

LEG. FINANCE - BILLS 1983 - 1984 2054

CSSB 215 cont. 2054

enforced." First Amended Complaint, Prayer for Relief, paras. 4-6.

WHEREAS, there are currently 9,124 recipients of monthly longevity bonuses, and many of these recipients are of modest means, and depend upon the monthly bonus for sustenance, and the termination of the longevity bonus payments to these individuals could cause great and irreparable harm;

WHEREAS, because of the uncertainty with respect to the appropriate remedy, the parties are desirous of settling this litigation in a manner which affords meaningful relief to Plaintiff Vest and others similarly situated, but which also ensures the continuation of monthly bonus payments to existing recipients;

WHEREAS, the parties are further desirous of achieving a settlement which will finalize and constitute a full and final accord of the rights and liabilities of the parties hereto;

WHEREAS, there may be as many as 4,000 persons who are similarly situated with Plaintiff Vest -- to wit, bona fide Alaskans of the age of 65 or over -- who are not currently receiving longevity bonus payments because of the residency requirements of the statute;

WHEREAS, the parties agree that, because of the nature of the rights of recipients involved in this litigation, a one-year residency requirement is reasonable, necessary and appropriate in order to demonstrate bona fide Alaskan residency;

WHEREAS, a full and final settlement of the parties' rights and liabilities hereto cannot be achieved until all persons similarly situated with Plaintiff Vest are certified as a class under Alaska Rule of Civil Procedure 23(c);

WHEREAS, the settlement envisioned by the parties includes the retroactive payment of longevity bonuses to plaintiff class commencing and including July 1, 1982;

WHEREAS, the payment of such retroactive bonuses to an expanded class of recipients would require the appropriation of sums above the amount currently appropriated for the longevity bonus program for fiscal year 1982-83. Moreover, and because of the Alaska Legislative Council's view of the non-severability clause, quoted above (effecting the expansion of the class of longevity bonus recipients), such payments may require the enactment of curative legislation;

WHEREAS, it is therefore necessary, in order to effectuate this settlement, for appropriate legislation to be enacted;

WHEREAS, the Alaska Legislature is a coordinate branch of government of the State of Alaska, and is represented in this action by the Attorney General;

WHEREAS, notwithstanding the above, the Attorney General cannot in any manner bind or compel the Alaska Legislature in the exercise of its legislative powers;

WHEREAS, on July 16, 1982, the Alaska Legislative Council moved to participate in the above-captioned action as amicus curiae, it is agreed that the Alaska Legislative Council may participate in all negotiations of any settlement, the filing of briefs and may participate in oral arguments; however, the Alaska Legislative Council agrees that it will not be involved in discovery proceedings in the event the case is ultimately litigated and will not become otherwise involved in accordance with the terms of this settlement agreement;

WHEREAS, and while the Alaska Legislative Council cannot bind the Alaska Legislature in the exercise of its legislative powers, the Alaska Legislative Council can and is willing to commit its best efforts to the enactment of appropriate legislation during the first regular session of the 13th Alaska Legislature;

WHEREAS, and subject to (1) the certification of plaintiff class, (2) the Superior Court's approval of a settlement proposal here'in, and (3) the commitment of the Alaska Legislative Council to use its best efforts in the enactment of appropriate legislation, plaintiff class is agreed that such action will provide full and adequate consideration for the promise and agreement of plaintiff class not to seek relief in any form with respect to the Longevity Bonus Program through and including the adjournment of the first regular session of the

13th Alaska Legislature or June 30, 1983, whichever ever event comes first in time;

WHEREAS, nothing herein is to be construed as an admission by the State of Alaska as to the unconstitutionality of the Longevity Bonus Program;

WHEREAS, except with respect to the good faith of the State and its agents, nothing herein is to be construed as an admission by either party in the event the settlement agreed to here is not consummated;

NOW THEREFORE THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

1. All actions and proceedings in the above-captioned case, other than:

(a) the certification of plaintiffs class

(b) the approval by the Superior Court for the State of Alaska, First Judicial District of this proposed settlement agreement, and

