H B

34

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER HB 34

SPONSOR Donley

BILL TITLE 2-yr. residency requirement for PFD, ALB

DATE REFERRED 4-6-89

HEARING SCHEDULED 4-24-89

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED Ginger

INTERESTED PARTIES CONTACTED

✓ Jim Chase, Barbara Bathony Pioneers' Benefits, DOA 4400

~~FIN Dick Pegues, Dept Law~~ ~~[illegible]~~

✓ Erwin Jones, PFD, DOR 2323

OPAG

Tam Cook ✓ John Gauguine, Legal 2450

will call ✓ ~~Bob Maynard~~ Ron Lorenson, AG 3600

✓ Robert Newton 586-2010

✓ Ron Zobel 276-3550

No - out of staff will call Mark Sandberg 276-6363

No - in court Bob Wagstaff 277-8611

OTHER ✓ Bob Pavitt, AARP 586-2066

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HB 34

House Judiciary 2/7/89
House Judiciary 2/20/89
House Judiciary 3/3/89
House Judiciary 3/6/89
House Judiciary 3/7/89

SENATE COMMITTEE REPORT

JUD

FURTHER FIN

DATE TURNED INTO OFFICE 4-24-89

4/6/89

Mr. President:

STATE AFFAIRS Committee considered CSHB 34 (FIN)

establishing durational residency requirements, not to exceed two years, for receipt of the permanent fund dividend and receipt of benefits under the longevity bonus program; efd
and recommended

[ ] replace with ___ CS_____)[] same title
[ ] or adopt _____ CS_____)[] new title
[] technical title change (HB only)

[ ] attached amendment(s) and

[ ] _____letter of intent adopted

[ ] do pass

[ ] do not pass

[ ] no recommendation

[X] individual recommendations

[ ] further referral to _____

FISCAL NOTE(S) [ ] zero [ ] fiscal impact [ ] appropriation no FN
[ ] new [ ] updated [X] previous
[ ] same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Chairman signature and recommendation

[ ] Committee Backup attached

STATE OF ALASKA
1989 LEGISLATIVE SESSION

Bill Version: CSHB 34 (FIN)
Publish Date:

FISCAL NOTE

REQUEST:

Revision Date: March 21, 1989
Title: * See below

Agency Affected: Administration
BRU: Longevity Bonus

Sponsor: Donley
Requestor: State Affairs Committee

Components: Administration, Grants

* An Act relating establishing durational residency requirements, not to exceed two years, for receipt of the permanent fund dividend and receipt of benefits under the longevity bonus program; and providing for an effective date

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	(210.0)	(1080.0)	(120.0)	(120.0)	(120.0)
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	(210.0)	(1080.0)	(120.0)	(120.0)	(120.0)
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	(210.0)	(1080.0)	(120.0)	(120.0)	(120.0)
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	(210.0)	(1080.0)	(120.0)	(120.0)	(120.0)

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

See attached

Prepared By: James H. Chase
Phone: 465-4400
Division: Pioneers' Benefits
Date: 3/21/89

Approved by Commissioner: John M. Andrews
Date: 3/21/89
Agency: Department of Administration

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

cc: "House Bills" Binder

1/7K2/032107-9/1&3

Rev. 12/88

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 34 (FIN)

In order to project the fiscal impact of the passage of CSHB 34 some assumptions had to be made. These assumptions were:

1) That the number of applicants for the Longevity Bonus who have a minimum of one year of residence in the state will remain at the same ratio to the total number of applicants.

   Rationale: This ratio has remained constant for the past two years.

2) That the ratio of applicants for the Longevity Bonus who have a minimum of one year of residence in the state to the total number of applicants will remain at one in five.

   Rationale: This is the ratio demonstrated in the last two years.

3) That the passage of CSHB 34 will impact only those applicants with less than two years of residence the year following its passage.

   Rationale: Those applicant who would otherwise be qualified would have to wait another year for their applications to be accepted. Those who learn of the passage of CSHB 34 who do not have the one year of residence would apply two years after its passage and continue to do so in the following years.

4) That the average number of applicants for the Longevity Bonus who have a minimum of one year of residence in the state is 40 per month.

   Rationale: Historical trend analysis result.

With these assumptions, the following calculations were made. Each month the number of applicants who only have the minimum of one year in the state is multiplied by $250 to compute the projected savings. The first month would be 40 times $250, the second month it would be 80 times $250 and so forth until the original "40" became eligible by having the minimum of two years in the state a year after the effective date of the bill. From that point, the amount of savings would decrease until all of those originally affected would have become eligible. The savings then would level out at the initial monthly rate of 40 one year minimum applicants times the $250.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 34 (Fin)
PUBLISH DATE:

FISCAL NOTE

REQUEST:

Revision Date: March 21,1989
Title: "An Act establishing durational residency requirements..."
Sponsor: House Judiciary
Requestor: House Finance

Agency Affected: Department of Law
BRU: Legal Services
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL				30.0	30.0	
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	30.0	30.0	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	30.0	30.0	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS: (Attach a seperate page if necessary)

Please see the attached analysis.

Richard L. Pegues

Prepared by: Richard L. Pegues, Director
Phone: 465-3672
Division: Administrative Services Division
Date: March 21, 1989

Richard L. Pegues /FOR/

Approved by Commissioner: Douglas B. Baily, Attorney Gen.
Date: March 21, 1989
Agency: Department of Law

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 34 (Fin)

The committee substitute for HB 34 adds legislative findings, and it also provides for reduced durational residency requirements if a court finds that the bill's 24 month durational requirements are invalid. Specifically, Sections 3 and 6 appear to delegate the legislature's law making authority to the court, if a court finds either a two year or a one year residency requirement invalid. In the case of the Longevity Bonus Program, this delegation could conceivably result in a shorter durational residency requirement than currently exists. However, these changes do not alter the fact that state laws containing lengthy durational residency requirements come under legal attack in Alaska. Consequently, the fiscal impact noted in the Department of Law's fiscal note of February 8, 1989, are still appropriate. The department's previous comments regarding that impact are repeated below.

Section 2 of this bill amends AS 43.23.005(a)(2) to increase the residency requirement, for an individual to receive the state's annual permanent fund dividend, from six consecutive months' residence to 24 consecutive months' residence immediately preceding April 1 of the current dividend year.

Section 5 of the bill amends AS 47.45.010(a) to increase the residency requirement, for an individual to receive the state's longevity bonus, from one year's residency to two year's residency immediately preceding an individual's application for the longevity bonus.

Historically, state laws containing lengthy durational requirements have come under legal attack in Alaska. The department anticipates that if the bill is enacted it will be challenged in the courts, on federal constitutional grounds. Fiscal note funds, in the amount of 30.0, are therefore being requested to pay for outside counsel legal scholar costs, to assist in the preparation and review of arguments that will be needed by the department to defend the state.

In addition to these costs, the department also has a hidden cost whenever it has to divert existing staff resources from other work to defend against durational residency lawsuits. As an example, the longevity bonus lawsuit, Vest v. State, cost the department about $70,000 in staff salaries and associated overhead expenses. Approximately ten weeks of attorney time was required to prepare for and defend the state at trial, on the constitutionality and retroactivity issues. Approximately eight weeks of attorney time was spent on the Alaska Supreme Court appeals, on the same issues. The average cost for the department's attorneys who handle this level of work, including normal office support costs, is $96.00 per hour. The department also paid Professor Walter Dellinger $8,200 to review and help prepare its briefs in the Vest trials. Professor Dellinger is a noted legal scholar and an expert on constitutional law. The department's outside legal expert costs in this matter would have been substantially greater had the case reached the U.S. Supreme Court. Because this particular

dispute was settled on a request for a motion for summary judgement and did not require a trial on the facts, and because the dispute ended at the state supreme court level, the department's total costs were probably somewhat less than they would have been if the case had gone to the U.S. Supreme Court. Lastly, the costs, attorney fees, and interest that were awarded to the plaintiff by the court in Vest, and which were subsequently paid by the state, totalled $149,303.88.

Although an opinion cannot be offered, it should also be noted that if the bill becomes law and then is subsequently overturned by the courts, the state might be exposed to the payment of damages for any injuries or loss suffered by any classes of persons, as a result of the bill's enactment.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CS HB 34 (Fin)
PUBLISH DATE:

FISCAL NOTE

REQUEST

Revision Date: March 21, 1989
Title: Durational residency requirements for state benefit programs
Sponsor: Donley, Boucher, Boyer et al.
Requestor: House Finance

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LANDS & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

ANALYSIS: See Attached

Prepared By: Ervin Jones
Phone: 465-2323
Division: Permanent Fund Dividend Division
Date: March 21, 1989

Approved by Commissioner: Hugh Malone FOR
Date: 3/21/89
Agency: Revenue

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

Section 2 modifies one of the four general eligibility requirements to receive a permanent fund dividend. Under the law enacted in 1982, an individual must have been "a state resident for a period of at least six consecutive months immediately preceding April 1 of the current dividend year." For example, in addition to the other requirements, to be eligible for the 1990 dividend under current law, an individual must have been a state resident during the ELIGIBILITY PERIOD of October 1, 1989 through March 31, 1990. Section 2 extends the six month requirement to 24 months. In other words, the individual in the above example, in order to qualify for the 1990 dividend (see Section 9) must have been a state resident for the entire ELIGIBILITY PERIOD of April 1, 1988 through March 31, 1990.

Conservatively speaking, there are approximately 60,000 new dividend applicants each year. The first effect of Section 2 would be felt in 1990 when 60,000 new Alaskans who thought they would be eligible, find that they are not.

It will take considerable effort on the Department's part, in conjunction with the state demographer, to predict the final effect of this bill. Some of the factors to be considered include:

1) the length of the period (current proposal - 24 months);

2) the number of eligible individuals who leave Alaska each year;

3) the number of new person's arriving each year;

4) the percentage of individuals moving to Alaska who leave after six months, one year, eighteen months, etc.;

5) the seasonal distribution of new arrivals;

6) the relative birth rate of new arrivals versus individuals who have been in Alaska over two years; and

7) the reaction of military personnel to the new proposal, i.e. how do they respond to the new choice presented relative to overseas pay, overseas duty credit, etc.

The final effect on administrative costs of the Permanent Fund Dividend program would depend upon such factors as mentioned above. For the first two years, the additional costs would include informing, advising, and counseling the public; answering repeated questions as to their eligibility, plus the costs of denying the applicants who would file anyway and hearing their appeals; and the costs of assisting the Department of Law in defending the new requirement. These cost increases might be offset partially by the document processing cost savings of initially reducing the number of applicants by approximately 60,000.

The Department's primary concern with the bill is a clear policy call -- the likelihood of a successful legal challenge to the extended ELIGIBILITY PERIOD on constitutional grounds, i.e. durational residency tests, and the likelihood of a successful injunction request, prohibiting the Department of Revenue from distributing dividends in 1990 until the court has resolved any litigation. An effective date of 1990 does not allow much time for the courts to resolve any possible litigation, making an injunction more likely. A successful injunction request, preventing the timely distribution of the 1990 dividends, would have a definite negative effect on Alaska's economy. For those residents who depend upon the annual dividend for basic necessities, an injunction would have serious consequences. A successful injunction would also cause increased costs in the administration of the dividend program as we deal with the predictable outpouring of concern and complaints from 536,000 Alaskan residents. For the above reasons, the Department of Revenue strongly opposes changing the effective date to January 1, 1990. This issue should be carefully weighed before jeopardizing the existing dividend program.

Offered: 3/24/89
Referred: Rules

6-0107M

Original sponsors: Donley, Boucher, Boyer, et al.

Sandra comparison of different versions

PFD [6 mo] 24 mo
If invalid = 1 yr.
if invalid = longest allowed by law

ALB [1½ yr] 2 yrs
(same)

grandfathers those who receive 1989

1 IN THE HOUSE BY THE FINANCE COMMITTEE

CS FOR HOUSE BILL NO. 34 (Finance) see p. 5

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

6 For an Act entitled: "An Act establishing durational residency require-
7 ments, not to exceed two years, for receipt of the
8 permanent fund dividend and receipt of benefits under
9 the longevity bonus program; and providing for an
10 effective date."

