COMMITTEE REPORT

SENATE

FURTHER:

Date: 5/4/83

Mr. President:

The Committee on FINANCE has had SB 215

Authorizing the use of Alaska permanent fund income to pay longevity bonuses; amending the longevity bonus program and the permanent fund dividend distribution program; [illegible] date.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for SB 215 (Fin) [✓] same title [ ] new title

and recommends Do Pass

[ ] AND attaches a "Letter of Intent" [✓] New Fiscal Note [illegible]

[ ] reports it back without recommendation

[ ] referred to the ______ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS for SB 215 (Finance)
Title An Act amending the Alaska Longevity Bonus Program
Requested by ______ Date 5/3/83

II. FISCAL DETAIL
Agency Affected Department of Administration
Program Category Affected ______
BRU, Program, or Subprogram(s) Affected Alaska Longevity Bonus Program
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES		26.7	26.7	26.7	26.7	26.7
200 TRAVEL						
300 CONTRACTUAL		26.0	26.5	27.0	27.5	28.0
400 COMMODITIES		1.0	1.0	1.0	1.0	1.0
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		42250.0	30400.0	42130.0	58830.0	61430.0
TOTAL		42303.7	30454.2	42184.7	58885.2	61485.7

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		53.7	54.2	54.7	55.2	55.7
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Permanent Fund Earnings		42250.0	30400.0	42130.0	58830.0	61430.0

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME		1.0	1.0	1.0	1.0	1.0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 5/3/83 PREPARED BY John Sackett
John Sackett, Co-chairman
AGENCY Senate Finance Committee
PHONE ______

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

83-001 (Rev. 12/79)

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 215
Title An Act amending the Alaska Longevity Bonus Program
Requested by ______ Date 5/3/83

II. FISCAL DETAIL
Agency Affected Department of Administration
Program Category Affected ______
BRU, Program, or Subprogram(s) Affected Alaska Longevity Bonus Program
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 84	FY 85	FY 86	FY 87	FY 88	FY
100	PERSONAL SERVICES	26.7 58.4	26.7	26.7	26.7	26.7	
200	TRAVEL						
300	CONTRACTUAL	26.0 43.5	26.5	27.0	27.5	28.0	
400	COMMODITIES	1.0 1.6	1.0	1.0	1.0	1.0	
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.	42250.0	30400.0	42130.0	58830.0	61430.0	
	TOTAL	~~42353.5~~ [illegible]	30454.2	42184.7	58885.2	61485.7	

FUNDING (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY
GENERAL FUND	55.7 103.5	54.2	54.7	55.2	55.7	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Permanent Fund Earnings	42250.0	30400.0	42130.0	58830.0	61430.0	
	42250.0					

POSITIONS

	FY 84	FY 85	FY 86	FY 87	FY 88	FY
FULL TIME	1.0	1.0	1.0	1.0	1.0	
PART TIME	1.5					
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Clerk V PFT (1 position)	$ 26,730
Clerk III PPT (3 positions) (6 months)	31,680
Personal Services TOTAL	$ 58,410

IV. DATE 5/3/83 PREPARED BY Senator John C. Sackett
AGENCY Senate Finance Committee
PHONE ______

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Offered: 4/30/83
Referred: Finance

Original sponsors: Ray and Kerttula

IN THE SENATE BY THE RULES COMMITTEE

CS FOR SENATE BILL NO. 215 (~~Rules~~ Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act authorizing the use of Alaska permanent fund income to pay longevity bonuses; amending the longevity bonus program and the permanent fund dividend distribution program; and providing for an effective date."

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

* Section 1. AS 37.13 is amended by adding a new section to read:

Sec. 37.13.147. LONGEVITY BONUS ACCOUNT. The longevity bonus account is established as a separate account in the Alaska permanent fund. Notwithstanding the provisions of AS 37.13.145, 12.5 percent of the income of the permanent fund earned during the fiscal year ending on June 30 of the current year that is available for distribution under AS 37.13.140 shall be credited to the longevity bonus account.

(b) Money in the longevity bonus account shall be invested in investments authorized under AS 37.13.120. The longevity bonus account shall be credited with earnings at an interest rate equal to the average rate of interest earned on the Alaska permanent fund.

(c) The legislature may annually appropriate an amount sufficient to pay monthly longevity bonuses for the subsequent fiscal year under AS 47.45.010(d) from the longevity bonus account to the Alaska longevity bonus fund established under AS 47.45.090.

* Sec. 2. AS 43.23.045(b) is amended to read:

(b) Notwithstanding any contrary provision of law, each year the commissioner shall transfer to the dividend fund <u>37.5</u> [50] percent of

the income of the Alaska permanent fund earned during the fiscal year ending on June 30 of the current year and available for distribution.

* Sec. 3. AS 47.45.010 is amended to read:

Sec. 47.45.010. PERSONS WHO MAY QUALIFY FOR LONGEVITY BONUS. (a) A person who is 65 years of age or over, who has been a resident of the state for at least one year immediately preceding the application for a longevity bonus under this chapter [WAS DOMICILED IN THE TERRITORY ON OR BEFORE JANUARY 3, 1959 AND WHO HAS MAINTAINED A CONTINUOUS DOMICILE IN THE TERRITORY OR STATE FOR 25 YEARS] may apply to the commissioner of administration for qualification to receive a monthly bonus [OF $250].

(b) When the commissioner of administration determines that an applicant qualifies under AS 47.45.010 - 47.45.170 the commissioner [HE] shall immediately begin payment of the bonus.

(c) A person who otherwise qualifies to receive a bonus provided for in AS 47.45.010 - 47.45.170 may continue to do so only as long as that person continues to be a resident of [HE CONTINUOUSLY RETAINS A DOMICILE IN] the state.

* Sec. 4. AS 47.45.010 is amended by adding a new subsection to read:

(d) The amount of the monthly bonus is (1) $250, increased by three percent each year beginning in the state fiscal year 1985; or (2) an amount equal to eight and one-third percent of the amount credited to the longevity bonus account for the previous fiscal year under AS 37.13.147, exclusive of earnings, divided by the number of qualified applicants under this section; whichever amount is less.

* Sec. 5. AS 47.45.030 is amended to read:

Sec. 47.45.030. ABSENCE FROM THE STATE. After qualification a [A] recipient shall notify the commissioner of administration when the recipient [HE] expects to be absent from the state if the absence is

for a continuous period that exceeds 30 days. After that notification, the recipient shall no longer receive bonuses from the Department of Administration after the [HIS] last regularly approved monthly application. Upon returning [HIS RETURN] to the state the recipient [HE] may again make application for a bonus. Whenever the absence is for a continuous period that exceeds 180 days the recipient shall be disqualified from receiving bonuses for the next 12 calendar months after returning [HIS RETURN] to the state. However, when the commissioner of administration determines a period of absence is beyond the control of the recipient, the recipient [HE] may not be disqualified, if the recipient [HE] still otherwise qualifies upon returning [HIS RETURN] to the state. Continual absences from the state, even though reported, and failure to notify the commissioner of an expected absence may be grounds for disqualification.

* Sec. 6. AS 47.45.090 is repealed and reenacted to read:

Sec. 47.45.090. ALASKA LONGEVITY BONUS FUND. The Alaska longevity bonus fund is established for the purpose of paying the monthly bonuses provided for in this chapter. The fund consists of money appropriated to the fund by the state legislature from the longevity bonus account established under AS 37.13.147.

Insert new Sec 7.

* Sec. ~~7~~ 8. AS 47.45.150 is amended by adding a new paragraph to read:

(3) "resident" or "resident of the state" means an individual who is physically present in the state with the intent to remain in the state indefinitely and to make a home in the state. A person demonstrates the requisite intent only be maintaining a principal place of abode in the state for the one year required by AS 47.45.010(a) and by providing other proof of intent the commissioner may require by regulation, including proof that the person is not claiming residency outside the state or obtaining benefits under a claim of

residency outside the state.

* Sec. ~~8~~ 9. AS 47.45.170 is repealed and reenacted to read:

Sec. 47.45.170. FINDINGS AND PURPOSE. The legislature finds and declares that

(1) the high cost of goods and services in Alaska and the state's remoteness and harsh environment, make it difficult for many elderly Alaskans to remain in the state after retirement;

(2) when a person is forced to live out retirement years away from home, family and friends, that person suffers an irreparable loss;

(3) Alaska's elderly are a precious human resource, and it is in the public interest to provide a financial incentive for them to remain in the state after retirement;

(4) as oil revenues decrease, it will become increasingly difficult for the legislature to fund the longevity bonus program through annual appropriations and the income of the Alaska permanent fund is an appropriate source of funding for the longevity bonus program; and

(5) it is in the public interest to continue the longevity bonus program for all elderly Alaskans irrespective of need. The longevity bonus program is not a form of welfare, and is not a substitute for or supplement to public assistance. Other programs are available to provide the basic necessities of life. The longevity bonus program is intended only to encourage elderly Alaskans to spend their retirement years in the comfort of their homes.

* Sec. ~~9~~ 10. AS 47.45.150(2) is repealed.

* ~~Sec. 10. It is the intent of the legislature that any money appropriated from the general fund for the purpose of paying monthly longevity bonuses, after the state fiscal year ending June 30, 1982, be~~

~~reappropriated and transferred to the general fund from the longevity bonus account established under sec. 1 of this Act as soon as possible after the effective date of this Act.~~

* ~~Sec. 11. Sections 3 and 7 of this Act are retroactive to July 1, 1982.~~

* Sec. ~~12~~ 11. This Act takes effect July 1, 1983.

Sec ____. AS __.__.__. Notwithstanding any other state or municipal statute, regulation, or ordinance to the contrary, officials of the longevity bonus program may have access to and use the records or other information, or portions thereof, held by other agencies of the state and municipal governments which bear on the length of Alaska residence of a bonus applicant or recipient.

5/23/83 Bill is in H. S.A. - Fin. Referral

STATE OF ALASKA
FISCAL NOTE

Revision Date: May 20, 1983

I. REQUEST
Bill/Resolution No.: CSSB 215 (2d Rules)
Title: Longevity Bonus/Permanent Fund
Sponsor: Ray
Requestor:

II. FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Social Services
BRU, Program of Subprogram(s) Affected:
Longevity Bonus Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		85.1	53.5	53.5	53.5	53.5
200 TRAVEL						
300 CONTRACTUAL		87.0	88.0	89.0	90.0	91.0
400 COMMODITIES		2.0	1.5	1.6	1.7	1.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		28,629.5	(19,112.4)	(16,380.7)	(13,640.4)	(12,955.0
TOTAL OPERATING		28,803.6	(18,969.4)	(16,236.6)	(13,495.2)	(12,808.7)
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		(11,071.4)	(34,345.0)	(37,547.9)	(40,750.8)	(43,953.7
FEDERAL FUNDS						
OTHER (Specify Source)						
Permanent Fund		39,875.0	15,375.6	21,311.3	27,255.6	31,145.0

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME		2.0	2.0	2.0	2.0	2.0
PART-TIME		3.0	-0-	-0-	-0-	-0-
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Alaska Permanent Fund Income

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: ~~George T. Michael~~ Michael
Division: Pioneers' Benefits
Phone: 465-4401
Date: 5/20/83

Approved by Commissioner: Lisa Rudd LSR
Department: ADMINISTRATION
Date: 5/24/83

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor) 3/8/83

7/0520-01-1/BDGSF1

IV. ANALYSIS:

C.S.S.B. 215 (2d Rules)

This is a revision of fiscal notes submitted on May 4 and 5, 1983. The current version of C.S.S.B. 215 (2d Rules) has allowed for the appropriation of $17,500,000 from the dividend fund for payment of longevity bonuses in FY84.

ASSUMPTIONS

a) Residence requirements for eligibility for the Longevity Bonus Program would change from 25 years to one year, and the requirement for domicile in Alaska on or before January 3, 1959, would be eliminated.

b) An estimated 6,072 additional persons would become eligible under the new regulations. Based on the number of people over age 65 who qualified for permanent fund dividends in 1982, we estimate payment of the longevity bonus to 16,500 people in FY84.

c) Retroactive benefits to July 1982 will be payable to the additional 6,072 persons plus 250 present recipients over age 65 who qualified for the Bonus in FY83 by completing 25 years of continuous Alaska domicile. Total cost of these retro payments is expected to be $18,966,000.

d) An increase in the Longevity Bonus staff will be needed to process the initial flood of applications, and continuing increased staff will be necessary to process the greater workload of the expanded program.

e) Annual growth of the program will be approximately 89 per month after the initial surge of applications. This figure is based on the number of applications received in addition to new inquiries in the past year. The current growth rate is 65 applicants per month.

f) The Act takes effect on July 1, 1983.

g) Operating expenses (exclusive of the amount of the monthly Bonus payment) and retroactive benefits will be funded from the General Fund.

Monthly Longevity Bonus payments are estimated to be:

FY84 - $201
FY85 - $ 73
FY86 - $ 95
FY87 - $115
FY88 - $125

Additional funds needed for FY84 are computed as follows:

	Annual Cost
Personal Services	$85,140

Clerk V, PFT (two positions) $53,460
Clerk II, PPT (three positions, 6 mo.) $31,680

IV. ANALYSIS: (continued)

Contractual Services	87,000
Added postage, bonus warrants, printing of new regulations and application forms, data processing charges, increased telephone tolls.	
Commodities	2,000
Office supplies and file cabinets for application and recipient files.	
Grants	
Additional funds needed for Bonus payments to estimated 6,072 additional persons who will be eligible due to one-year residence requirement.	9,663,500
Retroactive payments for those who would have been eligible on July 1, 1982 (est. 6,322 x 12 x $250)	18,966,000
Additional FY84 funds required	$28,803,640

For years beyond FY84, two additional PFT staff positions need to be retained, along with appropriate contractual and commodities costs, plus grants based on an estimated increase of 89 recipients per month.

The amount of grants funds available for payments from the dividend fund in FY84 will be $39,875,000, plus retroactive payments of $18,966,000.

This fiscal note assumes that all grants, except retroactive payments, which would normally have been funded from the State General Fund, will now be funded from the dividend fund for a net reduction of $11,071,400 in expense to the General Fund in FY84. Our assumption is that the Vest lawsuit requires retroactive payments. Department of Administration is using known Department of Revenue figures that show qualified people over 65 years of age who have applied for permanent fund dividends.

Alaska State Legislature

Senate

Committee on Finance

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SENATE FINANCE COMMITTEE

Kathy - SFC
This is what we've passed out. Max

Subject: CSSB-215, Longevity Bonus

Date: May 4, 1983
1:30 PM
Finance Committee Room

Attached are:

CSSB-215 (Rls) 4/30/83

CSSB-215 (Residency) 4/7/83

Memorandum (Senator Ray) 4/30/83

Fiscal Note & Analysis (Commission Rudd, DOA) 4/29/83

Fiscal Note (Senator Sackett) 5/3/83

Offered: 4/30/83
Referred: Finance

Original sponsors: Ray and Kerttula

IN THE SENATE BY THE RULES COMMITTEE

CS FOR SENATE BILL NO. 215 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act authorizing the use of Alaska permanent fund income to pay longevity bonuses; amending the longevity bonus program and the permanent fund dividend distribution program; and providing for an effective date."

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

* Section 1. AS 37.13 is amended by adding a new section to read:

Sec. 37.13.147. LONGEVITY BONUS ACCOUNT. The longevity bonus account is established as a separate account in the Alaska permanent fund. Notwithstanding the provisions of AS 37.13.145, 12.5 percent of the income of the permanent fund earned during the fiscal year ending on June 30 of the current year that is available for distribution under AS 37.13.140 shall be credited to the longevity bonus account.

(b) Money in the longevity bonus account shall be invested in investments authorized under AS 37.13.120. The longevity bonus account shall be credited with earnings at an interest rate equal to the average rate of interest earned on the Alaska permanent fund.

(c) The legislature may annually appropriate an amount sufficient to pay monthly longevity bonuses for the subsequent fiscal year under AS 47.45.010(d) from the longevity bonus account to the Alaska longevity bonus fund established under AS 47.45.090.

* Sec. 2. AS 43.23.045(b) is amended to read:

(b) Notwithstanding any contrary provision of law, each year the commissioner shall transfer to the dividend fund <u>37.5</u> [50] percent of

the income of the Alaska permanent fund earned during the fiscal year ending on June 30 of the current year and available for distribution.

* Sec. 3. AS 47.45.010 is amended to read:

Sec. 47.45.010. PERSONS WHO MAY QUALIFY FOR LONGEVITY BONUS. (a) A person who is 65 years of age or over, who has been a resident of the state for at least one year immediately preceding the application for a longevity bonus under this chapter [WAS DOMICILED IN THE TERRITORY ON OR BEFORE JANUARY 3, 1959 AND WHO HAS MAINTAINED A CONTINUOUS DOMICILE IN THE TERRITORY OR STATE FOR 25 YEARS] may apply to the commissioner of administration for qualification to receive a monthly bonus [OF $250].

(b) When the commissioner of administration determines that an applicant qualifies under AS 47.45.010 - 47.45.170 the commissioner [HE] shall immediately begin payment of the bonus.

(c) A person who otherwise qualifies to receive a bonus provided for in AS 47.45.010 - 47.45.170 may continue to do so only as long as that person continues to be a resident of [HE CONTINUOUSLY RETAINS A DOMICILE IN] the state.

* Sec. 4. AS 47.45.010 is amended by adding a new subsection to read:

(d) The amount of the monthly bonus is (1) $250, increased by three percent each year beginning in the state fiscal year 1985; or (2) an amount equal to eight and one-third percent of the amount credited to the longevity bonus account for the previous fiscal year under AS 37.13.147, exclusive of earnings, divided by the number of qualified applicants under this section; whichever amount is less.

* Sec. 5. AS 47.45.030 is amended to read:

Sec. 47.45.030. ABSENCE FROM THE STATE. After qualification a [A] recipient shall notify the commissioner of administration when the recipient [HE] expects to be absent from the state if the absence is

for a continuous period that exceeds 30 days. After that notification, the recipient shall no longer receive bonuses from the Department of Administration after the [HIS] last regularly approved monthly application. Upon returning [HIS RETURN] to the state the recipient [HE] may again make application for a bonus. Whenever the absence is for a continuous period that exceeds 180 days the recipient shall be disqualified from receiving bonuses for the next 12 calendar months after returning [HIS RETURN] to the state. However, when the commissioner of administration determines a period of absence is beyond the control of the recipient, the recipient [HE] may not be disqualified, if the recipient [HE] still otherwise qualifies upon returning [HIS RETURN] to the state. Continual absences from the state, even though reported, and failure to notify the commissioner of an expected absence may be grounds for disqualification.

* Sec. 6. AS 47.45.090 is repealed and reenacted to read:

Sec. 47.45.090. ALASKA LONGEVITY BONUS FUND. The Alaska longevity bonus fund is established for the purpose of paying the monthly bonuses provided for in this chapter. The fund consists of money appropriated to the fund by the state legislature from the longevity bonus account established under AS 37.13.147.

* Sec. 7. AS 47.45.150 is amended by adding a new paragraph to read:

(3) "resident" or "resident of the state" means an individual who is physically present in the state with the intent to remain in the state indefinitely and to make a home in the state. A person demonstrates the requisite intent only be maintaining a principal place of abode in the state for the one year required by AS 47.45.010(a) and by providing other proof of intent the commissioner may require by regulation, including proof that the person is not claiming residency outside the state or obtaining benefits under a claim of

residency outside the state.

* Sec. 8. AS 47.45.170 is repealed and reenacted to read:

Sec. 47.45.170. FINDINGS AND PURPOSE. The legislature finds and declares that

(1) the high cost of goods and services in Alaska and the state's remoteness and harsh environment, make it difficult for many elderly Alaskans to remain in the state after retirement;

(2) when a person is forced to live out retirement years away from home, family and friends, that person suffers an irreparable loss;

(3) Alaska's elderly are a precious human resource, and it is in the public interest to provide a financial incentive for them to remain in the state after retirement;

(4) as oil revenues decrease, it will become increasingly difficult for the legislature to fund the longevity bonus program through annual appropriations and the income of the Alaska permanent fund is an appropriate source of funding for the longevity bonus program; and

(5) it is in the public interest to continue the longevity bonus program for all elderly Alaskans irrespective of need. The longevity bonus program is not a form of welfare, and is not a substitute for or supplement to public assistance. Other programs are available to provide the basic necessities of life. The longevity bonus program is intended only to encourage elderly Alaskans to spend their retirement years in the comfort of their homes.

* Sec. 9. AS 47.45.150(2) is repealed.

* Sec. 10. It is the intent of the legislature that any money appropriated from the general fund for the purpose of paying monthly longevity bonuses, after the state fiscal year ending June 30, 1982, be

reappropriated and transferred to the general fund from the longevity bonus account established under sec. 1 of this Act as soon as possible after the effective date of this Act.

* Sec. 11. Sections 3 and 7 of this Act are retroactive to July 1, 1982.

* Sec. 12. This Act takes effect July 1, 1983.

Offered: 4/7/83
Referred: Finance

Original sponsors: Ray and Kerttula

IN THE SENATE — BY THE AD HOC COMMITTEE ON RESIDENCY

CS FOR SENATE BILL NO. 215 (Residency)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act authorizing the use of Alaska permanent fund income to pay longevity bonuses; amending the longevity bonus program and the permanent fund dividend distribution program; and providing for an effective date."

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

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Sec. 37.13.147. LONGEVITY BONUS ACCOUNT. The longevity bonus account is established as a separate account in the Alaska permanent fund. Notwithstanding the provisions of AS 37.13.145, 12.5 percent of the income of the permanent fund earned during the fiscal year ending on June 30 of the current year that is available for distribution under AS 37.13.140 shall be credited to the longevity bonus account.

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* Sec. 2. AS 43.23.045(b) is amended to read:

(b) Notwithstanding any contrary provision of law, each year the commissioner shall transfer to the dividend fund 37.5 [50] percent of

the income of the Alaska permanent fund earned during the fiscal year ending on June 30 of the current year and available for distribution.

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Sec. 47.45.010. PERSONS WHO MAY QUALIFY FOR LONGEVITY BONUS. (a) A person who is 65 years of age or over, who has been a resident of the state for at least one year immediately preceding the application for a longevity bonus under this chapter [WAS DOMICILED IN THE TERRITORY ON OR BEFORE JANUARY 3, 1959 AND WHO HAS MAINTAINED A CONTINUOUS DOMICILE IN THE TERRITORY OR STATE FOR 25 YEARS] may apply to the commissioner of administration for qualification to receive a monthly bonus [OF $250].

(b) When the commissioner of administration determines that an applicant qualifies under AS 47.45.010 - 47.45.170 the commissioner [HE] shall immediately begin payment of the bonus.

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(d) The amount of the monthly bonus is (1) $250, increased by three percent each year beginning in the state fiscal year 1985; or (2) an amount equal to eight and one-third percent of the amount credited to the longevity bonus account for the previous fiscal year under AS 37.13.147, exclusive of earnings, divided by the number of qualified applicants under this section; whichever amount is less.

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* Sec. 6. AS 47.45.090 is repealed and reenacted to read:

Sec. 47.45.090. ALASKA LONGEVITY BONUS FUND. The Alaska longevity bonus fund is established for the purpose of paying the monthly bonuses provided for in this chapter. The fund consists of money appropriated to the fund by the state legislature from the longevity bonus account established under AS 37.13.147.

* Sec. 7. AS 47.45.150 is amended by adding a new paragraph to read:

(3) "resident" or "resident of the state" means an individual who is physically present in the state with the intent to remain in the state indefinitely and to make a home in the state. A person demonstrates the requisite intent only be maintaining a principal place of abode in the state for the one year required by AS 47.45.010(a) and by providing other proof of intent the commissioner may require by regulation, including proof that the person is not claiming residency outside the state or obtaining benefits under a claim of

residency outside the state.

* Sec. 8. AS 47.45.170 is repealed and reenacted to read:

Sec. 47.45.170. FINDINGS AND PURPOSE. The legislature finds and declares that

(1) the high cost of goods and services in Alaska and the state's remoteness and harsh environment, make it difficult for many elderly Alaskans to remain in the state after retirement;

(2) when a person is forced to live out retirement years away from home, family and friends, that person suffers an irreparable loss;

(3) Alaska's elderly are a precious human resource, and it is in the public interest to provide a financial incentive for them to remain in the state after retirement;

(4) as oil revenues decrease, it will become increasingly difficult for the legislature to fund the longevity bonus program through annual appropriations and the income of the Alaska permanent fund is an appropriate source of funding for the longevity bonus program; and

(5) it is in the public interest to continue the longevity bonus program for all elderly Alaskans irrespective of need. The longevity bonus program is not a form of welfare, and is not a substitute for or supplement to public assistance. Other programs are available to provide the basic necessities of life. The longevity bonus program is intended only to encourage elderly Alaskans to spend their retirement years in the comfort of their homes.

* Sec. 9. AS 47.45.150(2) is repealed.

