

HB

11

SENATE FINANCE COMMITTEE REPORT

DATE: 5/15/91

FURTHER:

DATE TURNED INTO OFFICE: 5-18-91

The Finance Committee considered CS FOR HOUSE BILL NO. 11 (STATE AFFAIRS)
"An Act relating to qualifications for longevity bonus payments; and providing for an effective date."

and recommended:

replace with _____ CS
 or adopt _____ CS

same title
 new title
 technical title change (HB only)

attached amendment(s)

_____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):
Dept/Date:

fiscal note(s) DHSS (15.0) 5/16/91 Medicaid

zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

Gene Duncan
Al Adams
Dick Smith
Nick Kelly
Pat Duncan

APPROVES PREVIOUS:
Dept/Date:

fiscal note(s) TPA 145.0 3/21/91

zero fiscal note(s) DHSS 2/25/91 (Bonus)

OTHER RECOMMENDATIONS:

1. _____ 2. _____
Co-Chairs: Signatures and Recommendations

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. CS HB 11

Revision Date: 5/16/91 Department Affected: Health & Social Services
 Title: An Act relating to qualifications BRU: Medicaid
for longevity bonus payment Component: Medicaid Facility
 Sponsor: Boyer, Ulmer
 Requestor: _____ COMPONENT SERIAL NO. 0 2 3 0

Expenditures/Revenues: Thousands of Dollars

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	(15.0)	(15.0)	(15.0)	(15.0)	(15.0)	(15.0)
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	(15.0)	(15.0)	(15.0)	(15.0)	(15.0)	(15.0)

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	(7.5)	(7.5)	(7.5)	(7.5)	(7.5)	(7.5)
FEDERAL FUNDS	(7.5)	(7.5)	(7.5)	(7.5)	(7.5)	(7.5)
OTHER	0	0	0	0	0	0
TOTAL	(15.0)	(15.0)	(15.0)	(15.0)	(15.0)	(15.0)

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis

Prepared By: [Signature] Phone: 465-3355
 Division: Division of Medical Assistance Date: 5/16/91
 Approved by Commissioner: [Signature] T. MALA
 Agency: Health and Social Services 5/16/91 Date:

CS HB 11

Reliable data that would identify the potential Alaska longevity bonus status (federally-exempt or not) of individual private nursing home patients who receive Medicaid benefits does not exist.

However, from the case data we do have, we believe that it is reasonable to assume that an average of only 5 recipients per month will meet all the following criteria:

- 1) Eligible to receive a federally-exempt bonus payment by having had an open assistance case and bonus recipient status prior to 1985, and
- 2) Possessing other income high enough so that their total bonus payment will be applied to their cost of care, rather than being available in whole or in part to be used for home maintenance via the federal Medicaid maximum deduction for that purpose.

(It is likely that more recipients than these 5 may receive exempt bonus payments, but we assume for purposes of this cost estimate that all of these additional recipients will have a low total monthly income and a home to return to, so that they will be able to use their bonus payments as part of their maintenance deduction. Therefore, no part of their bonus payments will be applied to their cost of care.)

The FY92 cost savings to Medicaid are \$5000: 5 recipients/month x 12 months x \$250/month = \$15,000; \$7,500 federal, \$7,500 state funds. For FY93 and following, we assume that the number of affected recipients will remain constant, and that the amount of the bonus will remain at \$250 per month. Therefore, the savings will remain constant in future years.

[Note: There was a fiscal note, dated 2/25/91, showing that HB 11 had a significant fiscal effect on the Medical Assistance BRU, ALB Hold-Harmless component (0231). The changes made in this CS remove all effects on the ALB Hold Harmless program.]

STATE OF ALASKA
1991 LEGISLATIVE SESSION

No. 2
Bill Version: CSHB 11(STA)
(H) Publish Date: 4/12/91

Revision Date: _____ Department Affected: Health & Social Services
Title: "An Act relating to qualification for longevity bonus payments." BRU: Assistance Payments
Component: Alaska Longevity Bonus - Hold Harmless

Sponsor: Boyer
Requestor: _____

COMPONENT SERIAL NO.

0	2	2	2
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)
There will be a small fiscal impact on a few OAA-ALB Hold Harmless cases, but the amount is too small to forecast.

