and their dependents moving to Alaska under military orders demonstrate their intention of residency by a preponderance of information sufficient to overcome a presumption that they are visitors and not residents?

(3) Would it be permissible within the current law for the Department to hold that military employees and their dependents living on a US military reservation in Alaska are not residents for the purpose of the Permanent Fund Dividend Program? At present the Department does not make a residency determination based solely on whether a military employee and their dependents live "on base."

(4) Does the Soldiers' and Sailors' Civil Relief Act confer any specific exemptions upon military employees and their dependents from the eligibility requirements for the Permanent Fund Dividend under AS 43.23?

Enclosed for your information is a copy of a letter from Commander Kusiak of the Armed Forces Tax Council.

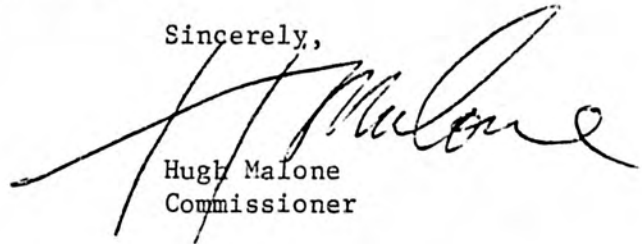
The legislative inquiry about the two year physical presence requirement under AS 43.23.005(a)(3) was made by Representative Terry Martin. Representative Martin will be receiving a copy of this letter.

The Honorable Doug Baily
March 2, 1990
Page 2

I would request that your staff work with Ervin Jones, Director of the Dividend Program, in obtaining additional information which may be requested from the Department or these questions.

Thank you for your help in this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "H. Malone", written over the typed name and title.

Hugh Malone
Commissioner

HM:mll
Enclosure

cc: Representative Martin
Royce Weller
Ervin Jones
Jeff Bush

REP. TERRY MARTIN

ELECTIVE DISTRICT 13
MOUNTAIN VIEW
RUSSIAN JACK SPRINGS
NUNAKA VALLEY
ELMENDORF A.F.B.
CREEKSIDE
EAST ANCHORAGE



HOME
3960 REKA DRIVE-B6
ANCHORAGE, AK 99508
PHONE 333-6990

DURING SESSION
P. O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE 465-3783

Alaska House of Representatives

March 2, 1990

CDR Patrick J. Kusiak
Armed Forces Tax Council
U.S. Department of Defense
Pentagon 2B279
Washington, D.C. 20301-4000

COPY

Dear CDR Kusiak:

Subsequent to our telephone conversation of February 21st, I contacted the Attorney General's office to inquire of the status of the opinion referenced in the November 21, 1989 letter from Mr. Erwin Jones, Director, Permanent Fund Dividend Division.

I'm sorry to say, although not surprised to hear that the Attorney General's office had nothing to report since they were never requested to offer an opinion on the effect of the Soldiers' and Sailors' Relief Act on the subject Alaska statute AS.43.23.005(a)(3).

I then contacted Commissioner of Revenue, Hugh Malone and asked that he officially request the Department of Law to render an opinion on the aforementioned subject.

Enclosed for your information is a copy of the Commissioner's request.

Also enclosed is a sampling of the hundreds of letters that I have received from Alaskan military men and women stationed throughout the world who have been negatively impacted by the "physical presence" requirement in question. Reading each individuals personal story often helps me to put the whole situation in proper perspective.

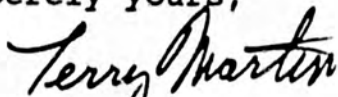
I will continue to keep you advised of developments here in Alaska and would appreciate it if you would do the same for me on the federal front.



CDR Patrick J. Kusiak
March 2, 1990
Page 2

I deeply appreciate your telephone call to me concerning this most important matter. You and Senator Ted Stevens have given me renewed encouragement to fight for equality of treatment for Alaska's military families.

Sincerely yours,

A handwritten signature in cursive script that reads "Terry Martin".

Representative Terry Martin
Alaska House of Representatives

/laj
enclosures

cc: U.S. Senator Ted Stevens



DEPARTMENT OF DEFENSE

ARMED FORCES TAX COUNCIL
WASHINGTON, D.C. 20301-4000

30 JUL 1990

Honorable Terry Martin
Alaska House of Representatives
P.O. Box V
State Capitol Building
Juneau, AK 99811

Dear Mr. Martin:

This letter is to advise you of recent developments concerning Alaska's Permanent Fund Dividend and members of the Armed Forces who are residents of Alaska but stationed outside the State pursuant to military orders.

As indicated earlier, the Department of Defense intends to contest the application of Alaska's recently adopted "touch earth" requirement to members of the Armed Forces stationed outside of Alaska. Compliance could be a substantial financial burden. More importantly, Alaska's requirement would adversely affect those members who are unable to comply because of military service. A copy of our request to the Department of Justice for appropriate action is enclosed.

Sincerely,


Patrick J. Kusiak
CDR, JAGC, USN
Chair

Enclosure:
As Stated



ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301-4000

JUL 26 1990

FORCE MANAGEMENT
AND PERSONNEL

Mr. Ed Snyder
Chief, Special Litigation
Tax Division
Department of Justice
P.O. Box 227
Ben Franklin Station
Washington, D.C. 20001

Dear Mr. Snyder:

As previously discussed with Mr. Correa of your office, the state of Alaska recently amended its laws regarding eligibility for its Permanent Fund Dividend. Alaska Statute (AS 43.23.005(a)(3)) requires Alaska residents to have been physically present within the state sometime within the 2-year period preceding application for the Dividend.

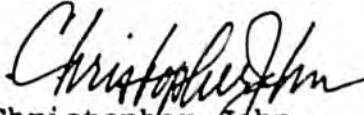
This requirement presents substantial difficulties for members of the Armed Forces who are bona fide residents of Alaska but stationed outside the state. Of approximately 20,000 members who are Alaskan domiciliaries, about 10,000 are stationed outside Alaska. The amount of the Dividend is approximately \$1,000 per capita annually.

Federal law (i.e., Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. § 574) provides that the state of residency or domicile for income tax purposes of a member of the Armed Forces on active duty is not changed by reason of being absent in compliance with military orders. Construed as a negative per capita income tax, Alaska's recent change regarding the Dividend violates this Federal statute. An opinion from the Department of Law of Alaska concluding the contrary is enclosed.

In addition, litigation instituted in Alaska's courts raised several constitutional objections to the physical presence requirement. A copy of memorandum of law filed in that case by the Attorney General of Alaska addressing these issues is enclosed. We believe this case was resolved on procedural grounds.

Request litigation be instituted to invalidate Alaska's physical presence requirement for members of the Armed Forces stationed outside Alaska.

Sincerely,


Christopher Jehn

Enclosures:
As Stated

LINDLY V. MALONE

DECISION OF THE COURT

Transcribed: 6/27/90

JUDGE: Counsel, your arguments have been very helpful and actually the briefing was excellent. The appendices attached to the briefs were very good. We'll stand in recess for about 15 minutes. I realize that it's extremely important for you to have the quickest decision possible in this case, and as a result, I am going to rule on the record today, so that you have some certainty in this area, particularly since we're only at June 25th at this point. So we'll stand in recess. I want to give some thought to your arguments, and I will come back and rule on the record at that time, 15 minutes.

JUDGE: Please be seated. The factual background in this case is essentially undisputed. Plaintiffs have challenged the constitutionality of the newly enacted two-year residency requirement for both the permanent fund dividend program and longevity bonus program. Previously, the permanent fund dividend program had a six-month residency requirement while the longevity bonus program had a one-year residency requirement. In enacting the two-year or 24 consecutive month requirement the legislature made a number of factual findings, including: (1) Alaska has the, one of the highest ratios of transients; (2) a significant number of people from other states come to Alaska to work in temporary, seasonal or short-term jobs; (3) this presents added difficulty in determining whether a person is actually a resident with intent to remain; and (4) that the uniquely generous nature of both programs, which are not needs-based, result in an inducement for false claims of residency.

Anticipating potential problems with the constitutionality of a two-year residency requirement, the legislature adopted what is essentially a fail-safe clause in the legislation. That clause provides that if the two-year residency requirement is too long to survive a constitutional challenge, then the residency requirement shall be one year. And if one year is too long, then the residency -- the requirement is the longest period which the court approves as meeting constitutional requirements.

The affidavit filed in this case establish that plaintiffs Carl and Pauline Simianer -- and is that the correct, "Simianer?"

WHITAKER: "Simianer," your honor.

JUDGE: Simianer, thank you -- moved to Alaska in 1968, and in 1983 they left the state in order for Mr. Simianer to receive urgent medical care. They returned in May 1989 and intend to remain in Alaska. Both have applied for and been denied both permanent fund dividend and longevity bonus benefits. Plaintiff Elizabeth Lindly came to Alaska in 1972 and remained here until 1987 with her husband and two daughters. She left in 1987 and went to Oklahoma out of economic necessity due to a failed business. She returned in October 1988, having registered to vote in a presidential election in Oklahoma. And plaintiff Steven Whiner is married and has six children and recently moved to Alaska from Bellingham and is employed by the United States Public Health Service.

The parties have agreed that this issue is properly decided on summary judgment, and there are cross-motions for relief. Plaintiffs wish the court to strike -- plaintiff Simianer wishes the court to strike the legislation as unconstitutional -- plaintiff Lindly and all ask the court to strike the two-year residency requirement. The defendant state wishes the court to uphold the constitutionality of the two-year requirement but has asked the court, even if it's found that that two-year requirement is unconstitutional -- has asked the court to grant declaratory relief in determining whether the one-year requirement would be automatically substituted by the legislation passes constitutional muster; further, even if one year is too long, the state has requested the court to determine the longest period which is constitutionally permissible.

I've carefully reviewed all of the motion work, all exhibits, all legislative hearing transcripts and applicable Alaska and United States Supreme Court case law, and I agree with the parties that a swift decision on these matters is essential to provide certainty in administration of the program, to allow time for an expedited appeal if deemed appropriate by the parties. Therefore, rather than to take the time to issue a written decision, I will decide the issues at this time on the record, and these remarks will stand as my decision.

For the reasons I will outline in a moment, I am granting plaintiffs' motion for summary judgment in part, in that it is my decision that the two-year residency requirement violates our state constitution's equal protection clause. I am furthermore granting the state's request

for a determination as to what residency requirement will pass constitutional muster. Specifically, it is my decision that the one-year residency requirement, which is automatically substituted for both the permanent dividend program and longevity bonus program in the legislative enactment, is constitutional and does not violate equal protection or due process of law. Thus, the practical effect of my ruling is that both the permanent fund dividend program and longevity bonus program will have a one-year residency requirement, whereas before the residency requirement of the permanent fund dividend program was only six months.

I'll now give the legal basis and analysis for my decision. First, turning to the equal protection analysis, plaintiffs first contend that the two-year residency requirement violates equal protection. The Alaska Supreme Court has abandoned the rigid two-tier standard of analysis employed in reviewing federal constitutional equal protection challenges. Instead, the Alaska Supreme Court has adopted a sliding scale approach which has been refined into a three-step analysis, and I rely on Alaska Pacific Assurance Co. v. Brown, 687 P.2d 265 (Alaska 1984) and State v. Enserch Alaska Constr., 787 P.2d 624 (Alaska 1989). The three steps to be analyzed are: first, the court must determine the importance of the individual interest which has been impaired by the classification. This prong is the most important component in determining the level of scrutiny to be applied; second, the court must examine the state's interest in enacting the challenged legislation, and finally, the court examines the nexus or relationship between the state interest and the state's means of achieving or furthering that interest. Our equal protection clause requires that all enactments must be fairly and substantially related to legitimate state interest. Some enactments are held to be -- to a higher standard and may need to be the least restrictive means of achieving a compelling state interest.