* Sec. 10. Sections 3 and 7 of this Act are retroactive to July 1, 1982.

* Sec. 11. This Act takes effect July 1, 1983.

MEMORANDUM

TO : Senators Sackett and Bennett, co-chairmen, and all other members of the Senate Finance Committee

FROM : Senator Ray
RE : CSSB 215--Longevity bonus
DATE : April 30, 1983

As you know, the Department of Administration ("DOA") has submitted a revised fiscal note dated April 29, 1983 with an attached "analysis."

According to the DOA's analysis, since submitting a fiscal note on April 6, 1983, "new information has come to light which drastically changes the estimate of the number of persons who would qualify for the Longevity Bonus under C.S.S.B. 215."

This so called "new information" consists of a finding by the Department of Revenue that out of "356,000 Permanent Fund applications, 19,725 applications were from persons who were age 65 or older."

Based solely on the above "new information," the DOA then concluded that "it seems almost certain that there are at least 19,725 persons who will qualify for the Bonus under C.S.S.B. 215, rather that 13,228 which was estimated in the fiscal note dated April 6, 1983."

For the reasons that follow, we feel that the DOA's "new information" and the conclusions and projections based thereon, may be very inaccurate and grossly misleading:

1. The so called "new information" isn't new at all. It was readily available or obtainable long before the DOA's prior fiscal note of April 6, 1983, yet it was never used in arriving at the previous estimate of 13,228 longevity bonus recipients.

> The DOA offers no explanation of why this information wasn't obtained or used before, or why it suddenly "came to light." Two reasonable inferences can be drawn from this omission: (1) the DOA is so inept and incompetent that noone ever thought of it before; or (2) they thought of it before, but decided that the data was so raw and so inconsistent with other, more reliable data that it was not worth using.
>
> For some of the reasons discussed below, we believe that the second inference is the more reasonable.

2. The so called "new information" is merely raw data that completely fails to consider various factors that might fully account for the difference between the number of 65 or over permanent fund applicants and the previously estimated number of longevity bonus recipients under CSSB 215.

> The DOA "analysis" itself recognizes or admits that the 19,725 figure "does not take into consideration those who have since died or left the State."
>
> However, that is not all the it fails to take into consideration. There

are a number of other factors which have been omitted and which may be far more important.

For example, no effort was made to estimate how many of the 19,725 applications were duplicates; or how many of them were fraudulent.

And, perhaps far more importantly, no consideration was given to how many of those 19,725 elderly applicants are absent from the state for more than 180 consecutive days a year and thus ineligible to receive a longevity bonus.

3. The so called "new information" is completely inconsistent with the carefully accumulated and recorded data and projections on which the prior estimate of 13,228 longevity bonus recipients was based.

In August, 1982, the Department of Law filed an Agreement and Settlement Order in the Vest case which, on page 4, estimated that if the original longevity bonus program residency requirement was dropped, approximately 13,124 persons would be eligible.

That figure was consistent with a DOA draft fiscal note done in January, 1983 (see Jon Tillinghast's report dated March 8, 1983, at page 24).

Starting in February, 1983, the DOA and other agencies provided us with the data supporting the 13,228 figure, including a 1981 Department of Labor ("DOL") population study and overview that estimated that in 1983 there would be 13,672 elderly in Alaska and that the percentage of elderly would remain fairly static through the year 2000 (see Tillinghast's report, at page 44).

In February and March of this year the DOL also provided us with data supporting their estimate that approximately 2.9% of the Alaska population was 65 or over. The 2.9% figure was then presented to and approved by actuarial experts of both the Aetna and Travelers insurance companies, who believed it was consistant with national figures and projections.

Even more recently, an actuarial expert retained by the DOA (a member of Mercer & Associates) estimated that in FY 84 3.1% of the Alaska population will be 65 or over.

The DOA's "new information," however, indicates that approximately 5% of the current Alaska population is 65 or over. Obviously, this is highly inconsistent with all previous, well documented, supported and relied upon data and projections and, at the very least, it provides ample reason to seriously question the accuracy of the DOA's "new information" and the validity of the conclusions and projections based thereon.

4. The DOA's revised fiscal note, in its "grants, claims, etc." projections for FY 84-88, fails to take into account that under CSSB 215 there is a built-in ceiling of 12.5% of the permanent fund earnings during a given fiscal year. Therefore, the DOA's projections appear to be completely arbitrary and meaningless.

5. Even if the DOA's "new information" proves to be accurate and dependable, the problem it creates is one that has to be dealt with by any of the options for revising the existing longevity bonus program, especially the Administration's own proposal where the problem would even be worse because the residency requirement will have to be limited to 30 days rather than one year.

STATE OF ALASKA
FISCAL NOTE

Revision Date: April 29, 1983

I. REQUEST
Bill/Resolution No.: C.S.S.B. 215
Title: Longevity Bonus/Permanent Fund
Sponsor: Ray
Requestor:

II. FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Social Services
BRU, Program of Subprogram(s) Affected:
Longevity Bonus Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	0	95.7	53.5	53.5	53.5	53.5
200 TRAVEL						
300 CONTRACTUAL	0	105.0	106.0	107.0	108.0	109.0
400 COMMODITIES	0	3.0	1.5	1.6	1.7	1.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC	0	61,800.0	32,861.6	35,078.6	37,559.8	40,317.0
TOTAL OPERATING	0	62,003.7	33,022.6	35,240.7	37,723.0	40,481.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND						
FEDERAL FUNDS	-					
OTHER (Specify Source)						
Permanent Fund	0	62,003.7	33,022.6	35,240.7	37,723.0	40,481.3

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME	0	2.0	2.0	2.0	2.0	2.0
PART-TIME	0	2.0	0	0	0	0
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Alaska Permanent Fund Income

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: George T. Michael, Administrative Officer   Phone: 465-4401
Division: Pioneers' Benefits   Date: April 29, 1983

Approved by Commissioner: Lisa Rudd   Date: 4/29/83
Department: ADMINISTRATION

Distribution:
Original to Legislative Finance
Copy o Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)   3/8/83

7/0428-01/BDGSFr

FISCAL NOTE | Revision Date: April 29, 1983

I. REQUEST
Bill/Resolution No.: C.S.S.B. 215
Title: Longevity Bonus/Permanent Fund
Sponsor: Ray
Requestor:

II. FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Social Services
BRU, Program of Subprogram(s) Affected:
Longevity Bonus Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	0	95.7	53.5	53.5	53.5	53.5
200 TRAVEL						
300 CONTRACTUAL	0	105.0	106.0	107.0	108.0	109.0
400 COMMODITIES	0	3.0	1.5	1.6	1.7	1.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC	0	61,800.0	32,861.6	35,078.6	37,559.8	40,317.0
TOTAL OPERATING	0	62,003.7	33,022.6	35,240.7	37,723.0	40,481.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
Permanent Fund	0	62,003.7	33,022.6	35,240.7	37,723.0	40,481.3

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME	0	2.0	2.0	2.0	2.0	2.0
PART-TIME	0	2.0	0	0	0	0
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Alaska Permanent Fund Income

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: ~~George T. Michael~~, Administrative Officer Phone: 465-4401
Division: Pioneers' Benefits Date: April 29, 1983

Approved by Commissioner: Lisa Rudd Date: 4/29/83
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7/0428-01/BDGSF1

IV. ANALYSIS: C.S.S.B. 215
April 29, 1983

This is a revision of the fiscal note which was submitted on April 6, 1983. Since that time new information has come to light which drastically changes the estimate of the number of persons who would qualify for the Longevity Bonus under C.S.S.B. 215.

The Department of Revenue has found that of 356,000 Permanent Fund applications, 19,725 applications were from persons who were age 65 or older. Since these applications were for 1981-82, and those persons had been in Alaska for at least six months at that time, all of those persons, if still in Alaska, would qualify under the one-year residence requirement of C.S.S.B. 215. This does not take into consideration those who have since died or left the State. However, from the impact which is being felt on senior programs it can be deduced that the over-65 population is increasing in Alaska, rather than declining.

Therefore, it seems almost certain that there are at least 19,725 persons who will qualify for the Bonus under C.S.S.B. 215, rather than 13,228 which was estimated in the fiscal note dated April 6, 1983.

This means that an additional 10,300 persons must be provided for, rather than 3,803 estimated in the original fiscal note.

ASSUMPTIONS

(a) Residence requirements for eligibility for the Longevity Bonus Program would change from 25 years to one year, and the requirement for domicile in Alaska on or before January 3, 1959, would be eliminated. (b) An estimated 10,300 additional persons would immediately become eligible under the new regulations. (c) Retroactive payments will be paid in FY84 in a total amount of $30,900,000 to the approximately 10,300 persons who would have been eligible on July 1, 1982. (d) An increase in the Longevity Bonus staff will be needed to process the initial flood of applications, and continuing increased staff will be necessary to process the greater workload of the expanded program. (e) Annual growth of the program will be approximately 89 per month after the initial surge of applications. (f) the Act takes effect on July 1, 1983. (g) Grants for FY85-88 are increased by 3% each year. Section 4(d) (2) of the bill, which provides for an alternate monthly bonus amount, is not considered in this fiscal note because there is no way to know what the amount will be in the "Longevity Bonus account" each year.

Additional funds needed for FY84 are computed as follows:

	Annual Cost
Personal Services	$ 95,700
Clerk V, PFT (two positions) $53,460	
Clerk II, PPT (four positions, 6 mo.) $42,240	
Contractual Services	105,000
Added postage, bonus warrants, printing of new regulations and application forms, data processing charges, increased telephone tolls.	

?/0428-01-2/3DGSF1

IV. ANALYSIS:

C.S.S.B. 215
April 29, 1983

Commodities	3,000
Office supplies and file cabinets for application and recipient files.	
Grants	
(additional estimated 10,300 persons who will be eligible for the Bonus due to one-year residence requirement x 12 x $250)	30,900,000
Retroactive payments for those who would have been eligible on July 1, 1982 (est. 10,300 x 12 x $250)	30,900,000
Additional FY84 funds required	$62,003,700

For years beyond FY84, two additional PFT staff positions needs to be retained, along with appropriate contractual and commodities costs, plus grants based on an estimated increase of 89 recipients per month, escalated at the rate of 3% per year.

7/0428-01-3/BØGSF1

Sec ____. AS ___.___.___. Notwithstanding any other state or municipal statute, regulation, or ordinance to the contrary, officials of the longevity bonus program may have access to and use the records or other information, or portions thereof, held by other agencies of the state and municipal governments which bear on the length of Alaska residence of a bonus applicant or recipient.

COMMITTEE REPORT

SENATE

3
4/7/83

FURTHER:

Date: 4/28/83

Mr. President:

The Committee on FINANCE has had SB 215
Authorizing the use of Alaska permanent fund income to pay longevity bonuses; amending the longevity bonus program and the permanent fund divident distribution program; eff. date.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for SB 215 (Residency) [ ] same title [ ] new title

and recommends DO PASS

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the ______ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

CHAIRMAN

Offered: 4/7/83
Referred: Finance

Original sponsors: Ray and Kerttula

IN THE SENATE BY THE AD HOC COMMITTEE ON RESIDENCY

CS FOR SENATE BILL NO. 215 (Residency)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act authorizing the use of Alaska permanent fund income to pay longevity bonuses; amending the longevity bonus program and the permanent fund dividend distribution program; and providing for an effective date."

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

* Section 1. AS 37.13 is amended by adding a new section to read:

Sec. 37.13.147. LONGEVITY BONUS ACCOUNT. The longevity bonus account is established as a separate account in the Alaska permanent fund. Notwithstanding the provisions of AS 37.13.145, 12.5 percent of the income of the permanent fund earned during the fiscal year ending on June 30 of the current year that is available for distribution under AS 37.13.140 shall be credited to the longevity bonus account.

(b) Money in the longevity bonus account shall be invested in investments authorized under AS 37.13.120. The longevity bonus account shall be credited with earnings at an interest rate equal to the average rate of interest earned on the Alaska permanent fund.

(c) The legislature may annually appropriate an amount sufficient to pay monthly longevity bonuses for the subsequent fiscal year under AS 47.45.010(d) from the longevity bonus account to the Alaska longevity bonus fund established under AS 47.45.090.

* Sec. 2. AS 43.23.045(b) is amended to read:

(b) Notwithstanding any contrary provision of law, each year the commissioner shall transfer to the dividend fund <u>37.5</u> [50] percent of

the income of the Alaska permanent fund earned during the fiscal year ending on June 30 of the current year and available for distribution.

* Sec. 3. AS 47.45.010 is amended to read:

Sec. 47.45.010. PERSONS WHO MAY QUALIFY FOR LONGEVITY BONUS. (a) A person who is 65 years of age or over, who has been a resident of the state for at least one year immediately preceding the application for a longevity bonus under this chapter [WAS DOMICILED IN THE TERRITORY ON OR BEFORE JANUARY 3, 1959 AND WHO HAS MAINTAINED A CONTINUOUS DOMICILE IN THE TERRITORY OR STATE FOR 25 YEARS] may apply to the commissioner of administration for qualification to receive a monthly bonus [OF $250].

(b) When the commissioner of administration determines that an applicant qualifies under AS 47.45.010 - 47.45.170 the commissioner [HE] shall immediately begin payment of the bonus.

(c) A person who otherwise qualifies to receive a bonus provided for in AS 47.45.010 - 47.45.170 may continue to do so only as long as that person continues to be a resident of [HE CONTINUOUSLY RETAINS A DOMICILE IN] the state.

* Sec. 4. AS 47.45.010 is amended by adding a new subsection to read:

(d) The amount of the monthly bonus is (1) $250, increased by three percent each year beginning in the state fiscal year 1985; or (2) an amount equal to eight and one-third percent of the amount credited to the longevity bonus account for the previous fiscal year under AS 37.13.147, exclusive of earnings, divided by the number of qualified applicants under this section; whichever amount is less.

* Sec. 5. AS 47.45.030 is amended to read:

Sec. 47.45.030. ABSENCE FROM THE STATE. After qualification a [A] recipient shall notify the commissioner of administration when the recipient [HE] expects to be absent from the state if the absence is

for a continuous period that exceeds 30 days. After that notification, the recipient shall no longer receive bonuses from the Department of Administration after the [HIS] last regularly approved monthly application. Upon returning [HIS RETURN] to the state the recipient [HE] may again make application for a bonus. Whenever the absence is for a continuous period that exceeds 180 days the recipient shall be disqualified from receiving bonuses for the next 12 calendar months after returning [HIS RETURN] to the state. However, when the commissioner of administration determines a period of absence is beyond the control of the recipient, the recipient [HE] may not be disqualified, if the recipient [HE] still otherwise qualifies upon returning [HIS RETURN] to the state. Continual absences from the state, even though reported, and failure to notify the commissioner of an expected absence may be grounds for disqualification.

* Sec. 6. AS 47.45.090 is repealed and reenacted to read:

Sec. 47.45.090. ALASKA LONGEVITY BONUS FUND. The Alaska longevity bonus fund is established for the purpose of paying the monthly bonuses provided for in this chapter. The fund consists of money appropriated to the fund by the state legislature from the longevity bonus account established under AS 37.13.147.

* Sec. 7. AS 47.45.150 is amended by adding a new paragraph to read:

(3) "resident" or "resident of the state" means an individual who is physically present in the state with the intent to remain in the state indefinitely and to make a home in the state. A person demonstrates the requisite intent only be maintaining a principal place of abode in the state for the one year required by AS 47.-45.010(a) and by providing other proof of intent the commissioner may require by regulation, including proof that the person is not claiming residency outside the state or obtaining benefits under a claim of

residency outside the state.

* Sec. 8. AS 47.45.170 is repealed and reenacted to read:

Sec. 47.45.170. FINDINGS AND PURPOSE. The legislature finds and declares that

(1) the high cost of goods and services in Alaska and the state's remoteness and harsh environment, make it difficult for many elderly Alaskans to remain in the state after retirement;

(2) when a person is forced to live out retirement years away from home, family and friends, that person suffers an irreparable loss;

(3) Alaska's elderly are a precious human resource, and it is in the public interest to provide a financial incentive for them to remain in the state after retirement;

(4) as oil revenues decrease, it will become increasingly difficult for the legislature to fund the longevity bonus program through annual appropriations and the income of the Alaska permanent fund is an appropriate source of funding for the longevity bonus program; and

(5) it is in the public interest to continue the longevity bonus program for all elderly Alaskans irrespective of need. The longevity bonus program is not a form of welfare, and is not a substitute for or supplement to public assistance. Other programs are available to provide the basic necessities of life. The longevity bonus program is intended only to encourage elderly Alaskans to spend their retirement years in the comfort of their homes.

* Sec. 9. AS 47.45.150(2) is repealed.

* Sec. 10. Sections 3 and 7 of this Act are retroactive to July 1, 1982.

* Sec. 11. This Act takes effect July 1, 1983.

MAY 5 1983

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M   May 5, 1983

SUBJECT: Longevity bonus program
(CSSB 215 (Finance))

TO: Senator John C. Sackett
Chairman, Senate Finance Committee

FROM: Linn H. Asper
Legislative Counsel

I have prepared the finance committee substitute to SB 215 that I understand was passed out of your committee yesterday (May 4th). I made several non-substantive changes to the new Sec. 7 that you may wish to review. In addition, you should be aware that giving the commissioner of administration the right to examine state and municipal documents to assist in making eligibility determinations for the longevity bonus program raises questions concerning the right to privacy under the state constitution (Article I, section 22). Time does not permit a more extensive analysis of the problem to determine if the new section would be declared unconstitutional in the courts.

A final point is that in removing the section that would have made the new residency requirement retroactive, the committee has taken out provisions that were intended to settle the Vest v. State case that gave rise to SB 215 in the first place. I assume that you are aware of the effect of your action, but thought that it should be called to your attention.

LHA:ljb
17/032

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
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LHA:ljb
17/032

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Sec. 47.45.090. ALASKA LONGEVITY BONUS FUND. The Alaska longevity bonus fund is established for the purpose of paying the monthly bonuses provided for in this chapter. The fund consists of money appropriated to the fund by the state legislature from the longevity bonus account established under AS 37.13.147.

* Sec. 7. AS 47.45 is amended by adding a new section to read:

Sec. 47.45.145. ACCESS TO RECORDS. Notwithstanding any contrary provision of state or municipal law the commissioner of administration may examine records or documents in the possession of state agencies or municipal governments that contain information relating to the length of state residence of an applicant for a monthly bonus under this chapter.

* Sec. 8. AS 47.45.150 is amended by adding a new paragraph to read:

(3) "resident" or "resident of the state" means an

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS for SB 215 (Finance)
Title An Act amending the Alaska Longevity Bonus Program
Requested by ____ Date 5/3/83

II. FISCAL DETAIL
Agency Affected Department of Administration
Program Category Affected
BRU, Program, or Subprogram(s) Affected Alaska Longevity Bonus Program
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES		26.7	26.7	26.7	26.7	26.7
200 TRAVEL						
300 CONTRACTUAL		26.0	26.5	27.0	27.5	28.0
400 COMMODITIES		1.0	1.0	1.0	1.0	1.0
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		42250.0	30400.0	42130.0	58830.0	61430.0
TOTAL		42303.7	30454.2	42184.7	58885.2	61485.7

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		53.7	54.2	54.7	55.2	55.7
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Permanent Fund Earnings		42250.0	30400.0	42130.0	58830.0	61430.0

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME		1.0	1.0	1.0	1.0	1.0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 5/3/83 PREPARED BY John Sackett
John Sackett, Co-chairman
AGENCY Senate Finance Committee
PHONE

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

93-001 (Rev. 12/79)

STATE OF ALASKA
FISCAL NOTE

Revision Date: April 29, 1983

I. REQUEST
Bill/Resolution No.: C.S.S.B. 215
Title: Longevity Bonus/Permanent Fund
Sponsor: Ray
Requestor:

II. FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Social Services
BRU, Program of Subprogram(s) Affected:
Longevity Bonus Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

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100 PERSONAL SERVICES	0	95.7	53.5	53.5	53.5	53.5
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600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC	0	61,800.0	32,861.6	35,078.6	37,559.8	40,317.0
TOTAL OPERATING	0	62,003.7	33,022.6	35,240.7	37,723.0	40,481.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
Permanent Fund	0	62,003.7	33,022.6	35,240.7	37,723.0	40,481.3

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME	0	2.0	2.0	2.0	2.0	2.0
PART-TIME	0	2.0	0	0	0	0
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Alaska Permanent Fund Income

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: George ~~T.~~ Michael, Administrative Officer
Phone: 465-4401
Division: Pioneers' Benefits
Date: April 29, 1983

Approved by Commissioner: Lisa Rudd
Date: 4/29/83
Department: ADMINISTRATION

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

7/0428-01/BDGSF1

IV. ANALYSIS: C.S.S.B. 215
April 29, 1983

This is a revision of the fiscal note which was submitted on April 6, 1983. Since that time new information has come to light which drastically changes the estimate of the number of persons who would qualify for the Longevity Bonus under C.S.S.B. 215.

The Department of Revenue has found that of 356,000 Permanent Fund applications, 19,725 applications were from persons who were age 65 or older. Since these applications were for 1981-82, and those persons had been in Alaska for at least six months at that time, all of those persons, if still in Alaska, would qualify under the one-year residence requirement of C.S.S.B. 215. This does not take into consideration those who have since died or left the State. However, from the impact which is being felt on senior programs it can be deduced that the over-65 population is increasing in Alaska, rather than declining.

Therefore, it seems almost certain that there are at least 19,725 persons who will qualify for the Bonus under C.S.S.B. 215, rather than 13,228 which was estimated in the fiscal note dated April 6, 1983.

This means that an additional 10,300 persons must be provided for, rather than 3,803 estimated in the original fiscal note.

ASSUMPTIONS

(a) Residence requirements for eligibility for the Longevity Bonus Program would change from 25 years to one year, and the requirement for domicile in Alaska on or before January 3, 1959, would be eliminated. (b) An estimated 10,300 additional persons would immediately become eligible under the new regulations. (c) Retroactive payments will be paid in FY84 in a total amount of $30,900,000 to the approximately 10,300 persons who would have been eligible on July 1, 1982. (d) An increase in the Longevity Bonus staff will be needed to process the initial flood of applications, and continuing increased staff will be necessary to process the greater workload of the expanded program. (e) Annual growth of the program will be approximately 89 per month after the initial surge of applications. (f) the Act takes effect on July 1, 1983. (g) Grants for FY85-88 are increased by 3% each year. Section 4(d) (2) of the bill, which provides for an alternate monthly bonus amount, is not considered in this fiscal note because there is no way to know what the amount will be in the "Longevity Bonus account" each year.

Additional funds needed for FY84 are computed as follows:

	Annual Cost
Personal Services	$ 95,700
Clerk V, PFT (two positions) $53,460 Clerk II, PPT (four positions, 6 mo.) $42,240	
Contractual Services	105,000
Added postage, bonus warrants, printing of new regulations and application forms, data processing charges, increased telephone tolls.	

IV. ANALYSIS:

Commodities	3,000
Office supplies and file cabinets for application and recipient files.	
Grants	
(additional estimated 10,300 persons who will be eligible for the Bonus due to one-year residence requirement x 12 x $250)	30,900,000
Retroactive payments for those who would have been eligible on July 1, 1982 (est. 10,300 x 12 x $250)	30,900,000
Additional FY84 funds required	$62,003,700

For years beyond FY84, two additional PFT staff positions needs to be retained, along with appropriate contractual and commodities costs, plus grants based on an estimated increase of 89 recipients per month, escalated at the rate of 3% per year.

Offered: 4/30/83
Referred: Finance

Original sponsors: Ray and Kerttula

IN THE SENATE BY THE RULES COMMITTEE

CS FOR SENATE BILL NO. 215 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act authorizing the use of Alaska permanent fund income to pay longevity bonuses; amending the longevity bonus program and the permanent fund dividend distribution program; and providing for an effective date."

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

* Section 1. AS 37.13 is amended by adding a new section to read:

Sec. 37.13.147. LONGEVITY BONUS ACCOUNT. The longevity bonus account is established as a separate account in the Alaska permanent fund. Notwithstanding the provisions of AS 37.13.145, 12.5 percent of the income of the permanent fund earned during the fiscal year ending on June 30 of the current year that is available for distribution under AS 37.13.140 shall be credited to the longevity bonus account.

(b) Money in the longevity bonus account shall be invested in investments authorized under AS 37.13.120. The longevity bonus account shall be credited with earnings at an interest rate equal to the average rate of interest earned on the Alaska permanent fund.

(c) The legislature may annually appropriate an amount sufficient to pay monthly longevity bonuses for the subsequent fiscal year under AS 47.45.010(d) from the longevity bonus account to the Alaska longevity bonus fund established under AS 47.45.090.

* Sec. 2. AS 43.23.045(b) is amended to read:

(b) Notwithstanding any contrary provision of law, each year the commissioner shall transfer to the dividend fund 37.5 [50] percent of

the income of the Alaska permanent fund earned during the fiscal year ending on June 30 of the current year and available for distribution.