Prepared By: Jan L. Hansen *Jan Hansen* Phone: 465-3347
Division: Division of Public Assistance Date: 2/21/91

Approved by Commissioner: Theodore A. Mala, Mn. *Theodore A. Mala*
Agency: Department of Health and Social Services Date: 2/25/91

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

COMMITTEE COPY

**STATE OF ALASKA
1991 LEGISLATIVE SESSION**

FISCAL NOTE

No. 1
Bill Version: CSHB 11(STA)
(H) Publish Date: 4/12/91

Revision Date: March 8, 1991
Title: An Act relating to qualifications for Longevity Bonus payments.
Sponsor: Representative Bover
Requestor: Representative Bover

Department Affected: Administration
BRU: Division of Pioneers' Benefits
Component: Longevity Bonus Program

COMPONENT SERIAL NO.

2	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	165.0	180.0	177.0	177.0	174.0	174.0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	165.0	180.0	177.0	177.0	174.0	174.0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS	165.0	180.0	177.0	177.0	174.0	174.0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	165.0	180.0	177.0	177.0	174.0	174.0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) Cost is based on 40 new admissions over 65 years of age per month to Nursing Homes. 50% of these residents will qualify under this bill in FY 92, decreasing each year thereafter. The number eligible in the future is self limiting under this bill (in 2028 eligible residents will be at 100 years old).

Prepared by: Barbara Bathony
Division: Pioneers' Benefits

Phone: 465-4400
Date: 3/8/91

Approved by Commissioner: Millett Keller
Agency: Administration

Date: 3/20/91

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

CS FOR HOUSE BILL NO. 11 (STATE AFFAIRS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 4/12/91

Referred: Health, Education & Social Services, Finance

Sponsor(s): REPRESENTATIVES BOYER, Ulmer

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to qualifications for longevity bonus payments; and providing for an
2 effective date."

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

4 * Section 1. AS 47.45.070 is amended by adding a new subsection to read:

5 (b) Notwithstanding (a)(2) of this section, a person who meets the age and residence
6 requirements of this chapter qualifies for the bonus during any period of residence in a nursing
7 home that does not exceed 90 consecutive days if the bonus is exempt from the determination
8 of income eligibility under Supplemental Security Income in 42 U.S.C. 1382a
9 (Sec. 1612(b)(2)(B), Social Security Act), as amended.

10 * Sec. 2. This Act takes effect July 1, 1991.

Committee Substitute for House Bill 11

"An Act relating to qualifications for longevity bonus payments; and providing for an effective date."

Current state law prohibits the payment of Longevity Bonus payments to persons who live in nursing homes. This bill allows Longevity Bonus payments to be made to nursing home residents, if they qualified for and received Longevity Bonus payments before October 1, 1985, meet the other federal criteria which exempt the bonus from being counted in the determination of Medicaid eligibility, and are likely to need nursing home care for only 90 days or less.

Recently, the federal laws governing federal assistance payments to nursing home residents were revised in a somewhat similar fashion. The Supplemental Security Income (SSI) program now makes full payment to short-term nursing home residents if they must maintain a home to return to, rather than reducing their payments to a minimal amount for incidental needs. This change in federal law was in response to the same need that CS HB No 11 appears to recognize: that short-term patients still have ongoing expenses of home maintenance, utility bills, etc, and it is not to their benefit to deprive them of the financial ability to maintain the residence that they will return to when their recovery is accomplished.

There are two separate parts to the determination of Medicaid nursing home eligibility that are relevant to this bill:

1. Financial Eligibility Determination. Each applicant must meet rigid asset and income limits in order to qualify for Medicaid. Many elderly Alaskans have retirement income substantial enough to place their income within \$250 of the state and federal income limits. Anyone in this group who receives a federally-exempt bonus preserves their Medicaid eligibility because the exempt bonus is not added to their other income; it is disregarded.

Under state law, the "ALB Hold Harmless" program preserves the Medical Assistance eligibility of anyone who receives the countable (post- 1985) bonus, and who, without this payment, would otherwise be qualified for Medicaid. This program offers the same coverage as Medicaid by simply substituting state funds for the 50% federal matching funds of the Medicaid program.