On the first issue for examination, the importance of the individual interest, although I recognize and do not discount the significant supplement to income that the permanent fund dividend or longevity bonus programs may be to a large family's income, when compared with the benefits that courts have found to be fundamental or important enough to demand strict scrutiny -- such as medical benefits for those with need, public assistance benefits, the ability to work or obtain employment and the right to vote -- clearly a non-needs based bonus or dividend distribution is less critical. It's helpful to look at the recent Alaska Supreme Court decision in

Sonneman v. Knight, Op. No. 3565 of March 2, 1990. There, the court held that the right to receive unemployment benefits was of low importance entitled to review only at the low end of the scale. It cannot be said that the permanent fund dividend or longevity bonus is of greater importance to an individual than the right to unemployment benefits for one who is laid off. Thus, the proper level of scrutiny is the fair and substantial relationship standard. The fact that a durational residency requirement is involved does not automatically trigger a strict scrutiny analysis. In the federal courts, the right to travel is penalized only if a right sufficiently important to invoke strict scrutiny is impaired. In Zobel II, the Alaska Supreme Court held that durational residency requirements would not automatically trigger strict scrutiny. Instead, courts should balance the nature and extent of infringement of the right versus the state's purpose and the relationship between that purpose and the classification -- in other words, the normal equal protection analysis that I've already described.

The second prong is the state's interest and purpose in enacting a two-year residency requirement. In this case, the legislature clearly set out its purposes and findings, and I've previously outlined the most important of those findings. And the state's purpose was to guarantee that only bona fide residents enjoy these programs. Programs which are uniquely attractive and which may induce people to claim inaccurately or falsely, given the impossibility of individual analysis of residency -- the purpose to prove the bona fide nature of an applicant's residency is the purpose of this legislation, and this is a legitimate state purpose. My review of the legislative history reveals it is not the purpose to save money and it is not the mere purpose to increase dividends to sourdoughs at the expense of cheechakos, because those would not be legitimate purposes after Zobel v. Williams.

The third prong for the court to analyze is the nexus between the state purpose and the classification. In other words, the relationship between the means which the legislature employed to achieve the desired state end. That's really a two-part analysis in this case. First, the court must decide whether using a durational residency requirement or residency requirement to establish bona fide residency is permitted at all; and second, even if it is permitted, whether a two-year durational residency requirement is permitted.

Looking for a moment at durational residency requirements in and of themselves, it seems from my review of the caselaw that these are legitimate means for assuring the state that a benefit provided for residents is enjoyed only by its residents. And for that proposition I do rely on Sosna v. Iowa, 419 U.S. 393 (1975) as well as Zobel v. Williams, 457 U.S. 55 (1982), specifically the concurrence of Justice O'Connor at page 78 n.8 as well as the concurring opinions of Brennan, Marshall, Blackmun, and Powell at page 70, where I think that they at least leave the impression that in some circumstances durational residency requirements can pass constitutional muster. A bona fide residency requirement -- and when I use the term residency requirement, I do mean a bona fide residence requirement -- simply requires that a person does establish residence before demanding services or benefits that are restricted to residents.

The problematical provision of this statute is the two-year residency requirement. One-year residency requirements have been found to be rationally related to a state's purpose to establish bona fide residency. The United States Supreme Court has affirmed a one-year residency or waiting requirement for in-state tuition, upholding lower court findings that it is reasonable to presume that a person who has not resided within a state for a year is a nonresident; and I rely on Starns v. Malkerson, 401 U.S. 985 (1971), summarily affirming the district court decision at 326 F. Supp. 234; also Sturgis v. Washington, 414 U.S. 1057 (1973), summarily affirming the district court at 368 F. Supp. 38. I also rely on the discussion at footnotes 12 and 15 at pages 259-260 by the United States Supreme Court of this particular point in Memorial Hospital v. Maricopa County, 415 U.S. 250, in which they discuss one-year residency requirements. I, however, am not aware of any federal appellate court decision upholding a two-year residency requirement. Our minimum scrutiny requirement is more stringent, moreover, than federal rational relationship scrutiny, and the legislative classification must be fairly and substantially related to the state's goal.

I find that this case is distinguishable from the Andress case, where a federal district court judge allowed a two-year waiting period for the Alaska student loan program. First, applying federal law, the court used the lower rational relationship standard. That is not Alaska law, which requires more than just a rational and related nexus but a substantial nexus and one that is fair, as delineated in Erickson v. State and Isaakson v. Rickey. Second, the federal district court's decision in Andress was never subjected to appellate review since the state apparently compromised with the plaintiff. Third, that

program was much -- involved a much more fungible benefit, since once the student loan money was qualified for it could be used for up to eight years anywhere in the world with no reapplication requirement, while the permanent fund dividend program requires yearly application; and fourth, the record in the Andress case established that student population was the most mobile segment of Alaska's already mobile population. For those reasons I find the case distinguishable and cannot rely upon it to make a determination that two years has a fair and substantial relationship to the legitimate state purpose in this case. I find that the two-year residence requirement is not fairly and substantially related to the state's purpose of establishing bona fide residency since it is not sufficiently well tailored to its ends.

Increased administrative ease is probably the only justification which can be _____ from the record before this court, and that does not pass constitutional muster when it is the only reason. I am going on to rule on the legislature's next backup period of one-year, since the statute is constructed rather uniquely to indicate that if a court finds that two years is unconstitutional, then automatically a one-year residency requirement will be substituted; and as already stated, that one-year requirement is actually longer than the statutory requirement of six months which existed prior to the amendment of this legislation. I'm doing so to give certainty to the extent that I can, and to allow the prompt administration of the program without delay in the distribution of benefits.

I find that a one-year residency requirement is fairly and substantially related to the state's interest of establishing bona fide residency. Many seasonal or temporary jobs could keep a worker within the state for longer than six months but for less than a year -- for example, work in the state's fisheries or work in the state's construction industry. I think the state has provided evidence, and evidence which was considered by the legislature, at Exhibit E page 12, which demonstrates and reveals a number of nonresidents working for periods of under one year. Residency for one full year prior to opening of the dividend application period provides a good indication of intent to remain when combined with other indicia of residency. Since I am not applying the strict scrutiny analysis, it is unnecessary for the court to determine the very least period which will achieve the state's goal. Therefore, the one-year residency period is constitutional and meets equal protection requirements.

With regard to the due process analysis, it is unnecessary for the court to apply that analysis for the two-year residency requirement, since I've already held that it violates equal protection. However, since I am granting the state's request for declaratory relief on the one-year requirement, I have to address the due process and right to travel arguments as well. And since I've found that the one-year residency requirement meets the fair and substantial relationship test, it obviously survives the substantive due process challenge for arbitrariness, since something which has a fair and substantial relationship or nexus to a legitimate state purpose cannot be arbitrary. With regard to the irrebuttable presumption analysis of Vlandis v. Kline, that analysis has been seriously eroded by subsequent United States Supreme Court decisions. Furthermore, this is not a permanent deprivation of the benefit, distinguishing this situation from that of Vlandis.

With regard to the right to travel, the United States Supreme Court in Zobel III determined that the right to travel essentially _____ an equal protection and therefore my equal protection analysis covers this point as well, and I have addressed it within that framework.

Therefore, it is my decision that the two-year residency requirement is constitutional and violates our state's equal protection clause. However, the legislature drafted a one-year backup requirement, being well aware that the two year requirement would probably not pass constitutional muster. Therefore, to get a certainty to the continued administration of the programs and to avoid delays in receipt of benefits, I am holding the one-year residency requirement for both the permanent fund dividend program and the longevity bonus program is constitutional.

As I have indicated, those remarks will serve as my decision in this matter and there will be no written findings or decision to follow. Anything further for the record at this time?

STATE OF LEGAL RESIDENCE CERTIFICATE

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: Tax Reform Act of 1976, Public Law 94-455.

PURPOSE: Information is required for determining the correct State of legal residence for purposes of withholding State income taxes from military pay.

ROUTINE USES: Information herein will be furnished State authorities and to Members of Congress.

MANDATORY OR VOLUNTARY DISCLOSURE: Disclosure is voluntary. If not provided, State income taxes will be withheld based on the tax laws of the State previously certified as your legal residence, or in the absence of a prior certification, the tax laws of the applicable State based on your home of record.

NAME (Last, first middle initial)

SOCIAL SECURITY NUMBER (SSN)

LEGAL RESIDENCE/DOMICILE (City or county and State)

INSTRUCTIONS FOR CERTIFICATION OF STATE OF LEGAL RESIDENCE

The purpose of this certificate is to obtain information with respect to your legal residence/domicile for the purpose of determining the State for which income taxes are to be withheld from your "wages" as defined by Section 3401(a) of the Internal Revenue Code of 1954. PLEASE READ INSTRUCTIONS CAREFULLY BEFORE SIGNING.

The terms "legal residence" and "domicile" are essentially interchangeable. In brief, they are used to denote that place where you have your permanent home and to which, whenever you are absent, you have the intention of returning. The Soldiers' and Sailors' Civil Relief Act protects your military pay from the income taxes of the State in which you reside by reason of military orders unless that is also your legal residence/domicile. The Act further provides that no change in your State of legal residence/domicile will occur solely as a result of your being ordered to a new duty station.

You should not confuse the State which is your "home of record" with your State of legal residence/domicile. Your "home of record" is used for fixing travel and transportation allowances. A "home of record" must be changed if it was erroneously or fraudulently recorded initially.

Enlisted members may change their "home of record" at the time they sign a new enlistment contract. Officers may not change their "home of record" except to correct an error, or after a break in service. The State which is your "home of record" may be your State of legal residence/domicile only if it meets certain criteria.

The formula for changing your State of legal residence/domicile is simply stated as follows: physical presence in the new State with the simultaneous intent of making it your permanent home and abandonment of the old State of legal residence/domicile. In most cases, you must actually reside in the new State at the time you form the intent to make it your permanent home. Such intent must be clearly indicated. Your intent to make the new State your permanent home may be indicated by certain actions such as: (1) registering to vote; (2) purchasing residential property or an unimproved residential lot; (3) titling and registering your automobile(s); (4) notifying the State of your previous legal residence/domicile of the change in your State of legal residence/domicile; and (5) preparing a new last will and testament which indicates your new State of legal residence/domicile. Finally, you must comply with the applicable tax laws of the State which is your new legal residence/domicile.

Generally, unless these steps have been taken, it is doubtful that your State of legal residence/domicile has changed. Failure to resolve any doubts as to your State of legal residence/domicile may adversely impact on certain legal privileges which depend upon legal residence/domicile including among others, eligibility for resident tuition rates at State universities, eligibility to vote or be a candidate for public office, and eligibility for various welfare benefits. If you have any doubt with regard to your State of legal residence/domicile, you are advised to see your Legal Assistance Officer (JAG Representative) for advice prior to completing this form.

I certify that, to the best of my knowledge and belief, I have met all the requirements for legal residence/domicile in the State claimed above and that the information provided is correct.

I understand that the tax authorities of my former State of legal residence/domicile will be notified of this certificate.