* Sec. 3. AS 47.45.010 is amended to read:

Sec. 47.45.010. PERSONS WHO MAY QUALIFY FOR LONGEVITY BONUS. (a) A person who is 65 years of age or over, who has been a resident of the state for at least one year immediately preceding the application for a longevity bonus under this chapter [WAS DOMICILED IN THE TERRITORY ON OR BEFORE JANUARY 3, 1959 AND WHO HAS MAINTAINED A CONTINUOUS DOMICILE IN THE TERRITORY OR STATE FOR 25 YEARS] may apply to the commissioner of administration for qualification to receive a monthly bonus [OF $250].

(b) When the commissioner of administration determines that an applicant qualifies under AS 47.45.010 - 47.45.170 the commissioner [HE] shall immediately begin payment of the bonus.

(c) A person who otherwise qualifies to receive a bonus provided for in AS 47.45.010 - 47.45.170 may continue to do so only as long as that person continues to be a resident of [HE CONTINUOUSLY RETAINS A DOMICILE IN] the state.

* Sec. 4. AS 47.45.010 is amended by adding a new subsection to read:

(d) The amount of the monthly bonus is (1) $250, increased by three percent each year beginning in the state fiscal year 1985; or (2) an amount equal to eight and one-third percent of the amount credited to the longevity bonus account for the previous fiscal year under AS 37.13.147, exclusive of earnings, divided by the number of qualified applicants under this section; whichever amount is less.

* Sec. 5. AS 47.45.030 is amended to read:

Sec. 47.45.030. ABSENCE FROM THE STATE. After qualification a [A] recipient shall notify the commissioner of administration when the recipient [HE] expects to be absent from the state if the absence is

for a continuous period that exceeds 30 days. After that notification, the recipient shall no longer receive bonuses from the Department of Administration after the [HIS] last regularly approved monthly application. Upon returning [HIS RETURN] to the state the recipient [HE] may again make application for a bonus. Whenever the absence is for a continuous period that exceeds 180 days the recipient shall be disqualified from receiving bonuses for the next 12 calendar months after returning [HIS RETURN] to the state. However, when the commissioner of administration determines a period of absence is beyond the control of the recipient, the recipient [HE] may not be disqualified, if the recipient [HE] still otherwise qualifies upon returning [HIS RETURN] to the state. Continual absences from the state, even though reported, and failure to notify the commissioner of an expected absence may be grounds for disqualification.

* Sec. 6. AS 47.45.090 is repealed and reenacted to read:

Sec. 47.45.090. ALASKA LONGEVITY BONUS FUND. The Alaska longevity bonus fund is established for the purpose of paying the monthly bonuses provided for in this chapter. The fund consists of money appropriated to the fund by the state legislature from the longevity bonus account established under AS 37.13.147.

* Sec. 7. AS 47.45.150 is amended by adding a new paragraph to read:

(3) "resident" or "resident of the state" means an individual who is physically present in the state with the intent to remain in the state indefinitely and to make a home in the state. A person demonstrates the requisite intent only be maintaining a principal place of abode in the state for the one year required by AS 47.45.010(a) and by providing other proof of intent the commissioner may require by regulation, including proof that the person is not claiming residency outside the state or obtaining benefits under a claim of

residency outside the state.

* Sec. 8. AS 47.45.170 is repealed and reenacted to read:

Sec. 47.45.170 FINDINGS AND PURPOSE. The legislature finds and declares that

(1) the high cost of goods and services in Alaska and the state's remoteness and harsh environment, make it difficult for many elderly Alaskans to remain in the state after retirement;

(2) when a person is forced to live out retirement years away from home, family and friends, that person suffers an irreparable loss;

(3) Alaska's elderly are a precious human resource, and it is in the public interest to provide a financial incentive for them to remain in the state after retirement;

(4) as oil revenues decrease, it will become increasingly difficult for the legislature to fund the longevity bonus program through annual appropriations and the income of the Alaska permanent fund is an appropriate source of funding for the longevity bonus program; and

(5) it is in the public interest to continue the longevity bonus program for all elderly Alaskans irrespective of need. The longevity bonus program is not a form of welfare, and is not a substitute for or supplement to public assistance. Other programs are available to provide the basic necessities of life. The longevity bonus program is intended only to encourage elderly Alaskans to spend their retirement years in the comfort of their homes.

* Sec. 9. AS 47.45.150(2) is repealed.

* Sec. 10. It is the intent of the legislature that any money appropriated from the general fund for the purpose of paying monthly longevity bonuses, after the state fiscal year ending June 30, 1982, be

reappropriated and transferred to the general fund from the longevity bonus account established under sec. 1 of this Act as soon as possible after the effective date of this Act.

* Sec. 11. Sections 3 and 7 of this Act are retroactive to July 1, 1982.

* Sec. 12. This Act takes effect July 1, 1983.

Offered: 4/30/83
Referred: Finance

Original sponsors: Ray and Kerttula

IN THE SENATE BY THE RULES COMMITTEE

CS FOR SENATE BILL NO. 215 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

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(c) The legislature may annually appropriate an amount sufficient to pay monthly longevity bonuses for the subsequent fiscal year under AS 47.45.010(d) from the longevity bonus account to the Alaska longevity bonus fund established under AS 47.45.090.

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(d) The amount of the monthly bonus is (1) $250, increased by three percent each year beginning in the state fiscal year 1985; or (2) an amount equal to eight and one-third percent of the amount credited to the longevity bonus account for the previous fiscal year under AS 37.13.147, exclusive of earnings, divided by the number of qualified applicants under this section; whichever amount is less.

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* Sec. 6. AS 47.45.090 is repealed and reenacted to read:

Sec. 47.45.090 ALASKA LONGEVITY BONUS FUND. The Alaska longevity bonus fund is established for the purpose of paying the monthly bonuses provided for in this chapter. The fund consists of money appropriated to the fund by the state legislature from the longevity bonus account established under AS 37.13.147.

* Sec. 7. AS 47.45.150 is amended by adding a new paragraph to read:

(3) "resident" or "resident of the state" means an individual who is physically present in the state with the intent to remain in the state indefinitely and to make a home in the state. A person demonstrates the requisite intent only be maintaining a principal place of abode in the state for the one year required by AS 47.-45.010(a) and by providing other proof of intent the commissioner may require by regulation, including proof that the person is not claiming residency outside the state or obtaining benefits under a claim of

residency outside the state.

* Sec. 8. AS 47.45.170 is repealed and reenacted to read:

Sec. 47.45.170. FINDINGS AND PURPOSE. The legislature finds and declares that

(1) the high cost of goods and services in Alaska and the state's remoteness and harsh environment, make it difficult for many elderly Alaskans to remain in the state after retirement;

(2) when a person is forced to live out retirement years away from home, family and friends, that person suffers an irreparable loss;

(3) Alaska's elderly are a precious human resource, and it is in the public interest to provide a financial incentive for them to remain in the state after retirement;

(4) as oil revenues decrease, it will become increasingly difficult for the legislature to fund the longevity bonus program through annual appropriations and the income of the Alaska permanent fund is an appropriate source of funding for the longevity bonus program; and

(5) it is in the public interest to continue the longevity bonus program for all elderly Alaskans irrespective of need. The longevity bonus program is not a form of welfare, and is not a substitute for or supplement to public assistance. Other programs are available to provide the basic necessities of life. The longevity bonus program is intended only to encourage elderly Alaskans to spend their retirement years in the comfort of their homes.

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reappropriated and transferred to the general fund from the longevity bonus account established under sec. 1 of this Act as soon as possible after the effective date of this Act.

* Sec. 11. Sections 3 and 7 of this Act are retroactive to July 1, 1982.

* Sec. 12. This Act takes effect July 1, 1983.

MEMORANDUM

TO : Senators Sackett and Bennett, co-chairmen, and all other members of the Senate Finance Committee

FROM : Senator Ray
RE : CSSB 215--Longevity bonus
DATE : April 30, 1983

As you know, the Department of Administration ("DOA") has submitted a revised fiscal note dated April 29, 1983 with an attached "analysis."

According to the DOA's analysis, since submitting a fiscal note on April 6, 1983, "new information has come to light which drastically changes the estimate of the number of persons who would qualify for the Longevity Bonus under C.S.S.B. 215."

This so called "new information" consists of a finding by the Department of Revenue that out of "356,000 Permanent Fund applications, 19,725 applications were from persons who were age 65 or older."

Based solely on the above "new information," the DOA then concluded that "it seems almost certain that there are at least 19,725 persons who will qualify for the Bonus under C.S.S.B. 215, rather that 13,228 which was estimated in the fiscal note dated April 6, 1983."

For the reasons that follow, we feel that the DOA's "new information" and the conclusions and projections based thereon, may be very inaccurate and grossly misleading:

1. The so called "new information" isn't new at all. It was readily available or obtainable long before the DOA's prior fiscal note of April 6, 1983, yet it was never used in arriving at the previous estimate of 13,228 longevity bonus recipients.

> The DOA offers no explanation of why this information wasn't obtained or used before, or why it suddenly "came to light." Two reasonable inferences can be drawn from this omission: (1) the DOA is so inept and incompetent that noone ever thought of it before; or (2) they thought of it before, but decided that the data was so raw and so inconsistent with other, more reliable data that it was not worth using.
>
> For some of the reasons discussed below, we believe that the second inference is the more reasonable.

2. The so called "new information" is merely raw data that completely fails to consider various factors that might fully account for the difference between the number of 65 or over permanent fund applicants and the previously estimated number of longevity bonus recipients under CSSB 215.

> The DOA "analysis" itself recognizes or admits that the 19,725 figure "does not take into consideration those who have since died or left the State."
>
> However, that is not all the it fails to take into consideration. There

are a number of other factors which have been omitted and which may be far more important.

For example, no effort was made to estimate how many of the 19,725 applications were duplicates; or how many of them were fraudulent.

And, perhaps far more importantly, no consideration was given to how many of those 19,725 elderly applicants are absent from the state for more than 180 consecutive days a year and thus ineligible to receive a longevity bonus.

3. The so called "new information" is completely inconsistent with the carefully accumulated and recorded data and projections on which the prior estimate of 13,228 longevity bonus recipients was based.

In August, 1982, the Department of Law filed an Agreement and Settlement Order in the Vest case which, on page 4, estimated that if the original longevity bonus program residency requirement was dropped, approximately 13,124 persons would be eligible.

That figure was consistant with a DOA draft fiscal note done in January, 1983 (see Jon Tillinghast's report dated March 8, 1983, at page 24).

Starting in February, 1983, the DOA and other agencies provided us with the data supporting the 13,228 figure, including a 1981 Department of Labor ("DOL") population study and overview that estimated that in 1983 there would be 13,672 elderly in Alaska and that the percentage of elderly would remain fairly static through the year 2000 (see Tillinghast's report, at page 44).

In February and March of this year the DOL also provided us with data supporting their estimate that approximately 2.9% of the Alaska population was 65 or over. The 2.9% figure was then presented to and approved by actuarial experts of both the Aetna and Travelers insurance companies, who believed it was consistant with national figures and projections.

Even more recently, an actuarial expert retained by the DOA (a member of Mercer & Associates) estimated that in FY 84 3.1% of the Alaska population will be 65 or over.

The DOA's "new information," however, indicates that approximately 5% of the current Alaska population is 65 or over. Obviously, this is highly inconsistent with all previous, well documented, supported and relied upon data and projections and, at the very least, it provides ample reason to seriously question the accuracy of the DOA's "new information" and the validity of the conclusions and projections based thereon.

4. The DOA's revised fiscal note, in its "grants, claims, etc." projections for FY 84-88, fails to take into account that under CSSB 215 there is a built-in ceiling of 12.5% of the permanent fund earnings during a given fiscal year. Therefore, the DOA's projections appear to be completely arbitrary and meaningless.

5. Even if the DOA's "new information" proves to be accurate and dependable, the problem it creates is one that has to be dealt with by any of the options for revising the existing longevity bonus program, especially the Administration's own proposal where the problem would even be worse because the residency requirement will have to be limited to 30 days rather than one year.

4/30/83

COMMITTEE REPORT

SENATE

3/29/83

FURTHER: FINANCE

Date: 4/5/83

Mr. President:

The Committee on Ad Hoc Com on Residency has had SB 215
Authorizing the use of Alaska permanent fund income to pay longevity bonuses; amending the longevity bonus program and the permanent fund dividend distribution program; eff. date

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for SB 215 (ResD) [X] same title [ ] new title

and recommends

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the as follows Committee

MEMBERS SIGNING DO PASS

1 [signature] Do pass

MEMBERS HAVING OTHER RECOMMENDATIONS:

1 [signature] - No rec.

1 Bill Ray
CHAIRMAN
Do PASS

4/30/83

COMMITTEE REPORT

SENATE

FURTHER: Rules

4/7/83

Date: 4/22/83

Mr. President:

The Committee on FINANCE has had SB 215
Authorizing the use of Alaska permanent fund income to pay longevity bonuses, amending the longevity bonus program and the permanent fund divident distribution program; eff. date.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[~~X~~] ~~replace with CS for~~ ~~SB 215 Residency~~ recommends CS by Residency [X] same title [ ] new title

and recommends with my DO PASS

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the ______________ Committee

MEMBERS SIGNING DO PASS

Bob Mulcahy
Joe Josephson
[illegible]
John Sackett

MEMBERS HAVING OTHER RECOMMENDATIONS:

Jan Faiks No Rec
Fischer No Rec

[signature]
CHAIRMAN

1/30/83

COMMITTEE REPORT

SENATE RULES COMMITTEE

4/29/83

Date 4/29/83

Mr. President:

The Committee on Rules has had SB 215

Authorizing the use of Alaska permanent fund income to pay longevity bonuses; amending the longevity bonus program and the permenant fund dividend distribution program; eff. date.

under consideration and recommends ~~it be placed on the~~ that it

be returned to the Finance Committee. ~~XXXXXXXXXXX~~ cont on pg 2

( ) with attached amendment(s).

(✓) replace with CS for SB 215(Rules) ( ) same title ( ) new title

( ) and attaches a "Letter of Intent"

(✓) new fiscal note

Fin Comm

MEMBERS ~~SIGNING FOR PLACEMENT~~ ON THE CALENDAR

MEMBERS HAVING OTHER RECOMMENDATIONS

Kelly - No Recommendation

Bill Ray

CHAIRMAN

COMMITTEE REPORT

ADDENDUM

The Rules Committee questions the validity of the figures used by the Department of Administration in their revised April 29th fiscal note. We would therefore request that the Finance Committee take a close look at the way in which the Department arrived at their cost estimate for Senate Bill 215.

1/30/83

Introduced: 3/29/83
Referred: Ad Hoc Committee on Residency and Finance

IN THE SENATE BY RAY AND KERTTULA

SENATE BILL NO. 215

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act authorizing the use of Alaska permanent fund income to pay longevity bonuses; amending the longevity bonus program and the permanent fund dividend distribution program; and providing for an effective date."

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

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Sec. 37.13.147. LONGEVITY BONUS ACCOUNT. The longevity bonus account is established as a separate account in the Alaska permanent fund. Notwithstanding the provisions of AS 37.13.145, 12.5 percent of the income of the permanent fund earned during the fiscal year ending on June 30 of the current year that is available for distribution under AS 37.13.140 shall be transferred to the longevity bonus account.

(b) Money in the longevity bonus account shall be invested in investments authorized under AS 37.13.120. Income from the investment of the longevity bonus account shall be treated as an addition to that account.

(c) The commissioner of revenue shall transfer money in the longevity bonus account to the Alaska longevity bonus fund to pay monthly longevity bonuses in accordance with AS 47.45.090.

* Sec. 2. AS 43.23.045(b) is amended to read:

(b) Notwithstanding any contrary provision of law, each year the commissioner shall transfer to the dividend fund 37.5 [50] percent of

the income of the Alaska permanent fund earned during the fiscal year ending on June 30 of the current year and available for distribution.

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(b) When the commissioner of administration determines that an applicant qualifies under AS 47.45.010 - 47.45.170 the commissioner [HE] shall immediately begin payment of the bonus.

(c) A person who otherwise qualifies to receive a bonus provided for in AS 47.45.010 - 47.45.170 may continue to do so only as long as that person continues to be a resident of [HE CONTINUOUSLY RETAINS A DOMICILE IN] the state.

* Sec. 4. AS 47.45.010 is amended by adding a new subsection to read:

(d) The initial amount of the monthly bonus is $250. On July 1 of each year, beginning July 1, 1984, the amount then paid as the monthly bonus shall be increased by three percent.

* Sec. 5. AS 47.45.030 is amended to read:

Sec. 47.45.030. ABSENCE FROM THE STATE. After qualification a [A] recipient shall notify the commissioner of administration when the recipient [HE] expects to be absent from the state if the absence is for a continuous period that exceeds 30 days. After that notification, the recipient shall no longer receive bonuses from the Department of Administration after the [HIS] last regularly approved monthly application. Upon returning [HIS RETURN] to the state the recipient [HE] may again make application for a bonus. Whenever the absence is for a continuous period that exceeds 180 days the recipient shall be disqualified from receiving bonuses for the next 12 calendar months after returning [HIS RETURN] to the state. However, when the commissioner of administration determines a period of absence is beyond the control of the recipient, the recipient [HE] may not be disqualified, if the recipient [HE] still otherwise qualifies upon returning [HIS RETURN] to the state. Continual absences from the state, even though reported, and failure to notify the commissioner of an expected absence may be grounds for disqualification.

* Sec. 6. AS 47.45.090(a) is amended to read:

Sec. 47.45.090. ALASKA LONGEVITY BONUS FUND. (a) The [THERE IS THE] Alaska longevity bonus fund is created for the purpose of paying the monthly bonuses provided for in this chapter. The fund consists of all money made available by appropriations of the state legislature, and from other appropriated money transferred from the Alaska permanent fund [FUNDS], all contributions from whatever source, and income and interest derived from the investment of money.

* Sec. 7. AS 47.45.090 is amended by adding a new subsection to read:

(c) At the request of the commissioner of administration the commissioner of revenue shall transfer amounts needed for the payment of monthly bonuses under this chapter from the longevity bonus account in the Alaska permanent fund (AS 37.13.145(b)) to the longevity bonus fund.

* Sec. 8. AS 47.45.150 is amended by adding a new paragraph to read:

(3) "resident" or "resident of the state" means an individual who is physically present in the state with the intent to remain permanently in the state or, if the individual is not

physically present in the state, intends to return to the state and is absent only for medical treatment or other reasons that the commissioner of administration may establish by regulation;

* Sec. 9. AS 47.45.170 is repealed and reenacted to read:

Sec. 47.45.170. FINDINGS AND PURPOSE. The legislature finds and declares that

(1) the high cost of goods and services in Alaska and the state's remoteness and harsh environment, makes it difficult for many elderly Alaskans to remain in the state after retirement;

(2) when a person is forced to live out retirement years away from home, family and friends, that person suffers an irreparable loss;

(3) Alaska's elderly are a precious human resource, and it is in the public interest to provide a financial incentive for them to remain in the state after retirement;

(4) as oil revenues decrease, it will become increasingly difficult for the legislature to fund the longevity bonus program through annual appropriations and the income of the Alaska permanent fund is an appropriate source of funding for the longevity bonus program; and

(5) it is in the public interest to continue the longevity bonus program for all elderly Alaskans irrespective of need. The longevity bonus program is not a form of welfare, and is not a substitute for or supplement to public assistance. Other programs are available to provide the basic necessities of life. The longevity bonus program is intended only to encourage elderly Alaskans to spend their retirement years in the comfort of their homes.

* Sec. 10. AS 47.45.150(2) is repealed.

* Sec. 11. This Act takes effect July 1, 1983.

4/30/83

Offered: 4/30/83
Referred: Finance

Original sponsors: Ray and Kerttula

IN THE SENATE BY THE RULES COMMITTEE

CS FOR SENATE BILL NO. 215 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act authorizing the use of Alaska permanent fund income to pay longevity bonuses; amending the longevity bonus program and the permanent fund dividend distribution program; and providing for an effective date."

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

* Section 1. AS 37.13 is amended by adding a new section to read:

Sec. 37.13.147. LONGEVITY BONUS ACCOUNT. The longevity bonus account is established as a separate account in the Alaska permanent fund. Notwithstanding the provisions of AS 37.13.145, 12.5 percent of the income of the permanent fund earned during the fiscal year ending on June 30 of the current year that is available for distribution under AS 37.13.140 shall be credited to the longevity bonus account.

(b) Money in the longevity bonus account shall be invested in investments authorized under AS 37.13.120. The longevity bonus account shall be credited with earnings at an interest rate equal to the average rate of interest earned on the Alaska permanent fund.

(c) The legislature may annually appropriate an amount sufficient to pay monthly longevity bonuses for the subsequent fiscal year under AS 47.45.010(d) from the longevity bonus account to the Alaska longevity bonus fund established under AS 47.45.090.

* Sec. 2. AS 43.23.045(b) is amended to read:

(b) Notwithstanding any contrary provision of law, each year the commissioner shall transfer to the dividend fund <u>37.5</u> [50] percent of

the income of the Alaska permanent fund earned during the fiscal year ending on June 30 of the current year and available for distribution.

* Sec. 3. AS 47.45.010 is amended to read:

Sec. 47.45.010. PERSONS WHO MAY QUALIFY FOR LONGEVITY BONUS. (a) A person who is 65 years of age or over, who has been a resident of the state for at least one year immediately preceding the application for a longevity bonus under this chapter [WAS DOMICILED IN THE TERRITORY ON OR BEFORE JANUARY 3, 1959 AND WHO HAS MAINTAINED A CONTINUOUS DOMICILE IN THE TERRITORY OR STATE FOR 25 YEARS] may apply to the commissioner of administration for qualification to receive a monthly bonus [OF $250].

(b) When the commissioner of administration determines that an applicant qualifies under AS 47.45.010 - 47.45.170 the commissioner [HE] shall immediately begin payment of the bonus.

(c) A person who otherwise qualifies to receive a bonus provided for in AS 47.45.010 - 47.45.170 may continue to do so only as long as that person continues to be a resident of [HE CONTINUOUSLY RETAINS A DOMICILE IN] the state.

* Sec. 4. AS 47.45.010 is amended by adding a new subsection to read:

(d) The amount of the monthly bonus is (1) $250, increased by three percent each year beginning in the state fiscal year 1985; or (2) an amount equal to eight and one-third percent of the amount credited to the longevity bonus account for the previous fiscal year under AS 37.13.147, exclusive of earnings, divided by the number of qualified applicants under this section; whichever amount is less.

* Sec. 5. AS 47.45.030 is amended to read:

Sec. 47.45.030. ABSENCE FROM THE STATE. After qualification a [A] recipient shall notify the commissioner of administration when the recipient [HE] expects to be absent from the state if the absence is

for a continuous period that exceeds 30 days. After that notification, the recipient shall no longer receive bonuses from the Department of Administration after the [HIS] last regularly approved monthly application. Upon returning [HIS RETURN] to the state the recipient [HE] may again make application for a bonus. Whenever the absence is for a continuous period that exceeds 180 days the recipient shall be disqualified from receiving bonuses for the next 12 calendar months after returning [HIS RETURN] to the state. However, when the commissioner of administration determines a period of absence is beyond the control of the recipient, the recipient [HE] may not be disqualified, if the recipient [HE] still otherwise qualifies upon returning [HIS RETURN] to the state. Continual absences from the state, even though reported, and failure to notify the commissioner of an expected absence may be grounds for disqualification.

* Sec. 6. AS 47.45.090 is repealed and reenacted to read:

Sec. 47.45.090. ALASKA LONGEVITY BONUS FUND. The Alaska longevity bonus fund is established for the purpose of paying the monthly bonuses provided for in this chapter. The fund consists of money appropriated to the fund by the state legislature from the longevity bonus account established under AS 37.13.147.

* Sec. 7. AS 47.45.150 is amended by adding a new paragraph to read:

(3) "resident" or "resident of the state" means an individual who is physically present in the state with the intent to remain in the state indefinitely and to make a home in the state. A person demonstrates the requisite intent only be maintaining a principal place of abode in the state for the one year required by AS 47.-45.010(a) and by providing other proof of intent the commissioner may require by regulation, including proof that the person is not claiming residency outside the state or obtaining benefits under a claim of

residency outside the state.

* Sec. 8. AS 47.45.170 is repealed and reenacted to read:

Sec. 47.45.170. FINDINGS AND PURPOSE. The legislature finds and declares that

(1) the high cost of goods and services in Alaska and the state's remoteness and harsh environment, make it difficult for many elderly Alaskans to remain in the state after retirement;

(2) when a person is forced to live out retirement years away from home, family and friends, that person suffers an irreparable loss;

(3) Alaska's elderly are a precious human resource, and it is in the public interest to provide a financial incentive for them to remain in the state after retirement;

(4) as oil revenues decrease, it will become increasingly difficult for the legislature to fund the longevity bonus program through annual appropriations and the income of the Alaska permanent fund is an appropriate source of funding for the longevity bonus program; and

(5) it is in the public interest to continue the longevity bonus program for all elderly Alaskans irrespective of need. The longevity bonus program is not a form of welfare, and is not a substitute for or supplement to public assistance. Other programs are available to provide the basic necessities of life. The longevity bonus program is intended only to encourage elderly Alaskans to spend their retirement years in the comfort of their homes.