Since private nursing home care in Alaska averages \$5555 per month, it is obviously to Alaska's financial advantage to avoid, wherever possible, removing recipients from Medicaid and placing them under the Hold Harmless program. By paying only federally-exempt bonuses to nursing home residents, CS HB 11 would have no effect on the Hold Harmless program.

2. "Post Eligibility" Treatment of Income

Once a nursing home resident is found eligible for Medicaid, a separate determination is made of how much of the patient's income must be applied to his or her cost of care. Federal rules governing this determination require that even income which is not counted in the eligibility process must be contributed to the cost of care.

Thus, a federally-exempt bonus will generally be applied toward a Medicaid patient's cost of care. A \$250 state-funded bonus payment can reduce the net nursing home bill which Medicaid must pay by \$250. This is not to Alaska's advantage, since it reduces by \$125 per month the federal Medicaid funds coming to the state and replaces it with state general fund (Longevity Bonus) monies.

The federal Medicaid rules do, however, allow for certain deductions from the gross income which is initially considered available. Up to \$756 per month may be deducted for anyone who has a physician's certification that he or she is likely to return home within six months, and who is maintaining a home to return to.

This provision means that some of the lowest-income Medicaid nursing home residents will be allowed to keep the new bonus payments and apply them to home maintenance costs. Higher-income Medicaid residents will have to apply all of their new bonus payments to their cost of care. Depending on how much other income they have, they will be benefited less (or even not at all) by CS HB 11.

The bonus payments made under this bill will produce a net savings to the Medicaid program, which will be illusory savings, since what is saved in Medicaid, with its 50% federal funding, will be paid with 100% state-funded Longevity Bonus payments. (See attached fiscal note for Medicaid.)

Alaska State Legislature

REPRESENTATIVE
MARK BOYER

VICE-CHAIRMAN
HOUSE FINANCE COMMITTEE

FAIRBANKS

1098 LAKEVIEW TERRACE
FAIRBANKS, ALASKA 99701
(907) 456-6473

JUNEAU

P.O. BOX V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3466

House of Representatives

MEMORANDUM

DATE: May 10, 1991

TO: Senator Pat Pourchot, Co-chair
Senator Jay Kerttula, Co-chair
Senate Finance Committee

FROM: Representative Mark Boyer *mb*

RE: CSHB 11 (State Affairs)

I would like to respectfully request that you schedule CSHB 11 (State Affairs) for a hearing at your earliest convenience. CSHB 11 (SA) would allow nursing home residents to qualify for a longevity bonus payment. The bill passed the House on Friday, May 3, by a vote of 34-0. I've provided some background on the longevity bonus program in an effort to clarify the problem the bill is targeting. The bill will be heard in the Senate HESS Committee on Tuesday, May 14. The Senate State Affairs Committee has agreed to waive the bill out of that committee on the floor on Tuesday.

In qualifying for the longevity bonus payment, senior citizens must have met a number of requirements and criteria, at both the state and federal level. Receipt of the longevity bonus causes some problems for many elderly in meeting the federal determination of income eligibility under the Supplemental Security Income section, which is part of the Federal Social Security Act.

Prior to 1984, the longevity bonus was exempt from the determination of income eligibility at the federal level. But the federal law changed in the fall of 1984 to include the bonus as income. This put many seniors in nursing homes over the income limit allowable to qualify for Medicaid. Currently the Medicaid facility budget exceeds \$138 million and provides funding for many seniors needing nursing care. After extensive debate the Legislature decided that a blanket disqualification of all nursing home residents was needed to comply with the new federal law.

Since 1985, the Department of Administration has received frequent complaints from seniors about the loss of the bonus

FAIRBANKS 20B

Page Two
CSHB 11 (State Affairs)

upon entering a nursing home. Approximately 600 people are affected by this law each year. Although federal law allows those seniors who were on the program prior to 1985 to exclude the bonus from income calculations, when the state changed the law, few apparently realized that this exemption existed. The state failed to acknowledge that seniors who had received a bonus prior to 1985 actually were eligible to continue receiving the payment. The Department of Administration now feels that those seniors should indeed receive the bonus and that the Legislature should consider this change this session.

CSHB 11 (State Affairs) would allow seniors to continue to receive a bonus for up to 3 months (90 days) after entering a nursing home. The majority of elderly entering a nursing home stay for less than 3 months. For example, a 67-year-old man may have broken his hip and been moved from the residential side of the Pioneer Home to the nursing home wing. However, this man will only be in the nursing home wing until his leg mends and then he will return to the residential wing of the home. Upon entering the nursing home wing his bonus payments stop.