(c) any further approval by the court necessary to consummate the settlement agreement after the certification of plaintiffs class,

are stayed through and including the date of adjournment of the first regular session of the 13th Alaska Legislature or June 30th, 1983, whichever event occurs first in time. Procedures for class certification shall be submitted to the Court for review no later than September 10, 1982, and the parties will request the

C

C

Court to render its order with respect to the notice procedures for the said class no later than September 24th, 1982. Notice to the class shall be transmitted, along with the proposed settlement and the conditions necessary to affectuate the settlement, on or before October 11th, 1982. The State of Alaska will undertake reasonable efforts to assist Plaintiff to locate those persons 65 years or older as of July 1, 1982, who have been bona fide Alaska residents in the state of Alaska for one year immediately prior to that date. In the event this settlement agreement is not consummated for whatever reason, but the class certification has been certified by the court as set forth above, the Plaintiff shall not be precluded from seeking an enlargement of the class and a certification thereof so as to include other persons having a shorter residential duration within the State and may also seek a greater retroactive recovery.

2. The Alaska Legislative Council shall utilize its best efforts to secure the enactment, during the first regular session of the 13th Alaska Legislature, of the following legislation;

(a) Legislation which treats equally all bona fide Alaska residents of the age of 65 or older with respect to their residential qualifications to receive any "longevity bonus payments" or any substitute benefits from July 1, 1982 and thereafter for as long as the legislature may determine to continue such a program. Bona fide Alaska residents are those

who continuously resided in the state for one year immediately prior to the date of eligibility; and

(b) Any appropriation which might be required to fund the legislation described in paragraph (a), including the retroactive payment of bonuses.

3. If the Alaska Legislature passes legislation described in 2(a)-(b) above at any time during the first regular session of the 13th Alaska Legislature and the Governor signs the said legislation or otherwise allows 2(a)-(b) to become law so that 2(a)-(b) will be effective no later than Ninety days after enacted, the above action shall be dismissed with prejudice, subject only to the determination of attorney fees by the Court.

4. If the above-captioned action is dismissed under paragraph 3 above, all claims or rights of any class member (except those class members who exercise their right to opt out under Rule 23 of the Alaska Rules of Civil Procedure), with respect to the Longevity Bonus Program, shall be merged into the judgment of dismissal and extinguished;

5. If the Legislation described in 2(a)-(b) above is not enacted during the first regular session of the 13th Alaska Legislature or in any event no later than June 30, 1983, then this agreement shall be null and void, except that the Plaintiff and the class certified, together with any additional members, if there is an enlargement of the class, may prosecute this case as

if this agreement had not been entered into, it being the intent of the parties that certification of the plaintiff class, or the enlargement thereof, shall not be affected if this agreement becomes null and void;

6. The obligation of the Alaska Legislative Council under 2 herein is contingent upon certification of plaintiff class under Alaska Rule of Civil Procedure 23(c), which class shall include each and every individual of the age of 65 or older who, as of July 1, 1982, had continuously resided one year immediately preceding that date within the State of Alaska, and in the event that a class is certified which is less inclusive than as above described, the State of Alaska has reserved the right to waive the protections of this paragraph in whole or in part. Nothing in this paragraph is intended to modify or affect the certification of the class or the right of the Plaintiff to enlarge the class if this agreement becomes null and void.

DATED this ___ day of _____, 1982.

DATED: August 9, 1982

Wilson L. Condon
Attorney for Defendants
Marian Schaefer and
State of Alaska

WILSON L. CONDON
ATTORNEY GENERAL

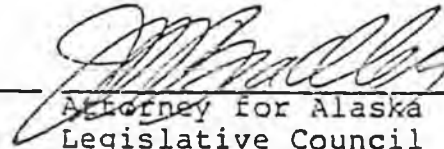
DATED: August 6, 1982

Henry J. Camarot
Attorney for Plaintiff

Henry J. Camarot
Camarot, Sandberg & Hunter

DATED: _____

8/16/82



Attorney for Alaska
Legislative Council
Amicus Curiae

FOR
William Ruddy
Robertson, Monagle,
Eastaugh & Bradley

ORDER

IT IS SO ORDERED.