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

12 * Section 1. FINDINGS. (a) The legislature finds with respect to the
13 permanent fund dividend program that

14 (1) compared with other states, Alaska has one of the highest
15 ratios of transients to permanent state residents;

16 (2) a significant number of people from other states come to
17 Alaska to work in temporary or seasonal jobs or on short-term projects;

18 (3) because of the large number of transients it is very diffi-
19 cult for the state to determine whether a person is actually a resident
20 with the intent to remain in the state;

21 (4) the permanent fund dividend program is unique to the state
22 and provides generous benefits;

23 (5) the generous nature of this benefit program creates an
24 inducement for people to claim residency inaccurately;

25 (6) a two-year residency requirement is a reasonable way to
26 determine bona fide residency for the purposes of eligibility for this
27 benefit program;

28 (7) a two-year residency requirement will not discourage mi-
29 gration to the state or otherwise interfere with interstate travel;

1 (8) this program does not involve a basic right under the state
2 or federal constitutions or a basic necessity of life;
3 (9) a two-year residency requirement will more accurately indi
4 cate actual domicile and the intent to remain a resident than the require-
5 ment under current law; and
6 (10) the interest of the state in determining bona fide residence
7 for purposes of this program is at least equal to the interest recognized
8 in Andress v. Baxter, U.S. District Court for the District of Alaska, No.
9 A82-307 Civ., September 8, 1983.
10 (b) The legislature finds with respect to the longevity bonus program
11 that
12 (1) the longevity bonus is immediately payable to an applicant
13 upon acceptance into the program;
14 (2) acceptance into the program is primarily based on a state-
15 ment from the applicant that the applicant is a resident for the purposes
16 of eligibility for this benefit program and that the applicant intends to
17 remain a resident of the state;
18 (3) a two-year residency requirement will more accurately indi-
19 cate actual domicile and the intent to remain a resident than the require-
20 ment under current law;
21 (4) the longevity bonus program is unique to the state and
22 provides generous benefits;
23 (5) the generous nature of this benefit program creates an
24 inducement for people to claim residency inaccurately;
25 (6) a two-year residency requirement is a reasonable way to
26 determine bona fide residency for the purposes of eligibility for this
27 benefit program;
28 (7) the two-year residency requirement will not discourage
29 migration to the state or otherwise interfere with interstate travel;

1 (8) this program does not involve a basic right under the state
2 or federal constitutions or a basic necessity of life; and
3 (9) the interest of the state in determining bona fide residence
4 for purposes of this program is at least equal to the interest recognized
5 in Andress v. Baxter, U.S. District Court for the District of Alaska, No.
6 A82-307 Civ., September 8, 1983.
7 * Sec. 2. AS 43.23.005(a) is amended to read:
8 (a) An individual is eligible to receive one permanent fund
9 dividend each year in an amount to be determined under AS 43.23.025 if
10 the individual applies to the department, and if
11 (1) on the date of application the individual is a state
12 resident;
13 (2) the individual was a state resident for a period of at
14 least 24 [SIX] consecutive months immediately preceding April 1 of the
15 current dividend year; and
16 (3) the individual has been physically present in the state
17 at some time during the period beginning July 1 two years before the
18 date of application and ending on the date of application.
19 * Sec. 3. AS 43.23.005 is amended by adding a new subsection to read:
20 (e) If a court finds the durational residency requirement under
21 (a)(2) of this section is invalid and no appeal is pending, the resi-
22 dency requirement is one year. If a court finds the one year resi-
23 dency requirement is invalid and no appeal is pending, the residency
24 requirement is the longest duration permitted by law. The department
25 shall change the statement of eligibility under AS 43.23.015(b) as
26 necessary to conform to this subsection.
27 * Sec. 4. AS 43.23.015(b) is amended to read:
28 (b) The department shall prescribe and furnish an application
29 form for claiming a permanent fund dividend. The application must

1 contain a statement of eligibility and a certification of residency in
2 substantially the following form:
3 I certify that
4 ( ) I am a state resident on the date of this application, I have
5 been a state resident for at least 24 [SIX] months immediately preced-
6 ing April 1 of the current dividend year, and I have been physically
7 present in the State of Alaska at some time during the period begin-
8 ning July 1 two years before the date of application and ending on the
9 date of this application; or
10 ( ) (name), the individual on whose behalf I am applying, is a
11 state resident on the date of this application, has been a state
12 resident for at least 24 [SIX] months immediately preceding April 1 of
13 the current dividend year, and has been physically present in the
14 State of Alaska at some time during the period beginning July 1 two
15 years before the date of application and ending on the date of this
16 application.
17 I understand that a false claim of eligibility to obtain a perma-
18 nent fund dividend for myself or for another is a criminal offense,
19 that if convicted I will forfeit future dividends, and that I must
20 repay all dividends that have been paid to me. I understand that if I
21 wilfully misrepresent, exercise gross negligence, or recklessly disre-
22 gard a material fact regarding my eligibility for a permanent fund
23 dividend I will forfeit the dividend, be subject to a civil fine of up
24 to $5,000, and lose my eligibility for the next five dividends. I
25 understand that these penalties are in addition to any criminal pen-
26 alties imposed.
27 _____
28 (signature of individual,
29 parent, guardian, or other

1 authorized representative)

2 * Sec. 5. AS 47.45.010(a) is amended to read:

3 (a) A person who is 65 years of age or over, who resides in the
4 state for at least two years [ONE YEAR] immediately preceding applica-
5 tion for a longevity bonus under this chapter may apply to the commis-
6 sioner of administration for qualification to receive a monthly bonus
7 of $250.

8 * Sec. 6. AS 47.45.010 is amended by adding a new subsection to read:

9 (d) If a court finds the durational residency requirement under
10 (a) of this section is invalid and no appeal is pending, the residency
11 requirement is one year. If a court finds the one year residency
12 requirement is invalid and no appeal is pending, the residency re-
13 quirement is the longest duration permitted by law.

14 * Sec. 7. Notwithstanding the amendments to AS 43.23 made by secs. 2 -
15 4 of this Act, if an individual received a permanent fund dividend for 1989 1990
16 the individual's eligibility to receive a dividend for 1990 1991 shall be de-
17 termined under the law as it existed before those amendments.

18 * Sec. 8. Notwithstanding the amendment to AS 47.45 made by secs. 5 and
19 6 of this Act, if an individual received a longevity bonus payment for any
20 month during 1989 1990 the individual's eligibility to receive bonus payments
21 during 1990 1991 shall be determined under the law as it existed before that
22 amendment.

Changed from fed CS

23 * Sec. 9. This Act takes effect January 1, 1990.

Offered: 3/8/89
Referred: Finance

6-0107D

Original sponsors: Donley, Boucher, Boyer, et al.

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 34 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing durational residency require-
7 ments, not to exceed two years, for receipt of the
8 permanent fund dividend and receipt of benefits under
9 the longevity bonus program; and providing for an
10 effective date."

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

12 * Section 1. FINDINGS. (a) The legislature finds with respect to the
13 permanent fund dividend program that

14 (1) compared with other states, Alaska has one of the highest
15 ratios of transients to permanent state residents;

16 (2) a significant number of people from other states come to
17 Alaska to work in temporary or seasonal jobs or on short-term projects;

18 (3) because of the large number of transients it is very diffi-
19 cult for the state to determine whether a person is actually a resident
20 with the intent to remain in the state;

21 (4) the permanent fund dividend program is unique to the state
22 and provides generous benefits;

23 (5) the generous nature of this benefit program creates an
24 inducement for people to claim residency inaccurately;

25 (6) a two-year residency requirement is a reasonable way to
26 determine bona fide residency for the purposes of eligibility for this
27 benefit program;

28 (7) a two-year residency requirement will not discourage mi-
29 gration to the state or otherwise interfere with interstate travel;

added in jud

(8) this program does not involve a basic right under the state or federal constitutions or a basic necessity of life;

(9) a two-year residency requirement will more accurately indicate actual domicile and the intent to remain a resident than the requirement under current law; and

(10) the interest of the state in determining bona fide residence for purposes of this program is at least equal to the interest recognized in Andress v. Baxter, U.S. District Court for the District of Alaska, No. A82-307 Civ., September 8, 1983.

(b) The legislature finds with respect to the longevity bonus program that

added in Jud

(1) the longevity bonus is immediately payable to an applicant upon acceptance into the program;

(2) acceptance into the program is primarily based on a statement from the applicant that the applicant is a resident for the purposes of eligibility for this benefit program and that the applicant intends to remain a resident of the state;

(3) a two-year residency requirement will more accurately indicate actual domicile and the intent to remain a resident than the requirement under current law;

(4) the longevity bonus program is unique to the state and provides generous benefits;

(5) the generous nature of this benefit program creates an inducement for people to claim residency inaccurately;

(6) a two-year residency requirement is a reasonable way to determine bona fide residency for the purposes of eligibility for this benefit program;

(7) the two-year residency requirement will not discourage migration to the state or otherwise interfere with interstate travel;

added in jud

(8) this program does not involve a basic right under the state or federal constitutions or a basic necessity of life; and

(9) the interest of the state in determining bona fide residence for purposes of this program is at least equal to the interest recognized in Andress v. Baxter, U.S. District Court for the District of Alaska, No. A82-307 Civ., September 8, 1983.

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

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

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

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

(3) the individual has been physically present in the state at some time during the period beginning July 1 two years before the date of application and ending on the date of application.

added in jud

* Sec. 3. AS 43.23.005 is amended by adding a new subsection to read:

(e) If a court finds the durational residency requirement under (a)(2) of this section is invalid and no appeal is pending, the residency requirement is one year. If a court finds the one year residency requirement is invalid and no appeal is pending, the residency requirement is the longest duration permitted by law. The department shall change the statement of eligibility under AS 43.23.015(b) as necessary to conform to this subsection.

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

(b) The department shall prescribe and furnish an application form for claiming a permanent fund dividend. The application must

contain a statement of eligibility and a certification of residency in substantially the following form:

I certify that

( ) I am a state resident on the date of this application, I have been a state resident for at least 24 [SIX] months immediately preceding April 1 of the current dividend year, and I have been physically present in the State of Alaska at some time during the period beginning July 1 two years before the date of application and ending on the date of this application; or

( ) (name), the individual on whose behalf I am applying, is a state resident on the date of this application, has been a state resident for at least 24 [SIX] months immediately preceding April 1 of the current dividend year, and has been physically present in the State of Alaska at some time during the period beginning July 1 two years before the date of application and ending on the date of this application.

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

_____

(signature of individual,
parent, guardian, or other

1 authorized representative)

2 * Sec. 5. AS 47.45.010(a) is amended to read:

3 (a) A person who is 65 years of age or over, who resides in the
4 state for at least two years [ONE YEAR] immediately preceding applica-
5 tion for a longevity bonus under this chapter may apply to the commis-
6 sioner of administration for qualification to receive a monthly bonus
7 of $250.

8 * Sec. 6. AS 47.45.010 is amended by adding a new subsection to read:

9 (d) If a court finds the durational residency requirement under
10 (a) of this section is invalid and no appeal is pending, the residency
11 requirement is one year. If a court finds the one year residency
12 requirement is invalid and no appeal is pending, the residency re-
13 quirement is the longest duration permitted by law.

14 * Sec. 7. Notwithstanding the amendments to AS 43.23 made by secs. 2 -
15 4 of this Act, if an individual received a permanent fund dividend for 1990
16 the individual's eligibility to receive a dividend for 1991 shall be de-
17 termined under the law as it existed before those amendments.

18 * Sec. 8. Notwithstanding the amendment to AS 47.45 made by secs. 5 and
19 6 of this Act, if an individual received a longevity bonus payment for any
20 month during 1990, the individual's eligibility to receive bonus payments
21 during 1991 shall be determined under the law as it existed before that
22 amendment.

23 * Sec. 9. This Act takes effect January 1, 1991.

added in Jud

Offered: 1/27/89 6-0107E
Referred: Judiciary and Finance

Original sponsors: Donley, Boucher, Boyer, et al.

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 34 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to durational residency requirements
7 for certain state benefit programs; and providing for
8 an effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 43.23.005(a) is amended to read:
11 (a) An individual is eligible to receive one permanent fund
12 dividend each year in an amount to be determined under AS 43.23.025 if
13 the individual applies to the department, and if
14 (1) on the date of application the individual is a state
15 resident;
16 (2) the individual was a state resident for a period of at
17 least 24 [SIX] consecutive months immediately preceding April 1 of the
18 current dividend year; and
19 (3) the individual has been physically present in the state
20 at some time during the period beginning July 1 two years before the
21 date of application and ending on the date of application.
22 * Sec. 2. AS 43.23.015(b) is amended to read:
23 (b) The department shall prescribe and furnish an application
24 form for claiming a permanent fund dividend. The application must
25 contain a statement of eligibility and a certification of residency in
26 substantially the following form:
27 I certify that
28 ( ) I am a state resident on the date of this application, I have
29 been a state resident for at least 24 [SIX] months immediately

added St Aff

preceding April 1 of the current dividend year, and I have been physically present in the State of Alaska at some time during the period beginning July 1 two years before the date of application and ending on the date of this application; or

( ) (name), the individual on whose behalf I am applying, is a state resident on the date of this application, has been a state resident for at least 24 [SIX] months immediately preceding April 1 of the current dividend year, and has been physically present in the State of Alaska at some time during the period beginning July 1 two years before the date of application and ending on the date of this application.

added St. Aff.

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

_____

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

* Sec. 3. AS 47.45.010(a) is amended to read:

(a) A person who is 65 years of age or over, who resides in the state for at least two years [ONE YEAR] immediately preceding application for a longevity bonus under this chapter may apply to the

1 commissioner of administration for qualification to receive a monthly
2 bonus of $250.
3 * Sec. 4. This Act takes effect January 1, 1991.

Introduced: 1/9/89
Referred: State Affairs,
Judiciary and Finance

6-0107A

BY DONLEY, BOUCHER,
BOYER, BROWN, HUDSON,
ULMER AND GOLL

1 IN THE HOUSE

2 HOUSE BILL NO. 34

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to durational residency requirements
7 for certain state benefit programs; and providing for
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15 resident;

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17 least 24 [SIX] consecutive months immediately preceding April 1 of the
18 current dividend year; and

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20 at some time during the period beginning July 1 two years before the
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24 state for at least two years [ONE YEAR] immediately preceding applica-
25 tion for a longevity bonus under this chapter may apply to the commis-
26 sioner of administration for qualification to receive a monthly bonus
27 of $250.

28 * Sec. 3. This Act takes effect January 1, 1990.

29
H

REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE
DISTRICT ELEVEN • SPENARD
SEAT A
HEATHER MEADOWS • NORTHWOOD • SPENARD • THOMPSON • TURNAGAIN • UPPER MIDTOWN • WINDEMERE

3111 "C" STREET, SUITE 450
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CHAIRMAN
LABOR AND COMMERCE COMMITTEE

MEMBER
STATE AFFAIRS COMMITTEE
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE
HOUSING AND BANKING SUBCOMMITTEE
FINANCE BUDGET SUBCOMMITTEE
DEPT OF COMMERCE AND ECONOMIC DEVELOPMENT

February 6, 1989

M E M O R A N D U M

To: Members, House Judiciary Committee

From: Representative Dave Donley DD

Re: HB 34 - Durational residency requirements for Longevity Bonus and Permanent Fund Dividends

HB 34, a measure establishing a two year residency requirement to be eligible for a Permanent Fund dividend and the Alaska Longevity bonus, is before the House Judiciary Committee.