* Sec. 9. AS 47.45.150(2) is repealed.

* Sec. 10. It is the intent of the legislature that any money appropriated from the general fund for the purpose of paying monthly longevity bonuses, after the state fiscal year ending June 30, 1982, be

reappropriated and transferred to the general fund from the longevity bonus account established under sec. 1 of this Act as soon as possible after the effective date of this Act.

* Sec. 11. Sections 3 and 7 of this Act are retroactive to July 1, 1982.

* Sec. 12. This Act takes effect July 1, 1983.

A M E N D M E N T

Offered in the SENATE By Ray

TO: CSSB 215 (Residency)

Page 4, after line 26, add a new section to read:

"* Sec. 10. It is the intent of the legislature that any money appropriated from the general fund for the purpose of paying monthly longevity bonuses, after the state fiscal year ending June 30, 1982, be reappropriated and transferred to the general fund from the longevity bonus account established under sec. 1 of this Act as soon as possible after the effective date of this Act."

Renumber remaining sections.

4/19/83

4/25/85

DISTRIBUTION OF PERMANENT
FUND INCOME
(LONGEVITY BONUS ADDED - SB 215)

	1979	1980	1981	1982	1983
Net income as determined by Statute	$6,500	$23,900	$86,200	$317,000	$327,000
Undistributed Account Balance 6/30/82					206,000
					$533,500
Income for dividends (37½% of distributible income*)					(70,744)
Income for inflation proofing (6% Factor)					(225,000)
Income for Longevity Bonus (12½% of distributible income)					(23,581)
Income for transfer to general fund (FY 83 only)					(94,325)
Undistributed Account Balance 6/30/83					$119,650

Note that the undistributed income account is declining. It is the Permanent Fund Corporations Projection, under current law, that in 1988 funds may not be sufficient to cover an adequate level of inflation proofing of the principal balance of the fund.

* Distributable income is limited by the weighted average of the last five years net income.

DISTRIBUTION OF PERMANENT
FUND INCOME
(LONGEVITY BONUS ADDED - SB 215)

	1979	1980	1981	1982	1983
Net income as determined by Statute	$6,500	$23,900	$86,200	$317,000	$327,000
Undistributed Account Balance 6/30/82					206,000
					$533,500
Income for dividends (37½% of distributible income*)					(70,744)
Income for inflation proofing (6% Factor)					(225,000)
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* Distributable income is limited by the weighted average of the last five years net income.

DISTRIBUTION OF PERMANENT
FUND INCOME
(Current Law)

	1979	1980	1981	[illegible]	1983
Net income as determined by Statute	$6,500	$23,900	$86,200	$317,000	$327,000
Undistributed Account Balance 6/30/82					206,000
					$533,500
Income for dividends (50% of distributible income*)					(94,325)
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* Distributable income is limited by the weighted average of the last five years net income.

DISTRIBUTION OF PERMANENT
FUND INCOME
(LONGEVITY BONUS ADDED - SB 215)

	1979	1980	1981	1982	1983
Net income as determined by Statute	$6,500	$23,900	$86,200	$317,000	$327,000
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* Distributable income is limited by the weighted average of the last five years net income.

4/27/83

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* NOT ADMITTED IN ALASKA

April 27, 1983

The Honorable Joe Josephson
Alaska State Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: CSSB #215
April 26 Finance Committee Hearing

Dear Senator Josephson:

At the close of yesterday's hearing on CSSB 215, you requested that I draft a letter on the equities of using some permanent fund earnings to sustain the longevity bonus program.

When the Alaska permanent fund was created by constitutional amendment in 1976 (Alaska Const., Art. IX, § 15), the electorate provided that "all income from the permanent fund shall be deposited in the general fund unless otherwise provided by law." At least with respect to the Alaska Constitution, then, there would seem no commitment that the earnings of the permanent fund be distributed equally to all Alaskans.

The "equal distribution" concept is a product of Alaska's permanent fund dividend legislation. AS 43.23. The permanent fund dividend program has two primary purposes. First, there is the obvious legislative desire that, as to a portion of the permanent fund earnings, all Alaskans should benefit equally in the fruits of nonrenewable resource development. Equally, the permanent fund dividend program was intended to give each Alaskan a stake in the prudent management of the fund itself.

CSSB 215 is consistent with both these goals. First, each Alaskan will continue to receive a pro rata share of fund earnings -- although, under the bill, that share will be reduced from 50 to 37.5 percent of annual fund income.[1]

Moreover, CSSB 215 should be viewed as providing equal enjoyment of permanent fund earnings to all Alaskans. If in fact the projections of Aetna and Travelers are correct, the segregation of 12.5 percent of fund earnings will result in the accumulation of a substantial savings account which will provide some assurance of future retirement benefits for younger Alaskans. Plainly, the beneficiaries of CSSB 215 for any particular year will represent but a fraction of the Alaska population. Nonetheless, retirement security is of substantial current value to any rational person, and to the extent that the bill serves both the present needs of existing recipients, and the future expectations of younger Alaskans, the impacts of the bill are indeed "equitably spread" throughout the population.

Additionally, the financial condition of Alaska's elderly is such that the longevity bonus is an equitable use of the permanent fund. I have enclosed Section I(B) from my March 8, 1983 report foryour consideration. That section compiles available data on the financial status of our state's older citizens.

There is, of course, one subclass of Alaskans who would not "share equally" in the benefits of CSSB 215 -- those younger Alaskans who have no intention of retiring in the state. Whether policy decisions should be made in deference to those who do not intend to establish ties to Alaska is something for the Finance Committee to decide.

The use of permanent fund earnings to fund a long-term, self-sustaining retirement program seems uniquely suited to the second goal of the permanent fund dividend program -- i.e., to give each Alaskan a stake in the sound management of the fund itself. The current dividend program confers a financial interest in the maximization of short-term profits from the fund. Conversely, sound financial management requires consideration of both short-term and long-term gains. Indeed, it is customary for the former to be sacrificed for the latter. Under CSSB 215, Alaskans would retain their stake in short-term earnings, but as well would acquire an interest in the long-term health of the fund -- thereby acquiring that depth of view which is indispensible to sound financial management.

These considerations set CSSB 215 aside from other proposed uses of permanent fund earnings. There is a very special concern which people hold for their retirement or annuity accounts.

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[1] At yesterday's hearing, Senator Faiks voiced the concern that the segregation of 12.5 percent of permanent fund earnings would jeopardize the legislature's ability to "inflation-proof" the fund. Under CSSB 215, the net impact upon fund earnings -- and hence "inflation-proofing" -- is unchanged. Currently, 50 percent of fund earnings are distributed as dividends. Under the bill, 37.5 percent would be distributed as dividends, while 12.5 percent would be used to fund the longevity bonus account.

All this, of course, would be lost if the provisions of the bill were funded by general revenues. Moreover, I fear that general revenue funding would tend to defeat one purpose of the bill -- the establishment of a savings account for the "baby boom" years of the early 21st century. As general revenues continue to decline, it is likely that the legislature would limit ALB funding to meet current expenditures.

I realize, of course, that not even CSSB 215 guarantees that 12.5 percent of permanent fund earnings will be appropriated each year to the ALB account. Nonetheless, and absent a constitutional amendment allowing the dedication of these funds, available alternatives provide less security.

In sum, CSSB 215 does equitably spread permanent fund earnings among all Alaskans -- save a short-time subclass -- by providing some assurance of additional financial security upon retirement in the state. It is also uniquely consistent with the goal of the permanent fund dividend program to provide a financial stake in sound, long-term fund management.

Finally, I would like to briefly respond to the comments of Vern Perry, Director of Pioneer's Benefits, Department of Administration. Mr. Perry stated that he could not understand why we felt that the administration's "alternative" would not result in substantially increased Medicaid caseload. A person is eligible for Medicaid if he is eligible for state Old Age Assistance. The current state assistance level is $546/mo., excluding the longevity bonus.[2] Under the administration's alternative, a person would be eligible for assistance, and thus Medicaid, if his or her monthly income was $796 or less per month. As our March 8, 1983 report indicated, there are many elderly with monthly incomes between $546 and $796 who are not now eligible for Medicaid, but who would become eligible under the administration's bill. Our estimates are that, by FY 1988, some 2,500 additional Alaskans will become eligible for Medicaid under the administration's proposal -- a figure which does not account for inmigration.

As to the inmigration problem, if a relative of a current Alaskan receives, for example, $650/mo. in pensions and other income, they would currently be eligible for Medicaid (and hence nursing home coverage) in neither their existing residence, nor Alaska. Under the administration's approach, however, they will immediately become eligible upon relocation to the state.

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[2]The longevity bonus is excluded from income calculations for various federal assistance programs under 42 U.S.C. Sec. 1382(a)(b)(2)(b).

I hope this letter has answered some of your questions on CSSB 215. On behalf of the Senate Ad Hoc Residency Committee, I want to express my appreciation for the time and concern which the committee has afforded us, and I look forward to working with you and the committee on this bill.

Sincerely,

BIRCH, HORTON, BITTNER,
PESTINGER AND ANDERSON

Sudann E. Bailey
for Jon K. Tillinghast

JKT:rdg

cc: Members/Senate Finance Committee, w/encl.
Sen. Jalmar Kertulla, w/encl.
Sen. Bill Ray, w/encl.

Exceptions are made if the absence "is beyond the control of the recipient." Id.

The longevity bonus is taxable under the Internal Revenue Code. However, it is almost universally excluded in calculating income eligibility for state and federal assistance programs.[8]

B. The Individuals Covered By The Alaska Longevity Bonus Program.

There are currently some 9,425 Alaskans receiving some $28.4 million in longevity bonus payments. Sketching an accurate portrait of the state's ALB recipients is difficult, because the ALB application form requires little personal information. In 1976, the Alaska Department of Health and Social Services conducted a random survey of ALB recipients,[9] and, in conjunction with the Vest

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[8]Under 42 U.S.C. §1382(a)(b)(2)(B), which governs eligi ility for federal Supplemental Security Income, and by reference also controls other federal programs such as Medicaid and energy assistance, the following is excluded from the definition of income:

> "monthly (or other periodic) payments received by any individual under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence is such state by such individual."

[9]"Alaska Longevity Bonus Impact Survey," Alaska Department of Health and Social Services (1976) (hereinafter "ALB Survey)

settlement, the Department of Law conducted a non-random survey of some 1,896 participants.

From those surveys, it is apparent that a large percentage of ALB recipients are Alaska Natives living in rural areas of the state.[10] Moreover, and in large part because of the ineligibility of many rural residents for social security, the longevity bonus is often the primary source of income for rural residents. For example, 41% of the elderly in Southwest Alaska, and 66% in Northwest Alaska, rely on the longevity bonus as their primary source of income.[11]

Available evidence suggests that a large percentage of ALB recipients have incomes only marginally above the current state welfare assistance level of $546 per month. The Department of Law's 1982 survey -- which was skewed toward the more needy recipients of the ALB -- found that 81.4% of the 1,896 recipients sampled had monthly incomes of $750 or less. The 1976 ALB survey found that half of the ALB recipients had a monthly income, "including that of their spouse," of under $500 per month.[12] Another

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[10]In 1976, 41% of the ALB recipients lived in rural areas of the state and 24.1% were Alaska Natives. ALB Survey at 14-15.

[11]"An Assessment of the Status and Needs of Alaska's Elderly," Department of Sociology, College of Arts & Sciences, University of Alaska (1981) (hereinafter "Assessment.")

[12]ALB Survey, op. cit. n. 9 at 18-19.

COMMITTEE REPORT

SENATE

3/29/83

FURTHER: FINANCE

Date: 4/15/83

Mr. President:

The Committee on Ad Hoc Com on Residency has had SB 215 Authorizing the use of Alaska permanent fund income to pay longevity bonuses; amending the longevity bonus program and the permanent fund dividend distribution program; eff. date

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for SB 215 (RESD) [X] same title [ ] new title

and recommends

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the as follows Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:
J. Kerttula Do pass	James Duncan - Do pass

Bill Ray

CHAIRMAN

Do Pass

Introduced: 3/29/83
Referred: Ad Hoc Committee on Residency and Finance

IN THE SENATE BY RAY AND KERTTULA

SENATE BILL NO. 215

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act authorizing the use of Alaska permanent fund income to pay longevity bonuses; amending the longevity bonus program and the permanent fund dividend distribution program; and providing for an effective date."

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

* Section 1. AS 37.13 is amended by adding a new section to read:

Sec. 37.13.147. LONGEVITY BONUS ACCOUNT. The longevity bonus account is established as a separate account in the Alaska permanent fund. Notwithstanding the provisions of AS 37.13.145, 12.5 percent of the income of the permanent fund earned during the fiscal year ending on June 30 of the current year that is available for distribution under AS 37.13.140 shall be transferred to the longevity bonus account.

(b) Money in the longevity bonus account shall be invested in investments authorized under AS 37.13.120. Income from the investment of the longevity bonus account shall be treated as an addition to that account.

(c) The commissioner of revenue shall transfer money in the longevity bonus account to the Alaska longevity bonus fund to pay monthly longevity bonuses in accordance with AS 47.45.090.

* Sec. 2. AS 43.23.045(b) is amended to read:

(b) Notwithstanding any contrary provision of law, each year the commissioner shall transfer to the dividend fund 37.5 [50] percent of

the income of the Alaska permanent fund earned during the fiscal year ending on June 30 of the current year and available for distribution.

* Sec. 3. AS 47.45.010 is amended to read:

Sec. 47.45.010. PERSONS WHO MAY QUALIFY FOR LONGEVITY BONUS. (a) A person who is 65 years of age or over, who has been a resident of the state for at least one year immediately preceding the application for a longevity bonus under this chapter [WAS DOMICILED IN THE TERRITORY ON OR BEFORE JANUARY 3, 1959 AND WHO HAS MAINTAINED A CONTINUOUS DOMICILE IN THE TERRITORY OR STATE FOR 25 YEARS] may apply to the commissioner of administration for qualification to receive a monthly bonus [OF $250].

(b) When the commissioner of administration determines that an applicant qualifies under AS 47.45.010 - 47.45.170 the commissioner [HE] shall immediately begin payment of the bonus.

(c) A person who otherwise qualifies to receive a bonus provided for in AS 47.45.010 - 47.45.170 may continue to do so only as long as that person continues to be a resident of [HE CONTINUOUSLY RETAINS A DOMICILE IN] the state.

* Sec. 4. AS 47.45.010 is amended by adding a new subsection to read:

(d) The initial amount of the monthly bonus is $250. On July 1 of each year, beginning July 1, 1984, the amount then paid as the monthly bonus shall be increased by three percent.

* Sec. 5. AS 47.45.030 is amended to read:

Sec. 47.45.030. ABSENCE FROM THE STATE. After qualification a [A] recipient shall notify the commissioner of administration when the recipient [HE] expects to be absent from the state if the absence is for a continuous period that exceeds 30 days. After that notification, the recipient shall no longer receive bonuses from the Department of Administration after the [HIS] last regularly approved monthly application. Upon returning [HIS RETURN] to the state the recipient [HE] may again make application for a bonus. Whenever the absence is for a continuous period that exceeds 180 days the recipient shall be disqualified from receiving bonuses for the next 12 calendar months after returning [HIS RETURN] to the state. However, when the commissioner of administration determines a period of absence is beyond the control of the recipient, the recipient [HE] may not be disqualified, if the recipient [HE] still otherwise qualifies upon returning [HIS RETURN] to the state. Continual absences from the state, even though reported, and failure to notify the commissioner of an expected absence may be grounds for disqualification.

* Sec. 6. AS 47.45.090(a) is amended to read:

Sec. 47.45.090. ALASKA LONGEVITY BONUS FUND. (a) The [THERE IS THE] Alaska longevity bonus fund is created for the purpose of paying the monthly bonuses provided for in this chapter. The fund consists of all money made available by appropriations of the state legislature, and from other appropriated money transferred from the Alaska permanent fund [FUNDS], all contributions from whatever source, and income and interest derived from the investment of money.

* Sec. 7. AS 47.45.090 is amended by adding a new subsection to read:

(c) At the request of the commissioner of administration the commissioner of revenue shall transfer amounts needed for the payment of monthly bonuses under this chapter from the longevity bonus account in the Alaska permanent fund (AS 37.13.145(b)) to the longevity bonus fund.

* Sec. 8. AS 47.45.150 is amended by adding a new paragraph to read:

(3) "resident" or "resident of the state" means an individual who is physically present in the state with the intent to remain permanently in the state or, if the individual is not

physically present in the state, intends to return to the state and is absent only for medical treatment or other reasons that the commissioner of administration may establish by regulation;

* Sec. 9. AS 47.45.170 is repealed and reenacted to read:

Sec. 47.45.170. FINDINGS AND PURPOSE. The legislature finds and declares that

(1) the high cost of goods and services in Alaska and the state's remoteness and harsh environment, makes it difficult for many elderly Alaskans to remain in the state after retirement;

(2) when a person is forced to live out retirement years away from home, family and friends, that person suffers an irreparable loss;

(3) Alaska's elderly are a precious human resource, and it is in the public interest to provide a financial incentive for them to remain in the state after retirement;

(4) as oil revenues decrease, it will become increasingly difficult for the legislature to fund the longevity bonus program through annual appropriations and the income of the Alaska permanent fund is an appropriate source of funding for the longevity bonus program; and

(5) it is in the public interest to continue the longevity bonus program for all elderly Alaskans irrespective of need. The longevity bonus program is not a form of welfare, and is not a substitute for or supplement to public assistance. Other programs are available to provide the basic necessities of life. The longevity bonus program is intended only to encourage elderly Alaskans to spend their retirement years in the comfort of their homes.

* Sec. 10. AS 47.45.150(2) is repealed.

* Sec. 11. This Act takes effect July 1, 1983.

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 215
Title An Act amending the Alaska Longevity Bonus Program
Requested by ______ Date 4/22/83

II. FISCAL DETAIL
Agency Affected Department of Administration
Program Category Affected ______
BRU, Program, or Subprogram(s) Affected Alaska Longevity Bonus Program
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY
100 PERSONAL SERVICES	58.4	26.7	26.7	26.7	26.7	
200 TRAVEL						
300 CONTRACTUAL	43.5	26.5	27.0	27.5	28.0	
400 COMMODITIES	1.6	1.0	1.0	1.0	1.0	
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	42250.0	30400.0	42130.0	58830.0	61430.0	
Retroactive Grants	11409.0	--	--	--	--	
TOTAL	53762.5	30454.2	42184.7	58885.2	61485.7	

FUNDING (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY
GENERAL FUND	11512.5	54.2	54.7	55.2	55.7	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Permanent Fund Earnings	42250.0	30400.0	42130.0	58830.0	61430.0	

POSITIONS

	FY 84	FY 85	FY 86	FY 87	FY 88	FY
FULL TIME	1.0	1.0	1.0	1.0	1.0	
PART TIME	1.5					
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Clerk V PFT (1 position)	$ 26,730
Clerk III PPT (3 positions) (6 months)	31,680
Personal Services TOTAL	$ 58,410

IV. DATE 4/22/83 PREPARED BY Jon Tillinghast
AGENCY ______
PHONE ______

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

STATE OF ALASKA
FISCAL NOTE

Revision Date:

I. REQUEST
Bill/Resolution No.: S.B. 215
Title: Longevity Bonus/Permanent Fund
Sponsor: Ray
Requestor:

II. FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Social Services
BRU, Program of Subprogram(s) Affected:
Longevity Bonus Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	-0-	58.4	26.7	26.7	26.7	26.7
200 TRAVEL						
300 CONTRACTUAL	-0-	43.5	26.5	27.0	27.5	28.0
400 COMMODITIES	-0-	1.6	1.0	1.0	1.0	1.0
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC	-0-	22,818.0	12,785.9	14,400.2	16,260.8	18,378.7
TOTAL OPERATING	-0-	22,921.5	12,840.1	14,454.9	16,316.0	18,434.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
PERMANENT FUND	-0-	22,921.5	12,840.1	14,454.9	16,316.0	18,434.4

POSITIONS:

FULL-TIME		1.0	1.0	1.0	1.0	1.0
PART-TIME		1.5	-0-	-0-	-0-	-0-
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Alaska Permanent Fund Income

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: George T. Michael, Administrative Officer George T. Michael   Phone: 465-4401
Division: Pioneers' Benefits   Date: 4/6/83

Approved by Commissioner: Lisa Rudd LSR   Date: 4/6/83
Department: ADMINISTRATION

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7/0401-02-1/BDGSF1

IV. ANALYSIS: Senate Bill 215

ASSUMPTIONS

(a) Residence requirements for eligibility for the Longevity Bonus Program would change from 25 years to one year, and the requirement for domicile in Alaska on or before January 3, 1959, would be eliminated. (b) An estimated 3,803 additional persons would immediately become eligible under the new regulations. (c) Retroactive payments will be paid in FY84 in a total amount of $11,409,000 to the approximately 3,803 persons who would have been eligible on July 1, 1982. (d) An increase in the Longevity Bonus staff will be needed to process the initial flood of applications, and continuing increased staff will be necessary to process the greater workload of the expanded program. (e) Annual growth of the program will be approximately 89 per month. (f) The Act takes effect on July 1, 1983. (g) Grants for FY85-88 are increased by 3% each year.

Additional funds needed for FY84 are computed as follows:

	Annual Cost
Personal Services Clerk V, PFT (one position) $26,730 Clerk II, PPT (three positions, 6 mo.) $31,680	$ 58,410
Contractual Services Added postage, bonus warrants, printing of new regulations and application forms, data processing charges, increased telephone tolls.	43,500
Commodities Office supplies and file cabinets for application and recipient files.	1,600
Grants (additional estimated 3,803 persons who will be eligible for the Bonus due to one-year residence requirement x 12 x $250)	11,409,000
Retroactive payments for those who would have been eligible on July 1, 1982 (est. 3,803 x 12 x $250)	11,409,000
Additional FY84 funds required	$22,921,510

For years beyond FY84, one additional PFT staff position needs to be retained, along with appropriate contractual and commodities costs, plus grants based on an estimated increase of 89 recipients per month, escalated at the rate of 3% per year.

7/0331-02/BDGSF1

S.B. 215
POSITION PAPER

Senate Bill 215 would change the Longevity Bonus Program in the following ways:

(a) Residence requirements for eligibility would change from 25 years to one year, and the requirement for domicile in Alaska on or before January 3, 1959, would be eliminated. (b) An estimated 3,803 additional persons would immediately become eligible under the new regulations. (c) Retroactive payments will be paid in FY 84 in a total amount of $11,409,000 to the approximately 3,803 persons who would have been eligible on July 1, 1982. (d) An increase in the Longevity Bonus staff will be needed to process the initial flood of applications, and continuing increased staff will be necessary to process the greater workload of the expanded program. (e) Grants for FY 85-88 will be increased by 3% each year. (f) The funding source would be earnings from the Permanent Fund, rather than the State General Fund. (g) Cost of bonuses for an ever-increasing number of people will continue to rise year after year as a greater number of one-year residents reach age 65, and an over-65 segment of the population in the lower 48 states migrate to Alaska to take advantage of the benefits for seniors.

This bill, along with others which liberalize eligibility requirements, raises a number of questions.

1. Is there merit in rewarding senior citizens simply because of their age, or should monetary assistance from the State be based on need?

   Many of the people who receive the Longevity Bonus have accumulated wealth as a result of their years of endeavor in the State, and have no financial need but to share equally with all Alaskans the earnings of the Permanent Fund.

2. Are the huge increases in funds which will be required justified?

   S.B. 215 would result in the largest cost increase of all alternatives considered to date. The fiscal note on this bill reveals that $53.4 million would be required for the Longevity Bonus Program in FY 84 if residence requirements are reduced to one year, and would grow to $93.7 million by FY 93 with growth of the Program and escalation of the bonus by 3% per year.

   Even though these costs will be borne by earnings from the Permanent Fund, it is questionable whether this is the best use of these resources.

3. Will this change attract seniors from the lower 48 states, and if so, is that desirable?

   While Alaska's severe weather may deter many from coming, consensus is that a considerable number would take advantage of this economic windfall, especially if after only one year's residence they can also receive other benefits, such as permanent fund dividends, senior housing, tax relief, free licenses for hunting and fishing, passes on the State ferries, etc.

Attracting senior citizens to Alaska may, in fact, be beneficial to society as a whole. This is a class of citizen which is generally seasoned, mature, stable and knowledgeable. If, in moving to Alaska they can be near their families, additional benefits of a personal nature may accrue.