SIGNATURE

CURRENT MAILING ADDRESS (Include ZIP Code)

DATE



DEPARTMENT OF THE AIR FORCE

343D MISSION SUPPORT SQUADRON (AAC)
EIELSON AIR FORCE BASE, ALASKA 99702-5000



REPLY TO
ATTN OF

MSPQ (SSgt Rup, 377-4131)

14 NOV 1989

SUBJECT

Home of Record

TO

1. Home of Record for military personnel is documented on the initial enlistment contract (Department of Defense Form 4) and is established from information provided by the member upon enlistment (Reference atch 1, AFR 33-3 pg 59). The Home of Record is used later by the service branch as a point to which they may limit future travel entitlements should the member separate from the service prior to retirement. (Travel entitlements are not limited in this way upon retirement.)

2. Air Force personnel are not allowed to change their established Home of Record (unless it was originally recorded in error). Each time a member reenlists the information from the previous contract (Department of Defense Form 4) is carried forward to the new contract (Reference atch 2, AFR 35-16 figure 6-1).

3. If we may provide further information do not hesitate to contact us directly.


ELIZABETH A. SILLUM, 1Lt, USAF
Chief, Quality Force Section

2 Atch

1. Cy AFR 33-3 atch 1
2. Cy AFR 35-16 fig 6-1

**Instructions for Completing the DD Form 4,
Enlistment/Reenlistment Document—Armed
Forces of the United States**

1. General Instructions:

a. This figure is the governing directive for preparation of the DD Form 4 for the purpose of reenlistment. Requests for inclusion of other material should be submitted to HQ AFMPC/DPMATR, Randolph AFB TX 78150-6001.

★b. Except for signatures, dates, and initials, all entries will be typed. All required signatures, handwritten dates, and initials must be made with ballpoint pens using BLACK OR BLUE INK. Signatures, dates, and initials must be legible on each copy of each form. All names will be typed in ALL CAPITAL LETTERS.

c. The DD Form 4 is the basic document that establishes a legal relationship between the United States Air Force and the airman. Special care must be taken to make sure that all items are completed correctly without typewriter strikeovers. Any erasures or corrections will be accomplished according to paragraph 6-20. Erasures ARE NOT permitted in the Date of Reenlistment, Period of Years, or Confirmation of Reenlistment sections. If errors are made in these sections, and discovered before reenlistment occurs, the document(s) must be reaccomplished. If errors in these sections are discovered after reenlistment occurs, refer to paragraph 6-20.

d. The DD Form 4 is completed in 4 copies. The service representative who accepts the member for reenlistment will, before signing the completed form, verify all applicable parts of the document to the member.

2. Detailed Instructions for Completing the DD Form 4. Complete all items as directed below. The DD Form 4/3 is not required or completed for reenlistments under AFR 35-16, volume I. When completed, send the original of the DD Form 4 to HQ AFMPC/DPMDOM1.

A	B	C
Item Number	Title Description	Explanation and Entry
1	Name of Reenlistee	The member's full name will be typed in ALL CAPITAL LETTERS. Enter the full last name (father's family name, for member's who follow the Spanish tradition), full first name, full middle name or names, mother's family name for Spanish-speaking member's who wish to include it, and any suffixes such as JR., SR., III, and so forth. If the member was given an initial, or initials, rather than a first or middle name, or both, enter such initials. Do not punctuate with commas, hyphens, or periods. Sample Entry WILLIAMS JOHN THOMAS JR
2	Social Security Number (SSN)	Enter the member's SSN in the space provided, separating the divisions with a hyphen. Sample entry: 123-45-6789
3	Home of Record (HOR)	MEMBERS WHO REENLIST CANNOT CHANGE THEIR PREVIOUSLY RECORDED HOR. Enter the HOR that is recorded on the last DD Form 4. Sample entry: Denver CO 80210
4	Place of Reenlistment (POR)	MEMBERS WHO REENLIST CANNOT CHANGE THEIR PREVIOUSLY RECORDED POR. Enter the city and state as recorded on the last DD Form 4. Sample entry: San Antonio TX
5	Date of Reenlistment	The date of reenlistment is the date that the oath of (re)enlistment is actually administered. A reenlistment will not be antedated or postdated, under any circumstances. Enter the date in reverse numeric sequence. Sample entry: 840601
6	Date of Birth	Enter the date in reverse numeric sequence. Sample entry: 620928.
7	Previous Military Service	Enter in the space provided, total active military and total inactive military service completed. Enter the years, months, and days in two positions each. Precede the numbers 1 through 9 with a zero. If the reenlistee has no prior military service, enter "00" for years, "00" for months, and "00" for days. Complete all blocks.

★Figure 6-1. Detailed Instructions for Completing the DD Form 4.

Department of Defense
INSTRUCTIONS FOR USE AND PREPARATION OF THE
ENLISTMENT/REENLISTMENT DOCUMENT - ARMED FORCES OF THE UNITED STATES
(DD FORM 4 SERIES)

A1-1. USE:

a. The purpose of the DD Form 4 series is to document enlistments and reenlistments in the Armed Forces. It is, upon execution, an official legal agreement between the United States Government and the enlisted member.

b. The DD Form 4/3 is required to document discharge of Delayed Entry/Enlistment Program (DEP) personnel and their enlistments in regular components of the Armed Forces.

A1-2. GENERAL. The form may be prepared mechanically or by typewriter. Care will be taken to record all items accurately. Any corrections or typewriter strikeouts will be initialed in pen and ink by the enlistee and recruiting or service representative, except that corrections are not permitted in items 5 (Date of Enlistment) and 8 (Service, Period of Enlistment and Pay Grade) and sections E, G, and H. Errors in these items and sections will cause complete reaccomplishment of the pages. All signatures will be made using black or blue-black ink. The DD Form 1966 (Record of Military Processing - Armed Forces of the United States) is the source document in preparing the DD Form 4 for individuals enlisting or reenlisting from civilian life. Sponsoring service representatives will, prior to accepting applicants for enlistment, review entries (including pay grade in which enlisting and the enlistment period) for accuracy and ensure that applicants understand the meaning and intent of the enlistment document.

A1-3. DISTRIBUTION. Distribution of completed and executed enlistment/reenlistment documents will be made in accordance with tables 5-2 and 5-3. The DD Form 4 consists of carbon sets in four copies: original (white), copy 2 (yellow), copy 3 (green), and copy 4 (pink).

A1-4. PREPARATION INSTRUCTIONS. The following instructions for completing the DD Form 4 series are standard for all military services.

Item	Title/Description	Explanation and Entry
1	Name	Enter applicant's complete last name (including compound name if applicable), full first name, full middle name or names, and any suffix such as Jr., Sr., III, etc. If applicant was given initial or initials rather than first and middle name, enter such initial or initials. When preparing the form mechanically, do not use punctuation of any sort, including periods, commas, or dashes. In addition, with mechanized preparation, an apostrophe or hyphen contained within a name is not to be shown, and spaces are not to be inserted between sections of names nor used as substitutes for apostrophes or hyphens. Examples: Mc Affee John Q is shown as MCAFFEE JOHN Q O'Brien James Henry Jr is shown as OBRIEN JAMES HENRY JR Smith-Connally M Harold is shown as SMITHCONNALLY M HAROLD
2	Social Security Number (SSN)	Enter applicant's SSN, separating divisions with a hyphen. Example: 000-00-0000
3	Home of Record	Enter address (street, city, state, and ZIP code) applicant claims as permanent home of record. Example: 123 ANYWHERE AVENUE ANY CITY, STATE 12345-6789



HEADQUARTERS
ALASKAN COMMAND (ALCOM)
ELMENDORF AIR FORCE BASE, ALASKA 99506

RECEIVED 14 JAN 1991
JAN 16 1991

Honorable Walter J. Hickel
Governor of Alaska
Suite 758, 3601 C Street
Anchorage, Alaska 99503

GOVERNOR'S OFFICE

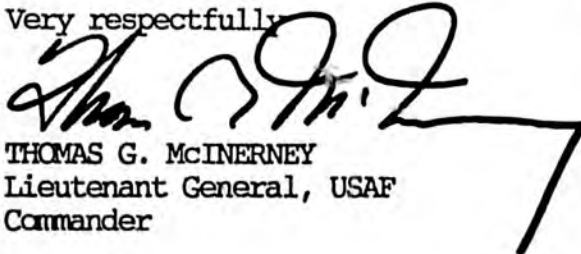
Dear Governor Hickel

As the senior U.S. military commander in Alaska, I want to express my concern over the state procedures for determining proper recipients for Alaska permanent fund dividends. My interest is simply this: residents of Alaska serving in the military forces of the United States should be fairly treated and should not be disadvantaged because they are absent from the state pursuant to military orders.

I understand the unique nature of the Alaska permanent fund and the necessity for strict procedures to avoid abuse. However, national requirements placed upon Alaskans to leave their homes to serve "outside" should not detrimentally affect their rights as citizens of this great State. Alaska residents are stationed around the world - throughout the lower 48, in Europe, in the Pacific, and in the Middle East. However well-intentioned the present requirements might be, asking all Alaskan military families to return every two years at great personal expense from the four corners of the world is, in my opinion, insensitive to the contributions and sacrifices that these Alaskans are making for their State and for their country.

I am encouraged by the concern I hear expressed by members of the state legislative and executive branches. Suggestions to allow application by representatives on behalf of absent military members, and suggestions to change the presence requirement from two years to four years seem particularly appropriate. I support any and all such efforts that take into consideration the special situation and special contributions of those Alaskans serving in the armed forces of the United States.

Very respectfully


THOMAS G. McINERNEY
Lieutenant General, USAF
Commander

5 February 1990

*Distributed
by Rep. Terry
Martin*

The Honorable Terry Martin
3960 Reka Dr. B6
Anchorage, Alaska 99508

Dear Mr. Martin

Thank you for your letter of December 20, updating the latest developments on the plight of Alaskan military members and their families. It appears that the country CW song that says: "Mommies don't let your babies grow up to be cowboys" needs to be changed to include: "and if your from Alaska don't let them serve their country."

I have been an Alaskan since 1961. I graduated from Wrangell High School, Wrangell, Alaska. I have maintained an Alaska drivers license since I was initially issued one. My wife and I have voted in every general election in Alaska since becoming eligible. My wife and I were successful in obtain land in one of the first lotteries held in the late 70's. The selling price for my wife was reduced by the full amount authorized by length of residency and the price for my piece of land was reduced by the full amount for length of residency and for military service. I was drafted by the selective service board in Juneau. From the first day in the Army, my records have reflected my home-of-record as Alaska. I have an MBA from the University of Alaska - Fairbanks. My oldest son is attending the University of Alaska - Fairbanks, as a resident. My office has an Alaska State Flag presented to me by then Governor Jay Hammond, for being an Alaskan serving on active duty. At no time have I ever indicated that I have had any other intention then to return to Alaska.

I am a Lieutenant Colonel in the United States Army Medical Service Corp. and am, by specialty, a hospital administrator. There are only two jobs in Alaska that I am qualified for, and one of these I filled previously. I would come back to Fairbanks today if I could find a job, and I will return as soon as I can find acceptable employment. The bottom line is I was an Alaskan before I came into the service. I have been an Alaskan while in the service, and I fully intend to continue to be an Alaskan after I retire from active duty.