DATED: _____

Hon. Walter Carpeneti
Superior Court Judge

PROGRAM NAME	PROGRAM DESCRIPTION	TYPE OF BENEFITS	INCOME LIMIT (Number of Persons)				ALB EXCLUDED	NUMBER OF ELDERLY ALASKANS	MEAN BENEFIT	NUMBER OF ELDERLY AT RISK
			1	2	3	4				
Medicaid - Nursing Home	Provides payments on behalf of needy persons in nursing homes for cost of care 48% federal 52% state funds	Vendor Payments	852.90	n/a	n/a	n/a	Yes	up to \$450/mo.	\$3600/mo.	app. 275* *includes app. 120 who are included in the 500 at risk for SSI
Medicaid - Regular	Provides payment for necessary medical care on behalf of recipients of Old Age Assistance federal, 52% state funds, 48%	Vendor Payment	546	80% (net)	n/a	n/a	Yes	app. 2300 eligible, of whom app. 943 use benefits each month	\$1027/ useage	app. 1200* *includes 500 at risk in SSI program

INCOME LIMIT
(Number of Persons)

PROGRAM NAME	PROGRAM DESCRIPTION	TYPE OF BENEFITS	INCOME LIMIT (Number of Persons)				ALB EXCLUDED	NUMBER OF ELDERLY ALASKANS	MEAN BENEFIT	ELDERLY AT RISK
			1	2	3	4				
Old Age Assistance	Payments to needy	Monthly Cash	546	802	n/a	n/a	Yes	app 2300	246.70/mo.	app 1200*
										*Includes 500 at risk in SSI
Food Stamp Program	A federally funded program designed to promote the health of the nation's population by raising the levels of nutrition among low-income households	Food coupons that are used in place of money	490	650	810	970	No	1700	\$32 per person (random sampling of 10-elderly cases.)	-0-
Supplemental Security Income (SSI)	Federally funded & administered program providing assistance to needy persons who are aged or disabled 100% federal funds	Monthly Cash	284.30	426.40	n/a	n/a	Yes	app 900	app \$228 mo.	500
Energy Assistance	Grants to low-income households to offset energy costs	Vendor home energy credit	\$851	\$1113	\$1375	\$1637	Yes	app. 1400	\$475	300-400
General Relief (Medical)	100% state-funded, provides medical assistance on behalf of needy persons. For elderly, primarily provides drugs for Medicaid eligible persons on OAA and SSI	Vendor Payment	\$300	\$400	or	same as SSI and/or OAA (net)	Yes, for elderly	2750 eligibles whom use benefits	\$50/mo. usage	app. 1475

111

SENATE AD HOC RESIDENCY COMMITTEE
REPORT ON CSSB 215

1. INTRODUCTION

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

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

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

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

legislation which would treat all elderly Alaskans with one-year's residency equally in the payment of longevity bonuses.

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

II. PROCEEDINGS BEFORE THE AD HOC RESIDENCY COMMITTEE

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

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

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

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

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

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

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

public assistance. This factor, as well, argued in favor of retention of a viable program.

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

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

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

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

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

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

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

III. THE EQUAL RETIREMENT BENEFITS PROGRAM OF CSSB 215

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

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

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

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

Using these assumptions, the financial projections for the ALB savings account were encouraging. Between now and the year 2000, the percentage of permanent fund earnings required to

fund the ALB program will gradually decline, to the point where only 7.5 percent of earnings will be required by the year 2000.

As attachment #1 to this report indicates, in that year, \$198 million may be appropriated to the account, while only \$118-\$121 million will be necessary to fund the program -- resulting in a savings account deposit in that year alone of between \$76-79 million. The aggregate "savings account" balance in the year 2000 should be approximately \$704 million. By the year 2005, the ALB savings account may reach \$1.7 billion. Since only \$168 million would be required to fund the program that year, the ALB program may become entirely self-sustaining in that year.