The current durational residency requirement for the Longevity Bonus is one year and for the Permanent Fund Dividend, six months of continuous residency prior to April 1 of the current dividend year. HB 34 retains that April 1 determination date and increases the residency period to 24 months. A January 1, 1991 effective date is included so that the new residency requirement would coincide with the calendar year to facilitate the administration of the permanent fund dividend program.

~~There are four proposed amendments to HB 34 in your files for your consideration. The first establishes legislative findings, the reasoning behind adopting the two year residency requirement. The second amendment, modeled after current law, governs the way children's applications for Permanent Fund Dividends are handled under the new residency requirement. The third amendment provides that if the courts overturn the two year residency requirement established under HB 34, then the residency requirement becomes the longest permitted by law. The final amendment "grandfathers" in any person who has already received either benefit under the previous residency requirement until they meet the two year requirement established under HB 34.~~

The residency requirement under the original Longevity Bonus program required continuous residency since statehood. The Alaska Supreme Court struck down the program in the Vest decision, in part because of the lengthy residency requirement, although they did not elaborate on what length of residency they would find acceptable. The state subsequently adopted the one year requirement.

Originally, the Permanent Fund dividends were disbursed according to the number of years a particular Alaskan had maintained residency in the state. The U.S. Supreme Court struck down the program in the Zobel decision, because the

JUNEAU OFFICE (During Legislative Session)
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residency requirement was arbitrary and unfair and violated both the privileges and immunities and equal protection clause of the Constitution. Again, they did not elaborate on what residency requirement would meet a constitutional challenge.

Traditionally the courts have applied two "tests" when considering residency requirements. The first, "strict scrutiny", is applied when a particular program provides the basic necessities of life (medical care, welfare benefits etc.) or when an important constitutional right is at stake, such as the right to vote. In these cases, even a one year residency requirement would not be upheld.

The second standard, applied when dealing with laws that do not affect a basic necessity or a fundamental right, is called "rational basis". Under the "rational basis" standard, the courts weigh the nature and extent of the residency required against the state's purpose in enacting the statute and the fairness and substantially of the relationship between the purpose and the requirement. In other words, what are the reasons for requiring two years of residency and does the requirement satisfy the purposes for which it was adopted?

In addition, the courts recognize that for the purpose of determining residency the state can require both actual residency and intent to become or remain a resident. However, the state must be careful to not impose standards that result in bone fide residents being treated differently under the law, such as under the original permanent fund dividend program.

It is clear that neither of the programs affected by HB 34 involve a fundamental right or a basic necessity of life. Therefore, the "rational basis" standard would apply. Both the Longevity Bonus and the Permanent Fund Dividend are unique programs uniquely created to benefit Alaska's residents. The Longevity Bonus is designed to enable life-long Alaskans to spend their retirement years in the state they helped build. The Permanent Fund Dividend is designed to create a direct link between the residents of Alaska and the Fund they created through a constitutional amendment.

Therefore, the state has clear and compelling reasons to assure that benefits from these programs accrue to bone fide residents of the state. The pertinent question is whether the state has compelling reasons to require two years of residency in these cases and whether the requirement is reasonable to establish that a person is a bone fide resident of the state. I believe we do and I believe it can be successfully defended in court.

In a federal District Court decision that upheld the two year residency requirement for the Alaska Student Loan Program, the judge took into consideration certain unique circumstances about the program that justified a longer durational residency requirement. Among them were: the student loan program was the most generous in the nation, students as a class are a mobile population, and there was evidence of "loan-shopping" by students which may encourage applicants to fraudulently claim residency status. Therefore, the court reasoned, the state had cause to apply a strict standard to assure that applicants were, in fact, bone fide residents.

Both the Longevity Bonus and the Permanent Fund dividend program are generous benefits that are unique to Alaska. There is certainly evidence that "benefit shopping" occurs in that citizens move to Alaska to take advantage of the Longevity Bonus as well as the dividend and may be encouraged to fraudulently claim residency because of the generous nature of the benefits. Finally, the population group affected by HB 34 is, by definition, transient.

In addition, our state has one of the highest rates of transients in the nation. A large percentage of our population comes to work in Alaska or is assigned to work here on a temporary basis. Therefore, Alaska has a unique problem in determining residency for the purposes of eligibility for these state programs.

Because of this, I believe the state has sufficient grounds to adopt a two year residency requirement. Significant constitutional questions remain, and you should be aware that we are venturing into many legal unknowns. However, as long as we proceed in good faith, with an understanding of the unique set of circumstances we are attempting to deal with, I believe we have a chance of arguing our case successfully in court under the "rational basis" standard.

STEVE COWPER
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

POSITION PAPER

HOUSE BILL NO. 34

An Act relating to durational residency requirements for certain state benefit programs.

I support the concept of a two-year residency requirement for Permanent Fund Dividends and Longevity Bonus Program eligibility.

Steve Cowper
Governor

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM March 10, 1989

SUBJECT: Durational residency requirements under Alaska law (W.O. No. 16-0182)

TO: Representative Dave Donley

FROM: John Gaguine
Legislative Counsel

You have asked for an update to a memorandum, prepared in December 1982 by then-Attorney General Wilson Condon, which set out all durational residency requirements found in the Alaska statutes, and expressed an opinion as to whether those requirements were constitutional. Enclosed is the updated memorandum, which I believe is complete.

I have used different meanings than did the Attorney General in the "constitutional problem" column. I have not considered the likelihood of a challenge, as he did, but instead just the probable outcome of a challenge (in my opinion) if one were to be brought. Thus my terms "probably not" and "maybe" have their normal meanings. I have not exhaustively researched the constitutional questions involved with every requirement. Instead I have generally adopted the Condon view (which my reading of the caselaw suggests is correct), while noting some more recent developments in the law in this area. (For instance, the Condon memorandum was written before the decision in Andress v. Baxter, upholding the two-year residency requirement for student loans.) Where the statutes have been changed, as many of the ones listed here have been, I have relied for my opinion on the Attorney General's assessment of similar statutes and on general conclusions that I think can be drawn from the caselaw (such as that a one-year residency requirement for loan and grant programs in general is permissible). If you would like more in-depth research into a particular provision, I will be happy to oblige you.

The vast majority of constitutionally suspect durational residency requirement have been eliminated by the legislature. The primary vehicle for this was ch. 67, SLA 1983

(copy attached). This Act was apparently adopted in response to the U.S. Supreme Court's Zobel decision (invalidating the $50/year of residency provision of the Permanent Fund Dividend program) and several Attorney General opinions expressing doubt as to the constitutionality of many durational residency provisions in the statutes. In addition, chapter 67 also eliminated many residency requirements, primarily in Title 8 (Occupational Licensing), that apparently would be unconstitutional under the Privileges and Immunities clause of the U.S. Constitution (Art. IV, sec. 2, cl. 1).

Chapter 67 replaced many durational residency requirements of varying lengths with a uniform 30-day requirement. It did this by repealing those requirements and adding AS 01.10.055, which reads:

> Sec. 01.10.055. RESIDENCY. (a) A person establishes residency in the state by being physically present in the state with the intent to remain in the state indefinitely and to make a home in the state.
>
> (b) A person demonstrates the intent required under (a) of this section
>
> (1) by maintaining a principal place of abode in the state for at least 30 days or for a longer period if a longer period is required by law or regulation; and
>
> (2) by providing other proof of intent as may be required by law or regulation, that may include proof that the person is not claiming residency outside the state or obtaining benefits under a claim of residency outside the state.
>
> (c) A person who establishes residency in the state remains a resident during an absence from the state unless during the absence the person establishes or claims residency in another state, territory or country, or performs other acts or is absent under circumstances that are inconsistent with the intent required under (a) of this section to remain a resident of this state.

Because a thirty-day residency requirement was sanctioned by the Alaska Supreme Court for a basic right, the right to vote, in State v. Van Dort, 502 P.2d 453 (Alaska 1972), it

appears not to be susceptible to challenge. The Alaska Supreme Court in Perito v. Perito, 756 P.2d 895 (Alaska 1988) (also attached), held that the requirements of AS 01.10.055 defined residency as used elsewhere in the statutes, unless a contrary statutory definition applies (as, for instance, AS 16.05.940(24), applicable to the term "resident" as it appears in most of Title 16).

In compiling this memorandum, I have not included those statutes requiring simple residency (i.e., the thirty-day requirement of AS 01.10.055); I have only listed those that couple residency with a specific durational requirement. I have also not listed those with a thirty-day requirement, such as the voting statute and the statutes requiring certain positions to be filled by registered voters. I have listed some that have no residency requirements but that require some past activities (such as mining or guiding) in the state. This memorandum therefore differs slightly from the Condon memorandum, which listed some statutes with simple residency requirements (apparently those where he felt such requirements were illegal under the Privileges and Immunities clause). If you wish, I can prepare another memorandum on simple residency statutes. I suspect that that one would be far longer.

For comparison, I have also attached a copy of the Condon memorandum with hand written changes.

JG:kb
wkk2/108

Enclosures

I. PUBLIC OFFICE HOLDING

TITLE		DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM
A. General				
1. Governor		7 Years	Ak. Const. art III, § 2	No
2. Lieutenant Governor		7 Years	Ak. Const. art.III, §§ 2 & 7	No
3. Board of Education Member		3 Years	AS 14.07.075, 39.05.065(a)	No
4. Legislator		3 Years	Ak. Const. art. II, § 2 AS 24.05.030	No
5. Supreme Court Justice		5 Years	AS 22.05.070	No
6. Court of Appeals Judge		5 Years	AS 22.07.040	No
7. Superior Court Judge		5 Years	AS 22.10.090	No
8. District Court Judge		5 Years	AS 22.15.160(a)	No
9. Magistrate		6 Months	AS 22.15.160(b)	No
10. Ombudsman		3 Years	AS 24.55.030	No
11. Borough Mayor	If adopted by ordinance of local Government	Up to 3 Years	AS 29.20.240	No
12. Borough Assembly		Up to 3 Years	AS 29.20.140(b)	No
13. City Mayor		Up to 3 Years	AS 29.20.240	No
14. City Council		Up to 3 Years	AS 29.20.140(b)	No
15. Municipal Charter Commission		3 Years	AS 29.13.010	No

TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM
B. Boards and Commissions other than Occupational Licensing Boards.[1]			
1. Rural Affairs Commission	5 Years	AS 44.19.102	Maybe[2]
2. Board of Fisheries	1 Year	AS 16.05.221(a) AS 16.05.940(24)	No
3. Board of Game	1 Year	AS 16.05.221(b) AS 16.05.940(24)	No
4. Judicial Conduct Commission (lawyer members)	10 Years practice in Alaska	Ak. Const. art. IV, § 10 AS 22.30.010	Maybe[2]
C. Occupational Licensing Boards.			
1. Public Accounting Board	1 Year	AS 08.04.020	No
2. Board of Chiropractic Examiners	2 Years	AS 08.20.020	No
3. Board of Dental Examiners	5 Years practice in Alaska	AS 08.36.010	Maybe[2]
4. State Board of Registration for Architects, Engineers, and Land Surveyors	3 Years	AS 08.48.031	No
5. Guide Licensing and Control Board	10 Years	AS 08.54.010	Maybe[2]
6. Board of Examiners in Optometry	3 Years	AS 08.72.040	No
7. Board of Pharmacy	3 Years in-state practice although not a specific residence requirement	AS 08.80.010	No
8. Board of Veterinary Examiners	5 Years in-state practice although not a specific residence requirement	AS 08.98.010	Maybe[2]

TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM
II. LICENSES			
A. Occupational Licenses			
1. Funeral Director	1 Year	AS 08.42.110	Yes[3]
2. Guides			
Master Guide	No residence requirement, but must have hunted in area 10 years	AS 08.54.100	Probably not
Registered Guide	Same, except hunted five years in area	AS 08.54.110	Probably not
Class-A Assistant Guide	Same, except hunted twenty years in area	AS 08.54.120	Maybe
Special Guide - Marine Mammals	10 Years residency in area	AS 08.54.045	Yes
B. Other Licenses			
1. Alcoholic Beverage License	1 Year	AS 04.11.390	Probably not
2. Fish and Game Licenses			
Resident fishing, hunting and trapping licenses (cost less than non-resident ones)	1 Year (per AS 16.-05.940(24))	AS 16.05.340	Probably not
Free hunting and trapping licenses for residents 16 and under; free F & G licenses for residents over 60	1 Year (per AS 16.-05.940(24))	AS 16.05.400	Probably not
Hunting license for blind (privileges not available to blind non-residents)	1 Year (per AS 16.-05.940(24))	AS 16.05.405	Probably not

TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM
Resident commercial fishing licenses (cost less than non-resident ones)	1 Year (per AS 16.-05.940(24))	AS 16.05.480	Probably not
Resident CFEC permit fees	1 Year	AS 16.43.160; 20 AAC 05.240(c)(2)	Probably not
3. Coin-Operated Device Distributor License	1 Year	AS 43.35.030(2)	Maybe
III. PUBLIC RIGHT AND BENEFITS			
A. Loan and Grant Programs			
1. Permanent Fund Dividends	6 Months[4]	AS 43.23.005(a)	No
2. Longevity Bonus	1 Year[4]	AS 47.45.010	No
3. Commercial Fishing Loans	2 Years	AS 16.10.310(a)	Maybe[5]
4. CFAB Limited Entry Permit Loans	2 Years	AS 44.81.210(a)(20)	Maybe[5]
5. Other CFAB Loans	2 Years	Bank policy	Maybe[5]
6. Veterans' Loans	1 Year	AS 26.15.130(a)	No
7. Veterans' Death Gratuity	1 Year	AS 26.10.080	No
8. Mining Business Loans	Residency and 5 years mining experience in State	AS 27.09.020	Probably not
9. Memorial Scholarship Loan Fund	No durational requirement to apply. 1/5 loan forgiven for each year employed in specialized field in Alaska.	AS 14.43.305(e)	No