Recognizing that the average stay in a nursing home was three months, the federal government recently changed the federal law to allow seniors to retain their bonus without being disqualified for other federal programs. The language in the State Affairs CS would bring our law into conformity with the federal statute. Both the Department of Administration and the Department of Health and Social Services are in agreement that CSHB 11 (State Affairs) is the best route to take.

I firmly believe that the small number of seniors affected by this change are among the most needy and fragile of our seniors and that we have the opportunity to rectify a wrong inadvertently committed against this group.

If you have additional questions, please contact me or Alexis Miller of my staff at 465-3467.

MEMORANDUM State of Alaska



TO: Frank S. Baxter
Commissioner
Department of Administration

DATE: August 29, 1990

FILE NO:

THRU: James J. Fox
Deputy Commissioner

TELEPHONE: 465-4400

SUBJECT: Statute Revisions

Barbara Bathony, Director
Division of Pioneers' Benefits

FROM: David Teal *Teal*
Deputy Director
Division of Pioneers' Benefits
Department of Administration

Given the restrictive language and time frame of your memorandum regarding legislative proposals, I hesitate to submit the attached package. In my opinion, there is no "vital need" for change, but that judgment is for you to make. The package is not current and is not ready to submit to the Governor's office, but I will do all I can to meet the standards and the deadline if you believe the proposals merit consideration. I will need several days notice in order to prepare an acceptable package.

There are additional housekeeping changes which would ease the transition to proposed regulations and two additional policy changes that should be incorporated into the February 2 suggestions. The major changes are discussed below.

- 1) AS 47.45.140 states that a person who makes a false statement to receive a bonus shall be disqualified from and make restitution to the Longevity bonus program upon conviction of a misdemeanor. The program routinely disqualifies people and collects from them without prosecution. Approximately 50 recipients could be affected annually, with annual costs--in the form of foregone collections if no change is made--of as much as \$250,000. Proposal: adopt language similar to that governing Permanent Fund Dividend operations, which allows a hearing and appeal to the court, but does not require criminal prosecution.
- 2) Recipients lose the bonus upon entering a nursing home. This situation is a source of frequent complaints from about 600 affected recipients. Federal law allows those who were on the program prior to 1985 to exclude the bonus from income calculations for medical and other social benefits. Proposal: pay the bonus to nursing home residents who were on the program prior to 1985. No cost estimates have been prepared, but much of the cost can be recovered as program receipts to the Pioneers' Homes. The fiscal impact of the entire package should be positive.

**EXPLANATION OF DISQUALIFICATION OF LONGEVITY BONUS
RECIPIENTS WHO RESIDE IN NURSING HOMES**

The law was amended during the 1985 session of the Alaska Legislature to make the Longevity Bonus unavailable to nursing home residents.

Following is the explanation for the passage of the law as provided in a letter dated June 21, 1985, to all nursing home residents from Joyce Munson, Director of the Division of Pioneers' Benefits:

As you may know, the legislature passed legislation this year that results in the discontinuation of the Alaska Longevity Bonus to residents of nursing homes. This exclusion applies both to residents of private nursing homes and to residents of the nursing home wings of the Pioneers' Homes. Our records show that you are such a resident; as a result, we will be unable to continue sending you bonus payments.

The decision to exclude nursing home residents from receipt of the bonus was a difficult one for the legislature, and we thought we should explain as fully as possible the reasons for this decision. The nursing home exclusion appeared to be the most equitable solution to a very difficult problem--the lesser of a number of potential evils.

Due to a special exemption in federal law, the original longevity bonus was not counted as income when determining eligibility for assistance programs such as Supplemental Social Security (SSI), Old Age Assistance (OAA) and medicaid. As a result, when needy persons received the bonus, they would not lose these other protections. After the original bonus program was found unconstitutional, federal law was changed so that the bonus must now be counted as income for these programs. This change in federal law presented an extremely dangerous problem for certain nursing home residents: if receipt of the bonus made them ineligible for medicaid, they would be unable to remain in nursing homes, but receipt of the bonus would not be nearly enough to pay for the care they needed. To aggravate the problem, the federal government determined that even if an individual eligible for the bonus chose not to apply for it, he or she nonetheless would be deemed to have received it and would therefore be ineligible for medicaid. Thus, the bonus would harm these individuals severely.