On the other hand, people over 65 are more prone to disease and accidents, especially where Alaska's colder climate can aggravate respiratory problems or cause slip-and-fall and automobile accidents. This could result in a considerable increase in the demand on Medicaid and Medicare programs, not to mention the additional suffering of the seniors.

4. Will this liberalization of the Longevity Bonus Program be perceived by the rest of the nation as another "giveaway" program in Alaska?

   If so, it will be increasingly difficult to obtain federal funding for needed programs.

The most difficult question to answer is whether it is fair to use part of all Alaskans' earnings from the Permanent Fund to pay a special group of people, when that group's payments are not based on need.

Because answers to these questions are not clear and compellingly positive, the Department of Administration is not in favor of passage of Senate Bill 215.

Instead, an alternative has been developed which would phase out the Longevity Bonus Program over a ten-year period, with supplemental benefits available through other State programs which would assure all seniors of receiving a reasonable level of income for their needs. This latter plan is favored by the Department of Administration.

Prepared by:

Director
Division of Pioneers' Benefits
Department of Administration

Date

Approved by:

Commissioner
Department of Administration

Date

7/0407-03-2/BDGSF1

SENATE AD HOC RESIDENCY COMMITTEE
REPORT ON CSSB 215

8234

1. INTRODUCTION

The Senate Ad Hoc Residency Committee has passed, and has forwarded to the Senate Finance Committee, CSSB 215 (Residency). The bill would amend the existing Alaska longevity bonus ("ALB") program (AS 47.45.010 et. seq.) by creating an equal retirement benefits program funded by 12.5 percent of the state's permanent fund earnings.

Legislation amending the ALB program is necessary to cure severe constitutional problems with the existing law. Under current AS 47.45.010, a person is eligible for a $250/month longevity bonus if the person:

1. is 65 year of age or older;
2. was "domiciled in the territory" on or before January 3, 1959; and
3. has been continuously domiciled in the state for 25 years.

Following the U.S. Supreme Court's decision in Zobel vs. Williams, 72 L. Ed. 2d. 672 (1982), the residency requirements of the ALB program were challenged in Vest v. Schafer, 1JU-82-1103 Civil (1st Jud. Dst., 1982). On August 9, 1982, the Alaska Legislative Council, together with Mr. Vest and the Attorney General's office, entered into an agreement which stayed all proceedings in the case through adjournment of this legislative session. This session, the Alaska Legislative Council would use its "best efforts" to secure the passage of legislation which would treat all elderly Alaskans with one-year's residency equally in the payment of longevity bonuses.

The settlement was entered into because of the non-severability clause of the original ALB legislation. Under § 2, Ch. 205, SLA 1972, if the residency provisions of the ALB program were invalidated, the result would be the termination of the program. Thus, it is vital that legislation amending the ALP program be enacted this session. If it is not, the Vest case will resume, with the inevitable result that the existing program will be declared unconstitutional, and all payments under the program stopped.

II. PROCEEDINGS BEFORE THE AD HOC RESIDENCY COMMITTEE

On March 8, 1983, the Senate Ad Hoc Residency Committee released a comprehensive report which analyzed some 10 options available to the legislature in amending the ALB program.[1] The committee explored each of the 10 options in light of (1) constitutional problems; (2) the fiscal impacts of the alternative; (3) tax consequences, and the option's impact upon the elderly's eligibility for other governmental services; and (4) the consistency of the option with the basic goals of the ALB program.

It was plain to the committee that there was no painless solution to the problems posed by the Zobel decision

[1] "The Longevity Bonus Program: Options Under The Vest Settlement," Jon K. Tillinghast.

and the <u>Vest</u> case. Nonetheless, the committee believes that the ALB program, in some form, should continue. It was the intent of the original legislation, introduced in 1972 by Senators Ray and Butrovich, to establish a permanent program to provide supplemental payments to Alaska's elderly. This is apparent from the statement of purposes of the Act, which notes the high cost of retirement in Alaska, and that without the longevity bonus:

> "These pioneers would be forced to live out their retirement years in areas far away from the land they loved and nurtured and thereby also suffering, in many cases, the loss of familial relationships with their own kin, an experience that is sad and frustrating to them as well as depriving new generations of Alaskans the benefit of their wisdom and experience. This legislation will hopefully provide our pioneers with the economic means to remain and to continue to serve their state..." § 1, Ch. 205, SLA 1972.

Of course, the high cost of retirement in Alaska is hardly a temporary problem. Moreover, even under the existing program, the number of recipients would not peak until the years 2010-2020, and the program would continue through about the year 2050.

Moreover, as the committee's March 8, 1983 report noted, between 1/2 and 2/3 of Alaska's elderly have income only marginally above the state poverty level of $546 a month. The ALB program has thus enabled many of Alaska's elderly to remain off public assistance. This factor, as well, argued in favor of retention of a viable program.

Finally, while opening the program to all one-year residents, as is constitutionally required, would be viewed by some as providing unwarranted benefits to "newcomers," the committee's report demonstrated that even those Alaskan elderly who currently do not receive the bonus have lived in the state for several years. Indeed, only 10 percent of Alaska's elderly have resided in the state for 10 years or less.

Guided by a desire to retain a meaningful ALB program, the committee gave particular consideration to several of the 10 options analyzed in its report. Among the options considered and rejected were:

1. expanding the class of ALB recipients to all one-year residents in FY 1984. Thereafter the program would be terminated while providing "grandfather rights" to those eligible in 1984 to continue to receive bonuses for their lives. While the committee's counsel believed that this option was probably constitutional, the Department of Law has expressed serious conserns in this regard. Moreover, the committee believes that it is arbitrary to give a lifetime bonus to someone who has reached the age of 65 or achieved their one-year residency by June 30, 1984, while providing no assistance to those who reach the age of 65 thereafter;

2. expanding the class of eligible recipients to all one-year elderly residents, and funding the program from general revenues. This option was rejected primarily for fiscal reasons. There are currently some 9,425 Alaskans who receive bonuses totalling $28.28 million. When the class is expanded to all one-year residents, an additional 3,803 elderly will be eligible in FY 1984, which would raise the general fund burden to $40.28 million in FY 1984, and $41.98 million in FY 1988. As oil revenues continue to decline, the committee believes that the general fund would be unable to absorb an ever-increasing burden created by an expanded ALB program;

3. gradually phasing out the ALB program, while at the same time raising the income "ceiling" for state old age assistance. This is the Sheffield administration's preferred option, and was rejected by the committee for several reasons. First, it converts the ALB program into a welfare scheme -- an approach universally opposed by Alaska's elderly. Second, once the $250/mo. ALB payment has been translated into additional welfare entitlements, the maximum constitutional residency requirement drops from one year to 30 days. This is because, unlike the ALB, welfare is considered a "basic necessity of life," for which the courts generally tolerate no more than a one month durational residency provision. Finally, since an increased welfare ceiling would provide not only additional monetary benefits, but also substantially expanded eligibility for Medicaid -- which includes

free and unlimited nursing home coverage -- there is a substantial risk of in-migration created by this option; and

4. an annuity program. Under this option, each Alaskan, in lieu of receiving a cash permanent fund dividend, would receive a credit to a retirement account equal to the cash dividend. Over the years, those who continued to reside in the state would accumulate substantial annuity accounts. However, the option would require each Alaskan to forego the entirety of his or her permanent fund dividend. Moreover, for many years, and until individual annuity accounts reached some meaningful proportion, substantial general fund "supplements" would be required if the state were to provide a benefit of any size. For these reasons, this option was rejected by the committee.

III. THE EQUAL RETIREMENT BENEFITS PROGRAM OF CSSB 215

The Equal Retirement Benefits program which would be created by CSSB 215 provides both equality of treatment and permanence, while at the same time retaining some of the fiscal advantages of the annuity approach. Under Section 1 of the bill, 12.5 percent of the income from the permanent fund will be credited to a special account within the permanent fund. This longevity bonus account would be available for appropriation to fund the ALB program. At the same time, and under Section 2 of the bill, the amount of permanent fund earnings distributed as dividends would be reduced from 50 percent to 37.5 percent.

For FY 1984, the full 12.5 percent of permanent fund earnings will be necessary to fund the ALB program. This year, some $41 million will be required to provide a $250/mo. bonus to all one-year elderly residents. Conversely, the 12.5 percent credit to the longevity bonus account this year will equal $42.2 million. The $1.2 million surplus will remain credited to the ALB account, as will future earnings on that surplus. Section 1; Section 37.13.147(b). Of course, the money itself will remain in the permanent fund. The ALB account is, after all, only an "account." The committee believes that it was unwise to create a separate ALB "fund" -- both because of the redundant costs of administration, and the loss of leverage inherent in any smaller fund.

As the years go by, less than 12.5 percent of permanent fund earnings will be required to fund the ALB program. As a result, the ALB account will continue to build a substantial "savings account" which, in time, is intended to make the ALB account partially if not wholly self-sustaining.

In projecting the growth of the ALB "savings account," the committee relied upon elderly population projections and assumptions developed by the Alaska Department of Labor, the U.S. Social Security Administration, Aetna Insurance Company and Travelers Insurance Company.

Using these assumptions, the financial projections for the ALB savings account were encouraging. Between now and the year 2000, the percentage of permanent fund earnings required to fund the ALB program will gradually decline, to the point where only 7.5 percent of earnings will be required by the year 2000. As attachment #1 to this report indicates, in that year, $198 million may be appropriated to the account, while only $118-$121 million will be necessary to fund the program -- resulting in a savings account deposit in that year alone of between $76-79 million. The aggregate "savings account" balance in the year 2000 should be approximately $704 million. By the year 2005, the ALB savings account may reach $1.7 billion. Since only $168 million would be required to fund the program that year, the ALB program may become entirely self-sustaining in that year.

Of course, the assumptions used to calculate these figures may be too liberal, or too conservative. The point is that under any reasonable assumptions, the ALB account will build a substantial savings account. This savings account is important for two reasons. As current oil revenues continue to decline, the time may come when a substantial portion of permanent fund earnings are needed for general government expenses. Second, commencing in the year 2010, the elderly population in Alaska should begin to experience significant growth, due to the aging of those born during the post-World War II baby boom. The savings account provides a hedge against both problems.

Under Section 4 of the bill, and commencing in FY 1985, the amount of the longevity bonus will increased by three percent annually. Thus, the amount of the bonus increases from $3,000 per year in 1984 to $4,814 in the year 2000.

Section 4, however, also places a ceiling on the bonus. If the legislature, in any year, appropriates 12.5 percent of permanent fund earnings, and that amount is insufficient to pay the full amount of the bonus for that year, it is the committee's intent that the amount of the bonus should be reduced to avoid the need for a general fund supplement. Since, in essence, the ALB program will be preserved by the permanent fund, the committee believes that it is fair for Alaska's elderly to look only to a given percentage of the permanent fund to provide the bonus. Accordingly, in any year of shortfall, Section 4 provides that the bonus may be no greater than a per capita distribution among all eligible applicants of 12.5 percent of fund earnings.

There is at least one year in which this "ceiling" will materially reduce the size of the bonus. Through FY 84, permanent fund earnings have been based in part on undistributed earnings from prior years in which the state's former dividend plan was held up in court. In FY 1985, the permanent fund will finally stand on its own -- resulting in a reduction of permanent fund dividend distributions from $169 million in FY 84 to $121 million in FY 85. The consequences of this reduction on FY 85 bonuses are depicted in attachment #2. If there was no "ceiling," the legislature would be required to appropriate a general fund supplement of $14.09 million to award each eligible applicant their annual bonus of \$3,090 (\$3,000 plus a 3% COLA). By virtue of the ceiling, each elderly Alaskan will receive an annual per capita distribution of some \$2,110.

The qualifications for the bonus are set forth in Section 3 of the bill. In essence, the residency requirement is reduced to one year. However, the bill also improves upon the existing definition of "residency." Under Section 7 of the bill, a person satisfies the residency requirement only if he maintains his principal place of abode in the state for one year, and does not claim residency benefits in any other state.

Under existing 47.45.030, an eligible applicant is entitled to be absent from the state for up to six months during any year without jeopardizing his eligibility. Under Section 5 of the bill, § 030 is amended to make clear that this automatic six-month absence period only applies after initial qualification.

Finally, Section 10 of the bill would make the liberalized residency requirements of Sections 3 & 7 retroactive to July 1, 1982. This provision of the legislation is necessary under the Vest settlement, and will require a one-time appropriation of approximately \$12 million from the general fund to pay retroactive bonuses to all elderly Alaskans who had resided in the state for one year as of July 1, 1982.

FISCAL YEAR 85

SRCE.	% OF ELDERLY	TOTAL DIV. DIST.	25%	AMOUNT NEEDED	SIZE OF COLA	BONUS CEIL.	SVGS. ACCT.
Aetna	2.9	121.6	30.4	44.49	3090	2110	(14.09)
Trvlr	2.9	121.6	30.4	44.49	3090	2110	(14.09)

FISCAL YEAR 2000

SRCE.	% OF ELDERLY	TOTAL DIV. DIST.	25%	AMOUNT NEEDED	SIZE OF COLA	BONUS CEIL.	SVGS. ACCT.
Aetna	3.0	792.34	198.08	121.11	4814	NA	76.97
Trvlr	2.9	792.34	198.08	118.35	4814	NA	79.23

SENATE AD HOC RESIDENCY COMMITTEE

RESPONSE TO:

"SB 215 POSITION PAPER," ALASKA DEPARTMENT OF ADMINISTRATION, April 13, 1983

The Senate Ad Hoc Residency Committee has prepared legislation (CSB215) which would amend the Alaska Longevity Bonus (ALB program) to create an equal retirement benefits program. Under the legislation, all elderly Alaskans with one year's residency would be entitled to receive a $250/month longevity bonus. Funding for the program would be provided by 12.5 percent of permanent fund earnings. If the amount of permanent fund earnings were insufficient, the amount of the bonus would be correspondingly reduced. Alternatively if 12.5 percent of permanent fund earnings would be in excess of the amount required to fund the program for any particular year, the surplus would be placed in a "savings account." The earnings from the savings account will serve to make the program at least partially self-sustaining in future years.

This option was chosen from among 10 alternatives presented to the Committee in a March 8, 1983 report. The Committee's reasons for choosing this alternative are discussed in detail in the "Senate Ad Hoc Residency Committee Report on CSSB 215."

Conversely, the Alaska Department of Administration has proposed to terminate the ALB program over a 10 year "phase-out period." Each year, the amount of the bonus would be reduced by $25.00/month. During that same period, the amount available as state Old Age Assistance welfare payments would be increased by $25.00/month. In FY 1994, the state's welfare payment would rise from its current $546/month to $796/month.

On April 13, 1983, Department of Administration Commissioner Rudd issued a "position paper" which was very critical of SB 215, and which advocated, in its place, the welfare alternative developed by that department. The purpose of this response is two-fold:

1. Part I clarifies the "position paper's" description of SB 215. While the description is partially accurate, it implies that certain of the more controversial provisions of SB 215 are unique to that bill. To the contrary, most of the difficult changes described in the position paper are mandated by the Vest settlement, and are common to all proposals which have been advanced -- including the Department of Adminis ration's; and

2. Part II discusses the four criticisms of SB 215 advanced by the position paper. In addition to discussing the merits of the criticisms, Part II also discusses their applicability to the Department of Administration's proposal.

PART I

DESCRIPTION OF SB 215.

A. Residency Requirements.

The position paper correctly states that SB 215 would reduce the residency requirement of the ALB program from 25 years to one year. A one year residency requirement is the maximum constitutionally permissible for programs which do not provide "basic necessities of life." The Administration, on the other hand, has proposed converting the ALB program into additional state welfare payments. This would involve the provision of a "basic necessity of life." Whatever difficulties are posed by SB 215's one year residency requirement are, obviously, multiplied by the 30-day residency requirement of the Administration's option.

B. <u>Increased Number of Eligible Applicants</u>.

The position paper correctly states that under SB 215 there will be approximately 3,803 new recipients of the longevity bonus -- a result caused by the reduction in the residency requirement. This is equally true of the Administration's proposal. Moreover, under the Administration approach, there will also be a substantial number of new applicants for state welfare. The Residency Committee projects that as many as 2,500 more people will be added to the welfare roles as a result of Commissioner Rudd's suggestions. Moreover, that figure does not take into account the likelihood that Commissioner Rudd's approach will attract substantial numbers of new elderly to the state (see below).

C. <u>Retroactive Payments</u>.

The position paper correctly notes that $11.4

million in retroactive payments must be made under SB 215 to those elderly Alaskans with one-year's residency as of July 1, 1982. These retroactive awards are mandated under the Vest settlement, and they are included in the Administration's proposal as well. Under both proposals, the $11.4 million appropriation would come from general revenues. However, under a proposed amendment to CSSB 215, the general fund would be reimbursed as surpluses accrue in the Alaska longevity bonus account.

D. Staff Increases.

The position paper notes that with 3,803 new ALB applicants, some additional staff will be required in the Department of Administration. The Department of Administration projects that the amount will be nominal -- approximately $100,000. The Department of Administration admits that its increased fiscal costs for the Rudd alternative would be identical to that of SB 215. Moreover, and unlike SB 215, the Rudd alternative would require substantially increased administrative costs within the Department of Health and Social Services, to handle the some 2,500 new state welfare recipients. Those costs alone are likely to be substantially higher than all of the administrative costs under SB 215. Remarkably, the Administration has yet to prepare fiscal projections on these costs.

E. Size of Bonus.

The position paper incorrectly states that the amount of the bonus under SB 215 will invariably increase by three percent per annum. While the bill does contain a three percent cost of living adjustment, the adjustment will only be applicable if the funding source for the program -- 12.5 percent of permanent fund earnings -- is sufficient to provide that amount. If there is a shortfall, the size of the bonus will be correspondingly reduced. This "ceiling" was inserted at the behest of Commissioner Rudd, yet the position paper contains no discussion of its existence or significance.

F. Funding Source.

The position paper states that the funding source for SB 215 will be permanent fund earnings. That is half the story. While 12.5 percent of permanent fund earnings would be credited to the longevity bonus account, it is anticipated by the Committee, based on reliable and corroborated data, that over the years the ALB will build a substantial surplus. In time, SB 215 will be funded in part, if not in whole, by earnings from its own account.

G. Cost of the Bonuses.

The position paper incorrectly states that the cost of the bonuses will "continue to rise" as the years go by. To the extent that this implies an ever-increasing burden on the general fund, SB 215, of course, does not use general fund revenues. Moreover, the percentage of permanent fund earnings is fixed by statute. Moreover, and as noted previously, the ALB account created by SB 215 will continue to build substantial surpluses.

PART II

THE POSITION PAPER'S CRITICISMS OF SB 215.

A. The "Need Based" Issue.

When the Alaska Longevity Bonus Program was created in 1972 as a result of legislation introduced by Senators Ray and Butrovich, a conscious decision was made not to base the program on "need." The program is intended to partially compensate for the increased cost of retirement in Alaska, and provide a financial incentive for the state to retain the precious human resource of its elderly. The program is a source of pride to all elderly Alaskans, and any option which converts the undertaking into a welfare scheme is both an insult to Alaska's elderly, and politically naive.

This fact was underscored in testimony by Rose Palmquist of the Alaska Older Persons' Action Group. That testimony strongly opposed Commissioner Rudd's alternative because of its emphasis on "welfare."

The position paper stresses that "many" wealthy people have no moral claim to a longevity bonus. First, as this Committee's March 8, 1983, report concluded, there are very few Alaskan elderly who can be called "wealthy." Moreover, and contrary to the implications of the position paper, SB 215 would not be providing a bonus to a large number of "newcomers."

Indeed, most elderly Alaskans who are currently not receiving the bonus have lived here in excess of ten years.

In sum, criticism #1 simply rehashes a debate resolved a decade previous -- whether or not the ALB program should be structured on a welfare basis.

B. "Huge Increases in Funds."

The Position paper characterizes SB 215 as providing for "huge increases of funds," and resulting in "the largest cost increase of all alternatives considered." This criticism is not true. As noted previously, the bonuses provided by SB 215 are subject to a ceiling which ensures that it never exceeds 12.5 percent of permanent fund earnings. Again, this critical provision of the bill is conspicuous in its absence in the position paper. Additionally, and because the program will become partially if not wholly self-sustaining in future years, it is widely viewed as the most fiscally responsible of any option being considered.

The converse is true of the Rudd alternative. While over the years the cost of the ALB program will decrease, the cost of additional welfare assistance will continue to increase. Some 2,500 persons may be added to the state welfare roles as a result of the Rudd alternative -- a figure which does not include substantial elderly in-migration. As our response to criticism #3 below indicates, there will in all likelihood be substantial in-migration as a result of the Rudd proposal.

Under the Rudd option, the general fund will bear this ever-increasing burden.

It must be stressed, moreover, that the increased welfare burdens of the Rudd alternative do not consist solely of increased welfare payments. Every person added to the welfare roles under the Rudd proposal will also be entitled to receive Medicaid -- which encompasses free and comprehensive medical insurance, including unlimited nursing home coverage.

C. In-Migration.

The position paper opines that providing $250 per month to all one-year elderly Alaskans will result in substantial in-migration of new elderly. Indeed, Commissioner Rudd argues that SB 215 may result in physical harm to the elderly, who will be lured to the state by the bill's generosity, only to slip and fall on Alaska's icy street. Given the extreme economic and environmental hardships of retirement in Alaska, and the fact that a year's residency is required under SB 215 before any benefits are received, the Committee simply disagrees.

On the other hand, the in-migration caused by the Rudd alternative may be extreme. As noted previously, under the Rudd alternative, any person whose net income is less than $796 a month -- which is substantially higher than any other state's welfare ceiling -- will, upon moving to Alaska, immediately be entitled to a state subsidized income of that amount, together with free medical coverage and nursing home care for life. At a minimum, this would provide an enormous incentive for current Alaskans to relocate their institutionalized parents or relatives to the state. In short, no alternative considered with respect to the ALB poses more severe in-migration problems than that of the Rudd alternative.

D. Fairness.

Finally, the position paper suggests that it is "unfair" to set apart a portion of the permanent fund earnings for the ALB program. This observation is inconsistent with the repeated statements of the Sheffield Administration that a portion of the permanent fund earnings should be set aside to fund the ALB program. Many state programs set aside funds for the benefit of particular classes. Whether those funds are set aside as a portion of general revenues or the permanent fund hardly seems significant.

CONCLUSION

Finally, the position paper ends with a one paragraph synopsis and endorsement of the Rudd alternative. This alternative has, even at this late date, not appeared in legislative form. No analyses or reports on this alternative have ever been prepared by the Administration; nor has the Administration made any effort to respond to any of criticisms of the alternative which have been repeatedly advanced by this Committee, other legislators and elderly Alaskans. The paper states that it is "not in favor" of SB 215 because there have not been "clear and compelling positive" answers to the four criticisms suggested in the document. Conversely, there have been no answers whatsoever given to the plain and fatal failings of the Rudd alternative.

THE LONGEVITY BONUS PROGRAM:
OPTIONS UNDER THE VEST SETTLEMENT

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I. INTRODUCTION

On June 14, 1982, the United States Supreme Court ruled that the cumulative residency requirements of Alaska's permanent fund dividend distribution program violated the Equal Protection Clause of the United States Constitution.[1] Shortly thereafter, Alaska's Longevity Bonus ("ALB") Program was challenged on equal protection grounds.[2] On August 9, 1982, the Department of Law, with the approval of the Alaska Legislative Council, entered into a stipulation in the Vest case which stayed all proceedings pending adjournment of this legislative session, in order to afford the legislature an opportunity to address the constitutional problems with the existing program.

The purpose of this report is to analyze some 10 options available to the legislature in amending the Alaska Longevity Bonus Program. This report is a first step in a process which must be completed by the end of this session. As subparts (C) and (D) of this section discuss, the likely consequence of failing to enact remedial legislation this session is that the ALB program will be judicially terminated.

A. Description Of The Longevity Bonus Program

Predecessors of the existing ALB program can be traced to 1915. In that year, the Territorial Legislature authorized a monthly allowance of $12.50 for needy elderly Alaskans of 10 years

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[1] Zobel v. Williams, 72 L. Ed. 2nd 672 (1982)

[2] Vest v. Shafer, 1 JU-82-1103 Civ. (1st Jud. Dist., 1982)

residency who chose not to enter the newly-created Pioneers' Homes.[3] The current program was enacted in 1972[4] as a result of legislation introduced by Senators Butrovich and Ray.[5] Quite unlike the "need-based" focus of its predecessors, the 1972 legislation was to:

> "... provide all law-abiding Alaskans capable of managing their own affairs who have maintained a domicile in the state for at least 25 years and have reached a retirement age of 65, an incentive to continue uninterrupted residency in the state Under no circumstances shall this chapter be considered a form, type, or manner, of public relief. The bonuses made under this chapter are not predicated on need even though they may appear to provide supplemental income to some qualified persons who would otherwise be forced to become responsibilities of the state. The Legislature further finds and states that this legislation recognizes the economic hardships suffered by many elderly Alaskans, Alaskans who through their tenacity and perseverance molded Alaska as we know it through skillful application of their talents. These pioneers are the same Alaskans who, in the prime of their life, were in effect treated as second class citizens by the federal government and who paid much of their hard earned income to a government in which they did not have the right to participate through the power of the ballot. The legislature also is aware of the fact that many of these pioneers have been forced to live out their retirement years in areas far away from the land they loved and nurtured and thereby also suffering, in many cases, the loss of familial relationship with their own kin, an experience that is sad and frustrating to them as well as depriving new generations of Alaskans the benefit of their wisdom and experience. This legislation hopefully will provide our pioneers with the economic means to remain in and continue to serve their state and to enjoy the opportunity of aiding

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[3]Chapter 64, SLA 1915.