TITLE	DURATIONAL RESIDENCE REQUIREMENT	AUTHORITY	CONSTITUTIONAL PROBLEM
10. Student Loan Program and Family Education Loan Program	2 Years	AS 14.43.125(a)(3) AS 14.43.750(a)(1)	Maybe[6]
11. Alaska Educational Incentive Grant Program	2 Years	AS 14.43.405(b)	Maybe[6]
B. Land Disposal Programs			
1. Land Disposal by Lottery	1 Year	AS 38.05.057(b)(2)	Probably not[7]
2. Veteran's Discount on Purchase of Some State Lands	1 Year	AS 38.05.940(b)(2)	Probably not
3. Homesite Entry Program	1 Year	AS 38.08.030(a)(2)	Probably not[7]
4. Homestead Entry Program	1 Year	AS 38.09.030(a)(1)	Probably not[7]
C. Fish and Game Programs (other than licenses)			
1. Residents Taking Moose, Deer, Elk and Caribou for Personal Use and Consumption Favored Over Non-Residents	1 Year (per AS 16.-05.940(24))	AS 16.05.255(d)	Probably not
2. Limitations on Non-Resident Big Game Permits	1 Year (per AS 16.-05.940(24))	AS 16.05.256	Probably not
3. Non-Resident Hunters for Some Game Species Must be Accompanied	1 Year (per AS 16.-05.940(24))	AS 16.05.407	Probably not
4. Resident Preference for ADF&G Exploration Work	1 Year (per AS 16.-05.940(24))	AS 16.05.902	Maybe[8]
D. Other Programs			
1. Low-Cost Housing Preference for Veterans	1 Year at some point	AS 18.55.330 AS 18.55.470(5)	Maybe[9]
2. Pioneers' Home Program	15 Years immediately before application, or 30 Years total	AS 47.25.020(a) AS 47.25.030(a) AS 47.25.035	Maybe[10]

1/ This list includes only boards and commissions which have express durational residency requirements. Many boards have ex officio members who must meet durational residency requirements for those offices or positions. These boards include:

(1) Alcohol Beverage Control Board (certain licensees);
(2) Coastal Policy Council (mayors, assembly and council members);
(3) Code Revision Commission (members of legislature);
(4) Citizens Advisory Commission on Federal Management Areas in Alaska (governor and other public officers);
(5) Commission on Conference of the Law of the Sea (members of legislature);
(6) Rural Development Council (members of legislature);
(7) Teacher's Retirement Board (resident who is receiving retirement benefits);
(8) Tourism Advisory Board (members of legislature); and
(9) Governor's Commission on the Administration of Justice (judicial officers, legislators, and municipal officials)

2/ As Attorney General Condon said, it is difficult to imagine anyone challenging this requirement.

3/ A similar one-year requirement for embalmers (that a license applicant train for a year under someone licensed in Alaska), found in the same statute, was removed by ch. 67, SLA 1983. The failure to remove the requirement for funeral directors was likely an oversight.

4/ HB 34, currently before the legislature, would raise the residency requirement to two years.

5/ The federal district court in Alaska has upheld a two-year residency requirement for student loans, in part on the basis that students are highly mobile and a longer durational requirement is justified to establish bona fide residency. The same argument can be made for fishermen. Since the district court decision was not appealed, it is unclear how much authority it carries.

6/ The two-year residency requirement was upheld by the federal district court for Alaska in Andress v. Baxter, No. A82-307 Civ. However, the court did not issue a written opinion in the case, and the decision was not appealed. It is not clear how much weight the decision would carry if the requirement were challenged in state court.

7/ This issue was presented to the Alaska Supreme Court in Gilman v. Martin, 662 P.2d 120 (Alaska 1983), a challenge to a Kenai Peninsula Borough ordinance limiting the borough's land lottery program to one-year borough residents. The court invalidated the ordinance, but on the ground that the ordinance had not stated benefiting borough residents as one of its purposes, id. at 126, and therefore any residency requirement was unconstitutional. However, in two footnotes the court seems to express skepticism about the one-year residency requirement, even if the program had been intended to benefit borough residents. Id. at 126 n. 6 and 127 n. 7.

8/ A simple residency requirement here might be suspect under the Privileges and Immunities clause of the federal constitution.

9/ Ch. 67, SLA 1983 repealed a one-year residency requirement to get low-cost housing, AS 18.55.470(4), but left in the one-year requirement for veterans' preference under AS 18.55.470(5). This may have been an oversight.

10/ The Attorney General issued an opinion on November 26, 1982, summarizing the arguments that could be made for and against these lengthy requirements. He concluded that the answer was unclear, and the matter should thus be left to the courts, if a challenge ever arose.

JBG:kb
WKL7/030

Supports Finding #1, Permanent Fund Div.

TABLE 3. RATES OF MIGRATION BY STATE, 1985-86

STATE TO STATE MIGRATION FLOWS 1985-86	IN MIGRANTS PER 100 POPULATION (%)	OUT MIGRANTS PER 100 POPULATION (%)	NET MIGRANTS PER 100 POPULATION (%)	GROSS MIGRANTS PER 100 POPULATION (%)
ALASKA	10.6	10.2	0.4	20.8
WASHINGTON D.C.	7.5	9.0	-1.4	16.5
NEVADA	8.9	6.7	2.2	15.6
WYOMING	6.5	8.2	-1.6	14.7
ARIZONA	8.3	5.0	3.3	13.3
NEW MEXICO	7.2	5.9	1.3	13.1
NEW HAMPSHIRE	7.8	5.1	2.7	12.8
HAWAII	5.9	6.8	-0.9	12.8
COLORADO	6.1	5.8	0.2	11.9
KANSAS	5.0	5.6	-0.7	10.6
FLORIDA	6.7	3.8	3.0	10.5
IDAHO	4.6	5.8	-1.3	10.4
NORTH DAKOTA	4.1	6.2	-2.1	10.2
VIRGINIA	5.4	4.6	0.8	10.0
SOUTH DAKOTA	4.3	5.5	-1.2	9.8
VERMONT	5.2	4.6	0.6	9.7
MONTANA	3.7	5.4	-1.6	9.1
DELAWARE	4.8	4.3	0.5	9.1
OKLAHOMA	4.1	4.9	-0.9	9.0
GEORGIA	5.1	3.5	1.6	8.6
WASHINGTON	4.3	4.1	0.2	8.4
SOUTH CAROLINA	4.4	3.7	0.7	8.2
MARYLAND	4.2	3.8	0.4	8.0
MAINE	4.3	3.7	0.6	8.0
UTAH	3.6	4.3	-0.6	7.9
ARKANSAS	4.0	3.8	0.2	7.9
RHODE ISLAND	3.9	3.7	0.2	7.7
OREGON	3.8	3.8	-0.0	7.7
NEBRASKA	3.2	4.4	-1.2	7.6
CONNECTICUT	3.6	3.8	-0.3	7.4
NORTH CAROLINA	4.1	3.3	0.7	7.4
KENTUCKY	3.4	3.7	-0.3	7.1
TENNESSEE	3.7	3.3	0.4	7.0
TEXAS	3.7	3.2	0.4	6.9
MISSISSIPPI	3.3	3.5	-0.2	6.8
MISSOURI	3.4	3.4	0.0	6.7
NEW JERSEY	3.2	3.4	-0.1	6.6
ALABAMA	3.4	3.1	0.3	6.5
IOWA	2.3	4.1	-1.8	6.4
WEST VIRGINIA	2.6	3.8	-1.2	6.3
INDIANA	2.8	3.4	-0.6	6.2
LOUISIANA	2.6	3.5	-0.9	6.1
MASSACHUSETTS	2.6	3.3	-0.6	5.9
ILLINOIS	2.3	3.5	-1.2	5.8
MINNESOTA	2.6	2.9	-0.4	5.5
OHIO	2.3	3.1	-0.8	5.5
MICHIGAN	2.4	2.9	-0.5	5.3
CALIFORNIA	2.8	2.3	0.5	5.1
WISCONSIN	2.2	2.9	-0.7	5.1
PENNSYLVANIA	2.1	2.7	-0.5	4.8
NEW YORK	1.8	3.0	-1.2	4.7

Alaska Department of Labor
Research & Analysis

Source: Alaska Population Overview: 1986 and Provisional 1987 Estimates, Alaska Department of Labor (Forthcoming, March 1989).

Greg Williams, State Demographer, Alaska Department of Labor

March 3, 1989

ALASKA'S POPULATION CHANGE

COMPONENTS OF CHANGE

Population change is composed of natural increase (births minus deaths), and migration as shown in Table 2.1 and Figures 2.2. In general, natural increase is the fairly stable component of population change. Death rates change very slowly, and while current fertility fluctuations depend on a variety of factors, the general trend in births does not change pace or direction too quickly. Migration is the most unstable component in Alaska's population change, often changing dramatically from one year to the next.

Between July 1, 1986 and July 1, 1987, 11,923 persons were born in Alaska and 2,086 persons died, resulting in a net natural increase of 9,837 persons. This translates into a growth of 1.8% per year as a result of natural increase. The Alaskan births each year are equivalent to about 2.2% of the population at the beginning of each year. Approximately 0.4% of Alaska's population dies each year.

Migration to Alaska has historically varied widely from year to year. As a result, it is difficult to talk of typical patterns of migration to the state. The highest post-World War II proportional growth due to migration occurred during the build up for the Korean War in 1950-51 (14.7%), 1951-52 (13.6%). Rapid growth also occurred during World War II represented here by the statistics for 1945-46 (12.3%). In part, these high percentages were a result of a small population base in these years. In contrast while the net migration for 1981-82 and 1982-83 was numerically larger than that for 1950-51 and 1951-52, proportionally, it was much smaller. In the peak growth period of 1981-83, the net influx of over 20,000 migrants each year was equivalent to a gain about equal to 5% of the population.

The largest single numerical increase due to migration (30,222 or 8.7%), occurred during pipeline construction in 1974-75. The largest numerical loss (-19,637 or -3.6%), occurred in 1986-87. This loss was larger than the -13,414 or -3.2% loss which occurred at the end of the pipeline construction in 1977-78.

MIGRATION TO/FROM ALASKA

Migration statistics are derived from change [illegible] on IRS Tax returns. The latest statistics available are the migration flows for 1985-86. While these statistics are prior to the down-turn in Alaska's economy, they serve to illustrate the magnitude and pattern of migration to and from the State.

Estimates of In, Out, Gross and Net migration for all states is shown in Table 3. The states at the top of the list have the least stable populations, those at the bottom have the most stable populations. In 1985-86, Alaska had the highest level of In, Out and Gross migration of any state in the union. During this period, 10.2% of Alaska's residents left the state and a number equivalent to 10.6% of Alaska's residents entered the state. Since 1985-86 was at the point of "stall" in the boom of the early 1980's, the net gain was only .4%. These turnover rates include rotation of military personnel in and out of the state. The military probably account for about 20% of the In, Out and Gross migration flow of the state.

The highest turnover is for persons in their 20's and children under 5.
Statistically the average length of stay for a 21 year old in Alaska is 9.9 years for males and 13.6 years for females. This means that of a group of Alaska men currently age 21, one can expect 50% to have left the state by about the age of 31.

In general, people tend to more frequently move short distances as opposed to long distances. Table 4. shows the distribution of migration to and from Alaska by state. The Pacific Coast, Mountain States, Texas and overseas accounts for a substantial share of our total gross migration. Almost a third of the Alaska's migration is with Washington (14.0%) , California (11.4%), and Oregon (6.8%). This is followed by movement to/from Texas (6.4%) and movement to/from overseas (3.5%). The movement overseas is heavily military in character. The next largest movement is to a cluster of Mountain states which together account for another 13.6% of the total movement: Colorado (3.3%), Arizona (3.0%), Wyoming (2.7%), Idaho (2.4%), and Montana (2.2%). The sum of the movement to/from the places discussed above accounts for 55.8% of the Gross migration to/from Alaska. The remaining migration comes from the rest of the nation. Some of the remaining states with larger shares also reflect military movement, ie. Georgia, Virginia, North Carolina.

Given the regional distribution of migrants to Alaska, it is not surprising that while migration to and from the state is in part dependent upon federal military and program policies, it is also strongly dependent upon Alaska's economic opportunities relative to those in the other states, and in particular the Pacific and Mountain states. This has its strongest impact on the number in-migrants coming into Alaska.

More recent figures, when they become available, will show a rise in out-migrants and a decline in in-migrants. Somewhat surprisingly, changes in migration in Alaska are more a result of the decline in in-migrants to Alaska then an increase in the out-migrants from Alaska. A net loss can result from either an increase in the out-migrants or an decrease in the in-migrants, since the balance of migration depends in the balance of the two. When Gross migration or turnover is high, major changes in either in or out-migration can cause rapid changes in the population which appear to the observer to be out-migration. What appears as massive out-migration may be a normal 10% out-migration with only partial replacement.

My instructions to you:

House Judiciary questioned the validity of each of Conley's findings. He provided this info. in support.

Your objections:

630263 RFP, Inc

Supports Finding #2, P.F.D.