The State Special Committee on the Alaska Longevity Bonus and the legislature sought a solution to this difficult problem which would be the least harmful all the way around, but there was no perfect solution. The legislature recognized that by and large residents of nursing homes receive substantial State assistance for their care, either through State participation in medicaid in private nursing homes, or through direct support in the Pioneers' Homes. The cost of care for each recipient in these homes is between \$40,000 and \$50,000 per year. The loss of federal participation for medicaid recipients is an expense greater than the State could afford. While the legislature recognized that some individuals contribute to these

monthly rent), these contributions do not approach the full cost of care. Thus, State support of nursing home residents is high, even without the bonus.

The legislature was also aware that the bonus has historically been unavailable to certain individuals who are not living independently: those in mental institutions, and those who are incarcerated. Part of the reason for these exclusions is that the State is already contributing to the cost of supporting these individuals; another part is that the bonus is intended to assist senior Alaskans in living independently. The nursing home exclusion is an extension of these ideas.

As a result of all these considerations, the legislature concluded that the most equitable solution would be to exclude nursing home residents from receipt of the bonus. For equal protection reasons, the legislature concluded that it must deny the bonus to all nursing home residents, whether they received medicaid or not. As a result of the exclusion, the bonus cannot have the effect of disqualifying individuals from critical medical care.

We recognize that loss of the bonus may seem harsh to those of you who have received it in the past, and we regret that we are unable to continue sending it to you. However, the primary motivation of the legislature was to ensure that no one lost medical care that was critical to survival. Exclusion from the bonus program does not alter the State's dedication to ensure that each senior Alaskan is provided with the basic necessities of life. If loss of the bonus means that you are no longer able to pay the monthly rent at a Pioneers' Home, the home manager will adjust the rate with you.

If your bonus is terminated and if you are not a resident of a nursing home, please contact the program immediately.

The members of the staff of the Longevity Bonus Program have enjoyed our association and contact with you in the past. If you have questions regarding your eligibility please feel free to contact our office at 465-4416. Please let us know if your circumstances change in the future, and you again become eligible for the bonus.

Sincerely,

Division of Pioneers' Benefits

EXPLANATION OF DISQUALIFICATION OF LONGEVITY BONUS
RECIPIENTS WHO RESIDE IN NURSING HOMES

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Due to a special exemption in federal law, the original longevity bonus was not counted as income when determining eligibility for assistance programs such as Supplemental Social Security (SSI), Old Age Assistance (OAA) and medicaid. As a result, when needy persons received the bonus, they would not lose these other protections. After the original bonus program was found unconstitutional, federal law was changed so that the bonus must now be counted as income for these programs. This change in federal law presented an extremely dangerous problem for certain nursing home residents: if receipt of the bonus made them ineligible for medicaid, they would be unable to remain in nursing homes, but receipt of the bonus would not be nearly enough to pay for the care they needed. To aggravate the problem, the federal government determined that even if an individual eligible for the bonus chose not to apply for it, he or she nonetheless would be deemed to have received it and would therefore be ineligible for medicaid. Thus, the bonus would harm these individuals severely.

The State Special Committee on the Alaska Longevity Bonus and the legislature sought a solution to this difficult problem which would be the least harmful all the way around, but there was no perfect solution. The legislature recognized that by and large residents of nursing homes receive substantial State assistance for their care, either through State participation in medicaid in private nursing homes, or through direct support in the Pioneers' Homes. The cost of care for each recipient in these homes is between \$40,000 and \$50,000 per year. The loss of federal participation for medicaid recipients is an expense greater than the State could afford. While the legislature recognized that some individuals contribute to these

monthly rent), these contributions do not approach the full cost of care. Thus, State support of nursing home residents is high, even without the bonus.

The legislature was also aware that the bonus has historically been unavailable to certain individuals who are not living independently; those in mental institutions, and those who are incarcerated. Part of the reason for these exclusions is that the State is already contributing to the cost of supporting these individuals; another part is that the bonus is intended to assist senior Alaskans in living independently. The nursing home exclusion is an extension of these ideas.