[4]Chapter 205, SLA 1972; AS 47.45.010 et. seq.

[5]SB 211, 7th Leg., 2nd Sess.

the new Alaskan in making the state truly "The Great Land." §1, Ch. 205, SLA 1972.

The ALB program, then, has several purposes:

1. providing an incentive for a particular class of senior citizens to remain in the state;

2. compensating for the hardships faced by retirement in Alaska;

3. rewarding the past contributions of Alaska's elderly;

4. compensating for past hardships suffered by Alaska's pioneers; and

5. retaining the wisdom and experience of Alaska's pioneers.

Originally, the bonus was $100 per month. Over the years, the amount has gradually increased to its current $250 per month.[6] A person is eligible for a bonus if he or she:

1. is 65 years of age or older;
2. was "domiciled in the territory" on or before January 3, 1959; and
3. has been continuously domiciled in the state for 25 years.[7]

Additionally, if a person is absent from the state for more than 30 days, he will not receive another bonus until he returns. AS 47.45.030. If the person is absent for a continuous period in excess of 180 days, he is ineligible for a bonus for the next 12 calendar months following his return. Id.

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[6]Chapter 13, SLA 1981

[7]AS 47.45.010

Exceptions are made if the absence "is beyond the control of the recipient." Id.

The longevity bonus is taxable under the Internal Revenue Code. However, it is almost universally excluded in calculating income eligibility for state and federal assistance programs.[8]

B. The Individuals Covered By The Alaska Longevity Bonus Program.

There are currently some 9,425 Alaskans receiving some $28.4 million in longevity bonus payments. Sketching an accurate portrait of the state's ALB recipients is difficult, because the ALB application form requires little personal information. In 1976, the Alaska Department of Health and Social Services conducted a random survey of ALB recipients,[9] and, in conjunction with the Vest

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[8]Under 42 U.S.C. §1382(a)(b)(2)(B), which governs eligibility for federal Supplemental Security Income, and by reference also controls other federal programs such as Medicaid and energy assistance, the following is excluded from the definition of income:

> "monthly (or other periodic) payments received by any individual under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence is such state by such individual."

[9]"Alaska Longevity Bonus Impact Survey," Alaska Department of Health and Social Services (1976) (hereinafter "ALB Survey)

settlement, the Department of Law conducted a non-random survey of some 1,896 participants.

From those surveys, it is apparent that a large percentage of ALB recipients are Alaska Natives living in rural areas of the state.[10] Moreover, and in large part because of the ineligibility of many rural residents for social security, the longevity bonus is often the primary source of income for rural residents. For example, 41% of the elderly in Southwest Alaska, and 66% in Northwest Alaska, rely on the longevity bonus as their primary source of income.[11]

Available evidence suggests that a large percentage of ALB recipients have incomes only marginally above the current state welfare assistance level of $546 per month. The Department of Law's 1982 survey -- which was skewed toward the more needy recipients of the ALB -- found that 81.4% of the 1,896 recipients sampled had monthly incomes of $750 or less. The 1976 ALB survey found that half of the ALB recipients had a monthly income, "including that of their spouse," of under $500 per month.[12] Another

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[10]In 1976, 41% of the ALB recipients lived in rural areas of the state and 24.1% were Alaska Natives. ALB Survey at 14-15.

[11]"An Assessment of the Status and Needs of Alaska's Elderly," Department of Sociology, College of Arts & Sciences, University of Alaska (1981) (hereinafter "Assessment.")

[12]ALB Survey, _op. cit._ n. 9 at 18-19.

44% had incomes of less than $1,000 per month. A 1981 University of Alaska survey indicated that roughly half of Alaska's elderly had monthly incomes of less than $800.00.[13]

The 1976 ALB survey suggests that, in light of the high percentage of bonus recipients in the 65-70 age group, the bonus has had a material effect in allowing older citizens to remain in the state after retirement.[14] The report also indicates that the ALB program has allowed a significant percentage of the elderly to remain off various public assistance programs -- including food stamps and state Old Age Assistance.[15]

One significant characteristic of Alaska's elderly in general warrants note -- one that will become quite significant in our analysis of alternatives. Only 10% of Alaska's elderly have resided in the state for 10 years or less.[16]

C. <u>The Effects of Zobel And Vest On The ALB Program.</u>

In reviewing the 1972 legislation creating the Longevity Bonus Program, the Department of Law concluded that "... the classification predicated upon being domiciled in the territory on or before January 3, 1959, bears little, if any, rational relationship to any legitimate legislative purpose which this bill is conceivably designed to serve and thus is in

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[13]Assessment, *op. cit.* n. 11 at 31.

[14]ALB Survey, *op. cit.* n. 9 at 12.

[15]*Id.* at 10, 18.

[16]Assessment, *op. cit.* n. 11 at 12.

all probability unconstitutional."[17]

Nonetheless, the ALB program remained unchallenged until 1982, following the U.S. Supreme Court's decision in Zobel v. Williams (hereafter "Zobel III").[18]

The law in issue in Zobel III (AS 43.23.010 et. seq.) provided for the distribution of a permanent fund dividend of $50.00 for each year of accumulated Alaska residency. The Court ruled, 8-1, that the cumulative residency requirement of the program was not rationally related to the goals of the statute -- a ruling which is discussed in more detail in section II(A), post.

The permanent dividend fund distribution program, in part, was intended to reward Alaskans for prior contributions to the state, a goal which: (1) three justices believed was constitutionally impermissible;[19] and (2) five justices believed was a permissible goal, but was not rationally furthered by a scheme

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[17]Memorandum, Havelock to Egan, Re: FCCS HCS CSSB 211 at 17 (June 29, 1972).

[18]In Williams v. Zobel, 619 P.2d 422 (Alaska 1980) ("Zobel I"), the Alaska Supreme Court invalidated the state's graduated personal income tax repeal. In Williams v. Zobel, 619 P.2d 448 (Alaska 1980) ("Zobel II"), the court upheld the cumulative residency requirement of Alaska's permanent fund dividend distribution plan -- a ruling reversed by the U.S. Supreme Court in Zobel III.

[19]Opinion of the Court, 72 L. Ed. 2nd at 679.

which awarded dividends solely on the basis of residency.[20]

Beyond the ruling of the case, the various opinions -- particularly those of the concurring justices -- are rich in forboding language suggesting that any durational residency requirement may receive "intensified scrutiny" by the Court, and will be justified only in "rare" circumstances.[21]

As is more fully discussed in Part II(A), post, the impact of the Zobel decision upon the ALB program was apparent. Two major goals of the existing ALB program are to reward elderly Alaskans for their prior contributions, and to compensate for past hardships and suffering -- ends which are implemented by a durational residency requirement more severe than that at issue in Zobel. A challenge to the ALB program was not long in coming. On July 6, 1982, one Rodney G. Vest challenged the ALB program in Superior Court in Juneau.[22] Mr. Vest is an elderly Alaskan whose residency in the state commenced three months after statehood. His complaint sought declaratory and injunctive relief striking the durational and statehood residency requirements of the act.

The State's response was colored by §2 of the legislation, which provided, inter alia, that:

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[20]See Brennan conc., 72 L. Ed.2nd at 684: O'Connor conc., 72 L. Ed. 2nd at 685.

[21]Brennan conc., 72 L. Ed. 2nd at 681, 684.

[22]See n. 2, ante.

> "if any provision of this act, or the application of a provision of this act to any person or circumstance is held invalid, this entire act shall be considered invalid."

As the Department of Law explained in reviewing the 1972 law:

> "It is clear that the intent of the Legislature expressed in Section 2 of the bill is to forestall the possibility that a partial declaration of unconstitutionality would result in broadening the coverage of the bill to included additional clauses. This would be the case, for example, if either the 25 year waiting period requirement or the January 3, 1959 cutoff date were declared invalid, and the bill was expressly or impliedly severable."[23]

Thus, invalidation of the Longevity Bonus Program would result not in expanding the number of ALB recipients, but rather in the abrupt termination of the entire program.

Facing that grim probability, the State, with the approval of the Alaska Legislative Council, entered into an agreement with Vest, a copy of which is attached as Appendix A. The essence of the agreement is as follows:

> 1. Proceedings in the Vest case are stayed through the conclusion of this legislative session. Because that case has been subsequently certified as a class action,[24] existing ALB recipients are not in jeopardy at least through adjournment of this session;
>
> 2. The Alaska Legislative Council promised to use its "best efforts" to secure the enactment of legislation which treated equally "all persons 65 years or older as of July 1, 1982, who have been *bona fide* Alaska residents for at least one year prior to that date";

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[23] *Op. cit.* n. 17 at 5.

[24] Order Certifying Class and Directing Notice to Class Members, Oct. 1, 1982.

3. If legislation of this sort were enacted this session, the suit would be dismissed; and

4. Recognizing that the Council could not bind the legislature, if legislation is not enacted, Mr. Vest may pursue his case, with the probable result that the program will be terminated.

There are three aspects of the settlement which warrant note. First, obviously, are the severe time constraints under which the legislature is operating. Second, there is the settlement's intentionally broad litmus test of acceptable legislation. All the legislature need do is treat all elderly, one-year Alaskan residents "equally." The standard could be met by any number of options, including repeal of the program. Third, there is the inescapable financial impact of the settlement itself. In order to treat all elderly Alaskans who were one-year residents as of July 1, 1982 equally, it will be necessary to fund retroactive longevity bonus payments under the existing program to the some 3,800 elderly Alaskans who would have qualified. The necessary retroactive appropriation is approximately $11.4 million.

Of course, the legislature itself is not "bound" to pass any particular kind of legislation, or any legislation or appropriation at all. While a "best efforts" clause is enforceable, that obligation runs only to the Alaska Legislative Council, which has already demonstrated both good faith and diligence in attempting to meet the obligations of the order and settlement.

D. Scope And Intent Of This Report.

The purpose of this report is not to recommend particular amendments to the Alaska Longevity Bonus Program. As Section II, post makes plain, any "recommendation" is a function of the goals which the legislature seeks to achieve through this exercise.

Rather, the goal of this report is to assemble a comprehensive list of alternatives proposed by various interested parties, and to analyze the alternatives in light of:

1. constitutional constraints;
2. fiscal impacts;
3. practicability; and
4. the effect of any changes on the elderly's eligibility for other programs.[25]

In developing a list of alternatives, this report has included five options examined by the Sheffield Administration, and five alternatives developed by the authors of this report. The information presented with respect to each option is intended to be sufficient for a threshold determination of feasibility. The report attempts to anticipate the major problems and issues surrounding each option; however, it is not intended to exhaust the details of every proposal.

Rather, the report should be used as a basis for the Senate Judiciary Committee's preliminary indication of

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[25] See Section II.(C) post.

preference. We are recommending that the committee choose two or three primary options. We will then prepare implementing legislation and a detailed analysis of the primary options. Under this approach, the committee will not be required, at this early point, to make an "all or nothing" choice. It will also afford the committee flexibility in the event that, for some presently unforeseeable reason, one option becomes impracticable.

Draft implementing legislation and a detailed analysis of the committee's choices can be transmitted within two to three weeks, depending on the options chosen.

E. Alternatives Included In This Report.

The options included in this report, which are analyzed in turn in Section III, are:

1. expand the Alaska Longevity Bonus Program to include all elderly Alaskans with one-year's residency;

2. phase out the Alaska Longevity Bonus Program by gradually reducing benefits;

3. phase out the Alaska Longevity Bonus Program by gradually reducing benefits, while contemporaneously raising the eligibility limits for general state assistance;

4. providing a minimal base payment under the Alaska Longevity Bonus Program based solely on one-year's residency, with supplemental payments made on the basis of need;

5. phase out the Alaska Longevity Bonus Program by increasing the age eligibility each year;

6. create an annuity plan, with the annuity corpus consisting of permanent fund distributions. This option would necessitate a transition program for those persons 40 years and older;

7. fund the Alaska Longevity Bonus Program through a "pay as you go" social security system, funded by approximately 25% of the existing permanent fund dividend distributions;

8. replacing the Alaska Longevity Bonus Program with a comprehensive health insurance program for elderly Alaskans;

9. condition eligibility for a longevity bonus upon a demonstration of hardship which would be suffered by being unable to continue Alaska residency; and

10. open the Alaska Longevity Bonus Progr-- to all one-year residents, and terminate the program giving FY 1984 recipients a grandfather right to continued bonuses.

II. CONSTRAINTS ON THE CHOICE OF OPTIONS

There are four basic considerations in choosing a package of amendments to the Alaska Longevity Bonus Program. The purpose of this section is to provide an overview of the constraints and policy choices which should play a role in this committee's decision.

A. Constitutional Constraints.

The obvious and primary constraint on any set of amendments to the Alaska Longevity Bonus Program lies in the equal protection clauses of the United States (Amendment 14) and Alaska (Art. 1, §1) constitutions. The existing Alaska Longevity Bonus Program discriminates between Alaska residents based on their duration of residency; moreover, all of the alternatives considered by this report involve <u>some</u> durational residency requirement.

Under both the federal and Alaska constitutions, a durational residency requirement which conditions or denies either a "fundamental right" or a "basic necessity of life" is valid only if the discrimination is necessary to further a compelling state interest. Zobel II, 619 P.2d at 448; Memorial Hospital v. Maricopa County, 415 U.S. 250, 259 (1974). "Fundamental rights" involve such things as voting,[26] while "basic necessities of life" include basic medical care[27] and welfare.[28]

The so called "right to travel" -- which any durational residency requirement arguable affects -- is not a fundamental right automatically triggering the compelling state interest test. Zobel II, 619 P.2d at 425-426, Zobel III, 72 L.Ed. 2nd at 677-678.[29]

We are confident in concluding that longevity bonus is not a "basic necessity of life." The program is not welfare -- it is not based on need. Basic indigent assistance -- including both income supplements and Medicaid -- are available to the

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[26]Dunn v. Blumstein, 405 U.S. 330 (1972).

[27]Memorial Hospital v. Maricopa County, 415 U.S. 450 (1974).

[28]Shapiro v. Thompson, 394 U.S. 618 (1969).

[29]One of the oddities of Justice Brennan's concurrence in Zobel III was his view that the "right to travel" is a "fundamental" right (id. at 682) -- although impairment of that right by a durational residency requirement should be tested under the deferential "rationally related" standard (see text, post) or at worst "intensified ... scrutiny." Id. at 681.

needy in this state.[30] The longevity bonus program seems more akin to the permanent fund dividend, which the Alaska Supreme Court held in Zobel II was not a "basic necessity of life." 619 P.2d at 445. As the Court of Appeals for the Ninth Circuit has observed:

> "Deprivations which are only uncomfortable are not enoug.., such as conditioning lower tuition at state institutions of higher education upon a one-year residency requirement." Fisher v. Reiser, 610 F.2d 629, 639 n. 5 (1979), cert. denied 447 US 930.

Under the federal constitution, then, any durational residency requirement imposed by amendments to the ALB program need only be "rationally related" to a legitimate governmental purpose. Zobel III, 72 L.Ed. 2nd at 678. As this section will discuss, however, that standard is occasionally more deferential in its terms than in its applicatio..

Conversely, under the Alaska Constitution, a durational residency requirement will withstand scrutiny only if it is "fairly and substantially related" to a legitimate governmental purpose. Zobel I, 619 P.2d at 427. The more the balance tips in favor of the individual, the more necessary the discrimination must be in order to further the law's purpose. Id.

From these standards, the following ground rules can be extracted from applicable case law:

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[30] See Memorial Hospital v. Maricopa County, 415 U.S. at 261

1. Unquestionably, the "length of residence may be used to test the bona fides of citizenship." Zobel III, 72 L.Ed. 2d at 684 (Brennan conc.). In other words, the state may, by a durational residency requirement, "make virtually certain (that the recipients of the program are) bona fide residents of the state ..." Vlandis v. Kline, 412 U.S. 441, 453-454 (1973).

As a general rule, attorneys have assumed that in cases not involving the "compelling state interest" standard, a one-year durational residency requirement is permissible as a presumption of domiciliary. See, Starns v. Malkerson, F. Supp. 326, 234 (Minn. 1970), affd. mem. 401 U.S. 985 (1971). Moreover, the State of Alaska has taken the position that in cases involving either particularly attractive benefits, or particularly transient populations, a durational residency requirement in excess of one year is constitutionally permissible. See Motion For Summary Judgment, September 8, 1982, Andress v. Baxter, et al., No. A82-307 Civil, U.S. District Court, (D. Alaska 1982).

For the purposes of the Longevity Bonus Program, there are three reasons why it makes little sense to attempt a multi-year durational residency requirement as a presumption of domicilary. First, the attempt would lack substantial precedential support. Second, it would be contrary to the August 9, 1982 settlement in the Vest case. Finally, and as noted previously, a durational residency requirement would not begin to exclude significant numbers of elderly Alaskans unless it was in excess of 10 years.

2. Durational residency requirements may be permissible for reasons other than presuming domiciliary, although at least four justices of the United States Supreme Court believe that those situations are "rare." Zobel III, 72 L.Ed. 2nd at 684.[31]

At the outset, a state cannot use a lengthly durational residency requirement to reward long time residents for their prior contributions to the state. To a majority of the court, while the purpose itself is permissible, a durational residency requirement is irrationally tailored to that goal -- a point bluntly made by Justice O'Connor in her concurrence:

> "A multitude of native Alaskans -- including children and paupers -- may have failed to contribute to the state in the past. Yet the state does not dock paupers for their prior failures to contribute, and it awards every person over the age of 18 dividends equal to the number of years that person has lived in the state." 72 L.Ed.2d at 689.

The flip side of rewarding a person for prior contributions is compensating a person for prior hardships. That, as noted previously, is a second major goal of the

[31]One "rare" example cited by the four concurring justices was qualification of public office. Id.

existing ALB program. If it is irrational to assume that all long time residents "contributed" to the state, it may be equally irrational to assume that all long time residents suffered substantial past hardship.

There is one universal hardship which equates with territorial residency -- the lack of franchise. It is conceivable that a Longevity Bonus Program intended to compensate for that lack of representation would be constitutionally permissible. However, that rationale would only justify the January 3, 1959 residency requirement -- not the 25-year continuous residency provision of the act.

A much closer question is posed by the program's goal of allowing elderly Alaskans to remain in the state who would suffer particularly severe hardship if they were financially required to relocate. Justices Dimond and Matthews of the Alaska Supreme Court believe this may be a constitutionally permissible goal substantially furthered by a durational residency requirement:

> "... a state Longevity Bonus ... require(s) lengthy residency. Both those programs, however, are apparently designed to help those individuals who would like to retire in the state but cannot afford to do so because of the high cost of living. The state might well want to limit the benefits to those that would suffer the most hardship by being forced to leave, and it seems reasonable to suppose that a long period of residency would be some indicia of close ties to Alaska and the disruption that leaving might cause." Zobel II, 619 F.2d at 469 n. 13 (Dimond dissenting).

The Department of Law, in fact, has concluded that the Pioneers' Home may be constitutionally defensible as a reasonable means of accomplishing precisely this goal.[32] Indeed, one option considered in this report would award longevity bonuses on the basis of hardship caused by relocation -- which in turn would be measured in part by length of residence. By making length of residency "some indicia" (619 P.2d at 469) of the hardship of relocation, the option would avoid the indictment of overbreadth which was fatal to the permanent dividend fund distribution program in Zobel III.

Finally, as to the ALB program's goal of providing an incentive for a specific subclass of Alaska's elderly to remain in the state, the courts in all likelihood would view that purpose as merely discrimination for its own sake. See Zobel III, 72 L.Ed. 2nd at 678-679. Presuming that only long-time residents have the requisite "wisdom and experience" to warrant subsidization is hardly likely to impress the U.S. Supreme Court.

B. Varying Goals of Several Longevity Bonus Options.

There is a substantial difference of opinion as to what an amended ALB program should accomplish. As noted previously, the legislature may wish to retain one of the major goals of the existing program -- allowing those elderly with the closest ties to Alaska to continue to live here.

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[32] 1982 Op. Atty. Gen. ____ (November 26, 1982) at 25.

Alternatively, the fiscal consequences of the various alternatives may be the primary consideration. As previously discussed, if legislation in conformity with the Vest settlement is enacted, an additional $11 million must be appropriated as retroactive bonus payments to July 1, 1982. Several of the options which propose to phase out the program, or which propose a conversion to permanent fund earnings, are partially or primarily directed at this end.

The primary goal of the legislation may also be to protect those currently most dependent upon the bonus. The current Old Age Assistance income level is $546.00 per month and there are approximately 2,300 elderly Alaskans receiving state assistance. Since the longevity bonus is not included in the calculation of income for state assistance, the practical consequence of a phase out or termination of the program would be to materially reduce the available income of the poorest elderly Alaskans. Moreover, as noted in Section I(B), ante, there are a large number of elderly Alaskans who are currently only marginally above the existing state poverty level.

There are two options particularly sensitive to this goal -- the phase out of the ALB program in conjunction with a correlative rise in state assistance levels, and the option of compensating those who would suffer the most hardship by relocation.

With respect to this goal, however, it should be stressed that the existing ALB program has been purposefully sturctured so as to not be a "welfare program." Precisely for that reason, the program is administered by the Department of Administration, rather than the Department of Health and Social Services, and any conversion to a "need-based" program will undoubtedly offend the dignity of many elderly Alaskans.

Finally, there is the possible goal of providing a long term, stable bonus program which frees the general fund from increasing commitments. The annuity and state social security options are primarily directed at this goal.

C. Consequential Effects of Any Amendment To The Longevity Bonus Program.

Any change to the Longevity Bonus Program may have two consequences which must be considered: (1) the continued eligibility of ALB recipients for other state or federal assistance programs; and (2) tax consequences on participants.

As noted in Section I(A), ante, under federal law the ALB is excluded from the definition of "income" for many federal assistance purposes.[33] As long as any amendments to the ALB program continue to base eligibility "solely on attainment of age 65 and duration of residency," and remain sufficiently similar to the existing program so as to be fairly called "a program established prior to July 1, 1973," the exemption would be retained.

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[33]See n. 8, ante.

Obviously, any material changes in eligibility requirements or structure of the program raise the risk that the new benefit will be included as "income," and many elderly Alaskans will be terminated from the applicable federal program. The Department of Health and Social Services has estimated the impacts from a loss of the longevity bonus exclusion. Those estimates appear at Appendix B of this report.

Anticipating the same problem with permanent fund dividends, the legislature, in the 1982 Special Session, provided that the state would substitute lost benefits for a period of four months.[34] Obviously, and to the extent possible, any amendments to the ALB program should either be tailored to the existing exception, or fall within another separate statutory income exclusion such as a "need based" payment.[35]

The tax consequences of amendments to the existing ALB program become particularly important with respect to this report's annuity option -- which is treated in detail in Section III (F), post. At the outset, it is sufficient to note that:

> 1. The existing longevity bonus program is taxed under the Internal Revenue Code;
>
> 2. Any ALB program which is based on need, or could be characterized as a "social benefit program for the promotion of the general welfare," would in all likelihood not be taxed by the IRS; and[36]

[34] AS 43.23.075.

[35] See 42 U.S.C. §1382(a)(b)(6).

[36] See IRS Revenue Rulings, 63-136, 1963-2 C.B. 19; 68-38, 1968-1 C.B. 446; 72-340, 1972-2 C.B. 31; 78-170, 1978-1 C.B. 24.

3. On February 27, 1981, the Internal Revenue Service ruled that dividends distributed under the state's prior permanent dividend fund legislation -- the statute invalidated in Zobel III -- were taxable under the Internal Revenue Code.[37] While the IRS has yet to rule on the existing dividend program, it is likely that taxation of the permanent fund dividend could be deferred if it is used to fund the annuity or social security options discussed in this report.

III. DISCUSSION OF ALTERNATIVES

A. Expanding The Class Of Alaska Longevity Bonus Recipients To Include All Elderly With One-year's Residency.

There are currently some 9,425 Alaskans who receive bonuses totally $28.28 million. This proposal would require additional appropriations for (1) bonuses for an additional 3,803 people; and (2) additional clerical support in the Department of Administration. The additional costs would total $12 million in FY 1984, increasing to $13.7 million in FY 1988.[38]

These appropriations are in addition to the $11.4 million retroactive award required under the Vest settlement.