Table 3.4

Resident and Nonresident Total Earnings and Workers by Major Industrial Group Alaska, 1987

Industrial Group	Resident Earnings (in thous.)	%	Nonresident Earnings (in thous.)	%	Resident Workers	%	Nonresi Workers	
Agriculture 1/	$15,947	84.4	$2,950	15.6	1,976	81.5	450	
Mining	497,898	88.5	64,979	11.5	12,374	83.4	2,462	16.6
Construction	359,732	88.9	44,819	11.1	22,837	84.8	4,086	15.2
Manufacturing	224,761	73.4	81,522	26.6	22,532	60.9	14,461	39.1
Transportation	506,659	93.2	37,178	6.8	24,986	89.1	3,057	10.9
Wholesale Trade	202,389	95.3	9,927	4.7	11,151	90.5	1,177	9.5
Retail Trade	493,045	94.5	28,961	5.5	61,858	87.3	8,981	12.7
Finance/Insurance/Real Estate	262,780	96.9	8,473	3.1	15,946	93.1	1,183	6.9
Services	766,704	93.3	55,327	6.7	67,339	87.8	9,334	12.2
Nonclassifiable	4,207	83.4	837	16.6	685	86.9	103	13.1
TOTAL PRIVATE BUSINESS 2/	3,334,124	90.9	334,973	9.1	197,736	82.4	42,354	17.6
Local Government	858,991	98.2	15,396	1.8	42,188	95.4	2,017	4.6
State Government	626,754	97.7	14,613	2.3	24,575	95.0	1,296	5.0
TOTAL 3/	$4,820,554	93.0	$365,147	7.0	246,489	84.5	45,148	15.5

Source: Alaska Department of Labor, Research & Analysis

1/ Data includes only nonagricultural wage and salary workers covered by unemployment insurance. Consequently, data provided for this industry may not be representative of the industry as a whole.

2/ Unduplicated count of workers within each industry.

3/ Unduplicated count of total workers.

A QUESTION OF RESIDENCE

The time frame for the estimates of resident population produced in this publication is July first of any given year. The July first estimate, however, reflects an average annual resident population. The midyear date serves as the midpoint in the population change in any given year for persons living in their usual place of residence. Our estimates are not intended to be a "de facto" population; that is, a count of all persons in a location on the day July first. The population on this date would be substantially above the annual average because of the seasonality of Alaska's population.

By U.S. Census Bureau definition, to be counted as a resident, a person must reside in a place for at least six months of the year and have no other usual place of residence. Residents of remote work sites are given the opportunity to list their place of residence as being somewhere other than the remote site. In 1980, for example, most North Slope oil workers listed their place of residence as being either some other part of Alaska or out of state. One of the systematic errors in statistics for Alaska involves residency. Employment in the state is highly seasonal in construction, fishing and seafood processing, logging, mining, and tourism. While the exact amount of seasonal population is currently unknown, in 1987, nearly 15.5% of the persons working at some time during the year in jobs covered by unemployment insurance or state employment were nonresidents. This means that there were at least 45,100 nonresident workers in Alaska for some period of time during the year.[1] This number, however, overstates the number of nonresidents in the state at any given time because these workers are present for varying periods of time. The best current estimate of the annual average number of nonresidents present in Alaska at any given time in 1987 would be about 14,300. This is down substantially from 1985. The seasonal high quarter usually occurs during the summer months, would add another 2,300 nonresidents over the annual average. Thus a statewide census taken in July 1, 1987 might have found some 17,600 nonresidents living in Alaska.

Since our resident population estimate for 1987 is 537,800 persons, the annual average number of persons (residents and nonresidents) present in the state may have been at least 555,200 and the midsummer non-tourist "de facto" population may be on the order of 557,500.

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[1] *Nonresidents Working in Alaska in 1987, Alaska Department of Labor, January 1989.*

REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE
DISTRICT ELEVEN • SPENARD
SEAT A

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HEATHER MEADOWS • NORTHWOOD • SPENARD • THOMPSON • TURNAGAIN • UPPER MIDTOWN • WINDEMERE

CHAIRMAN
LABOR AND COMMERCE COMMITTEE

MEMBER
STATE AFFAIRS COMMITTEE
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE
HOUSING AND BANKING SUBCOMMITTEE
FINANCE BUDGET SUBCOMMITTEE
DEPT. OF COMMERCE AND ECONOMIC DEVELOPMENT

RECEIVED APR 4 1989

April 24, 1989

M E M O R A N D U M

To: All Senators

From: Representative Dave Donley DD

Re: HB 34 - Durational residency requirements for the Alaska Longevity Bonus and Permanent Fund Dividend

Some of you may have received a POM expressing concern that the two year residency requirement for eligibility for Alaska's Permanent Fund Dividend under HB 34 will disenfranchise children from qualifying until they are two years old.

I am writing to let you know that this is not the case. Children's eligibility for PFD's will remain the same under HB 34 as it is under current law.

Under Department of Revenue regulations, a child born or adopted during the six month qualifying period is eligible for a PFD. The same mechanism will be in place under HB 34. A child born or adopted during the qualifying period for that year's PFD will still be eligible to receive the benefit.

The way children are handled under current law has worked well for the benefit of all Alaskans, particularly our newest ones. HB 34 simply takes current practice and applies it under the new law.

JUNEAU OFFICE (During Legislative Session)
P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3892

REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE
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HOUSING AND BANKING SUBCOMMITTEE
FINANCE BUDGET SUBCOMMITTEE
DEPT OF COMMERCE AND ECONOMIC DEVELOPMENT

March 3, 1989

M E M O R A N D U M

To: Members, House Judiciary Committee

From: Representative Dave Donley

Re: Proposed Judiciary CS to HB 34

DOCUMENTATION IN SUPPORT OF THE LEGISLATIVE "FINDINGS" SECTION

HB 34 - DURATIONAL RESIDENCY REQUIREMENTS FOR CERTAIN STATE BENEFIT PROGRAMS

As requested by Representative Gruenberg, attached is documentation, provided by the Alaska Department of Labor, Division of Research and Analysis, in support of the Legislative "Findings" section of HB 34, specifically as they relate to the rate of transient population in Alaska and the number of workers who come to the state for short term or temporary projects.

The second paragraph on page three speaks specifically to the number of workers in Alaska who work on a short-term or temporary basis, as do the attached excerpts from the Department of Labor publication, Non-residents Working in Alaska 1987.

The current "findings" state that "Alaska has one of the highest rates of transients.....in the nation". As illustrated in this document, we have, in fact, the highest rate in the nation.

To better state the "finding" that "a significant portion of Alaska's population comes to the state to work in temporary jobs and on short-term projects", I suggest the addition of the phrase "seasonal" so that the sentence reads "a significant portion of Aalska's population comes to the state to work in temporary or seasonal jobs and on short-term projects".

JUNEAU OFFICE (During Legislative Session)
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GLOSSARY

Migration - The movement of people across a specified boundary for the purpose of establishing a new permanent residence. Movement between countries, states or nations is considered migration, movement with a county is considered as "local movement".

In-migrant - a person who enters an area from some point outside the area for the purpose of establishing a permanent residence. The person may come from another nation, state or county.

Out-migrant - a person who leaves an area for some point outside the area for the purpose of establishing a permanent residence. The person may go to another nation, state or country.

Gross Migration - The sum of the in-migration and out-migration for a geographic area over a period of time. Gross migration is a measure of the total movement or turnover of population. Gross migration is of most interest to persons needing information on population turnover rather than overall gain or loss. For example, real estate and transportation industries.

Net-migration - the difference between in-migration and out-migration. It may be characterized as net in-migration if there are more persons moving into the area than out; or as net out-migration if there are more persons leaving the area than coming in.

De facto and de jure counts - In a census the enumeration is affected by the type of population count to be obtained. The census may be designed to count persons where they are found on census day (a de facto count) or according to their usual place of residence (a de jure count). The U.S. Census is a de jure count. Only transients who have no usual place of residence are counted on a de facto basis.

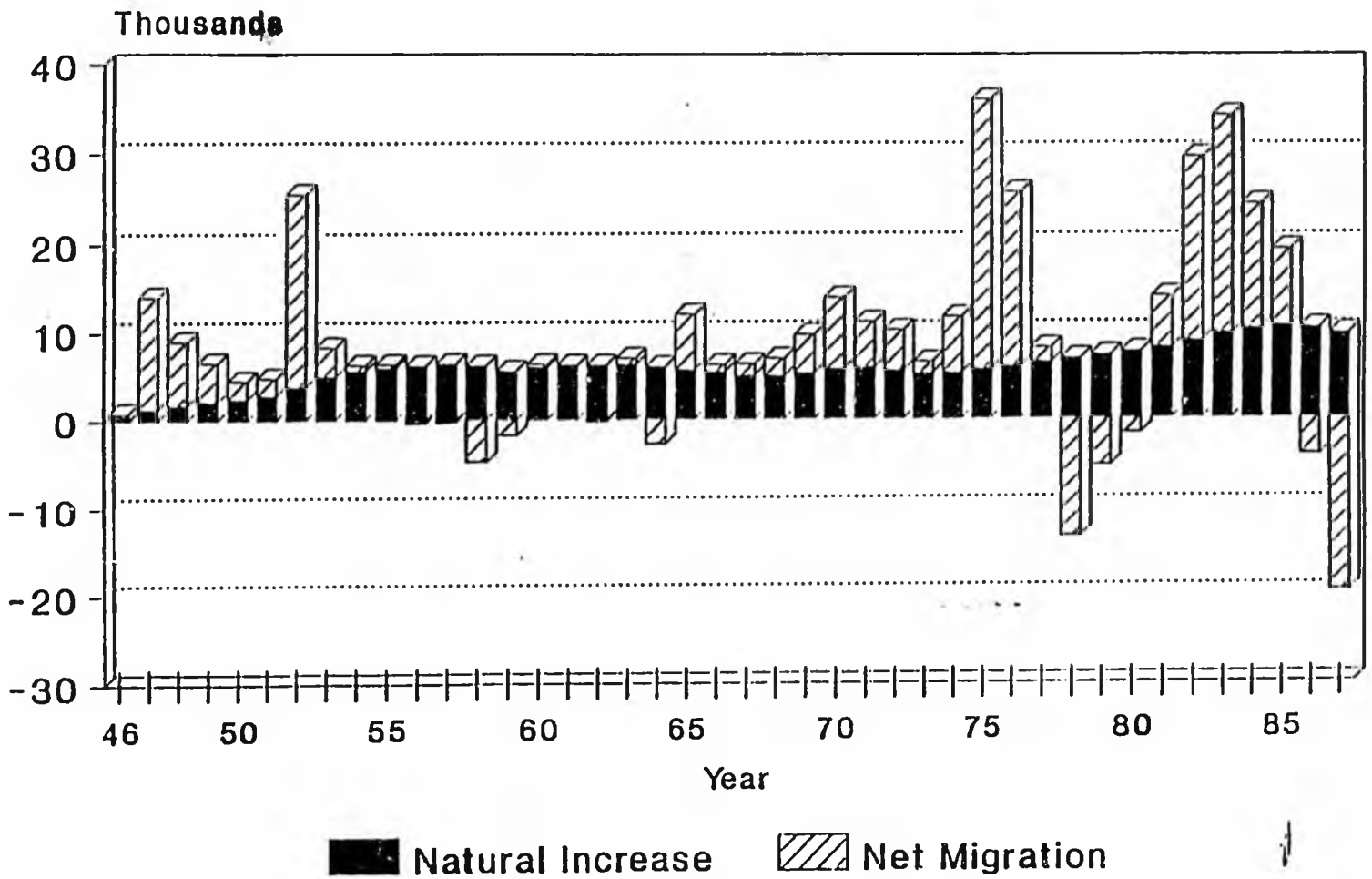
TABLE 2.1 ANNUAL COMPONENTS OF POPULATION CHANGE FOR ALASKA, 1945-1987.

June 30 TO July 1	End Of Period Population	Population Change	Average Annual Rate of Change	Components Of Change			
				Births	Deaths	Natural Increase	Net Migrants
1945-46	103,000			2,050	1,220	830	
1946-47	117,000	14,000	12.73	2,490	1,200	1,290	12,710
1947-48	126,000	9,000	7.41	2,890	1,180	1,710	7,290
1948-49	132,600	6,600	5.10	3,300	1,190	2,110	4,490
1949-50	137,100	4,500	3.34	3,620	1,220	2,400	2,100
1950-51	160,000	22,900	15.42	4,110	1,310	2,800	20,100
1951-52	185,500	25,500	14.76	5,130	1,310	3,820	21,680
1952-53	193,800	8,300	4.38	6,270	1,280	4,990	3,310
1953-54	200,100	6,300	3.20	6,910	1,240	5,670	630
1954-55	206,500	6,400	3.15	7,190	1,200	5,990	410
1955-56	212,400	5,900	2.82	7,480	1,220	6,260	-360
1956-57	218,600	6,200	2.88	7,730	1,240	6,490	-290
1957-58	220,100	1,500	0.68	7,450	1,200	6,250	-4,750
1958-59	224,000	3,900	1.76	6,830	1,170	5,660	-1,760
1959-60	230,400	6,400	2.82	7,290	1,250	6,040	360
1960-61	236,700	6,300	2.70	7,560	1,300	6,260	40
1961-62	242,800	6,100	2.54	7,610	1,290	6,320	-220
1962-63	249,900	7,100	2.88	7,670	1,320	6,350	750
1963-64	253,200	3,300	1.31	7,480	1,380	6,100	-2,800
1964-65	265,200	12,000	4.63	7,170	1,390	5,780	6,220
1965-66	271,500	6,300	2.35	6,810	1,320	5,490	810
1966-67	277,900	6,400	2.33	6,410	1,300	5,110	1,290
1967-68	284,900	7,000	2.49	6,350	1,317	5,033	1,967
1968-69	294,600	9,700	3.35	6,670	1,330	5,340	4,360
1969-70	308,500	13,900	4.61	7,230	1,370	5,860	8,040
1970-71	319,600	11,100	3.53	7,437	1,444	5,993	5,107
1971-72	329,800	10,200	3.14	7,129	1,462	5,667	4,533
1972-73	336,400	6,600	1.98	6,781	1,468	5,313	1,287
1973-74	348,100	11,700	3.42	6,847	1,467	5,380	6,320
1974-75	384,100	36,000	9.83	7,275	1,497	5,778	30,222
1975-76	409,800	25,700	6.47	7,694	1,570	6,124	19,576
1976-77	418,000	8,200	1.98	8,175	1,612	6,563	1,637
1977-78	411,600	-6,400	-1.54	8,668	1,654	7,014	-13414
1978-79	413,700	2,100	0.51	9,043	1,654	7,389	-5289
1979-80	419,800	6,100	1.46	9,398	1,649	7,749	-1649
1980-81	433,800	14,000	3.28	9,906	1,700	8,206	5,794
1981-82	463,400	29,600	6.60	10,781	1,755	9,026	20,574
1982-83	497,600	34,200	7.12	11,723	1,850	9,873	24,327
1983-84	522,000	24,400	4.79	12,308	1,938	10,370	14,030
1984-85	541,300	19,300	3.63	12,719	2,032	10,687	8,613
1985-86	547,600	6,300	1.16	12,555	2,107	10,448	-4148
1986-87	537,800	-9,800	-1.81	11,923	2,086	9,837	-19637