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

Under Section 4 of the bill, and commencing in FY 1985, the amount of the longevity bonus will increased by three percent

annually. Thus, the amount of the bonus increases from \$3,000 per year in 1984 to \$4,814 in the year 2000.

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

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

bonus of \$3,090 (\$3,000 plus a 3% COLA). By virtue of the ceiling, each elderly Alaskan will receive an annual per capita distribution of some \$2,110.

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

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

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

FISCAL YEAR 2000

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

FISCAL YEAR 85

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

(3) "department" means the Department of Health and Social Services. (§ 1 ch 136 SLA 1970; am § 2 ch 210 SLA 1970; am § 55 ch 71 SLA 1972)

Legislative history report. — For report on ch. 71, SLA 1972 (HCSSE 383 am H), see 1972 House Journal, p. 898.

Chapter 45. Alaska Longevity Bonus.

Section	Section
10. Persons who may qualify for longevity bonus	110. Custody of funds
20. Continuous eligibility procedures	120. Exemption from taxation and process
30. Absence from the state	130. Death or cessation of residency
40. Disqualification	140. Penalty for false statements
50. Department hearing	150. Definitions
60. Legal remedy	160. Applicability of Administrative Procedure Act
70. Unqualified persons	170. Purpose
80. Accrual of bonuses	
90. Alaska longevity bonus fund	
100. Powers and duties of the administrator	

Editor's note. — Section 2, ch. 205, SLA 1972, provides: "AS 01.10.030 does not apply to this Act. If any provision of this Act, or the application of a provision of this Act to any person or circumstance is held invalid:

this entire Act shall be considered invalid." Legislative history report. — For report on ch. 205, SLA 1972 (FCCS HCS CSSE 211), see 1972 House Journal, p. 751.

Sec. 47.45.010. Persons who may qualify for longevity bonus. (a) A person who is 65 years of age or over, who was domiciled in the territory on or before January 3, 1959 and who has maintained a continuous domicile in the territory or state for 25 years may apply to the commissioner of administration for qualification to receive a monthly bonus of \$150.

(b) When the commissioner of administration determines that an applicant qualifies under this chapter he shall immediately begin payment of the bonus.

(c) A person who otherwise qualifies to receive a bonus provided for in this chapter may continue to do so only as long as he continuously retains a domicile in the state. (§ 1 ch 205 SLA 1972; am § 1 ch 33 SLA 1976; am § 1 ch 89 SLA 1978)

Effect of amendments. — The 1976 amendment increased the monthly bonus in subsection (a) from \$100.00 to \$125.00.

The 1978 amendment increased the monthly bonus in subsection (a) from \$125.00 to \$150.00.

Legislative history report. — For report on ch. 33, SLA 1976 (SB 476 am), see 1976 Senate Journal, p. 160.

§ 47.45.020 WELFARE, SOCIAL SERVICES AND INSTITUTIONS § 47.45.060

Sec. 47.45.020. Continuous eligibility procedures. After qualification, monthly applications for bonuses may be made in person to any office of the Department of Administration. Mailed monthly applications shall also be considered by the Department of Administration. In-person or mailed applications shall be made on forms provided by the Department of Administration and shall conform to the conditions as provided by regulation. The commissioner may make exceptions for those residents who are isolated in rural areas and cannot mail a monthly application; however, they shall mail an application at least once every six months. (§ 1 ch 205 SLA 1972)

Sec. 47.45.030. Absence from the state. A recipient shall notify the commissioner of administration when he expects to be absent from the state if the absence is for a continuous period that exceeds 30 days. After that notification, the recipient shall no longer receive bonuses from the Department of Administration after his last regularly approved monthly application. Upon his return to the state he may again make application for a bonus. Whenever the absence is for a continuous period that exceeds 180 days the recipient shall be disqualified from receiving bonuses for the next 12 calendar months after his return to the state. However, when the commissioner of administration determines a period of absence is beyond the control of the recipient, he may not be disqualified, if he still otherwise qualifies upon his return to the state. Continual absences from the state, even though reported, and failure to notify the commissioner of an expected absence may be grounds for disqualification. (§ 1 ch 205 SLA 1972)