The advantages of this option are two-fold. First, it is one of the constitutionally "safest" options. Second, since eligibility would remain dependent on "duration of residence" -- albeit only one-year -- in all likelihood it would fall within the existing ALB exclusion to federal assistance programs.

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[37] IRS Index Nos. 0061.40-00; 0451.20.00; 0102.00-00.

[38] Department of Administration draft fiscal note, January 11, 1983.

Additionally, while theoretically any "one-year" elderly Alaskan could take advantage of this program, the demographics of Alaska's elderly (see Section 1(B), ante) are such that the primary beneficiaries of this option would be those who have lived in the state from 10 to 25 years. Whether such a program would encourage in-migration is problematical.

In addition to obvious fiscal disadvantages, this alternative would dilute the dignity and recognition attendant the current bonus to the point of non-recognition.

B. Phase Out The Existing Longevity Bonus Program.

One of the options analyzed by the Sheffield administration would phase out the ALB Program by reducing benefits by $50.00 each year beginning with FY 1984. By paying $200.00 a month to 13,228 recipients rather than $250.00 to 9,425, the net increase to the program in FY 1984 would be $2.1 million. In fiscal year 1985, however, when the bonus is reduced to $150.00, there will be a net decrease of $8.7 million in program costs.

This option has been unfavorably viewed by the administration, and apparently was prepared only as a point of comparison. Despite its fiscal benefits, the proposal protects no one. The poorest of Alaska's elderly would suffer the most. Since, as discussed previously, Alaska longevity bonuses are not counted in existing state and federal assistance income limits, the needly elderly person in Alaska receives, currently, a subsidized monthly income of $546 for Old Age Assistance, plus $250 from the ALB program. This option would thus materially reduce state assistance levels.

C. <u>Phase Out The Existing Longevity Bonus Program With A Contemporaneous Increase In State Assistance Levels.</u>

The apparent "preferred" option of many with the Sheffield administration is to gradually increase state Old Age Assistance levels while at the same time gradually decreasing the amount of the longevity bonus. The program would function in the following manner:

<u>CHART 1.</u>

YEAR	OLD AGE ASSISTANCE LEVEL	ALASKA LONGEVITY BONUS
FY 1983	$546	$250
FY 1984	$596	$200
FY 1985	$646	$150
FY 1986	$696	$100
FY 1987	$746	$ 50
FY 1988	$796	$ 0

In analyzing the fiscal impacts of this alternative, assumptions must be made about how many elderly Alaskans will become eligible for Old Age Assistance as the OAA income level increases, and how many of the newly eligible will be inclined to seek assistance as their longevity bonus gradually diminishes.

Regardless of which assumptions are used, the impacts upon the longevity bonus program, are, of course, identical to the "phase out" option. Those impacts would be as follows:

CHART 2.

ADDITIONAL COST (SAVINGS) TO THE ALB PROGRAM (in millions)

FY 1984	2.1
FY 1985	(8.7)
FY 1986	(19.2)
FY 1987	(30.9)
FY 1988	(44.1)

The fiscal impact upon the Department of Health and Social Services' OAA program is far more difficult to determine. The Department of Administration has used two alternative assumptions -- (1) that of the 13,228 elderly in Alaska, 5% will become eligible and apply for public assistance as the income level is increased to $796 in FY 1988; or (2) that 25% of the elderly will become eligible and apply for assistance during that period.

We believe that the 25% possibility may be closer to the truth. Approximately 30% of Alaska's elderly have monthly incomes marginally above existing assistance levels -- from $500-$800 per month.[39] If those figures are accurate, as many as 3,968 will become eligible for public assistance -- in addition to the 2,300 currently on the OAA program.

The second variable involves the size of the benefits which the new clientele will receive. The Department of Health and Social Services has assumed that each new recepient will receive the mean benefit currently given or projected for

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[39]Assessment, op. cit. n. 11 at 31.

existing receipients -- $295 in FY 1984.

In computing the fiscal impacts for this option, we have used the following three assumptions:

(1) Of the 5,968 elderly whom current data suggest could be eligible for the increased OAA program, 2500 will in fact apply. This figure arbitrarily discounts both those who will decline to apply for psychological reasons, and those who will not apply because the minimal benefits to them are simply not worth the bother;

(2) Because we have discounted those who will receive minimal benefits, we have retained the "mean benefit" assumption employed by the Department of Health and Social Services; and

(3) The new recipients will be evenly distributed over each of the five years -- so that in each year an additional 500 recipients will be added to the OAA program.

Additionally, persons who become eligible for Old Age Assistance will also become eligible for Medicaid. The State's Medicaid budget for FY 1983 is $65 million dollars. 48% of that figure -- or $31.2 million -- is paid by the State. Some 23% of that budget -- or $7.17 million dollars -- is attributable to those currently on Old Age Assistance. If the OAA population doubles over the next five years -- as our assumptions presume that it will -- there will be an additional cost of $7.17 million (not adjusted for inflation) to this option, chargeable in equal portions to each of the next five fiscal years.

With these assumptions, the following chart illustrates the possible net fiscal impact of this option:

CHART 3

Year	# Add. on OAA	Mean Benefit	IN MILLIONS: Added Medicaid Costs	Added ALB Costs (Savings)	Net
FY 1984	500	$295.02	1.4	2.1	5.27
FY 1985	1000	345.02	2.8	(8.7)	(1.76)
FY 1986	1500	395.02	4.2	(19.2)	(5.90)
FY 1987	2000	445.02	5.6	(30.9)	(14.60)
FY 1988	2500	495.02	7.0	(44.1)	(29.30)

Thus, even with fairly liberal assumptions regarding the number of additional OAA clients and Medicaid costs, this option will begin saving money in FY 1985.

Moreover, for those elderly in the $500 - 800 per month income range who pay some federal taxes, the option would have advantages, since increased need based assistance, unlike the longevity bonus, should not be taxed under the Internal Revenue Code.

One obvious disadvantage of this option is that it transforms the longevity bonus program into a welfare scheme. Persons who currently receive $796 or less per month -- including the bonus -- will indeed be "held harmless" under the option, but only at the expense of applying for assistance to the Department of Health and Social Services.

Moreover, those current elderly bonus recipients whose monthly incomes (excluding the bonus) exceed $796 per month will receive no protection under this option.

Finally, because welfare payments are generally viewed by the courts as involving "basic necessities of life" (see §II(A), <u>ante</u>), the durational residency requirement for increased old age assistance must be dropped from one year to 30 days.[40] The minimum national old age assistance level under the federal Supplemental Security Income system -- which OAA supplements -- is $284.30/mo.. A person with $600 a month income in a "minimum benefit" state is presumably ineligible for old age assistance (including Medicaid) in that state, but could become eligible under the Alaska system upon 30 days residency. While the mere prospect of an additional $196 per month (in FY 1988) is unlikely to induce people to retire in Alaska, the concommitant provision of Medicaid services -- including full nursing home coverage -- may have that effect. If a person can obtain free nursing home coverage -- valued at between $40 - $60,000 per year -- simply by spending the month of August in Anchorage, the State may face a rather remarkable in-migration problem indeed.

D. <u>Retaining A Modest Longevity Bonus, While Providing A "Need Based" Supplement</u>.

This option is largely a variant of option C, and has been discussed by the Sheffield Administration as a means of

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[40] <u>Shapiro v. Thompson</u>, 394 U.S. 618 (1969).

retaining some longevity bonus payment which could not be considered "welfare."

Under this option, the longevity bonus, as with Option C, would be gradually reduced to, say, $100.00 per month. As the fiscal information for alternatives B and C suggest, this alternative would result in a savings to the longevity bonus program of $19.2 million by FY 1986.

To compensate for the loss of $150.00/mo. to the needy, either State OAA limits could be increased by $150, or a separate "need based bonus supplement" could be established by the Department of Administration.

The advantage of the latter option is that although based on "need," applicants will not be dealing with the Department of Health and Social Services, and may view the supplement less as a form of welfare. Additionally, since the supplement will be provided under a program other than State OAA, its recipients would not be entitled to Medicaid (including nursing home coverage) unless they are otherwise eligible for OAA under existing limits.

Additionally, the "need" is not necessarily limited to financial need. As this report's discussion of Option I indicates, longevity bonuses may be apportioned according to the hardship which the elderly would face by being forced to retire outside Alaska.

The disadvantage of a separate "need based" program in the Department of Administration is, of course, the necessary creation of a parallel bureaucracy in state government.

The fiscal costs of this option have not been developed by the administration or this report because of the variables involved -- the size of the remaining "basic" longevity bonus, and the question of administration. Costs of administration aside, the net savings to the State should be substantially similar to the FY 1986 figures for Option C -- in which the declining longevity bonus payment would be $100.00 per month. The projected net savings of $5.9 million would certainly exceed the costs of even a parallel bureaucracy within the Department of Administration.

E. Gradual Increase In The Age Of Eligibility.

Another option explored by the Administration would reduce the durational residency requirement for a bonus to one year, but raise the eligibility age each fiscal year. For FY 1984, the age would be raised to 66; to 67 in FY 1985; and so on.

This option would have a substantial fiscal impact until fiscal year 1988, at which time mortality would have reduced the class of beneficiaries below existing levels. For FY 1984, the option would cost an additional $9.5 million dollars beyond existing funding levels, according to the Department of Administration.

This option has been quite unfavorably received. It has been facetiously but not unfairly referred to as the "newcomer's bonus program." A recent migrant born prior to June 30, 1918 would receive a longevity bonus for life, while a long-time Alaskan born subsequent to that date would receive nothing.

F. Self-Sustaining Annuities.

The prior five options were developed by members of the administration, although the administration has not formally "sponsored" any particular approach. Moreover, several of the options -- particularly the "graduated age" and "phase out" options -- were developed more as comparative conversation pieces than as actual proposals.

The following five options -- commencing with the self-sustaining annuity -- were prepared by the authors of this report.

Under the self-sustaining annuity option, individuals would no longer receive a permanent fund dividend under AS 43.23. Rather, those dividends would form the corpus of a self-sustaining annuity account from which the individual would receive an annuity commencing at the age of 65.

According to Department of Revenue projections, the permanent fund dividend payment for FY 1984 will be $365.00, rising gradually throughout the remainder of this century to $952 in the year 2000.

Given this level of contribution to the corpus, a self-sustaining annuity account will produce an annuity roughly equivalent to the existing longevity bonus (with a 3 percent annual cost of living adjustment) for those who are currently 40 years or younger, and who will be residents of Alaska each of the next 20 years. For various age groups, the annuity entitlements at age 65 as a percentage of the "target" annuity ($3000/yr. plus 3% per annum) would be roughly as follows:

Current age	Annuity as a % of target annuity
25	358%
35	161%
40	100%
45	66
55	21

Obviously, some transition measure is necessary for those who are simply incapable of accruing a sufficient corpus by the age of 65 to be entitled to the "target annuity". The general fund, simply put, will be required to make up the difference, although, over time, that "differential" will decrease as annuity accounts assume some significance.

Many of the options explored in this report could suffice as a 20-25 year shrinking general fund obligation. One option particularly tailored to the annuity approach would be to allow those who are at or near the age of 65 to continue to receive their permanent fund dividends in cash, with the PFD being subtracted from the longevity bonus amount. For those in the 40-60 year age group, the general fund would simply fund the difference between their annuity and the "target" figure.

Under this "transitional measure", the general fund "residual" payment would be based on the amount necessary to supplement the annuity corpus assuming that an individual received a permanent fund dividend every year. There would seem, in this regard, no obligation on the part of the state to give a larger general fund supplement to someone with two PFD credits than to someone with 15.

Thus, in fiscal year 1994, when current 55-year olds first receive their annuity, they would receive a state supplemental of 79 percent of the target annuity -- regardless of the actual PFD credit any individual has accrued.

The remaining question, obviously, is what to do about the person who is currently 65. If that individual's supplement is the same in 1994 as a new annuitant -- 79% -- he will in fact receive less than the new annuitant since he will have only his permanent dividend, rather than a 21% annuity, to make up the difference. Conversely, if the grandfathered PFD recipient received a full target annuity in 1994, he would be at a substantial advantage over the new annuitant. The reason is this: while the new annuitant has earned a substantial portion of his target annuity by foregoing his cash dividend each year, the "grandfathered" recipient has both enjoyed the dividend, and its earning power, over that same period of time.

The question is largely one of equity for the legislature. Either approach is defensible. While the latter scenario would seem to discriminate in favor of the existing elderly, the Alaska Supreme Court has recognized the legitimacy of creating preferential grandfather rights for those who have come to depend upon an existing state program.[41]

In either case, the difficulty with this "transition" option is that the longevity bonus program continues to be a substantial drain on the general fund for 20-25 years to come. Under the transition option described above, the FY 1984 budget for the ALB program would be increased by $6 million dollars over existing funding levels.[42]

Through Aetna Insurance Co., we investigated the alternative of simply purchasing a lifetime annuity for all those currently 65 or older. Unfortunately, the cost of a lifetime annuity for all Alaskans 65 or older would be prohibitive -- in the neighborhood of $300 to $400 million.

Finally, the Legislature should consider using the administration's options C and/or D as a transition measure. The short term fiscal impacts of those options are superior to those of a simple general fund supplement.

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[41] Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d at 1259-61.

[42] Assuming that the ALB of the "grandfathered class" is reduced by the $365 permanent fund dividend, each of 13,228 persons will receive a payment of $2,635 this year -- totaling $34 million dollars.

For all of the short term problems of an annuity program, the long term advantages should receive equal time. First, in a period of 20-25 years, the general fund will no longer be encumbered with the longevity bonus program. Second, the eventual size of one's annuity payments would be a function of the number of permanent fund dividend contributions that have been credited to the annuitant's account. We seriously doubt that a successful durational residency claim could be made to this aspect of the program. An annuitant with three years contributions could no more claim that he is due an annuity based on 20 years contribution than could a 1996 resident claim not merely the $787 cash dividend available that year, but rather some $6,000 which his predecessors had amassed by being residents of Alaska since 1984.[43]

We believe that there is a strong case for distributing annuities only to persons who are residents of Alaska at the

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[43] Because future annuities are a direct function of actual past payments to the program, the program does not "reward" presumed contributions but simply returns actual investments. cf. Zobel I, 619 P.2d at 435 (Rabinowitz conc.) Nor is the option akin to a situation where prior tax contributors are excused from funding the present needs of government, as with the tax repeal scheme at issue in Zobel I. At any point in time, each Alaskan is treated quite equally -- being entitled to an annuity credit if he or she resided in the state for six months during the pertinent year.

time. Partially for reasons discussed below, no individual will have a "vested right" to an annuity in the future. A purpose of the annuity program will be to alleviate the particular financial hardships caused by retirement in Alaska -- a purpose which we believe is constitutional. This goal would be served only by confining actual annuity payments to Alaska residents. Second, and particularly if the program is properly viewed as conferring an economic benefit not upon the crediting of an annuity account, but rather upon annuity distribution, the state certainly possesses the right to prefer its own residents in the disposition of its resources.[44]

There are, of course, other issues surrounding the annuity option. Many Alaskans will undoubtedly wish to retain the existing cash benefits of the permanent fund distribution. Alaskans will not be, however, totally without recompense. An annuity account for younger Alaskans in particular -- at least for those planning to stay in the state -- will one day lead to substantial benefits.

Of course, the prospect of a lucrative retirement account is a product of the legislature's continued willingness and ability to devote 25% of permanent fund earnings to the

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[44]Reeves, Inc. v. State, 65 L.Ed. 2nd 244, (1980); see also White v. Massachusetts Council of Construction Employees, ___ U.S.___, No. 81-1003 (U.S.S.Ct., Feb. 28, 1983)(distinguishing Hicklin v. Orbeck, 437 U.S. 518 (1978).

annuity program. Unquestionably, at some point in time, a material percentage of the permanent fund's earnings will be necessary for general government expenses. The point at which that will require access to more than 75% of the fund's earnings is problematical.

The tax consequences of an annuity program warrant detailed discussion. As noted previously, the Internal Revenue Service may well rule that permanent fund cash distributions are taxable. Conversely, if credits to an annuity account equal to the permanent fund dividend are not tax exempt, the real economic value and perceived political worth of an annuity option is substantially lessened.

The annuity program envisioned by this report is not employer/employee related, and therefore would not qualify as an exempt plan under the Internal Revenue Code.[45] Nor was serious consideration given to qualifying this annuity option as an Individual Retirement Account -- because (1) the state is not a qualified financial institution to administer such an account; (2) the required terms of an IRA were not compatible with the option considered; and (3) any "state required" IRA -- even if possible -- would severly impinge on the tax planning flexibility of individual Alaskans.[46]

Nonetheless, it is our opinion that the annuity option <u>should</u> result in the deferral of both the permanent fund

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[45] cf. 26 U.S.C. §401-404

[46] <u>See</u> 26 U.S.C. §408.

dividend contributions and accrued interest under the Internal Revenue Code. The courts and the IRS have generally ruled that contributions to an unqualified "annuity," "retirement" or "deferred compensation" plan are nonetheless tax deferred if the individual is not in "constructive receipt" of the annuity contributions, and the contributions do not represent a present "economic benefit."[47]

Combining the standards of that doctrine with the attributes of the proposed annuity program, the program should be taxed deferred for the following reasons:

1. If the State were to purchase individual annuities with each permanent fund dividend, with each resident being the beneficiary, the resident would have a vested and secured interest in the contribution, and would thus have received a current "economic benefit." If, however, the State were to merely give the annuitant an unsecured promise of payment, purchasing an annuity account with itself as the beneficiary in order to provide a funding source for that promise, there would be no "current economic benefit" and taxation would be deferred.[48] This is one customary means by which employers obtain tax deferral of an unqualified plan;

2. A person is in "constructive receipt" of an annuity contribution if he has current access to the

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[47] U.S. v. Goldsmith, 586 F.2d 810 (Ct.Cl. 1978).

[48] Id.

contributions without substantial terms and limitations.[49] Under this report's option, under no circumstances would an annuitant be entitled to withdraw anything until annuities are actually distributed;

3. To underscore the contingent nature of the annuity -- such that the IRS could not reasonably conclude that it represents a "current economic benefit" -- the annuity will only be received if the person is an Alaska resident at the time of the pertinent distribution.

Our only hesitancy in this regard is the February 27, 1981 ruling of the IRS that even if an individual chooses to defer receipt of his permanent fund dividend, it is taxable in the year that it could have been received. The ruling, however, "may not be used or cited as precedent," and, even if of precedential value, is distinguishable from this situation. The ruling is consistent with the proposition that the individual cannot have unfettered discretion in choosing the year in which income will be taxed. While an individual does have unbridled choice in determining when to take a permanent fund dividend, he will have no choice as to the time of receipt of his annuities. Moreover, where a person would have an absolute right to a deferred dividend, he will have no right to annuity distribution unless he is an Alaska resident at the time.

For tax reasons, then, the annuity option must be carefully structured. The former permanent fund dividend must

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[49] Id.

be used by the State to purchase an annuity for its own account, with itself as the beneficiary. The annuity income received by the State will then be used as the funding source for the annuity payments -- although technically and necessarily the annuity income could be used for any fiscal purpose.

A far closer question arises with respect to the effect of this option on other public assistance programs. Generally, annuity income is <u>included</u> in the calculation of income for various assistance programs.[50] If, however, this option can be characterized as a continuation of the longevity bonus program, then the existing longevity bonus income exclusion[51] may persist. If -- consistent with tax considerations -- the only "annuity" is the one purchased by the State as a funding source, then the existing longevity bonus program can be retained in both name and substance, with the amount of the bonus still dependent upon residency history. After all, under the option, (1) a person must be a six month resident in order to obtain a single PFD, and must be eligible for the annuity at the time of distribution;[52] (2) the amount of annuity is dependent upon the number of PFD's credited to the individual's account; and (3) the "grandfathered" class of existing elderly would presumably be required to meet a one-year durational residency requirement.

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[50] <u>See</u>, 42 U.S.C. §1382(a)(a)(2)(B).

[51] See 42 U.S.C. §1382(a)(b)(2)(B).

[52] See n. 8, <u>ante</u>.

The above, of course, is an argument -- it is not necessarily the law, which in final measure will be largely determined by the federal officials involved. The exposure to existing assistance programs -- at least for those not within the grandfathered transition class -- must be considered a risk of this option.

Even if, however, annuity distributions are considered "income" to various assistance programs, the corpus of the annuity account will not be. A person may be disqualified from a federal assistance program not only if his income exceeds a certain level, but as well if he has alternative available resources which he can upon from at any time. However, in this instance, a true "annuity corpus" does not exist -- since the only annuity runs for the benefit of the State. Moreover, even if federal officials were to view the "corpus" as belonging to the individual, it cannot be withdrawn prior to actual distribution.

G. State Social Security System.

In large part because of the need for a lengthy transition period with a self-sustaining annuity plan, this report also considered the possibility of a state social security system funded by a portion of the permanent fund dividends distributed under AS 43.23.

Under this system, a sufficient portion of each resident's permanent fund dividend would be withheld each year to fund a retirement program designed to pay each Alaska resident of 65 years or older with one-year's residency $250 per month, with a moderate cost of living adjustment each year.

In assessing the feasibility of this option, the most important variable was the projected growth in Alaska's elderly population. The difficulties facing the federal social security system are due in part to an increasingly large percentage of elderly in the population.

For fiscal year 1983, the Alaska Department of Labor projects that there will be some 13,672 elderly in Alaska -- approximately 3% of Alaska's population.[53] The Department has projected that that population, as a percentage of all Alaskans, will remain relatively static through the year 2000, when, out of a population of 831,000 people, there will be 25,158 elderly.[54]

We believe that those projections are overly conservative, and do not take into account the significant nationwide trend of increased elderly population. Nor do those projections include the retirement years of the post World War II "baby boom" generation -- which will begin about the year 2010.

Accordingly, in projecting the long term impact of this option on permanent dividend distribution, we have used the

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[53]Alaska Population Overview, Alaska Department of Labor, 1981

[54]Id.

national growth patterns projected by the federal Social Security Administration, which are as follows:

YEAR	% OF ELDERLY POPULATION
1950	8.1
2000	13.1
2025	19.5
2050	21.8

Using those assumptions, Travelers' Insurance Co., on our behalf, calculated the percentage of permanent fund dividends which would be required to fund a "pay as you go" system.

For fiscal year 1983, the calculations are relatively straight-forward. Given an aggregate distribution of some $169 million in permanent fund dividends this year, approximately 25% would be needed to fund a "pay as you go system."

However, even assuming a 3% cost of living adjustment in the payment each year, the percentage needed to fund the program decreases. This is because permanent fund earnings will increase at a rate substantially higher than inflation. From the year 1983 to 2000, the average funding required would be 15 to 19 percent of the distributions, while, in the years 2000 to 2025 (and assuming continued growth in permanent fund earnings) the funding amount would be 10-12 percent.

Thus, if the withholding remains static at 25% over the course of several years, the resultant excess would begin to build a savings account of substantial magnitude, which at some point in the future would make the program partially, or perhaps totally self-sustaining.

One obvious advar age of this option is that it frees the general fund from ALB obligations immediately. Conversely, by materially reducing the annual permanent fund dividend, it obviously raises some political difficulties.

Additionally, the social security option could likewise be tied to contribution history -- although not in the precise manner of the annuity option. The federal social security system currently fully covers any individual who had "not less than one quarter of coverage ... for each calender elapsing after 1950 ... except that in no case shall an individual be a fully insured individual unless he has at least 6 quarters of coverage."[55] Because, in the future, some portion of the benefits will be paid by the "savings account" resulting from the static 25% contribution, we believe that a similar contribution history requirement could be established in the legislation.

Even more so than the annuity option, there would be no "current economic benefit" from the program. By reducing the permanent fund distribution by 25%, and funding a retirement program from which the individual may or may not ultimately benefit, we believe it extremely unlikely that the IRS would conclude that the reduced sum is in some manner taxable.

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[55] 42 U.S.C. §414(a)(1)

Morever, we believe there is a substantial likelihood that the existing ALB exemption in federal law could be retained. Indeed, stripped to its essense this option does little more than alter the funding source of the ALB program.

The primary risk of the program is all the more apparent in light of the current difficulties with the federal social security system. While option F would be funded by a currently purchased annuity, younger Alaskans would be contributing to this option on the mere hope that the requisite amount of permanent fund earnings would remain available for the program well into the 21st century. The "savings account" created by the static 25% withholding is intended to alleviate that problem; however, regardless of the rate of growth of that account, there is plainly some risk in this option.[56]

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[56]For example, under our population projections, there will be 30,747 elderly in Alaska in the year 2000. The permanent fund distributions for that year under AS 43.23 are estimated by the Department of Revenue to be $792 million, of which, under our static 25% withholding, $198 million would be placed in the social security fund. In that year, with a 3% COLA, the maximum monthly bonus will be approximately $390. Even if every elderly Alaskan is eligible for full benefits under the law's contribution requirements, the maximum payments would be $120 million -- with a savings account deposit being made in that year alone of $70 million. Of course, many of these elderly may not be fully eligible, and some who are eligible may not be residing in Alaska during that year.