Alaska Department of Labor, Research & Analysis, Demographic Unit, 1988.
March 3, 1989

FIGURE 2.1

Alaska Components of Growth
1946 to 1987

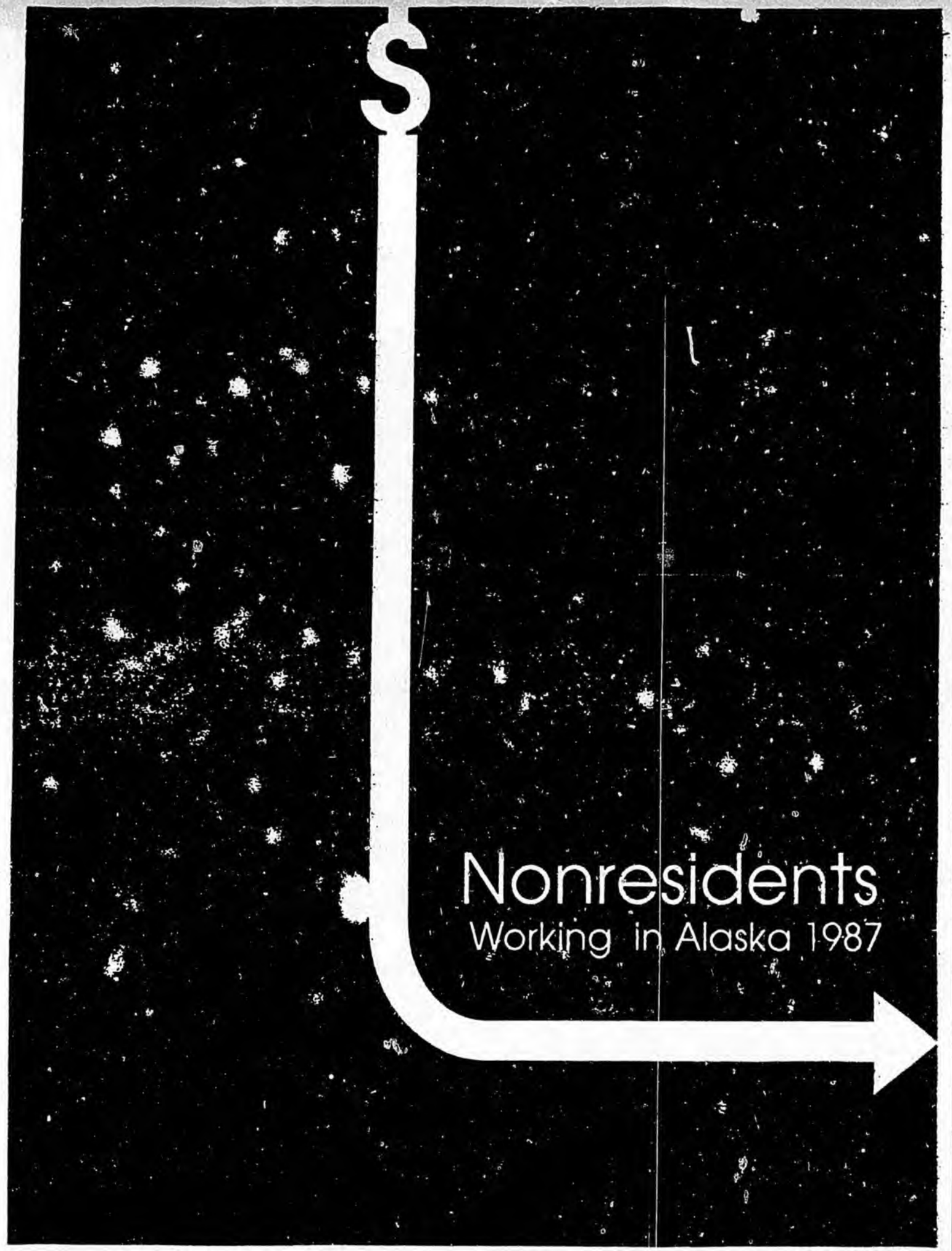


Alaska Dept. of Labor

TABLE 4. MIGRATION RATES FOR ALASKA, 1985-86.

FROM/TO	1985-86 IN MIGRANTS PER 100 ALASKA POPULATION (%)	% OF TOTAL	CUMULATIVE % OF TOTAL	1985-86 OUT MIGRANTS PER 100 ALASKA POPULATION (%)	% OF TOTAL	CUMULATIVE % OF TOTAL	1985-86 GROSS MIGRANTS PER 100 ALASKA POPULATION (%)	% OF TOTAL	CUMULATIVE % OF TOTAL	1985-86 NET MIGRANTS PER 100 ALASKA POPULATION (%)
WASHINGTON	1.31	12.4	12.4	1.60	15.7	15.7	2.91	14.0	14.0	-0.29
CALIFORNIA	1.14	10.7	23.1	1.24	12.2	27.9	2.38	11.4	25.4	-0.10
OREGON	0.74	7.0	30.1	0.68	6.7	34.5	1.42	6.8	32.3	0.06
TEXAS	0.69	6.5	36.6	0.63	6.2	40.7	1.32	6.4	38.6	0.06
FOREIGN	0.33	3.1	39.7	0.38	3.8	44.5	0.72	3.5	42.1	-0.05
COLORADO	0.38	3.6	43.3	0.31	3.1	47.6	0.70	3.3	45.4	0.07
ARIZONA	0.27	2.5	45.9	0.37	3.6	51.2	0.63	3.0	48.5	-0.10
WYOMING	0.33	3.1	48.9	0.24	2.4	53.5	0.57	2.7	51.2	0.08
IDAHO	0.28	2.6	51.5	0.23	2.2	55.8	0.50	2.4	53.6	0.05
MONTANA	0.29	2.7	54.2	0.17	1.7	57.5	0.46	2.2	55.8	0.11
GEORGIA	0.23	2.2	56.4	0.22	2.2	59.7	0.45	2.2	58.0	0.00
VIRGINIA	0.22	2.1	58.5	0.22	2.2	61.8	0.44	2.1	60.1	-0.00
MINNESOTA	0.25	2.4	60.8	0.17	1.7	63.5	0.42	2.0	62.1	0.08
MICHIGAN	0.22	2.0	62.9	0.19	1.9	65.3	0.40	1.9	64.1	0.03
NORTH CAROLINA	0.21	2.0	64.9	0.19	1.8	67.1	0.40	1.9	66.0	0.03
NEW YORK	0.19	1.8	66.7	0.20	2.0	69.1	0.39	1.9	67.9	-0.01
OKLAHOMA	0.21	1.9	68.6	0.15	1.5	70.6	0.36	1.7	69.6	0.05
ILLINOIS	0.20	1.9	70.5	0.15	1.5	72.1	0.35	1.7	71.3	0.05
OHIO	0.16	1.5	72.1	0.16	1.6	73.7	0.32	1.6	72.8	0.01
NEW MEXICO	0.15	1.4	73.4	0.16	1.6	75.2	0.31	1.5	74.3	-0.01
ALABAMA	0.15	1.4	74.8	0.16	1.6	76.8	0.31	1.5	75.8	-0.01
UTAH	0.15	1.4	76.3	0.13	1.3	78.1	0.28	1.4	77.2	0.02
HAWAII	0.16	1.5	77.7	0.13	1.2	79.3	0.28	1.4	78.5	0.03
LOUISIANA	0.16	1.5	79.3	0.12	1.1	80.5	0.28	1.3	79.8	0.05
WEST VIRGINIA	0.17	1.6	80.8	0.11	1.1	81.6	0.28	1.3	81.2	0.06
MISSOURI	0.13	1.2	82.0	0.14	1.4	83.0	0.27	1.3	82.5	-0.02
PENNSYLVANIA	0.13	1.3	83.3	0.12	1.1	84.1	0.25	1.2	83.7	0.02
MARYLAND	0.12	1.1	84.4	0.12	1.2	85.3	0.24	1.2	84.8	-0.01
TENNESSEE	0.10	0.9	85.3	0.14	1.3	86.7	0.23	1.1	86.0	-0.04
NEVADA	0.10	0.9	86.2	0.13	1.2	87.9	0.23	1.1	87.0	-0.03
SOUTH CAROLINA	0.11	1.0	87.2	0.11	1.1	89.0	0.22	1.1	88.1	-0.00
KENTUCKY	0.11	1.0	88.2	0.11	1.1	90.1	0.21	1.0	89.1	-0.00
KANSAS	0.11	1.1	89.3	0.10	1.0	91.0	0.21	1.0	90.1	0.02
ARKANSAS	0.11	1.0	90.3	0.09	0.9	91.9	0.20	1.0	91.1	0.02
WISCONSIN	0.13	1.2	91.6	0.06	0.6	92.5	0.19	0.9	92.0	0.07
MASSACHUSETTS	0.10	0.9	92.5	0.08	0.8	93.3	0.18	0.9	92.9	0.01
INDIANA	0.10	0.9	93.4	0.08	0.8	94.1	0.18	0.9	93.7	0.02
NEBRASKA	0.09	0.9	94.3	0.08	0.7	94.9	0.17	0.8	94.6	0.02
NEW JERSEY	0.09	0.9	95.1	0.08	0.8	95.6	0.17	0.8	95.4	0.01
MAINE	0.06	0.6	95.7	0.08	0.8	96.4	0.14	0.7	96.1	-0.02
NORTH DAKOTA	0.08	0.7	96.5	0.06	0.6	97.0	0.14	0.7	96.7	0.02
MISSISSIPPI	0.07	0.7	97.2	0.06	0.6	97.5	0.13	0.6	97.3	0.02
SOUTH DAKOTA	0.07	0.7	97.9	0.05	0.5	98.1	0.13	0.6	98.0	0.02
IOWA	0.06	0.6	98.4	0.04	0.4	98.5	0.10	0.5	98.5	0.02
NEW HAMPSHIRE	0.05	0.4	98.9	0.04	0.4	98.9	0.09	0.4	98.9	0.00
CONNECTICUT	0.04	0.3	99.2	0.03	0.3	99.2	0.07	0.3	99.2	0.00
WASHINGTON D.C.	0.02	0.2	99.4	0.03	0.3	99.5	0.05	0.2	99.5	-0.00
VERMONT	0.02	0.2	99.6	0.02	0.2	99.7	0.04	0.2	99.6	0.00
FLORIDA	0.01	0.1	99.8	0.01	0.1	99.8	0.03	0.1	99.8	0.00
DELAWARE	0.01	0.1	99.9	0.01	0.1	99.9	0.03	0.1	99.9	0.00
RHODE ISLAND	0.01	0.1	100.0	0.01	0.1	100.0	0.02	0.1	100.0	0.00
TOTAL	10.61	100.0		10.18	100.0		20.80	100.0		0.43

Alaska Department of Labor
Research & Analysis, Demographic Unit
Greg Williams, State Demographer
02-Mar-89



Nonresidents
Working in Alaska 1987

Nonresidents Working in Alaska 1987

State of Alaska – Steve Cowper, Governor
Department of Labor – Jim Sampson, Commissioner
Administrative Services Division – Frank Spargo, Director
Research & Analysis Section – Chuck Caldwell, Chief
Sally Saddler, Research Supervisor

In cooperation with:

Alaska Department of Law, Grace Schaible, Attorney General.