As an Alaskan I appreciate the concern about "carpetbaggers" that take what they can from the state with no intention of returning anything or of remaining. Unfortunately some members of the military fall into this group, although by no means are they the only ones. But surely, almost 30 years of history should count for something. I just find it very difficult to accept being discriminated against by both the Department of Defense and the State of Alaska.

The Department of Defense discriminates against me in two very specific, overt ways. First, there is the Student Dependent Travel Program. A December 8 change allowed for reimbursement of travel expenses for a dependent going from a school in the lower 48 to a parents overseas duty station. I am not entitled to this benefit

because my duty station is not overseas. It doesn't appear equitable that a parent stationed at Ft Wainwright should be reimbursed for a dependent coming home from a school in Illinois, while I get nothing because I live in Illinois and my son goes to school in Fairbanks. The cost is the same, the benefit to the dependent and the family is the same, but because we are Alaskan's and our son wants to attend "our" University, I don't get treated the same.

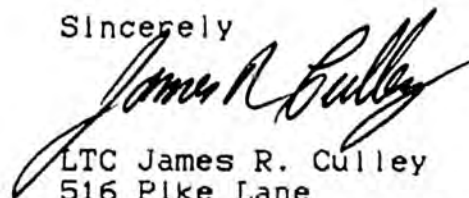
The second way the Department of Defense discriminates is that they consider Alaska to be overseas, except if your an Alaskan resident before you are stationed in Alaska. I was stationed in Alaska from 1975 to 1980, but I was not given credit for an overseas tour. In fact, I was reassigned from Alaska to Germany because I was "due" for an overseas tour. If I was a resident from another state I would have had to apply for Germany, but because I was an Alaskan I had no choice in the matter.

Now the state is getting into the act. We are being harassed to prove we our residents, and in fact none of my family has received either our 1989 dividend or any information on the status of our application. Now I find out that I can't apply for title or registration for my vehicles by mail. I have three cars, all with Alaskan title. One of them is now sitting because the registration is expired. I was sent a renewal notice and sent my application and a check on 5 December. My check, drawn on my account at Ft Wainwright Federal Credit Union, was cashed on 15 December. To date I have received nothing from the state. Until I received your letter I was not even aware of the change. I am assuming that this is the reason why my registration has not be renewed, but why wasn't I informed? I certainly know enough people in Alaska I could provide a Power of Attorney to that could have registered my vehicle. And why did they cash my check if they weren't going to send the new registration? What happens now to my other cars? Will I even be provided the documents to obtain new registration? I am not asking you to answer these questions, and I will direct them to Mr Dulaney, rather I just am trying to indicate some of the frustration I am experlencing trying to be an Alaskan.

I don't have answers, although I have some suggestions, but it just seems unfair that those of us that are Alaskan and have been Alaskans are being lumped in with those that are trying to obtain benefits. It would certainly appear that some type of tenure or Grandfathering should be available. If the state wants me to get out of the service and return now, then it should help me find a job.

Thank you.

Sincerely



LTC James R. Culley
516 Pike Lane
Troy, Illinois 62294

Peggelee Kendro & Family
574-20-9701
PSC Box 5427
APO NY 09132
(Bitburg AB, Germany)

Rep Tony Martin
P.O. Box V
Juneau, Alaska 99811

11 May 89

RE: Alaska Permanent Fund Dividend

I am writing in response to recent legislation that states that residents must return every two years in order to claim the permanent fund dividend.

I lived in Alaska from the age of four weeks. I attended school in Alaska, my parents had businesses in Alaska, my grandparents have lived and worked in Alaska for many years. Both my parents and grandparents have retired in Alaska.

I joined the Air Force in 1974. I was a single parent with four children and it provided an alternative to welfare. I could not afford medical care for my children as one of my children has cerebral palsy. I stayed in the Air Force until 1985 when I married another service member. I now follow him in the Air Force. He is also an Alaskan resident. I have two sons serving in the military, one in the Air Force and one in the Marine Corp. Both are Alaskan residents, both were born in Anchorage, both joined the service with Alaska listed as their state of residence. In my eyes what you are saying that if you want to maintain your residence then we need to make sure that none of our children are recruited into the military. It is impossible to return every two years on the salary that military members with families make.

I do the following things to maintain my residency: I am a registered voter; my vehicle is registered in Alaska; I have an Alaskan drivers license; I own property in Wasilla; my bank accounts are in Alaska; my credit union is in Alaska, even my Master Card. What more can I do?

The Air Force sends us all over the world and since that is my husband's career, would it be better that we come home to Alaska and pray that we find decent jobs and be able to afford medical care for a handicapped child? I think permanent employment with full medical benefits is better. When my husband was stationed in Texas, I worked and would not give up my residency to become a notary for my job. I attended college in Texas as a non-resident.

I am very proud to be an Alaskan and granted there are many people that take advantage of the Alaska permanent fund who should not. I am asking for your assistance in getting this legislation overturned for military members who do the things necessary to

maintain their residence. If you set up special requirements just for the military members, I would gladly follow those and help other Alaskan residents here in Europe follow those guidelines.

I would appreciate a response and any ideas that you might have that would assist the many military members, spouses, and children to maintain their residency and entitlement to the Alaska permanent fund. Thank you for your assistance in this matter.

Pegge Kendro

Peggelee Kendro
PSC Box 5427
APO NY 09132

My family members who are residents residing outside of Alaska are as follows:

Andrew Kendro - husband - TSgt USAF - Eitburg AB, Germany
Fanetta Burke - daughter - Eitburg AB, Germany
Yvonne Burke - daughter - Eitburg AB, Germany
Robert Burke - son - SrA USAF - Beale AFB, California
James Burke - son - Corp USMC - Somewhere in the Mediterranean on a ship.

We all would appreciate any assistance. Thank you for caring.

Rep Terry Martin
P.O. Box V
Juneau, Ak. 99811

1 May 89

Dear Rep Martin,

This letter is in response to an article printed in the Air Force Times regarding returning to Alaska every two years to qualify for a Permanent Fund Dividend. (1 May 89, Air Force Times)

I am a Major in the U.S. Air Force, currently flying as a test pilot at Eglin Air Force Base in Florida. I am married, but my wife is not yet a resident of Alaska. I have been on active duty for eleven years, all of that time spent as a active pilot. There are no test pilot positions that I know of in Alaska, hence very difficult to get assigned to Alaska.

I have been a homesteading, snowshoveling, woodchopping resident of Alaska since November 1961. I attended Dimond-Mears Jr./Sr in junior high school, and graduated from Service High School. In 1974 I was appointed to the Air Force Academy in Colorado by Rep. Don Young and graduated in 1978. I received a six year commitment for pilot training and an additional three year commitment for follow on training. During the period 1978 to 1986 I was stationed in Texas, New Mexico, Arizona, West Germany and California. In 1986 I was accepted for training at the USAF Test Pilot School, for which I received an additional four year commitment starting in 1987. In these last two assignments in Germany and California (the Test Pilot School) I was unable to take more than 10 days consecutive leave, making a protracted trip home impractical. From Germany, in particular, this trip would have been impossible given the distances and lack of free time. During the Test Pilot School, I would not have been allowed to leave the CONUS due to the school course load. In 1987 I was stationed in Florida, where I currently live. My commitment expires in 1991.

During the period 1974 to the present, I have never changed my residency to any other state or country, nor registered or voted in any other state or country, nor taken steps to establish residency in any other state or country. Further, I have taken active steps not to become a resident of any other state. In Florida, for example, I pay non resident taxes to preserve my residency. Long before the permanent fund was established, I still had to actively declare my residency during records reviews following a change of station. I have never taken advantage of local resident status to reduce hunting license or drivers license fees, and my Florida registration states I am a non resident.

During two of the last three years my Permanent Fund application has been reviewed. This review has caused my dividend to be up to six months late. This has raised havoc with filing my Federal Income Tax return, causing ammendments to be required, with penalties due in one case.

Finally, during each of these reviews I have stated my intention to return to Alaska at the conclusion of my service to our country, which has fed me, educated me and made an officer and respected person in the aviation field out of a poor mechanics son. I strongly doubt that many non native Alaskans have had to shoot a moose to survive, or grow potatoes or dig and clean cesspools as I did during my early years.

My service to our country has sent me to more than 35 countries on four continents, in conditions ranging from the sublime to the abysmal, from the Arctic to the Sahara. It causes me great consternation to have my eligibility to be called an Alaskan called into question year after year after so many years of backbreaking labor, both for Alaska and for our country. My signature on each application states, under penalty of perjury, that I am a resident of Alaska, and I intend to remain one.

My father has lived in Alaska since 1959 and will continue to live there until Cook Inlet freezes to Tokyo. I have been able to visit my father approximately five times in the years since 1974. The last time was in 1983, due to the factors mentioned above. I will, however, be in Anchorage this June for two weeks.

I am very interested in the future of Alaska and would be very interested in helping out in these and other issues. Prior to 9 June, I can be reached at:

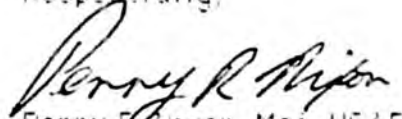
Penny R. Nixon
634 Rosewood Way
Niceville, FL 32578

Work Phone: 904 882-3915
Home Phone: 904 897-4369

From 9 Jun to 27 Jun I can be reached at

P O Box 112314
Anchorage, Ak. 99511-2314

Respectfully,


Penny R. Nixon, Maj, USAF

May 5, 1989

Cedric L. "Sid" Rhoads
1200 W. Manana Apt D.
Clovis, NM 88101
Daytime Tel: (505) 763-7151

State Representative Terry Martin
P.O. Box Y
Juneau, Alaska 99811

RE: Dividend Fund Eligibility Law Revisions

Dear Terry;

I've just finished reading an article in the Air Force Times (May 1, 1989) that stated that you are taking up the fight against the 1988 revisions to the Permanent Fund Dividend Eligibility Laws. These recent changes dictate that military members like myself have to visit the state at least once every two years to maintain their eligibility. The article quoted you asking all resident military members affected by this change to write your office. Well sir, I definitely fall into this category.

I've been an Alaskan resident since August of 1972 when my father and mother were vacationing in Alaska and decided to stay. I was nine years old at the time. We settled in Anchorage where my dad took a job with the State Judicial System, Juvenile Division, and my mom went to work for Alyeska Pipeline Co. as a public relations representative. I've attended Wonder Park and Tudor Elementary Schools, and graduated from Service/Hanshaw Secondary School in May of 1981. I've worked in Anchorage for: Andy's Body Shop on Arctic Blvd; Gary King's Sporting Goods on Northern Lights Blvd; Arctic Roadrunner Restaurants on Old Seward Hwy; and Bell Brothers Canneries on International Airport Road.

On July 7, 1981, shortly after graduation, I enlisted in the Air Force and have been on active duty (reenlisted April 5, 1985) ever since. My current enlistment expires on April 4, 1991. I've had assignments to: Mountain Home AFB, ID (Jan 82-May 86); RAF Lakenheath, United Kingdom (May 86-May 88); and finally, Cannon AFB, NM (June 88- Present). I'm currently assigned to the 27th Component Repair Squadron (CRS) and work as an Integrated Avionics Technician on communication/navigation and electronic warfare systems for the F-111 aircraft. Due to the complex nature of my job, Air Force policy dictates that myself, and all of my peers, will work on F-111's only. As you may, or may not know, there are no F-111's assigned to Alaskan Air Command. The good Lord knows that I'd do just about anything legal to gain an assignment to F-15's and Elmendorf AFB but, to use a bit of slang, "It just aint gonna happen!" (research Air Force "Rivet Workforce" program for further details.)