Finally, there is some advantage to the existing elderly in this system over the annuity option. The existing elderly would have a net loss of only 25% of their permanent fund dividend, rather than the entirety of the benefit under the annuity approach.

H. Health Insurance For The Elderly.

The state of health insurance for the elderly, and indeed for all Alaskans, has already been the subject of considerable study,[57] and legislative activity.[58] Because of the obvious critical importance of adequate health care coverage for Alaska's elderly, the option of providing comprehensive health insurance for Alaska's older citizens in lieu of the longevity bonus was included in this report as an option.

While the Department of Law report found that health expenses were a major use of the longevity bonus for only 5.5% of its sample, the 1976 longevity bonus study found that 29% of the bonus recipients used at least a portion of the ALB for medical care, while 11% used a portion of the bonus for "insurance of all kinds."[59]

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[57] Alaska Comprehensive Health Care Financing Study, Batelle Human Affair Research Center (1981)

[58] HB 641, 12th Leg. 1st Sess. (1981)

[59] ALB Survey, op. cit. n. 9 at 22

In fact, almost all of Alaska's elderly receive some kind of public or private health coverage assistance -- either through Medicare, Medicaid, public and private retirement programs, Veteran's benefits or the Indian Health Service/Public Health Service.

When assessing the health insurance option, the two obvious questions are: (1) how severe are the gaps in existing coverage; and (2) how much would it cost to fill those gaps?

The major source of health insurance coverage for the elderly in Alaska is obviously Medicare -- a federal insurance plan which provides hospitalization for those eligible for social security[60] and medical insurance for an additional fee of $12.20 per month.

Both the hospital and medical insurance contain substantial deductibles, i.e. the first $304 of the hospital bill -- and co-payment requirements (20% in the case of medical insurance.)

Nursing home coverage under Medicare is severely limited -- confined to post-hospital care in a "skilled nursing facility" for short periods of time.

It is difficult to determine how many resident Alaskan elderly are on Medicare -- available statistics are bloated by Medicare claims submitted by tourists. There are some 9,323

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[60] 42 U.S.C.§§ 426,1395(c). A person ineligible for Social Security may obtain Medicare hospitalization insurance for $113 per month

retired persons in Alaska receiving social security -- and hence eligible for Medicare.[61].

The largest group of elderly Alaskans ineligible for Medicare are rural residents, primarily Natives, who do not have a sufficient wage earning history to qualify for social security. All Alaska Indians, Aleuts and Eskimos are eligible for IHS -- which provides a broad range of services depending upon available facilities. IHS is, however, primarily a direct provider of facilities -- it does not make cash payments for services such a custodial care in a nursing home. Moreover, it is currently facing severe cutbacks in areas such as reimbursement for health-related travel expenses[62].

The most comprehensive health coverage in Alaska is, of course, Medicaid. To be eligible for Medicaid, one must meet the State public assistance income limitations. As noted previously, there are currently some 2300 elderly Alaska citizens on Medicaid. Medicaid does cover virtually unlimited nursing home residency.

The most glaring deficiency in Alaska health care for the elderly is the lack of coverage for institutionalization in custodial environments such as nursing homes. Nursing home

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[61]Interview, Ms. P. Eubanks, Field Rep. Social Security Admin. (Feb. 24, 1983)

[62]Interview, Ms. P. Roberts IHS, (Feb. 23, 1983)

rates in Alaska run from $90 to $172 per day[63]. The costs are simply prohibitive for anyone not on Medicaid -- indeed, of the 467 elderly Alaskans currently residing in State nursing homes (other than the Pioneers Homes), all but 31 are there under Medicaid, or Alaska's General Relief Medical Assistance.

Conversely, nursing home rates in Washington, for example, have been estimated by the Department of Health & Social Services to vary from $50-$60 per day. It is not known how many elderly Alaskans are institutionalized in lower forty-eight custodial care facilities; however, it is apparent that unless one is eligible for Pioneer Home placement, a nursing home can be afforded if, at all, only by relocating to the lower forty-eight.

Three private organizations were asked to estimate the premium amount required to supplement Medicare and other coverage for Alaska's elderly to provide health insurance equivalent to the existing Public Employees' Retirement System's retiree coverage, and to include comprehensive nursing home coverage. Neither Travelers Insurance, nor Aetna Insurance felt capable of providing an estimate.

However, insurance consultants frequently used by the state for matters such as the public employees Supplemental Benefits System estimated that to provide supplemental coverage

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63Alaska Nursing Home Census, Alaska Department of Health & Social Service, 12/31/82 for Medicare, insurance could be provided at a premium of approximately $70 per individual per month. This would include comprehensive nursing home coverage.

Medicare is currently a primary insurer -- that is, the State could provide for Supplemental coverage without endangering basic Medicare eligibility. Moreover, and in all likelihood, supplemental State coverage could properly provide otherwise uninsured Alaska Natives with those costs not covered by the Indian Health Service.

The major difficulty is Medicaid. Medicaid eligibility is very much contingent upon the unavailability of "resources".[64] Currently, the State only pays 48% of a Medicaid's patient bills. If a State health insurance policy was considered a "resource" the State could find itself footing the entirety of a Medicaid patient's bill.

Of course, the State would hardly need to "supplement" any Medicaid coverage -- Medicaid coverage itself being essentially inclusive. The statute, could simply exempt Medicaid recipients from the coverage of the policy. The issue posed by such an enactment is whether the State would be frustrating the Congressional goals behind Medicaid -- which is to provide a health coverag means of last resort -- thereby running afoul of the Supremecy Clause.[65].

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[64] 42 U.S.C. §1382(a)(1)(B)

[65] Florida Lime & Avocado Growers v. Paul, 373 U.S. 132 (1963)

Assuming that the State could continue to merely supplement Medicare, IHS facilities and existing private and retiree coverages, and that the consultants' figures are accurate, there remain two difficulties with the health insurance option. First, it is of no benefit to Alaska's needy elderly -- who will merely continue with Medicaid coverage at the price of their longevity bonus.

Secondly, there is the potentially severe problem of in-migration. If a year's residency in Alaska[66] were all that were required for free and unlimited nursing home coverage, the potential of in-migration may be severe. There are two potentially justifable components of the program which could mitigate this potential:

1. If a purpose of the health insurance option is to allow Alaska residents to continue to reside in the state even if nursing home coverage is required, nursing home coverage could be limited to Alaska institutions, just as many states

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[66]It is possible, although we believe unlikely, that a court would rule that supplemental health insurance coverage would constitute a "basis necessity of life" -- dropping the maximum possible durational residency requirement to 30 days. The program would be supplemental to a host of existing assistance insurance programs, and would not be based on need. See Memorial Hospital v. Maricopa County, 415 U.S. at 261.

limit resident tuition discounts to in-state universities.[67] The difficulty, obviously, is that existing Alaskan nursing home capacity is limited. Whether unlimited nursing home coverage for all Alaskans would result in the expansion of existing facilities is debatable;

2. For the reasons cited with respect to the annuity and social security options, eligibility for health insurance coverage might properly be based upon contribution history if (a) a portion of the individual's permanent fund dividend is used to help fund the insurance program; and (b) the funding is in excess of current needs, in order to amass the same type of "savings account" envisioned with respect to the social security option.

I. LONGEVITY BONUS PREMISED ON INDIVIDUALIZED RELOCATION HARDSHIP.

As noted in Section II(A), *ante*, there is some judicial support for the view that it is permissible for Alaska to establish a program intended to benefit those who would suffer the most hardship by financially-coerced relocation from the state, and to measure that hardship in part by duration of residence.

This option relies upon that support, and involves three steps:

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[67] Starns v. Malkerson, 326 F.Supp. 234 (D. Minn. 1970), *affd mem.* 401 U.S. 985 (1971)

1. cataloging those criteria which would differentiate those Alaska elderly who would suffer relatively more hardship by being forced to retire outside the state, and who need financial assistance in order to remain in-state;

2. translation of those subjective criteria to a point system similar to that used by the Alaska Commercial Fisheries Entry Commission; and[68]

3. structuring of that point system such that (a) administrative costs are minimized; and (b) successful applicants are confined to a pool roughly equivalent in number to existing bonus recipients.

Indeed, the structure of this option is similar to the Alaska Limited Entry Act -- which translates certain very subjective criteria -- such as "economic dependence on the fishery" -- into an objective point system. It does so, of course, at a bureaucratic price -- approximately $2.5 million a year for a pool of applicants originally roughly equivalent to those which this option would affect. It also does so at other costs, which will be discussed below.

It is not difficult to catalog the criteria which would set our "relocation hardship" pool aside. Duration and continuity of residence would be one criteria, as would, perhaps:

1. income;

2. location of family;

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[68]See AS 16.43

3. location of property; and

4. ethnic, religious, and cultural ties.

Although income and duration of residency would play a role in determing eligibility, no one factor alone would be dispositive.

It would not be difficult to translate these factors into a point system; nor would it be particularly difficult to structure that point system to limit the class of successful applicants. The proposal, however, does suffer from the following disadvantages:

1. Since most Alaskan elderly have lived here more than 10 years most Alaska elderly will suffer some demonsterable hardship from relocating elsewhere -- although a certain percentage obviously do not require a longevity bonus to remain;

2. The alternative also involves the establishment and funding of a new bureacracy -- an intrisically unworthwhile undertaking, but one which nonetheless would cost far less than simply opening the class to all elderly Alaskans;

3. Perhaps the most obvious disadvantage is the burden that it would place upon elderly Alaskans themselves. There would presumably be a lengthy application form, together with evidentiary requirements, and in some cases, adjudicatory hearings. The Limited Entry Commission is currently involved in some 120 judicial appeals -- a number which is either at or below historic levels. According to the Commission's FY1984

budget presentation, there is a current backload of some 325 administrative adjudications.

Attorneys will be required -- regardless of what efforts are undertaken to make the process simple and informal. The difficulties facing the elderly applicant are thus rather apparent.

J. GRANDFATHERING

This report closes with one of the simpler alternatives -- opening the class of longevity bonus recipients to all elderly Alaskans with one year's residency, and terminating the program for the future. Persons eligible, or becoming eligible this year will be "grandfathered" and will receive a longevity bonus for life. The fiscal impacts of this alternative are, for FY1984, identical to option A, and will obviously decline in the future due to mortality and relocation.

The obvious advantage of this program is that it protects those currently on the longevity bonus program. Equally, it deprives those approaching the age of 65 with any expectation of receiving a bonus.

We believe that this option is constitutionally permissible. The Alaska Supreme Court shares the general view of the constitutionality of grandfathering laws -- as long as the grandfathered class itself is constitutionally defined.[69] Plainly, the state legislatures

69 Commercial Fisheries Entry Commission v. Apokedak, 606 P.2d at 1259-61.

have the right to terminate social programs while protecting those who have come to rely on their benefits.

4. CONCLUSION

As noted at the outset, the purpose of this report is merely to provide a threshhold feasibility review of various options for amending the longevity bonus program. Through discussions with administration officials, legislative staff members, consultants and private industry, we have attempted to highlight the major issues surrounding each alternative, and provide at least rough information on each question raised. If, after the Judiciary Committee has identified two or three relatively attractive options, the effort expended over the past three weeks on 10 proposals can be condensed into the pursuit of three, proposed legislation and a more intricate analysis of the preferred options can be promptly transmitted.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT

CONFIDENTIAL

RODNEY G. VEST, Plaintiff, v. MARIAN SCHAFER and STATE OF ALASKA, Defendants.	)

Case No. 1JU-82-1103 Civ.

AGREEMENT AND ORDER OF SETTLEMENT

WHEREAS, in 1972 the Alaska Legislature enacted the Alaska Longevity Bonus Program (AS 47.45.010 et. seq.) which currently provides, inter alia, for the payment of $250 for each month of continued residency by bona fide Alaska residents over the age of 65 who were domiciled in Alaska on or before January 3, 1959 and who have maintained a continuous domicile in Alaska for 25 years;

WHEREAS, the purpose of the Alaska Longevity Bonus Program is among other things, to reward elderly Alaskans for their past contributions to the state and territory, and for past hardships suffered during territorial and early statehood days. AS 47.45.170;

WHEREAS, since 1972, the State of Alaska in good faith has administered the Longevity Bonus Program in the belief that the rewarding of prior residency was a constitutionally permissible purpose;

WHEREAS, in upholding the State's prior Permanent Fund Dividend distribution program, the Alaska Supreme Court ruled that "reward[ing] those Alaska residents who have chosen to stay" is a constitutionally permissible purpose. Williams v. Zobel, 619 P.2d 448, 460 (Alaska 1980);

WHEREAS, Justices Dimond and Matthews, in dissenting in Williams v. Zobel, believed that the Longevity Bonus Program would withstand constitutional scrutiny (619 P.2d at 469, n.13);

WHEREAS, on June 14, 1982, the United States Supreme Court, in invalidating Alaska's prior Permanent Fund Distribution Program, ruled that a statutory purpose of rewarding prior residency was constitutionally impermissible. Zobel v. Williams, ____ U.S. ________, 80-1146;

WHEREAS, because of the U.S. Supreme Court's decision in Zobel v. Williams, it appears the Longevity Program may not be deemed constitutional;

WHEREAS, a serious and good faith disagreement has developed and the Alaska Legislative Council questions whether the appropriate remedy is to expand the class of recipiants of monthly longevity bonuses, or alternatively, to invalidate the entire program and cease payment of monthly bonuses to any person;

WHEREAS, this uncertainty regarding the appropriate remedy derives from § 2, Ch. 205, SLA 1972, which provides, with respect to the Longevity Bonus Program:

> If any provision of this Act, or the application of a provision of this Act to any person or circumstances is held invalid, this entire act shall be considered invalid.

WHEREAS, unless and until the question of appropriate remedy is resolved by this court, or a settlement of this controversy is achieved, it is reasonable and prudent that the State of Alaska continue to administer the Longevity Bonus Program in the manner provided by statute;

WHEREAS, on July 6, 1982, Plaintiff Rodney Vest filed the above-captioned action, seeking as relief his inclusion in the Longevity Bonus Program of "any . . . bona fide Alaska resident who is 65 years or older....". Complaint, Prayer for Relief, para. 2;

WHEREAS, ON July 23, 1982, Plaintiff Vest filed an amended complaint seeking to have this case certified as a class action under Alaska Rule of Civil Procedure 23 on behalf of all bona fide Alaskans of the age of 65 or older, and further seeking as alternative relief the invalidation of the Longevity Bonus Program, or the payment of retroactive bonuses "in amount equal to what they would have been entitled to obtain under the program had the unconstitutional criteria never been in place or enforced." First Amended Complaint, Prayer for Relief, paras. 4-6.

WHEREAS, there are currently 9,124 recipients of monthly longevity bonuses, and many of these recipients are of modest means, and depend upon the monthly bonus for sustenance, and the termination of the longevity bonus payments to these individuals could cause great and irreparable harm;

WHEREAS, because of the uncertainty with respect to the appropriate remedy, the parties are desirous of settling this litigation in a manner which affords meaningful relief to Plaintiff Vest and others similarly situated, but which also ensures the continuation of monthly bonus payments to existing recipients;

WHEREAS, the parties are further desirous of achieving a settlement which will finalize and constitute a full and final accord of the rights and liabilities of the parties hereto;

WHEREAS, there may be as many as 4,000 persons who are similarly situated with Plaintiff Vest -- to wit, bona fide Alaskans of the age of 65 or over -- who are not currently receiving longevity bonus payments because of the residency requirements of the statute;

WHEREAS, the parties agree that, because of the nature of the rights of recipients involved in this litigation, a one-year residency requirement is reasonable, necessary and appropriate in order to demonstrate bona fide Alaskan residency;

WHEREAS, a full and final settlement of the parties' rights and liabilities hereto cannot be achieved until all persons similarly situated with Plaintiff Vest are certified as a class under Alaska Rule of Civil Procedure 23(c);

WHEREAS, the settlement envisioned by the parties includes the retroactive payment of longevity bonuses to plaintiff class commencing and including July 1, 1982;

WHEREAS, the payment of such retroactive bonuses to an expanded class of recipients would require the appropriation of sums above the amount currently appropriated for the longevity bonus program for fiscal year 1982-83. Moreover, and because of the Alaska Legislative Council's view of the non-severability clause, quoted above (effecting the expansion of the class of longevity bonus recipients), such payments may require the enactment of curative legislation;

WHEREAS, it is therefore necessary, in order to effectuate this settlement, for appropriate legislation to be enacted;

WHEREAS, the Alaska Legislature is a coordinate branch of government of the State of Alaska, and is represented in this action by the Attorney General;

WHEREAS, notwithstanding the above, the Attorney General cannot in any manner bind or compel the Alaska Legislature in the exercise of its legislative powers;

WHEREAS, on July 16, 1982, the Alaska Legislative Council moved to participate in the above-captioned action as amicus curiae, it is agreed that the Alaska Legislative Council may participate in all negotiations of any settlement, the filing of briefs and may participate in oral arguments; however, the Alaska Legislative Council agrees that it will not be involved in discovery proceedings in the event the case is ultimately litigated and will not become otherwise involved in accordance with the terms of this settlement agreement;

WHEREAS, and while the Alaska Legislative Council cannot bind the Alaska Legislature in the exercise of its legislative powers, the Alaska Legislative Council can and is willing to commit its best efforts to the enactment of appropriate legislation during the first regular session of the 13th Alaska Legislature;

WHEREAS, and subject to (1) the certification of plaintiff class, (2) the Superior Court's approval of a settlement proposal herein, and (3) the commitment of the Alaska Legislative Council to use its best efforts in the enactment of appropriate legislation, plaintiff class is agreed that such action will provide full and adequate consideration for the promise and agreement of plaintiff class not to seek relief in any form with respect to the Longevity Bonus Program through and including the adjournment of the first regular session of the

13th Alaska Legislature or June 30, 1983, whichever ever event comes first in time;

WHEREAS, nothing herein is to be construed as an admission by the State of Alaska as to the unconstitutionality of the Longevity Bonus Program;

WHEREAS, except with respect to the good faith of the State and its agents, nothing herein is to be construed as an admission by either party in the event the settlement agreed to here is not consummated;

NOW THEREFORE THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

1. All actions and proceedings in the above-captioned case, other than:

(a) the certification of plaintiffs class

(b) the approval by the Superior Court for the State of Alaska, First Judicial District of this proposed settlement agreement, and

(c) any further approval by the court necessary to consummate the settlement agreement after the certification of plaintiffs class,

are stayed through and including the date of adjournment of the first regular session of the 13th Alaska Legislature or June 30th, 1983, whichever event occurs first in time. Procedures for class certification shall be submitted to the Court for review no later than September 10., 1982, and the parties will request the

Court to render its order with respect to the notice procedures forthe said class no later than September 24th, 1982. Notice to the class shall be transmitted, along with the proposed settlement and the conditions necessary to affectuate the settlement, on or before October 11th, 1982. The State of Alaska will undertake reasonable efforts to assist Plaintiff to locate those persons 65 years or older as of July 1, 1982, who have been bona fide Alaska residents in the state of Alaska for one year immediately prior to that date. In the event this settlement agreement is not consummated for whatever reason, but the class certification has been certified by the court as set forth above, the Plaintiff shall not be precluded from seeking an enlargement of the class and a certification thereof so as to include other persons having a shorter residential duration within the State and may also seek a greater retroactive recovery.

2. The Alaska Legislative Council shall utilize its best efforts to secure the enactment, during the first regular session of the 13th Alaska Legislature, of the following legislation;

(a) Legislation which treats equally all bona fide Alaska residents of the age of 65 or older with respect to their residential qualifications to receive any "longevity bonus payments" or any substitute benefits from July 1, 1982 and thereafter for as long as the legislature may determine to continue such a program. Bona fide Alaska residents are those who continuously resided in the state for one year immediately prior to the date of eligibility; and

(b) Any appropriation which might be required to fund the legislation described in paragraph (a), including the retroactive payment of bonuses.

3. If the Alaska Legislature passes legislation described in 2(a)-(b) above at any time during the first regular session of the 13th Alaska Legislature and the Governor signs the said legislation or otherwise allows 2(a)-(b) to become law so that 2(a)-(b) will be effective no later than Ninety days after enacted, the above action shall be dismissed with prejudice, subject only to the determination of attorney fees by the Court.

4. If the above-captioned action is dismissed under paragraph 3 above, all claims or rights of any class member (except those class members who exercise their right to opt out under Rule 23 of the Alaska Rules of Civil Procedure), with respect to the Longevity Bonus Program, shall be merged into the judgment of dismissal and extinguished;

5. If the Legislation described in 2(a)-(b) above is not enacted during the first regular session of the 13th Alaska Legislature or in any event no later than June 30, 1983, then this agreement shall be null and void, except that the Plaintiff and the class certified, together with any additional members, if there is an enlargement of the class, may prosecute this case as

if this agreement had not been entered into, it being the intent of the parties that certification of the plaintiff class, or the enlargement thereof, shall not be affected if this agreement becomes null and void;

6. The obligation of the Alaska Legislative Council under 2 herein is contingent upon certification of plaintiff class under Alaska Rule of Civil Procedure 23(c), which class shall include each and every individual of the age of 65 or older who, as of July 1, 1982, had continuously resided one year immediately preceding that date within the State of Alaska, and in the event that a class is certified which is less inclusive than as above described, the State of Alaska has reserved the right to waive the protections of this paragraph in whole or in part. Nothing in this paragraph is intended to modify or affect the certification of the class or the right of the Plaintiff to enlarge the class if this agreement becomes null and void.

DATED this __ day of ________________, 1982.

DATED: August 9, 1982 Wilson L. Condon / by [illegible]
Attorney for Defendants
Marian Schaefer and
State of Alaska

WILSON L. CONDON
ATTORNEY GENERAL

DATED: August 6, 1982 Henry J. Camarot
Attorney for Plaintiff

Henry J. Camarot
Camarot, Sandberg & Hunter

DATED: 8/16/82 [signature]

Attorney for Alaska
Legislative Council
Amicus Curiae

FOR William Ruddy
Robertson, Monagle,
Eastaugh & Bradley

ORDER

IT IS SO ORDERED.

DATED: ______________________

Hon. Walter Carpeneti
Superior Court Judge

PROGRAM NAME	PROGRAM DESCRIPTION	TYPE OF BENEFITS	INCOME LIMIT (Number of Persons) 1	2	3	4	ALB EXCLUDED	NUMBER OF ELDERLY ALASKANS	MEAN BENEFIT	NUMBER OF ELDERLY AT RISK
edicaid - ursing Home	Provides payments on behalf of needy persons in nursing homes for cost of care 48% federal 52% state funds	Vendor Payments	852.90	n/a	n/a	n/a	Yes	up to $450/mo.	$3600/mo.	app. 275* *includes app. 120 who are included in the 500 at risk for SSI
edicaid - egular	Provides payment for necessary medical care on behalf of recipients of Old Age Assistance federal, 52% state funds, 48%	Vendor Payment	546	802 (net)	n/a	n/a	Yes	app. 2300 eligible, of whom app. 943 use benefits each month	$1027/ useage	app. 1200* *includes 500 at risk in SSI program

PROGRAM NAME	PROGRAM DESCRIPTION	TYPE OF BENEFITS	INCOME LIMIT (Number of Persons) 1	2	3	4	ALB EXCLUDED	NUMBER OF ELDERLY ALASKANS	MEAN BENEFIT	NUMBER OF ELDERLY AT RISK
Old Age Assistance	Payments to needy	Monthly Cash	546	802	n/a	n/a	Yes	app 2300	246.70/mo.	app 1200* *includes 500 at risk in SSI
Food Stamp Program	A federally funded program designed to promote the health of the nation's population by raising the levels of nutrition among low-income households	Food coupons that are used in place of money	490 This is <u>net</u> monthly income	650	810	970	No	1700	$32 per person (random sampling of 10-elderly cases.)	-0-
Supplemental Security Income(SSI)	Federally funded & administered program providing assistance to needy persons who are aged or disabled 100% federal funds	Monthly Cash	284.30	426.40 (net)	n/a	n/a	Yes	app 900	app $228 mo.	500
Energy Assistance	Grants to low-income households to offset energy costs	Vendor home energy credit	$851	$1113 (net)	$1375	$1637	Yes	app. 1400	$475	300-400
General Relief (Medical)	100% state-funded, provides medical assistance on behalf of needy persons. For elderly, primarily provides drugs for Medicaid eligible persons on OAA and SSI	Vendor Payment	$300	$400 or same as SSI and/or OAA (net)			Yes, for elderly	2750 eligibles app. 30% of whom use benefits	$50/mo. useage	app. 1475