Prepared by:

S. Brynn Keith	Labor Economist
Kathy Thomas	Labor Economist
Stan Fullingim	Statistical Technician
Crystal Cameron	Statistical Clerk

Cover design by: Jim Fowler

Published: January 1989

DISTRIBUTION OF QUARTERS WORKED IN ALASKA 1987

QUARTERS WORKED	PERCENT RESIDENT	PERCENT NONRESIDENT
1 QUARTER ONLY	12.4%	45.2%
QUARTER 1	3.9%	7.4%
QUARTER 2	1.9%	7.0%
QUARTER 3	3.1%	17.2%
QUARTER 4	3.5%	13.5%
2 QUARTERS ONLY	15.2%	29.8%
QUARTERS 1 & 2	5.1%	4.4%
QUARTERS 1 & 3	0.5%	0.4%
QUARTERS 1 & 4	0.7%	0.3%
QUARTERS 2 & 3	3.5%	10.4%
QUARTERS 2 & 4	0.5%	0.5%
QUARTERS 3 & 4	4.8%	13.7%
3 QUARTERS ONLY	16.0%	13.6%
QUARTERS 1,2 & 3	5.9%	3.1%
QUARTERS 1,2 & 4	1.8%	0.7%
QUARTERS 1,3 & 4	1.6%	0.6%
QUARTERS 2,3 & 4	6.8%	9.2%
4 QUARTERS ONLY		
QUARTERS 1,2,3 & 4	56.3%	11.4%

Table 3.1

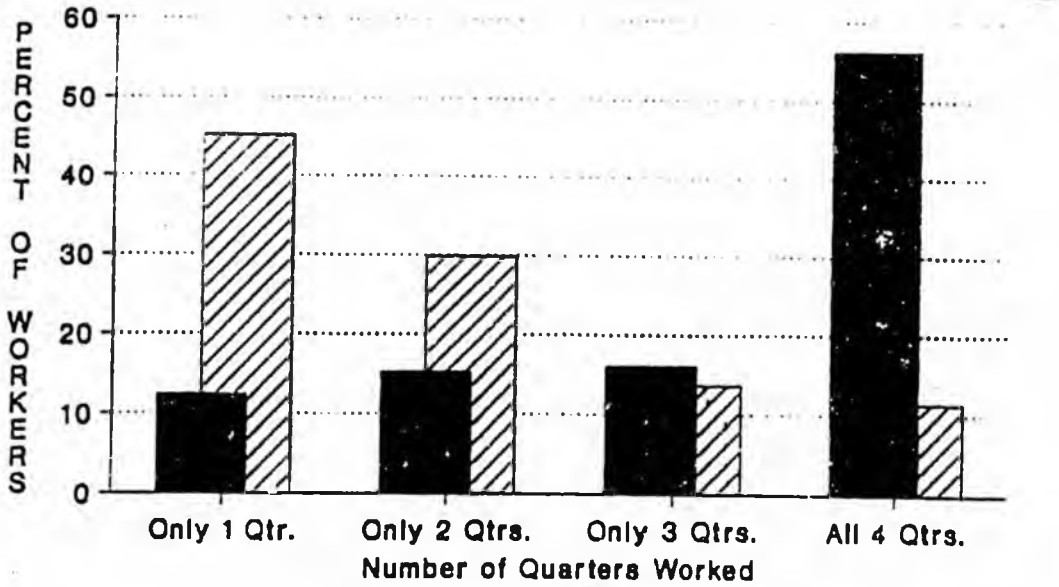
Annual Earnings, Workers, and Average Earnings by Industry
Alaska, 1987

	Earnings			Workers			Average Earnings		
	Resident	Nonresident		Resident	Nonresident		Resident	Nonresident	
Industry	Earnings (thous.)	Earnings (thous.)	% of Total	no. of Workers	no. of Workers	% of Total	Average Earnings	Average Earnings	As % of Res.
State Government	$626,754	$14,613	2.3	24,575	1,296	5.0	$25,504	$11,276	44.2
Local Government	858,991	15,396	1.8	42,188	2,017	4.6	20,361	7,633	37.5
Agriculture [1/]									
Crops	1,161	95	7.6	301	34	10.1	3,857	2,801	72.6
Livestock	585	68	10.4	45	15	25.0	12,989	4,509	34.7
Agricultural Services	5,600	403	6.7	854	112	11.6	6,557	3,602	54.5
Forestry	2,438	101	4.0	85	5	5.6	28,682	20,118	70.1
Fishing/Hunting/Trapping [1/]	6,164	2,283	27.0	698	285	29.0	8,831	8,011	90.7
Mining									
Metal [1/]	15,186	8,700	36.4	954	377	28.3	15,918	23,076	145.
Coal	x	x	2.9	x	x	3.3	x	x	89.
Oil & Gas	472,466	55,685	10.5	11,097	2,051	15.6	42,576	27,150	63.
Nonmetal/Nonfuel	x	x	11.5	x	x	12.3	x	x	92
Construction									
Building	100,672	10,785	9.7	8,271	1,254	13.2	12,172	8,601	70
Heavy	122,103	20,259	14.2	7,539	1,328	15.0	16,196	15,255	94
Special Trades	136,957	13,776	9.1	10,309	1,692	14.1	13,285	8,142	61
Manufacturing									
Food Processing	73,155	60,044	45.1	14,198	12,364	46.5	5,152	4,856	94.3
Textiles	x	x	4.9	x	x	11.8	x	x	38.8
Apparel	474	60	11.3	82	14	14.6	5,779	4,300	74.4
Lumber/Wood	12,988	3,057	19.1	952	333	25.9	13,643	9,179	67.3
Logging	38,847	12,740	24.7	2,071	1,231	37.3	18,758	10,349	55.2
Furniture	x	x	0.0	x	x	0.0	x	x	0.0
Paper	x	x	7.7	x	x	16.8	x	x	41.5
Printing	33,848	1,052	3.0	2,778	242	8.0	12,184	4,349	35.7
Chemicals	x	x	8.1	x	x	6.7	x	x	124.0
Petro Refining	5,439	169	3.0	170	13	7.1	31,995	12,986	40.6
Rubber/Miscellaneous	756	52	6.5	143	18	11.2	5,287	2,903	54.9
Concrete	10,749	202	1.8	616	37	5.7	17,449	5,466	31.3
Primary Metals	238	47	16.4	24	3	11.1	9,937	15,640	157.4
Fabricated Metals	3,222	256	7.4	227	29	11.3	14,196	8,821	62.1
Machinery	848	0	0.0	30	0	0.0	28,276	0	0.0
Electrical Machinery	370	39	9.6	22	5	18.5	16,796	7,820	46.6
Transportation Equipment	2,529	500	16.5	232	78	25.2	10,901	6,416	58.9
Measuring	x	x	0.6	x	x	7.1	x	x	7.9
Miscellaneous	949	0	0.0	82	0	0.0	11,572	0	0.0
Trans., Comm., & Public Utilities									
Local Transit	x	x	11.8	x	x	13.7	x	x	84.7
Motor Freight	52,763	2,951	5.3	3,543	454	11.4	14,892	6,500	43.6
Water Transportation	29,557	5,663	16.1	2,417	459	16.0	12,229	12,337	100.9
Air Transportation	133,421	16,229	10.8	7,057	1,023	12.7	18,906	15,864	83.9
Pipelines	x	x	2.4	x	x	3.1	x	x	78.4
Transportation Services	17,305	1,054	5.7	1,574	193	10.9	10,995	5,461	49.7
Communications	118,022	5,822	4.7	4,561	339	6.9	25,876	17,175	66.4
Utilities	81,624	2,075	2.5	3,080	192	5.9	26,501	10,806	40.8

(cont. on page 30)

Figure 2.5

Number of Calendar Quarters Worked in Alaska During 1987



Source: Alaska Department of Labor

a high percentage of nonresident workers. Consequently, this shift in Alaska's industrial composition accounts, in part, for the decrease in the number of nonresidents working in the state.

Economic Impact of Workers' Earnings

The residency of the worker is an important factor in determining the overall impact of earnings. More specifically, where is the worker spending wages and unemployment insurance compensation? Generally, the earnings of an individual create earnings for others. As workers spend their wages on housing, food and clothing, their earnings continue to trickle through the economy. If compensation goes to a nonresident who spends little money in the state, few income-induced effects can be measured.

Compared to resident workers, nonresidents work fewer quarters in the state. Figure 2.5 (on this page) illustrates the difference between residents' and nonresidents' ties to the Alaska labor market. More than 45% of nonresidents worked in Alaska during only one calendar quarter of 1987. By comparison, over 56% of residents worked during all four quarters of 1987.

The assumption that nonresidents spend less of their earnings in Alaska than their resident counterparts is reinforced by two factors: 1) They work fewer quarters in the state and because of this are likely to spend a higher portion of their Alaska earnings outside of the state than resident workers, and 2) They also have a higher rate of interstate unemployment insurance claims than do residents. Consequently, nonresident compensation — in the form of either wages or unemployment insurance benefits — produces a reduced amount of induced earnings within Alaska.

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling

P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee Members

FROM: Senator Pat Pourchot, Chairman

RE: April 24 Committee Meeting

DATE: April 24, 1989

Today at 1:30 in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SJR 38, Proposing an amendment to the Constitution of the State of Alaska relating to terms of legislators

SJR 38 would, by Constitutional amendment, limit tenure in the Legislature to eight consecutive years. After serving eight years a person would again be eligible to seek legislative office at the second biennial election. SJR 38 would go before the voters at the next general election and, if approved, would take effect at the 1992 election.

Article III, sec. 5 of the Constitution limits governors to two full successive terms. After the two terms a person is not eligible to seek the governor's office until one full term has intervened.

SB 284, An Act relating to certain revenue from mineral sources and to the oil and gas properties production tax

SB 284 would amend the Economic Limit Factor of the state's oil severance tax structure in the same manner the Senate Judiciary CS for HB 118 (the "ELF bill") would. The additional tax revenue would effectively be deposited in the Permanent Fund through increasing from 25% to 43% the statutory percentage of mineral proceeds deposited in the fund. The increase would apply only to payments received by the state after July 1, 1989 from mineral leases issued prior to December 1, 1979.

It is my intent that the State Affairs Committee focus its attention on SB 284's impact on the Permanent Fund, rather than on the ELF provisions. According to the Permanent Fund Corporation, passage of SB 284 would result in the fund principal being $1.3 billion larger in the year 2000, net income being $115 million larger, per capita dividends being $73 larger, and the inflation proofing transfer being $66 million larger. The projections prepared by the corporation are attached.

SB 295, An Act relating to transfers to the dividend fund

SB 295 would exclude potential revenue from the State v. Amerada Hess case from the Permanent Fund earnings available for distribution as dividends. The fund's legally mandated share of money awarded after trial would be credited to the principal of the fund at the time of receipt. Income earned on that money could not be distributed to the dividend fund.

SB 295 is intended to eliminate certain due process arguments currently advanced by the defendants. Standard Alaska Petroleum, Exxon, and Chevron USA filed suit in federal court to prevent the case from being tried in Alaska on the grounds that any judge and jury would be biased because they have a financial stake (through the Permanent Fund Dividend) in the outcome. The U.S. District Court ruled in the State's favor; the matter is currently under appeal to the Ninth Circuit Court of Appeals.

Trial in the Amerada Hess case is scheduled for April 4, 1990. If the State prevails, we could receive from $400 million to $2.6 billion.

HB 34, An Act establishing durational residency requirements, not to exceed two years, for receipt of the permanent fund dividend and receipt of benefits under the longevity bonus program

HB 34 would increase the durational residency requirement for the permanent fund dividend program from 6 months to 2 years, and for the longevity bonus program from 1 year to 2 years. The bill provides that if a court rules the 2-year requirement invalid, the requirement is one year; if a court rules 1-year invalid, the requirement is the longest duration permitted by law. Current recipients would be "grandfathered in".

HB 34 raises constitutional questions. The Department of Law fiscal note ($30,000) anticipates legal challenge of the bill. The Department of Administration fiscal note indicates annual savings based on fewer persons being eligible.

Recent court rulings on Alaska's residency requirements include the Vest decision which struck down the Longevity Bonus requirement of residency since statehood, the Zobel decision which struck down the Permanent Fund Dividend disbursement mechanism based on number of years of residency, and the Andress decision which upheld the Alaska Student Loan requirement of residency for 2 years.

A summary of current statutory residency provisions is attached.

from Robert Newton

LETTERS

Dividend requirement unfair to servicemen

Dear Editor:

I am an Alaskan resident. Two of my five children were born in Alaska. My cars are registered in Alaska and my wife and I both have Alaska drivers licenses and vote by absentee ballot in Alaska. Yet, because I am a soldier defending our country, I am being stabbed in the back by the very people I voted to represent me.

By sneaking in laws with hidden clauses like Bill 4-44 you are insulting and demeaning my family and I. This bill is directly aimed at Alaskans in the military stationed at distant locations. It places a great financial burden on the military family in the low to average income bracket. We cannot afford to fly our family of seven home every two years as is the new requirement in Bill 4-44.

You statesmen who supported this should hang your heads in shame. You insult and abuse your service people by using their distant assignments and lack of ability to confront you or lobby against the bill. You stab them in the back and try to make yourselves look good and responsible by feeding on others greed to increase their own Alaska Permanent Fund dividend. This bill is akin to taxation without representation. You take away the money that is rightfully ours without giving us the opportunity to have a say

Gov. Cowper, don't let your servicemen down. I support residency requirements, but ones that are fair and reasonable. This law will mean an increase in the cost of manpower and materials to investigate and verify each applicant who applies for the PFD. In my case this includes myself, my spouse, and each of our five children who are all under 9 years old. In the case of an assignment to Germany, it would be a great financial burden to pay for all seven family members to fly back to Alaska from Germany every two years, as the bill now requires. And even if we could get there, how do the children establish their presence? They are too young for receipts, bills, I.D.s or licenses. This bill would succeed in depriving our children of their future rights as Alaskans through no fault of their own.

I can support a four-year return with head of household return only, to establish residency for all of his or her military dependants, but not the current Bill 4-44. Veto this bill for further evaluation of our status. Send us fliers and get our input on this action which threatens to take away our rights as Alaskan citizens. Give us a point of contact to record our presence, such as all law enforcement offices.

There are better ways to do this. Don't be a party to this insult to soldiers abroad. Alaskans, support your servicemen, don't allow us to be short-changed by tunnel-visioned, self-serving politicians. Take care of us during our absence. The clowns who support this kind of activity will be remembered when their hitch is up. Voting is powerful. It should be used to support those who represent all Alaskans.

Sincerely,
John Spring
W.O.C. U.S. Army
Fort Sam Houston, Texas

HB34POOP.TXT
4/24/89

HB 34 DURATIONAL RESIDENCY REQUIREMENTS FOR PERMANENT FUND DIVIDENDS AND THE LONGEVITY BONUS

TO TESTIFY

REP. DONLEY, SPONSOR (GINGER BAIM)

RON LORENSON, ATTORNEY GENERAL'S OFFICE

TAM COOKE, LEGISLATIVE LEGAL DIVISION

BARBARA BATHANY OR JIM CHASE, PIONEERS' BENEFITS

ERVIN JONES, PERMANENT FUND DIVIDENDS, D.O.R.

BOB PAVITT, ALASKA ASSOCIATION OF RETIRED PERSONS

ROBERT NEWTON

F.Y.I.