Since I've joined the service, most of my family has left Alaska for more lucrative jobs in the Lower 48. I still, however, maintain Alaska as my home, both in my records, and in my heart. I'm a registered voter in AK, and I own property on the Kenai (lot 16, blk 2; Brown's Lakeview Subdivision; Kenai Recording District). I would love to come "home" for a vacation, but several things have combined to make this difficult, if not impossible:

1. A two-week vacation to Anchorage and the local area would cost me a minimum of \$1,800 (\$600 airfare; \$1,200 expenses). This amount represents over 10% of my gross annual income.
2. I returned from my overseas assignment in May of '88 and have just recovered financially from the expense of the move.
3. I have a dependant son (age 4) from a failed marriage that I pay monthly support for in the amount of \$100.
4. I've just spent over \$500 for airline tickets for my son so that I can exercise my summer visitation rights. In addition, I will be responsible for his support while he is in my care.
5. Our Wing (the 27th Tactical Fighter Wing) is right in the middle of the Exercise/Evaluation and Inspection season. We are exercising at least every other month and sometimes monthly. In fact, we're in an exercise right now. This combined with our Wing's policy of NO LEAVES during exercises has made competition for available leave timeframes very difficult.

Terry, I'm not trying to say that I couldn't get home, it's just that at this time, it's not exactly feasible. I am, however, quite pleased to note that someone like yourself has chosen to remove his/her "blindness" and not just accept this ridiculous law without question. I've often been disturbed, no, I've been really pissed-off at the attitude conveyed by Permanent Fund Enforcement Officers and some Legislators that all military members are trying to rip-off the state. For some reason, they've all chosen to classify the military genre into a group of lawless thieves. While I am sure some could be found guilty of abusing the Permanent Fund Dividend Program simply for monetary gains, bona fide Alaskan Residents like myself should not (!!!) be made to suffer from the broad generalizations contained in this law. Please feel free to call me at any time if you have further questions. Also, I would appreciate it if your office would keep me abreast of your progress on this important issue. Thank you for fighting our battle!

Sincerely,



Cedric L. "Sid" Rhodes

May 1, 1989

1MSgt Herbert E. Atchison
1SC Box 1255
APO San Francisco, Ca. 96366

State Representative Terry Martin
P.O. Box V
Juneau, Alaska 99811

Dear Rep. Martin:

My wife and I read with interest the article in Air Force Times on the legal battle planned on the Alaska annual-dividend law. This law affects us, and we wanted to write to you to let you know our feelings on it.

My wife and I are residents of Alaska. She has been a resident since 1950, and I have been a resident since 1959. I joined the Air Force in College, Alaska in 1969 and have kept my residency in Alaska ever since. We have maintained our voting registration in Alaska, and we have voted in elections there in absentee. We both also have Alaska driver's licenses, which I have maintained since 1966 and my wife since 1973. Almost all of my 20 years in the Air Force has been overseas. In 1973, after serving in Okinawa, Japan, I got stationed in Fairbanks, Alaska, on a guaranteed re-enlistment assignment. We wanted to go back home and got to serve four years at Eielson AFB. While serving in Alaska, I did not receive overseas pay like all of the other people stationed there, since I was a resident of Alaska. Then, after serving only one year there, I received orders for Thailand, even though I was told that I would be serving an accompanied tour of three years there. Questioning this, I was told that since I was an Alaskan resident, I could only be guaranteed one year in my home, unlike other residents of the "Lower 48", who were guaranteed three years. Feeling that this was unfair, I wrote to Senator Ted Stevens and aired my grievance. Because of this, my orders were cancelled and the regulation was changed to allow non-conus residents a minimum three-year tour in their home states like everyone else.

After leaving Alaska in 1977, I was sent to England, where we spent five years. We did not return to Alaska during this time. I did have to return to the states on official government TDY orders, but my wife and children never once returned to the United States. In 1982 we were stationed in Greenville, Texas. While there, we registered our two cars in the State of Alaska and maintained Alaskan license plates on them. At all times, we maintained our residency in Alaska by voting there and keeping our Alaskan driver's licenses and plates. Before leaving England and Texas, I had Alaska down as my number one choice to go to on my dream sheet.

In 1987 I received orders for Osan, Korea, where I am now presently serving. I got in touch with my headquarters in November 1988 to see what the possibility was for me to return to Alaska on an assignment when my tour of duty is up here this July. They said that the slot was not open for me to return now

and that there were no Conus assignments available in my command. So now we have orders to return to England in two months time. I am eligible for retirement, but was recently selected for Chief Master Sergeant and I don't want to lose this stripe. That means that I must serve at least 2 more years after sewing on this last stripe to be able to retire as Chief.

My wife has a brother living in Valdez, Alaska, the only family that we have left in Alaska at this time. She and our three sons are going to try and visit him on their way from Korea to England. I, however, cannot leave Korea until July 5, as July is my DEROS month. I have a week's TDY in Texas and have to report to Philadelphia on July 24 to report to England. This only gives me a few days for leave, and since my mother now lives alone in Arkansas, I have to spend my leave time visiting her before returning overseas. Even though my wife and children will probably get to Alaska to see her brother, we will be unable to claim our dividend because I will not be able to return, and the eligibility of the dividend fund depends on my allowable allowance from the State of Alaska. I know that it will probably be impossible for us to return to Alaska from England during our three years there. Duty in Korea has made it impossible for us to travel to Alaska, since I work 12 hours a day, sometimes 7 days a week. I had to give the government back approximately 2 weeks of leave this past October, as I did not have the time to take it.

We have fought Alaska since 1982 to receive our dividends. The first year that we applied, in 1982, they paid my wife and children their money, came back and said that I wasn't a resident, and then demanded the money back that they had paid my wife and children. My wife was so upset that they said that we weren't residents, that she wrote President Reagan a letter. It got to JAC Headquarters in Washington, and they called me in Texas at work. Needless to say, we did not have to pay the money back, and Alaska acknowledged us as residents. We did have trouble later on with the state saying that we were not residents once again, so we contacted State Representative Randy Phillips, who we went to school with at Chugach High School. After much correspondence with Rep. Phillips and the State of Alaska, they, once again, acknowledged us as residents.

Over the years, we have kept the correspondence with Alaska and all those who we have written concerning our dividend. More than the dividend, though, it bothered us that Alaska would not recognize us as residents of the state. Alaska always has been and always be our home. We plan to retire there when I leave the Air Force. Serving so many years overseas for our country, we feel betrayed that Alaska would say that we are not residents of the state because we have been gone for so long. If we are not residents of Alaska, as my leave and earnings statement has stated for 20 years, then are we residents of Japan, Korea, England, or, as they tried to say while we were in Texas, residents of Texas?

We feel the new law unfairly discriminates against those of us in the military serving our country all over the world who cannot make it back to Alaska every two years. Even though we have not been able to return to Alaska since 1977, that does not make it any less our home. While serving in England, the regulation was changed that did not give preference to non-conus residents to return to their home states. We have always gone where the Air Force has sent us but have always tried to be stationed back home. We can see where the State of Alaska is trying to distinguish between long-term residents of Alaska and those in the military who try to take advantage of a good thing by changing their residency while stationed there. But those long-term residents should not have to suffer and be sent letters saying "You are not an Alaskan resident."

Thank you for your work on the military member's behalf, and good luck with

the suit against Alaska. Even though we love Alaska, we feel that this suit is necessary to uphold the rights of all of those faithful military members serving all over the world. We will anxiously await the outcome of this action.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'H. E. Atchison', with a long horizontal flourish extending to the right.

SMSGT Herbert E. Atchison
U.S. Air Force

MAY 10, 1989

SENATOR MARTIN,

I AM RESPONDING TO THE ARTICLE PUBLISHED IN THE MAY ISSUE OF THE AIR FORCE TIMES CONCERNING THE ALASKA ANNUAL-DIVIDEND LAW

I AM ALSO CURRENTLY ENLISTED IN THE AIR FORCE FOR 6 YEARS. I HAVE SERVED FOR 2 YEARS WITH 4 YEARS REMAINING. MY CURRENT RANK IS AN A1C OR E-3.

I WAS BORN IN ALASKA ON DEC. 10, 1961 AND RESIDED THERE UNTIL AFTER MY 25TH BIRTHDAY AT WHICH TIME I JOINED THE AIR FORCE AND WAS STATIONED AT CARSWELL A.F.B., FORT WORTH, TEXAS.

I AM MARRIED AND HAVE TWO CHILDREN. MY SON JAMES, IS 2 YEARS OLD AND WAS BORN IN ALASKA. MY DAUGHTER JESSICA, IS 1 YEAR OLD AND WAS BORN AT CARSWELL.

LAST SUMMER MY FAMILY AND I TRAVELED BACK TO ALASKA (WASILLA) FOR 2 WEEKS IN JUNE TO GO FISHING AND VISIT OUR RELATIVES. WE WOULD NOT HAVE BEEN ABLE TO AFFORD THE PLANE FARE HAD IT NOT BEEN FOR THE GENEROSITY OF OUR PARENTS. THE PLANE FARE ITSELF FOR 2 ADULTS ROUNDTRIP WAS APROX. \$1,200⁰⁰

IN ORDER TO MAKE ENDS MEET ON MY LOW SALARY FROM THE SERVICE, I HAVE OBTAINED A SECOND JOB WHICH I WORK ABOUT 40 TO 60 HRS. A MONTH.

NEEDLESS TO SAY I WOULD NOT BE ABLE TO AFFORD TO FLY BACK TO ALASKA EVERY TWO YEARS.

I AM VERY GLAD TO SEE A SENATOR STICKING UP FOR THE MILITARY PEOPLE.

I ALSO AGREE THAT, THE GROUP OF PEOPLE WHO ARE ENACTING THIS SO CALLED LAW-BUSINESS, ARE BEING VERY DISCRIMINATORY AND TOTALLY UNFAIR.....

FOUR REASONS I CAN THINK OF:

1.) I WOULD LOVE TO GO BACK IF THE MILITARY WOULD LET ME.

2) AFTER 5 YEARS IN THE SERVICE, IF I DON'T COME BACK, I CAN NO LONGER RECEIVE MY PERMANENT FUND.

3.) EVEN THOUGH MY DAUGHTER WAS NOT BORN IN ALASKA THEY ARE QUESTIONING HER APPLICATION. (SHE WOULD VE BEEN BORN AT THE SAME HOSPITAL AS HER BROTHER, HAD THE MILITARY NOT MOVED US.)

4) WE ARE NOW REQUIRED TO PROVE THAT OUR CHILDREN DID INDEED ACCOMPANY US ON OUR VISIT.

PERSONALLY I FEEL THAT THEY HAVE NO RIGHT TO ATTACK THE MILITARY PERSONNEL'S REQUIREMENT TO OBTAIN THE PERMANENT FUND.

WHAT ABOUT ALL THE CIVILIAN PERSONNEL WHO ARE BUILDERS AND CONSTRUCTION TYPE PEOPLE WHO IN THE PAST AND USUALLY DURING THE SUMMER MONTHS GO TO ALASKA AND MAKE GOOD MONEY, STAY FOR AT LEAST 6 MONTHS SO THEY CAN APPLY FOR RESIDENCY AND COLLECT THE PERMANENT FUND THEN AFTER ALL THIS TIME AND MONEY SAVED THEY HEAD TO THE LOWER 48 TO "LIVE HIGH ON THE HOG".