As a result of all these considerations, the legislature concluded that the most equitable solution would be to exclude nursing home residents from receipt of the bonus. For equal protection reasons, the legislature concluded that it must deny the bonus to all nursing home residents, whether they received medicaid or not. As a result of the exclusion, the bonus cannot have the effect of disqualifying individuals from critical medical care.

We recognize that loss of the bonus may seem harsh to those of you who have received it in the past, and we regret that we are unable to continue sending it to you. However, the primary motivation of the legislature was to ensure that no one lost medical care that was critical to survival. Exclusion from the bonus program does not alter the State's dedication to ensure that each senior Alaskan is provided with the basic necessities of life. If loss of the bonus means that you are no longer able to pay the monthly rent at a Pioneers' Home, the home manager will adjust the rate with you.

If your bonus is terminated and if you are not a resident of a nursing home, please contact the program immediately.

The members of the staff of the Longevity Bonus Program have enjoyed our association and contact with you in the past. If you have questions regarding your eligibility please feel free to contact our office at 465-4416. Please let us know if your circumstances change in the future, and you again become eligible for the bonus.

Sincerely,

Division of Pioneers' Benefits

PRESS RELEASE

DATE: May 3, 1991

CONTACT: Alexis Miller
465-3467

BOYER'S BILL ALLOWS NURSING HOME RESIDENT TO RECEIVE
LONGEVITY BONUS PAYMENT

On Friday, the House overwhelmingly agreed to allow nursing home residents to qualify for a longevity bonus payment. By a vote of 34-0, the House expressed their unanimous support for CSHB 11(SA).

"The unanimous support on the floor this morning demonstrates our commitment to Alaska's seniors, particularly our most frail and most needy. The bonus program was established to reward our seniors for their years of commitment and contributions to Alaska. All seniors should qualify, especially those in nursing homes. The Attorney General has determined that discriminating against any class of people is unconstitutional, which is why I introduced this legislation," Rep. Boyer said.

The bill was drafted at the request of the Division of Pioneer Benefits, Rep. Boyer said, to clarify a technical problem within the current statute. Presently, seniors who spend even one day in a nursing home do not qualify for a bonus.

In qualifying for the longevity bonus payment, seniors must have met a number of requirements and criteria, at both the state and federal level. Receipt of the longevity bonus causes some problems for many elderly in meeting the federal determination of income eligibility under the Supplemental Security Income section, which is part of the Federal Social Security Act.

Prior to 1984, the longevity bonus was exempt from the determination of income eligibility at the federal level. The federal law changed in the fall of 1984 to include the bonus as income. Many seniors in nursing homes could not qualify for Medicaid when the bonus was included as income. Medicaid covers the nursing care for more than 90 percent of nursing home residents. Currently the Medicaid facility budget exceeds \$138 million.

After extensive debate, the Alaska Legislature decided that a blanket disqualification of all nursing home residents was necessary to comply with the new federal law.

Since 1985, the Department of Administration has received frequent complaints from seniors about the loss of the bonus upon entering a nursing home. Approximately 600 people are affected by this each year. Although, federal law allows those seniors who were on the program prior to 1985 to exclude the bonus from income calculations, when the state changed the law, few apparently realized that this exemption existed. The state failed to acknowledge that seniors who had received a bonus prior to 1985 actually were eligible to continue receiving the payment. The Department of Administration believes that those seniors should receive the bonus and that the Legislature should make this change in the law.

CSHB 11 (SA) would allow seniors to continue to receive a bonus for up to 3 months after entering a nursing home. The majority of elderly entering a nursing home stay for less than 3 months. For example, a 67-year-old man many have broken his hip and been moved from the residential side of the Pioneer Home to the nursing home wing. However, this man will only be in the nursing home wing until his leg mends and then he will return to the residential wing of the home. Upon entering the nursing home wing his bonus payments stop.

Recognizing that the average stay in a nursing home was three months, Congress changed the federal law to allow seniors to retain their bonus without being disqualified for other federal programs. (1990 amendments to Social Security Act attached) The language in the State Affairs CS would bring our law into conformity with the federal statute. The Department of Administration and the Department of Health and Social Services are in agreement that this legislation is the best route to take.