DEPT. LAW FISCAL NOTE ASSUMES THE 2-YEAR REQUIREMENT WILL BE CHALLENGED. DEPT. REVENUE IS CONCERNED THAT DURING THE CHALLENGE THERE'LL BE AN INJUNCTION AGAINST DISTRIBUTION OF P.F.D.'S AND EVERYONE WILL SUFFER (THEY SUGGEST A MUCH DELAYED EFFECTIVE DATE TO ALLOW TIME FOR THE COURT TO RULE). DEPT. REVENUE ALSO CONCERNED ABOUT STATE HAVING TO PAY DAMAGES TO PEOPLE WHO SUFFER THE CONSEQUENCES OF HB 34.

COST OF VEST CASE TO STATE: $70,000 PLUS $149,384 IN ATTORNEYS' FEES FOR THE PLAINTIFFS

CONCERN THAT ABROGATING LEGISLATIVE AUTHORITY BY ASKING THE COURT TO TELL US WHAT AN ALLOWABLE RESIDENCY REQUIREMENT IS (IF THEY STRIKE DOWN THE 2-YEAR). I suppose by raising the issue we risk the courts telling us 30 days is the maximum residency, in which case many more people become eligible, etc.
CONSENSUS OF ATTORNEYS I SPOKE TO, THOUGH THEY MAY NOT SAY SO ON THE RECORD, IS THAT THE COURT IS UNLIKELY TO UPHOLD THE 2 YEARS; THE STUDENT LOAN DECISION WAS AN ABERRATION (THAT, BY THE WAY, WAS NEVER WRITTEN AND NEVER APPEALED).

ROBERT NEWTON WANTS TO AMEND THE 2-YEAR-TOUCH-BACK PROVISION. TAM HAS TOLD ME IT CAN'T BE DONE UNDER THE BILL'S CURRENT TITLE.

60,000 NEW P.F.D. APPLICANTS PER YEAR. 17,000 OUT-OF-STATE P.F.D. APPLICANTS PER YEAR. LAST YEAR DENIED 8,000 P.F.D. APPLICATIONS.

AVERAGE NUMBER OF LONGEVITY BONUS APPLICANTS WHO HAVE ONLY 1 YEAR RESIDENCE IS 40 PER MONTH.

PACKET CONTAINS LISTING OF RESIDENCY REQUIREMENTS FOR OTHER STATE PROGRAMS.

CS HB 34 (JUD)
CS HB 34 (SA)
HB 34

HB 34, AN ACT RELATING TO DURATIONAL RESIDENCY REQUIREMENTS FOR CERTAIN STATE BENEFIT PROGRAMS; AND PROVIDING FOR AN EFFECTIVE DATE, IS SPONSORED BY REP. DONLEY

HB 34 WILL REQIRE AN INDIVIDUAL TO BE A STATE RESIDENT FOR AT LEAST 24 CONSECUTIVE MONTHS IN ORDER TO RECEIVE A PERMENANT FUND DIVIDEND. HB 34 WILL REQUIRE A PERSON WHO IS 65 YEARS OLD TO RESIDE IN THE STATE FOR AT LEAST TWO YEARS IMMEDIATELY PRECEDING APPLICATION FOR A LONGEVITY BONUS.

THE BILL WOULD TAKE EFFECT ON JANUARY 1, 1990.

INCLUDED IN YOUR FILE ARE FISCAL NOTES FROM THE:

DEPARTMENT OF ADMINISTRATION
DEPARTMENT OF LAW
DEPARTMENT OF REVENUE

REP. DONLEY IS HERE TODAY TO DISCUSS THE BILL AND THE CHANGES MADE BY THE STATE AFFAIRS AND JUDICIARY COMMITTEES. ALSO PRESENT IS MR. ERVIN JONES, DEPARTMENT OF REVENUE, MR. JIM CHASE, DEPARTMENT OF ADMINISTRATION, AND A REP. FROM THE DEPARTMENT OF LAW.

Ginger 4954

Mark Sandberg 276-6363 } counsel in the Zobel case

Bob Wagstaff 277-8611 } good on Const - did AK here

✓Ron Zobel AG, Anch → 276-3550

AG

✓Gauguine 2450

informally: think will be struck down ultimately.

Only objective test = whether you're here & intend to remain; is it truly your home.

Many 1-yr. periods have been struck down by Supreme Ct. - generally in area of "vital benefits" (welfare, etc.) & fundamental rights (i.e. voting). ALB & PFD aren't vital, so can probably get away w/1 yr. as a test.

Is a pt. at which the length becomes a distinction not →

between residents & nonresidents, but between residents who have lived here for different lengths of time.

Question is where court will draw the line.

This is what Donley hangs his hat on.

Zobel tried:

Judith Andress, residency 1-2 yrs, needed student loans had severed all connections w/other states

challenged in District Ct.

Ct. upheld 2 yr. — Andress didn't want to appeal

↳ "reasonable test of domicile status"

~~HB 34 more agreeably supportable~~

Thinks can vote for HB 34 w/out defying Constitution.

Not out to lunch constitutionally.

Zobel says — if have stayed here 1 yr made it through one winter, are probably going to stay here.

Think OK if 2 yr rebuttable (= presume not resident if under 2 yrs, but have opportunity to argue that you are.) — courts probably wouldn't strike this down.

But leads to "below 1 yr." rebuttal, too.

6 mo now — PFD

12 " " — ALB

minority position politically — Zobel would vote against it on policy — "senior bashing". "mean spiritedness"

HB 34 tougher case than Zobel's was.

PFDs

HB 14 Martin
service people
(if out more than 2 yrs)

HB 225 Boyer
felons

Not addressed
students

Incorporate into HB 34?
2 yr. residency req'd.

check title-broad enough?

Silly to require "verification" of residency each 2 yrs. Can only be revoked if estab residency in another state.

hey would do fine. The
would bring to
tempt to balance the
th, though, because every
ised it, and look at the

in the campaign are
st important question
and Vice President
? The Rev. Jesse
mself on the Democratic
to embrace him. Vice
uiet about his choices.
a vice presidential
eak either candidate. If
ie Rev. Jackson, he
why, or Jackson
Atlanta convention and

t pick a candidate from
d abandon him no
an campaigns for him.
on year will only be
lons, when the two
-head with their new

acting, the instructor pronounced his performance "excellent." And the school superintendent chimed in: "It's just dawned on me. If it doesn't go well in November, we might hire you ..." That was not exactly the message the Bush campaign wanted conveyed via the many television cameras that recorded the scene.

Bush then lunched with about a dozen students who once were on drugs, asking them such basic questions as how they went about obtaining them – a rather naive inquiry from the man who has been heading the White House anti-drug task force for seven years.

highlight of a southern campaign swing also marked by Bush making a pizza and pumping fuel from the nation's first retail methanol pump into a car designed to use the cleaner, odorless fuel made from natural gas.

There was a touch of the obvious at the gas station, when Bush announced he was urging a delay in the federal leasing of certain land offshore California for oil drilling – a leasing opposed by Michael Dukakis and the state's environmentalists. Dukakis immediately implied that the recommended delay, until after the November election, was political-

foolish.

One veteran Republican consultant in the state, Bill Roberts, says Bush must project a more relaxed and down-to-earth presence, telling voters who he is and what kind of president he would be, and do it right now, or he will lose the nation's largest state in November – and the election.

Bush "has no comfort level right now," Roberts says, and until voters do feel comfortable with him his effort, already started, to cut Dukakis down to size as an Eastern liberal won't work.

three volunteers and three telephones.

Furthermore, he is not particularly well known here because California has been Ronald Reagan country the last seven years and what politicking has been needed has been done largely by the president.

Gov. George Deukmejian's ...nt willingness to take over as chairman of the Bush campaign here promises to bring a reorganization. Meantime, polls indicating Bush is as much as 17 percent behind Dukakis suggest such a shakeup can come none too soon.

Juv Empire June 1988

LETTERS

Dividend requirement unfair to servicemen

Dear Editor:

I am an Alaskan resident. Two of my five children were born in Alaska. My cars are registered in Alaska and my wife and I both have Alaska drivers licenses and vote by absentee ballot in Alaska. Yet, because I am a soldier defending our country, I am being stabbed in the back by the very people I voted to represent me.

By sneaking in laws with hidden clauses like Bill 4-44 you are insulting and demeaning my family and I. This bill is directly aimed at Alaskans in the military stationed at distant locations. It places a great financial burden on the military family in the low to average income bracket. We cannot afford to fly our family of seven home every two years as is the new requirement in Bill 4-44.

You statesmen who supported this should hang your heads in shame. You insult and abuse your service people by using their distant assignments and lack of ability to confront you or lobby against the bill. You stab them in the back and try to make yourselves look good and responsible by feeding on others greed to increase their own Alaska Permanent Fund dividend. This bill is akin to taxation without representation. You take away the money that is rightfully ours without giving us the opportunity to have a say.

Gov. Cowper, don't let your servicemen down. I support residency requirements, but ones that are fair and reasonable. This law will mean an increase in the cost of manpower and materials to investigate and verify each applicant who applies for the PFD. In my case this includes myself, my spouse, and each of our five children who are all under 9 years old. In the case of an assignment to Germany, it would be a great financial burden to pay for all seven family members to fly back to Alaska from Germany every two years, as the bill now requires. And even if we could get there, how do the children establish their presence? They are too young for receipts, bills, I.D.s or licenses. This bill would succeed in depriving our children of their future rights as Alaskans through no fault of their own.

I can support a four-year return with head of household return only, to establish residency for all of his or her military dependants, but not the current Bill 4-44. Veto this bill for further evaluation of our status. Send us fliers and get our input on this action which threatens to take away our rights as Alaskan citizens. Give us a point of contact to record our presence, such as all law enforcement offices.

There are better ways to do this. Don't be a party to this insult to soldiers abroad. Alaskans, support your servicemen, don't allow us to be short-changed by tunnel-visioned, self-serving politicians. Take care of us during our absence. The clowns who support this kind of activity will be remembered when their hitch is up. Voting is powerful. It should be used to support those who represent all Alaskans.

Sincerely,
John Spring
W.O.C. U.S. Army
Fort Sam Houston, Texas

Wetlands cleanup a success – thanks

Dear Editor:

The entire community owes GREAT BIG THANKS to: The volunteers who picked up the wetlands on May 7 and during the past three weeks; To Temsco Helicopters for air lifting the litter off the wetlands in their cargo nets and To Channel Sanitation for disposal of the litter.

A total of 210 bags of litter have been removed along with 25 tires and many huge pieces of styrofoam.

I suggest those who walk on the wetlands take along a litter bag and continue to pick up and carry back a little at a time. There is still more litter and it floats in daily with each change of tide.

Sincerely,
Robert L. Garrison
Juneau

Why not nuke stray animals?

Editor,

So they shoot stray dogs in Tok, eh? I always knew that was an enlightened community. But we in Juneau should go one better. Let's round up all our "best friends" that are lost, abandoned or stray and nuke 'em. I mean it's more humane, isn't it? They wouldn't feel a thing.

Doggedly (tongue in muzzle),
Tim Spengler
Juneau

DOONESBURY

HELLO? HI STRANGER!

HB 34

Popular residency bill likely would fail legal test

By LARRY PERSILY
THE ASSOCIATED PRESS

Gov. Steve Cowper has been told that politically popular legislation to raise residency requirements for the Permanent Fund dividend and longevity bonus likely is unconstitutional.

"Although discrimination against new residents may be the societal norm in Alaska, government should not sanction or participate in that discrimination," Revenue Commissioner Hugh Malone said in a recent letter to Cowper.

The governor has until June 19 to approve or veto the bill, which would increase the residency requirement for annual Permanent Fund dividends from six months to two years.

House Bill 34 also would raise the requirement for elderly Alaskans' $250-a-month longevity bonus checks from one year to two years.

"That's under pretty close scrutiny right now," Cowper spokesman David Ramseur said Friday.

On May 11, two days after the end of the legislative session, Ramseur said the governor planned to sign the bill into law.

The measure passed the House unanimously this year and moved through the Senate on a 13-4 vote.

Although the bill's sponsor acknowledged "significant legal questions remain," he told his colleagues during debate over the bill, "We'll always have to go by trial and error."

Rep. Dave Donley, D-Anchorage said Alaska has a good chance of winning a legal challenge to the two-year rule.

However, Attorney General Doug Baily has a different opinion.

"Court decisions over the years have shown that the courts are very reluctant to approve durational requirements in excess of six months to a year," Baily said in a June 2 letter to Cowper.

"While we believe that it is more likely than not that the two-year requirements ... would be held invalid if challenged, we are far from certain of this result," Baily said.

Malone was stronger in his criticism of the bill.

"The bill is unfair and very likely unconstitutional. Allowing this bill to become law invites an expensive and troublesome court battle the state will probably lose," Malone told Cowper.

Alaska has lost previous legal challenges to long-term residency requirements for the longevity bonus and dividend programs, a fact cited by Malone.

"We have come a long ways toward healing the wound from a battle that set Alaskans against Alaskans. We should not reopen that wound," he said.

The state expects to spend more than $56 million next year on the monthly checks to more than 18,000 Alaskans 65 and older. The Pioneers' Benefits Division estimates that doubling the requirement to two years would cut about $750,000 from the program's annual costs.

The legislation's effect on Permanent Fund dividends would mean more money for those receiving them. The Revenue Department estimates that a two-year requirement would cut about 60,000 people from the program. The money would go to those people remaining in the program, increasing their checks by about $100 a year.

If approved by Cowper, the changes would take effect next year. However, the legislation contains a "grandfather" clause so that people who qualify this year would remain in the programs even if they fail to meet next year's stricter rules.

The legislation also says that if a court rejects the two-year residency rule as too strict, then a one-year requirement would take its place. If a court rules against a one-year requirement, then the law would become whatever the court says is legal.

That section of the bill "appears to delegate the legislature's law-making authority to the court," said a Law Department review of the measure.

A Revenue Department review of the bill also noted that a legal challenge to the new law could delay next year's dividend checks.