I SURE GO NUTS EVERY TIME I THINK ~~AND~~ ~~HA~~ ABOUT LOST STATE REVENUES THAT HAVE HAPPENED OVER THE YEARS BECAUSE OF OUT OF, STATE HIRING, MAINLY IN THE OIL BUSINESS, BUT THE MILITARY

WAS NEVER INVOLVED.

IF THESE PEOPLE WANTED TO ESTABLISH LAWS FOR THE DIVIDEND WHY DON'T THEY START BY LENGTHENING THE TIME REQUIRED TO APPLY FOR RESIDENCY.

I THINK THAT THE ONLY PEOPLE WHO SHOULD BE ALLOWED TO CLAIM THE DIVIDEND FUND WITHOUT ACTUALLY LIVING THERE IS THE PEOPLE IN THE MILITARY. AFTERALL THEY DID NOT LEAVE THE STATE OF THIER OWN ACCORD, THEY WERE TOLD TO MOVE. THEY HAVE NO CHOICE WHILE IN THE SERVICE.

PLEASE EXCUSE ME, BUT I GET FIRED UP WHEN THINGS LIKE THIS HAPPEN TO PEOPLE LIKE ME WHO HAVE LIVED THERE ALL THIER LIFE.

I DO APPRECIATE WHAT YOU ARE DOING & WHOLE HEARTEDLY.

PLEASE FEEL FREE TO CONTACT ME AT YOUR CONVENIENCE. MICHAEL H. RIVARD
1308 DAWN CT.

AZLE, TEXAS 76020
(817) 444-1459 HOME
(817) 782-7173 WORK

P.S. I HOPE TO GO BACK HOME
TO DO SOME FISHING BETWEEN
JUNE 15 AND JUNE 30.

SINCERELY,

Michael H. Rivard

MAJOR John R. PENMAN
HHB DIVARTY
APO SF 96524-0213

Representative Terry Martin
P.O. BOX V
Juneau, AK
99811



Mr. & Mrs. Galen McManus
112-3 Summit Dr.
Minot AFB, ND 58704



Representative Terry Martin
3111 C Street
Anchorage, Ak 99503

DEAR SIR,

I AM WRITING IN REGARDS TO THE NEW PERMANENT FUND RESIDENCY REQUIREMENTS.

MY NAME IS NANCY ARLENE ZIEGER MCMANUS. I WAS BORN JANUARY 21, 1940 AT OLD PROVIDENCE HOSPITAL IN ANCHORAGE. I LIVED THERE WITH MY FAMILY IN EAST ANCHORAGE UNTIL MY MARRIAGE ON FEBRUARY 23, 1979. I MARRIED A MILITARY MAN STATIONED AT ELMENDORF. IN AUGUST 1980 MY HUSBAND WAS REASSIGNED TO FAIRCHILD AFB IN SPOKANE, WASHINGTON. SOMETIME IN 1981, GALEN (MY HUSBAND) CHANGED HIS STATE OF RESIDENCE TO ALASKA. WE HAD ALREADY DECIDED THAT WE WOULD EVENTUALLY RETURN TO ALASKA TO RETIRE AND RAISE OUR CHILDREN. IN MARCH OF 1982, WE WERE ONCE AGAIN REASSIGNED. THIS TIME WE WERE LUCKY ENOUGH TO RECEIVE AN ASSIGNMENT TO EIELSON AFB, IN FAIRBANKS. WE SPENT THE NEXT 4 YEARS THERE. OUR TWO YOUNGEST CHILDREN WERE BORN THERE. (OUR OLDEST SON WAS BORN AT FAIRCHILD IN 1981). IN MARCH OF 1986 WE RECEIVED ORDERS AGAIN, THIS TIME TO SCOTT AFB IN ILLINOIS. IN JANUARY 1982, MY HUSBAND EXERCISED HIS OPTION TO RETRAIN INTO ANOTHER FIELD. WE WERE HOPEFUL THAT WE COULD NOW RECEIVE ORDERS BACK TO ALASKA. UNFORTUNATELY FOR US, ALASKA IS STILL CONSIDERED OVERSEAS WITH THE MILITARY AND WAS NOT ONE OF THE PLACES HE COULD APPLY FOR. WE RECEIVED ORDERS TO MINOT AFB, NORTH DAKOTA.

MY CONCERN IS THIS. YOU HAVE MADE A NEW LAW THAT REQUIRES US TO BE PRESENT IN THE STATE AT SOME TIME IN THE TWO YEARS PRIOR TO THE FILING DATE. I FEEL THAT THIS IS CERTAINLY A "NUISANCE LAW" IN MY CASE. I AM A FULL TIME HOMEMA EN, STAYING AT HOME BY CHOICE AND CARING FOR MY CHILDREN. MY HUSBAND IS A SCOT (E-5) SUPPORTING A FAMILY OF FIVE. HE DOES NOT EASILY RAISE ENOUGH MONEY TO GET ON A PLANE AND COME HOME TO THE STATE, GET OFF THE PLANE AND THEN GET FIRED AND THEN RETURN TO OUR CURRENT RESIDENCE. I FEEL THAT YOU ARE VIOLATING THE U.S. CONSTITUTIONALLY. IN DOMINION OF THE "RIGHT TO PRIVACY", YOU HAVE BASICALLY GIVEN ME A CHOICE. BECAUSE I MARRIED MILITARY, I HAVE TO CHOOSE BETWEEN MY HUSBAND AND MY STATE. MY STATE HAS THE RIGHT TO DICTATE TO ITS RESIDENTS WHERE THEY MUST LIVE, AND I FEEL THAT YOUR "NUISANCE LAW" HAS DONE EXACTLY THAT. I WOULD ASK YOU TO REPEAL THIS LAW IMMEDIATELY AND STOP DISCRIMINATING AGAINST THE EXACT PERSONS WHO DEFEND OUR FREEDOM AS A COUNTRY. TO DO LESS WOULD BE TO SAY THAT THEIR SERVICE HAS NO VALUE.

THANK YOU FOR YOUR CONSIDERATION OF MY PETITION. IT IS MY HOPE THAT THIS "NUISANCE LAW" WILL BE CHANGED IMMEDIATELY.

Sincerely,
Nancy A. McManus



Capt. Terry L. Spitzmiller
1401-F Paegelow
Scott AFB IL 62225-1513
(618) 746-2461

26 Apr 89

The Honorable Terry Martin
P.O. Box V
Juneau, AK 99811

Dear Mr. Martin,

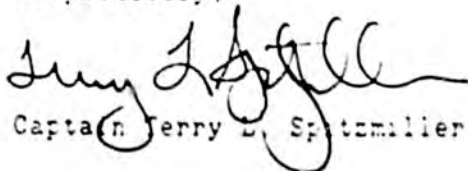
I read your article in the May 1, 1989 issue of the Air Force Times and appreciate the assistance you are giving to our cause. This is the second letter I've wrote you concerning this issue and still feel that this is blatant discrimination toward the military. We are dedicated Christians and feel that if and when we decide not to spend our future in Alaska we would not file, for it would be stealing.

My family consists of first and second generation Alaskans. I was born there in 1957, before statehood, and my daughter was born in the same Elmendorf AFB military hospital in 1982. The other day in the store when my daughter's last name was called out a man asked her if she was German. She stated proudly, 'No, I'm an Alaskan'. We all laughed, with the man saying, she certainly knows where her roots are.

Sir, the biggest difficulty in returning before June 30, 1989 is time, money, and due to budget constraints, our manpower will not allow for a long leave. I am dedicated to my country and my service so I can not just pack up and go, however, that would not solve anything since I was TTY in Alaska in February. The concern is with the rest of my family, a wife and two children. If I flew them up there just to prove they're residents would be an extremely tough burden on her since the two children are 6 and 15 months respectively. I also discussed finances. At this time we do not have the money but in August we will when my wife receives some inheritance and that is when we plan to come up.

I know my previous suggestions were not used. However, even though I was not an Alaskan resident all of my life, I would gather to say few individuals in our situation have someone who was born there before statehood. If we are the people you are looking for then God be with us, if not, my family and I thank you for your time.

Respectively,


Captain Terry L. Spitzmiller

April 30, 1989

Representative Terry Martin
P.O. Box V
Juneau, Alaska 99811

Dear Representative Martin:

I am writing you regarding the Alaska Permanent Fund. My husband is a career officer in the Army and we are currently stationed in Germany. We have filed for and received the permanent fund since the program was started. I have been a resident of Alaska since 1953, (I was born in Anchorage) and my husband has been a resident since 1967. We have met all the requirements for being a resident by keeping our vehicles registered and by voting by absentee ballot. We were notified that we would no longer be eligible for the permanent fund if we did not return to the State every two years. Being stationed overseas makes it very hard to return to the State.

We saw your article in the Army Times, and very much appreciate you trying to overturn the new law regarding military personnel. I previously wrote to the Governor, Senator Ted Stevens, Senator Murkowski, and Representative Don Young. All said they were unable to assist us. So, if there is anything we can do to help you in your fight, please contact us. We will be glad to help.

Sincerely,

Kathy Ingerson
Kathy Ingerson
200 TAMMC, Box 612
APO NY 09050

May 16, 1989

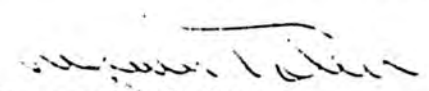
Representative Terry Martin
P.O. Box V
Juneau, Alaska 99811

You asked for an ideal person, actually background of same, to be the plaintiff in a class-action suit concerning the Alaska Permanent Fund. Before agreeing to be named in this suit, I would have to communicate at length with counsel.

I am a Second-generation Alaskan. Mother born in Nelnek and raised in Alaska. My grandfather moved from Oregon to Alaska as a youth and died there at 81 years of age. Floyd Smith Senior Center in Wasilla bears his name. Mother married a man in the Army, followed him to Minnesota, both returned to Al after approx. 3 years and are currently in the Matanuska Valley. My brother and 6 + children reside in Wasilla and runs his own heavy-equipment company. Younger sister married and living in Anchorage. Older sister married to an Air Force NCO and living in Belleville Illinois. I always lived in Alaska, met and married my husband in 1981 and have moved around with the Air Force life since that time. My husband is a Colonel in the Air Force, has a distinguished flying career of 22 years and is currently the commander of the Stealth Fighter Wing at Tonopah and Las Vegas Nevada. He was born in London England, father was killed in the RAF, mother remarried to an American Army Warrant Officer and my husband traveled with the military for 18 years until he, himself, was commissioned.

While I think the Perm. Fund idea is misguided (the money should go into the parks or taking care of Alaskans), I am continually appalled that Military members and their families bear the burden of proof of eligibility. If this fund is going to continue to operate and give money to month Alaskan residents, the 2-year visit regulations are discriminatory. I don't think ANYONE, military or not, can say for certain WHERE they will spend the rest of their lives.

Good luck with your suit, please take care of my home.


Virginia Tolin
645 Dunning Circle
Las Vegas, NV 89115
702.644.6418

P.S. Can you pass a bill to allow the Alaskan residents to go to the bedrooms of all Exxon employees and soak them and everything they own in 2" of oil each day for 15 years? I'll come and bring my own buckets.