"I firmly believe that the small number of seniors affected by this change are among the most needy and fragile of our seniors and that we have the opportunity to rectify a wrong inadvertently committed against these Alaskans," Rep. Boyer said.

Since the inception of the longevity bonus program in 1973 the state has spent approximately \$525 million in unrestricted general fund revenue on the program. In FY90, approximately \$57 million was distributed to more than 19,000 seniors under this program. The projected cost for FY91 is \$62 million. Income of the elderly is substantially lower than any other age group. According to data collected by the Older Alaskans Commission, 51 percent of the elderly population had incomes of less than \$10,000 in 1984. And approximately 90 percent of senior citizens have incomes of less than \$20,000.

"An annual income of \$3,000 from the longevity program is an important amount to these people. Many Alaskans rely on the bonus to pay for the basics of life, not the frills," Rep. Boyer said.

Nursing ID

August 30, 1989

The Honorable Dick Eliason
Alaska State Senator
P.O. Box V, MS 3100
Juneau, AK 99811
Attn: Ms. Sandy Perry-Provost

Dear Ms. Perry-Provost:

As you requested, what follows is a written version of my telephone response to your query.

In 1985 the Longevity Bonus legislation was amended to exempt nursing home residents from receiving the Longevity Bonus. The reasons for this action goes back to the fact that the federal government now counts the bonus as available income to all Alaska residents who are at least 65 years of age when determining eligibility for assistance programs. This occurs whether or not the bonus has been applied for and resulted in the loss or reduction of certain federal benefits to some persons in need. Additionally, the "hold harmless" provision in the 1985 amendment meant that the State would pay the difference in lost or reduced Supplemental Social Security benefits, Old Age Assistance and Medicaid to persons not living in nursing homes.

The loss of Medicaid to persons in nursing homes presented a larger problem because the amount of the bonus placed recipients over the income limit for receiving Medicaid, and meant that because of cost, they would be unable to remain in the nursing home and receive the care they required.

The cost of assuming the loss of federal participation for Medicaid recipients in nursing homes was greater than the State could afford. It was therefore necessary to determine a method of precluding the federal government from counting the bonus as available income. For that reason the legislature had to make the bonus unavailable to Medicaid recipients in nursing homes. The constitutional requirement for equal protection made it necessary to exclude all people who reside in nursing homes.

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only part
8/31

Senator Dick Eliason, August 30, 1989, Page 2

The members of the legislature recognized that this was not the perfect solution to this difficult problem, but also recognized that residents of nursing homes generally receive substantial State assistance for their care, either by State participation in Medicaid in private nursing homes or through direct support in the Pioneers' Homes.

The legislature in the end determined that the removal of the bonus to all nursing home residents was the least harmful and most equitable solution. This decision has been questioned in each session of the legislature since it was enacted, but no other effective solution has yet come forth.

I hope this answers your question. Though it referred specifically to Ms. Thelma Boddy, the answer pertains to Ms. Boddy and all others who are similarly situated.

Contact me if you have further concerns.

Sincerely,

James H. Chase
Administrator
Longevity Bonus Program

*per Debra Vogt they
never thought of the
loophole.*

(A) In determining the income of an individual (and his eligible spouse) there shall be excluded—

(1) subject to limitations (as to amount or otherwise) prescribed by the Secretary, if such individual is a child who is, as determined by the Secretary, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment, the earned income of such individual;

(2)(A) the first \$240 per year (or proportionately smaller amounts for shorter periods) of income (whether earned or unearned) other than income which is paid on the basis of the need of the eligible individual, and

(B) monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973 (or any program established prior to such date but subsequently amended so as to conform to State or Federal constitutional standards), if (i) such payments are made by the State of which the individual receiving such payments is a resident, (ii) eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 or any other age set by