HQ, USEUCOM Box 471
APO New York 09128
28 April 1989

Representative Terry Martin
P.O. Box V
Juneau, Alaska 99811

Dear Representative Martin:

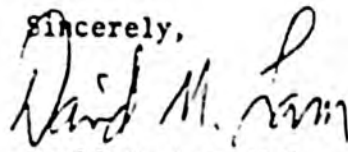
I read in the 1 May issue of the Army Times that you are involved in an attempt to overthrow those portions of the 1958 amendments of the Permanent Fund Dividend Law which unfairly discriminates against those military personnel who cannot, due to military orders, return to the state each two years. I would like to offer any assistance I can.

My family and I have claimed Alaska as our legal residence since 1975 (before the Dividend Fund law was passed), and have made it our home ever since. I fully intend to return to Alaska to live after I complete my military service. Evidence of this intent is shown in several ways:

- A. I am licensed to practice Medicine in Alaska, and in no other state.
- B. My wife and I have remained active registered voters in Alaska, and have voted in all statewide or national, and in most local, elections since 1975.
- C. We own land in the Fairbanks area.
- D. We own a four unit apartment building in Fairbanks.
- E. Our vehicles have always been registered in Alaska (except those now in Germany, where state license plates are not acceptable under law).

Numerous other indicators could be cited, but those will suffice for the present. I have asked the Department of the Army Judge Advocate General to look into this whole situation for me, since I contend that the "return each 2 years" law violates the clear Congressional intent, if not the actual words, of the Soldier's and Sailor's Civil Relief Act. Additionally, in my opinion, the law violates several portions of the Constitution of the State of Alaska. The mere fact that I am stationed in Germany on military orders and cannot afford to move my family back to Alaska for a visit should not deprive me of the rights of state citizenship.

If I may be of any assistance to you in this fight, please do not hesitate to ask. I am more than willing to join in a suit to overthrow this inequitable law. Thanks for your concern.

Sincerely,

David M. Lam, M.D.
Colonel, U.S. Army

Major Robert H. Isaac, USAF
2513 Jack Pine St.
Omaha, NE 68123

22 May 1989

State Representative Terry Martin
PO Box V
Juneau, Alaska 99811

Dear Sir:

The recent Air Force Times article "Legal Battle Planned on Alaska's Annual-Dividend Law" has prompted me to write as a possible candidate for the class-action suit you are proposing. Although my present duty station at Offutt AFB, NE does not preclude an occasional return visit, it does incur considerable time and expense for myself and family. Hopefully, the items listed below can be of some assistance in your endeavors:

Born: Juneau, AK; 10 Feb 54.

Driver's License: Alaska, since age 16.

Education: Douglas Elementary, Marie Drake Junior High, J-D High -'72, The Citadel -'76, Charleston, SC (Air Force ROTC not offered at U of A).

State of Residence: Alaska, since birth.

Parent's Address: 410 D St; Douglas, AK

Mailing Address: Box 223, Douglas 99824

Vehicles: Alaska registration.

Professional Licenses: Teacher's Certificate, No. 574-26-6556-05-93, 2/4/88 to 2/3/93, sec/biological science, Type A, Regular.

Voting Precinct: 330 Douglas no. 1.

Additional: Married, while stationed in Montana. Children born in Nebraska. All are considered residents. I am a career officer and expect to retire after 1997. However, economics will play a big part in where we settle afterwards.

We will be in Douglas visiting my folks from 24 May to 5 June. Any questions, give us a call at 364-2431.

Sincerely,

Robert H. Isaac

TO: TONY MARTIN

DEAR SIR.

THIS IS IN RESPONSE TO THE NEW PAPER ARTICLE IN THE STARS AND STRIPES
IT THE NEWS PAPER WE GET OVER HERE IN THE UNITED KINGDOM. KNOW
I HAVE BEEN AN ALASKA RESIDENCE NOW FOR 12 YEARS OR MORE AND
I GRADUATED FROM WASILLA HIGH SCHOOL IN 1980. ALL MY
FAMILY IS FROM ALASKA MY WIFE WAS BORN IN ALASKA . ALL MY CHILDREN
WERE BORN IN ALASKA ,(3 boys). I JOIN USAF RIGHT THERE IN ANCHORAGE.
NOW THAT I AM SERVING IN THE MILITARY MY STATE WANT TO FINE ME BECAUSE
I CAN NOT RETURN TO THE STATE BECAUSE OF THE EXPENSE IT WOULD COST
TO FLY MY HOLD FAMILY BACK AND FORTH . SO THE CLOSEST I GET TO ALASKA
IS WHEN I TALK TO MY MOTHER AND FATHER OR THE REST OF THE FAMILY ON
THE PHONE . I HAVE SIX BROTHER AND SISTER IN ALASKA , MOST RESIDE
RIGHT IN THE MAT VALLEY. MY WIFE PARENTS ARE IN ALASKA ALSO .
KNOW DOSE IT SOUND LIKE I AM JUST USING MY RESIDENCE TO GET MONEY
AND NEVER RETURN TO ALASKA !

IF YOU WOULD LIKE TO CHECK MY MOTHER NAME IS NANCY BROWN SHE WORKS
FOR WASILLA HIGH SCHOOL AS A JANITOR MY FATHER IS RETIRED MY WIFE'S
FATHER WORKS FOR THE WASILLA BUS SERVICE TUNDRA TOURIS. HIS NAME
IS JERRY McINTIRE.

YOURS TRULY
STEPHEN P. HAM
STAFF SERGEANT.USAF

Stephen P. Ham

Sept. 26, 1989

Representative Terry Martin
3111 C St. Suite 415
Anchorage, AK 99503

Dear Mr. Martin:

I was so glad to read the article in the Ketchikan paper regarding your stand on military requirements for the Permanent Fund Dividend. We have spoken to our representatives Sherry Davis, Robin Taylor and Senator Lloyd Jones to no avail. Had Jack Shay been elected, he would have been more supportive.

When the bill first came out last year, we sent POMs, telegrams and telephoned the governors office regarding this issue. We even asked the governor directly on a statewide TV call in show. NO SUPPORT.

Somehow all the legislators have it in their heads that "non Alaskan" military have their hands in "our" cookie jar, and so must stop them. "Military" has always been a bad word, as long as I can remember. As a daughter, wife and mother of military, I can vouch for the fact the military spouses are treated as second class citizens in most communities, especially when seeking employment.

My husband & I are third generation Alaskans, which makes our sons (ages 23 & 27) fourth generation residents. We also have three generations of career military officers.

Historically we have been here a long time. My grandfather (W.W. Casey) was a Juneau pioneer, civic leader, politician and businessman. The land the governors mansion was built on was given to Alaska by him. My mother was born in Juneau in 1916, and now resides in Fairbanks with my father (Fred L. McGuire) who was an army officer for 14 years, serving in WW II. My husband (John W. Johnson) was born in Petersburg in 1935 and raised there, graduating from Petersburg High School and the University of Alaska where he was the first ROTC army Lieutenant commissioned after statehood. He is now retired after 20 1/2 years, serving two years in Viet Nam and one in Korea. We have lived in Petersburg for ten years. We always knew and planned to retire in Alaska.

Our oldest son was born at Ladd AFB, graduated from Petersburg High School in 1980 and received four nominations and an appointment to the Air Force Academy, where he graduated in 1984, shaking the hand of the Commander in Chief Ronald Reagan. Now he does not qualify to be a state resident for permanent fund

reasons unless he returns every two years? His first assignment was to Greenham Common, England for three years and he was tickled to then be assigned to Hahn AFB, W. Germany for a second European three year tour. He did receive a 30 day leave to his home of record between the two tours, in June of 1988.

Think of the Alaskan high school graduates, enlisted and serving in Europe or Asia who cannot afford to come home in the middle of their tour. I don't think our legislators were thinking of "Alaskans" at all when they passed the two year requirement. They were thinking of that bad word "military".

I guess the difference is 1) Alaskans who serve in the military and 2) Military who change their home of record and become Alaskans - for whatever reason. There needs to be an exception policy for those Alaskans who enlist or are commissioned in the military in Alaska that allows them to recertify each year until they either leave the service and return to the state - or establish residency elsewhere (and are no longer eligible).

Please let us know what we can do to support you in your effort to educate our "Alaskan" legislators.

Sincerely,

John and Dale Johnson

LTC & Mrs. John W. Johnson
USA Retired
P O Box 1273
Petersburg, AK 99833
Ph. 772-4857 evenings
772-3791 days

Ronald C. Huffman Jr.
P.O. Box 62395
Colorado Springs, CO 80962

State Representative Terry Martin
P.O. BOX V
Juneau, AK 99811

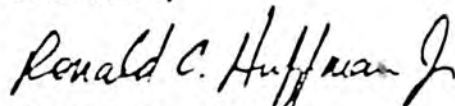
11 MAY 89

Dear Sir

I am writing to you in reference to the Alaskan dividend not going out to those residents who do not physically return to the state during the two years preceding the dividend period. I believe this is both unfair and unjust to those military personnel who are valid Alaskan residents and can not return to the state due to their government commitments at their present duty station. I am currently in the military and have been an Alaskan resident my whole life. Furthermore, I am an Alaskan Native, Eskimo. I have been unable to return to Alaska due to my current job demands in the service. Upon completion of my active duty service commitment, I will reside in-state, maintain employment, and hope to purchase a home and some land in Alaska.

I heard through my parents, also Alaska residents in my situation, that I should write to you and express my concerns. As a voter in the state of Alaska, a Native, and a resident, I should not be withheld from receiving the dividend when I can not physically return to the state due to circumstances beyond my control. If I could return to Alaska every year while still in the military for even the shortest duration, believe me, I would. I feel that I am legally entitled to this dividend and hope that a rapid solution can be found.

Sincerely



RONALD C. HUFFMAN, JR., 2Lt, USAF

31 May 89

To Rep. Martin,

My name is Gregory L. Smith and I am a member of the U.S.A.F. I am writing to you about an article that was written in the Stars and Stripes. It explained how military members cannot claim the Alaska Dividend if they have not visited in the required time period.

I am 22 years old and have lived in Alaska for 20 years. I enlisted in Alaska in 1987 and have not been able to make it back. I am stationed in Crete Greece which takes alot of money to fly home. If I fly by military flights it would take alot of leave. I don't have either one of these to use.

I have enclosed as many documents that I have to support my right to the Alaska dividend. I hope that they can aid you in some way to change the current qualifications for military members, especially those who enlisted in the state.

I am proud to be an Alaskan resident and plan to remain one. This means that I will return. After all this is my home.

Remember back to the session of 1985. I
work for ... the house ...

entire 120 days. I was a house page. I remember yourself and most of the 39 others. I was very proud to be a part that legislation. I started working when I was 14 years old doing anything I could, paying taxes also. I can not believe that after all the work I have done it has all vanished. I can't receive the Alaska Dividend because I decided to defend my country.

Please keep me informed on what happens with this situation. If there is anything else I can do please write me. ~~also~~ ✓
I am very concerned about this whole thing and know that it can be changed if we just push hard enough. I will fight this to the very end if its necessary.

My address is as follows:

AIC Gregory L. Smith
PCS Box 866
APO, NY 09291

I am counting on you!

P.S Do you still sit in the left first row by the center aisle. You were the Minority Leader that year.

Thanks,

Gregory L. Smith

NCCIC Immunization/Allergy Clinic
Iraklion AS Crete Greece

Rep. Martin:

14 May, 1989

Thank you for taking up what I am certain is an unpopular cause with many of your honorable colleagues. You are so correct when you say the new ruling, calling for a trip back to Alaska every two years to qualify for the dividend, is discriminatory and unfair to military personnel.

We military people have grown accustomed to having things arbitrarily taken from us-benefits, pay raises stopped or reduced, promotions diminished, favorable tax rulings, etc-by Congress and been powerless to stop them. But this, my own state, attempting to do the same thing is the final straw! Who are the lawmakers making these decisions? I would like to have a list of the names and addresses of those responsible, or better yet, see it published in the Army, Navy, and Air Force Times. That would at least ensure they do not receive any of the substantial absentee military vote. I suppose next they will want to levy a special state income tax on my military pay!

It is obvious that Alaska is not the same place it was when my family moved to Sitka in 1960. Those making the laws don't seem to be concerned for the ones who lived and worked in Alaska in the early, "pre-oil" days. How many of them earned money fishing Alaskan waters, worked in the pulp mills, attended the University of Alaska when the only "real" campus was at Fairbanks, while struggling to support a family and keep an old car running at -50 degrees; loaded oil field supplies and equipment for \$3.50 an hour, in mid-winter, onto the old WWII aircraft of Interior Airways to support exploration on the North Slope in '68-69; coped with rising rents and food costs driven out of sight by the oil companies; watched construction workers and contractors come to Alaska during the warm months, make their bundle of money, and then head for the "lower 48" to spend the winter; and finally, how many of them owe their jobs to the increase in government due to the oil money? If I sound a little bitter over this whole thing, you are 100% correct!

I lived in Alaska from 1960 until entering the Army in 1970. I graduated from Sitka High School, the University of Alaska, married in Alaska, had three children in Alaska, and received my ROTC commission from the UofA. ROTC was mandatory my first two years at the university, and in spite of the increasing unpopularity of the Vietnam War, I chose to stay in Alaska and joined the ROTC. This in turn led to my military career. I returned to Alaska to visit in 1973 with my wife and 4 small children, and finally was able to get an assignment there (Ft. Wainwright) 1979-1982. Except for 1977-1978, I have been a continuous resident since 1960. I always registered my automobiles, motorcycles, travel trailer, and families automobiles in Alaska and maintained an Alaska drivers license. I voted absentee. I claim Alaska as my legal residence on all my official military documents. How else do I convince these decision makers, these bureaucrats, that I am a resident of their (my) state?

I go through the "drill" every year of filling out the same questionnaire to convince some clerk bureaucrat to check "yes" that I am entitled to a dividend. This same questionnaire, with all the answers, is then dutifully filed away into the computer, only to be overlooked, or disregarded, when next years dividend applications are sent in. It is not just the money-it is also the feeling that the state I call home has decided that we in the military are no longer qualified to be called "alaskans". Can you believe that! I cannot think of another state in this great union that owes so much to, and has had so many ties with the

military during its short history! Pipelines, roads, communications, aviation, payrolls, search and rescue (air and sea)-this military, the people they are essentially now denying recognition, contributed a great deal to Alaska, still do, and always will.

One final comment and then I will get off my soapbox. I know there are some in the military who switched their home of record while stationed in Alaska to get the dividend. Perhaps there should be some changes made to the rules to qualify for the dividend, but it should not be simply directed at all military. Consider:

- Withholding qualification from those who have been residents for less than a specified length of time, ie, 3 years?.
- Pay the dividend on a graduated scale, based upon date of residency and length, increasing by a set amount for each year of physical residency?
- Grandfather those who were residents prior to the start of the dividend program, give them a base amount, and add to it for each year of actual residency. They could only lose the additional amounts for those years they were not physically in the state the required amount of time to qualify?

I don't have the answers, but I honestly feel it very unfair to single out the military (as congress so often does) and deny us "true" resident status with same benefits as those living there. Alaska was, and I hope still is, a great state with a great future. Please don't let some greedy bureaucrats ruin it for all of us.

By the way, I am currently serving a one year tour in Korea without my family and will be transferred to Germany by December. I made an effort to see Gov. Colden when he visited here last year, but was not able to ask him about the dividend and military. Where does he stand on the issue? Should you answer this letter, please send it to 1169A Drennon Park, Ft. Campbell, Ky. 42223. I will be "home" by 28 May for a few months before my wife and I move to Germany and leave 2 children in Kentucky to attend college. We simply could not "fit" a trip to Alaska in our schedule this year to qualify for the dividend. I guess we will be "crossed off" the list.

Thanks for your efforts and for listening.


JOHN R. PENMAN
MAJOR
US ARMY

PS: Thought you ought to see the enclosed article about Alaska, oil, dividends, etc. I am sending him a letter letting him know he too could have journeyed to Alaska years ago, struggled and worked there, and could then be sharing in the permanent fund distributions. Should I also tell him his figures are wrong-fund is over \$10 Billion and last years dividend was only about \$700?

805 Elmhurst Drive
Papillion, NE 68046

23 May 1989

The Honorable Terry Martin
P.O. Box V
Juneau, Alaska 99811

Dear Mr. Martin:

I was happy to read in the May 1, 1989 issue of the Air Force Times that you are seeking to overturn the recent change to the Alaska Permanent Fund Dividend law. I am an active duty Air Force officer, stationed at Offutt Air Force Base, Omaha, Nebraska. I was born in Juneau in 1960, and have claimed Alaska as my legal residence ever since. What follows is my history.

I resided in Juneau from May 28, 1960 until August of 1978. At that time I moved to Anchorage, where I lived until August 15, 1980. In 1979 I enlisted in the Alaska Air National Guard. I married a Army NCO and moved to Illinois, then North Carolina and Kentucky, as the spouse of a military member. During that time I maintained Alaska as my legal residence and continued to vote absentee in Alaska.

From September of 1980 to May 1983 I attended colleges in Illinois and North Carolina and paid non-resident tuition. I transferred to the Illinois Air National Guard, then the Air Force Reserve in North Carolina, although I maintained Alaska as my home of record.

In November of 1983 I moved to St. Louis, Missouri. I transferred to the Missouri Air National Guard and worked full time in various other jobs. Although I was still married to a military member, we were legally separated. I was just biding my time until acceptance for Air Force Officer Training School. In November of 1984 I entered the Air Force and claimed Alaska as my home of record and legal residence. I have been on active duty since Nov. 1984, stationed at Lackland AFB, San Antonio, Texas; Laughlin AFB, Del Rio, Texas; and now Offutt AFB, Nebraska.

My mother resides in Juneau, works for the State of Alaska and owns an auto parts store (Inside Passage Auto Parts). As an heir to the business and the administrator of my mother's estate, I feel I have valid long term ties to the state of Alaska.

I applied for every permanent fund dividend that was issued since its inception. My 1988 application is being contested, and I have not received a dividend for it. For your information, I

have enclosed a copy of my letter to the Department of Revenue.

My husband is not an Alaska resident. He entered the military from his home in New York and maintains his New York residency. My son, who was born in Texas in October 1986, is considered an Alaska resident, and I file permanent fund dividend applications on his behalf.

That, in a nutshell, is my story. I agree that requiring residents to return to Alaska every two years imposes undue hardship. Mission constraints and the cost to return to Alaska from the lower forty-eight makes it extremely difficult for many military members.

I would be happy to help you in the legal challenge to the permanent fund law. I also would like to thank you, on behalf of "misplaced Alaskan military members" for challenging the law. So often we in the military feel forgotten or slighted by the government in one way or another, and this seems to be a perfect example.

I can be contacted at work, (402) 294-5314, from 7:30 a.m. to 5:00 p.m. (Central time), or at (402) 592-2306 at all other times. Again, thank you for your interest.

Sincerely,

Alise M. Wheelock

Alison M. Wheelock
1st Lieutenant
United States Air Force

METRO

WEDNESDAY

SECTION B June 27, 1990

Judge rejects fund's 2-year requirement

By DON HUNTER
Daily News reporter

A state judge has ruled that a law requiring people to live here two years before becoming eligible for Alaska Permanent Fund dividends is unconstitutional, but approved a one-year requirement lawmakers included as a fall-back position.

In making her ruling Monday, Judge Dana Fabe reasoned that a one-year requirement would serve the state's purpose in ensuring only permanent Alaska residents receive dividends by excluding transient workers who come here to work in

seasonal industries like construction and fisheries. The ruling also sets a one-year requirement for the state's longevity bonus program.

Until the new law was passed in 1989, the residency requirement for dividend checks was only six months. Lawmakers changed it in an effort to tailor the program for people who intend to make their homes here.

Unless it is overturned on appeal, Fabe's decision will marginally reduce the amount of this year's check — expected to be about \$900 — but make thousands more people eligible for it.

At least, they will be eligible if they remember to file dividend applications by Saturday night, this year's deadline.

Attorney General Doug Baily said Tuesday the administration will decide if it will appeal the ruling within a week. All sides want a final decision by October, when the first of this year's checks are scheduled to be mailed.

State Rep. Dave Donley, D-Anchorage, was the prime sponsor of the bill that created the two-year requirement. Tuesday, he hailed Fabe's decision as "a great victory" but said the state should appeal it.

Donley said the case is a success because Fabe's ruling doubles the existing six-month residency requirement to one year.

"But while it is a beginning it is by no means an end," he said. "How would we ever know what the constitution means... if we didn't push it to a court decision? That's why we have to appeal, to get the final court of jurisdiction to decide."

Baily warned lawmakers the two-year requirement might be unconstitutional before they changed the law. Tuesday, he said he will discuss the case with Gov. Steve

Please see Page B-3, PERMANENT FUND

PERMANENT FUND: Requirement rejected

Continued from Page B-1

Cowper and interested lawmakers before deciding whether an appeal makes sense.

Tom Ketcheson, a 36-year-old public health services engineer who launched the suit this spring, said Fabe struck the right balance in extending the old six-month requirement, but refusing to endorse a two-year test.

"We feel the decision vindicates our interests and the interests of all Alaskans," he said.

Ketcheson and Keri Lindly, another of the 60-plus plaintiffs in the case, said only about 15,000 applicants this year will have lived here between one and two years and be affected by the ruling. At the same time, the state expects to mail about 27,000 checks out of state, they said.

Ketcheson said those numbers show that the new law did not do what lawmakers had intended — keep dividend money in the pockets of people who live in Alaska.

Ketcheson said he started thinking about challenging the new law soon after the legislature passed it.

"I felt that I had established my intent to live here by buying a house, and I had brought my family up here and we had

taken every vacation inside the state of Alaska, and bought two cars here," Ketcheson said. "I felt as much a part of the state as people who had been here much longer."

He met Lindly and her husband when he called the law firm Keri Lindly works for, seeking an attorney to handle the case.

"They (the lawyers in the firm) were out of town, but I said I was very interested," Lindly said. When Ketcheson found another lawyer to take the case, Lindly and her husband joined him as plaintiffs.

Lindly said she and her husband, Grady, are long-term Alaska residents who were forced from the state by the economic downturn in 1987. She said she recognizes the need for some sort of residency requirement, but felt the measure adopted by the legislature was too long.

"I've been in the state since 1974, and left very briefly because our business failed," she said. The family moved to Oklahoma and registered to vote there in the presidential elections. When they returned to Alaska, they found they didn't meet the new two-year requirement for this year's dividends.

"Being long-time residents, we always felt that six months was too short, but two years was extreme," she said. "It wasn't fair treatment to bona fide Alaska residents."