- P.L. 81-171, "Housing Act of 1949", §521(a)(1)(B), (C), and (E), Vol. II, p. 325; and
 P.L. 89-117, "Housing and Urban Development Act of 1965", §101, Vol. II, p. 546.
 See P.L. 95-433, [Yakima Indian Nation or Apache Tribe of the Mescalero Reservation], §2, with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 694.
 See P.L. 95-498, [Pueblo of Santa Ana Indians, New Mexico], §6, with respect to an income and resources exclusion applicable to the Pueblo of Santa Ana Indians, New Mexico; Vol. II, p. 695.
 See P.L. 95-499, [Pueblo of Zia, New Mexico Indians], §6, with respect to an income and resources exclusion applicable to the Pueblo of Zia Indians, New Mexico; Vol. II, p. 696.
 See P.L. 95-557, "Housing and Community Development Amendments of 1978", §410(b), Vol. II, p. 694, with respect to exclusion from income of services (but not of wages) provided to a public housing resident or to a resident of a housing project assisted under the "Housing Act of 1959" (P.L. 86-372, §202; Vol. II, p. 473).
 See P.L. 97-35, Title XXVI, "Low-Income Home Energy Assistance Act of 1981", §2605(f), with respect to exclusion from income and resources of home energy assistance payments or allowances; Vol. II, p. 730.
 See P.L. 98-432, "Shoalwater Bay Indian Tribe—Dexter-by-the-Sea Claim Settlement Act", §5(e), with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 783.
 See P.L. 98-500, "Old Age Assistance Claims Settlement Act", §8, with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 784.
 See P.L. 98-602, Title I, [Wyandotte Tribe of Oklahoma], §106(d), with respect to exclusion from income and resources of certain funds distributed per capita; Vol. II, p. 785.
 See P.L. 99-130, [Mdewakanton and Wahpekute Eastern or Mississippi Sioux], §8, with respect to exclusion from income and resources of certain funds; Vol. II, p. 786.
 See P.L. 99-146, [Chippewas of Lake Superior], §6(b), with respect to exclusion from income and resources of certain funds; Vol. II, p. 786.
 See P.L. 99-264, "White Earth Reservation Land Settlement Act of 1985", §16, with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 793.
 See P.L. 99-346, "Saginaw Chippewa Indian Tribe of Michigan Distribution of Judgment Funds Act", §6(b), with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 813.
 See P.L. 99-377, [Chippewas of the Mississippi], §4(b), with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 814.
 See P.L. 100-139, "Cow Creek Band of Umpqua Tribe of Indian Distribution of Judgment Funds Act of 1987", §4(h)(6), with respect to exclusion of benefits as basis for denial of eligibility; Vol. II, p. 842.
 See P.L. 100-383, [An Act to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians], §§105(f)(2) and 206(d)(2), with respect to exclusion from income and resources of certain payments to certain individuals; Vol. II, p. 901.
 See 31 U.S.C. 3803(c)(2)(C), with respect to benefits not affected by P.L. 100-383; Vol. II, p. 167.
 See P.L. 100-407, "Technology-Related Assistance for Individuals with Disabilities Act of 1988", §105, with respect to the effect of financial assistance under that Act; Vol. II, p. 902.
 See P.L. 100-409, "Federal Land Exchange Facilitation Act of 1988", §5, with respect to the effect of this Act on P.L. 92-203 or P.L. 96-487; Vol. II, p. 904.
 See P.L. 100-411, [Land Claims of Coushatta Tribe of Louisiana], §2(d)(3)(B), with respect to the effect of per capita payments; Vol. II, p. 904.
 See P.L. 100-581, [Indian Reorganization Act Amendments], §§501, 502(b)(1), and 503, with respect to exclusion from income and resources of certain judgment funds; Vol. II, p. 918.

Social Security Statutes

the State and residency in such State by such individual, and (iii) on or before September 30, 1985, such individual (I) first becomes an eligible individual or an eligible spouse under this title, and (II) satisfies the twenty-five-year residency requirement of such program as such program was in effect prior to January 1, 1983;

(3)(A) the total unearned income of such individual (and such spouse, if any) in a month which, as determined in accordance with criteria prescribed by the Secretary, is received too infrequently or irregularly to be included, if such income so received does not exceed \$20 in such month, and (B) the total earned income of such individual (and such spouse, if any) in a month which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed \$10 in such month;

(4)(A) if such individual (or such spouse) is blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1002 or 1602) for the month before the month in which he attained age 65), (i) the first \$780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, (ii) an amount equal to any expenses reasonably attributable to the earning of any income, and (iii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan,

(B) if such individual (or such spouse) is disabled but not blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1402 or 1602) for the month before the month in which he attained age 65), (i) the first \$780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, (ii) such additional amounts of earned income of such individual (for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility), if such individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe, (iii) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, and (iv) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan, or