Sec. 47.45.040. Disqualification. Disqualification under this chapter shall rest solely with the commissioner of administration and shall be outlined in the regulations promulgated under AS 47.45.100(1). (§ 1 ch 205 SLA 1972)

Sec. 47.45.050. Department hearing. The Department of Administration may hold a departmental hearing upon the request of an applicant or recipient who has been disqualified. Previous to this hearing the department shall by certified mail notify an applicant or recipient in plain and comprehensive language the exact reason for his disqualification. Form letters using only referral to state statutes or department regulations, or otherwise vague in detail, shall not be considered compliance by the department with this section. (§ 1 ch 205 SLA 1972)

Sec. 47.45.060. Legal remedy. Legal remedy from disqualification may be sought by an applicant or recipient in any court of competent jurisdiction in the state. The burden of proof shall rest solely upon the applicant or recipient and any costs related to a disqualification verdict determined against the applicant or recipient may be recoverable by the attorney general from that person, or from any agency representing that person supported in whole, or in part, with state appropriations. (§ 1 ch 205 SLA 1972)

§ 47.45.110 WELFARE, SOCIAL SERVICES AND INSTITUTIONS § 47.45.170

Sec. 47.45.110. Custody of funds. The commissioner of revenue is the treasurer of the system and has powers and duties for this purpose including but not limited to the following:

(1) to act as official custodian of the cash and securities belonging to the fund;

(2) to receive all items of cash belonging to the fund. (§ 1 ch 205 SLA 1972)

Sec. 47.45.120. Exemption from taxation and process. Bonuses received under this chapter are exempt from all state and political subdivision taxes except sales and use taxes and are not subject to execution, attachment, garnishment or other process. No bonus received under this chapter may be exempt from a federal tax requirement. (§ 1 ch 205 SLA 1972)

Sec. 47.45.130. Death or cessation of residency. The commissioner of administration shall establish procedures to stop a bonus when a recipient under this chapter no longer qualifies. When a recipient dies or discontinues his residency in the state his qualification for a bonus shall stop at the time of his last approved monthly application. (§ 1 ch 205 SLA 1972)

Sec. 47.45.140. Penalty for false statements. A person who wilfully or knowingly makes a false statement, or falsifies or permits to be falsified any record required by this chapter, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than \$500, or by imprisonment for not more than six months, or by both, forfeits all rights under this chapter, and shall make adequate restitution for any bonuses illegally received. (§ 1 ch 205 SLA 1972)

Sec. 47.45.150. Definitions. In this chapter

(1) "bonus" means a monthly Alaska longevity bonus payment made to a person or his beneficiary who qualifies under this chapter;

(2) "domicile" means the place with which a person has a settled connection for determination of his civil status or other legal purposes because it is actually or legally his permanent and principal home. (§ 1 ch 205 SLA 1972)

bill repeats

Sec. 47.45.160. Applicability of Administrative Procedure Act. The Administrative Procedure Act (AS 44.62) does not apply to this chapter. (§ 1 ch 205 SLA 1972)

Sec. 47.45.170. Purpose. The sole purpose of this chapter is to offer and provide all law-abiding Alaskans capable of managing their own affairs who have maintained a domicile in the state for at least 25 years and have reached a retirement age of 65, an incentive to continue uninterrupted residency in the state. Under no circumstances shall this chapter be considered a form, type, or manner, of public relief. Bonuses made under this chapter are not predicated on need even though they

may appear to provide supplemental income to some qualified persons who would otherwise be forced to become responsibilities of the state. The legislature further finds and states that this legislation recognizes the economic hardships suffered by many elderly Alaskans. Alaskans who through their tenacity and perseverance molded Alaska as we know it through skillful application of their talents. These pioneers are the same Alaskans, who in the prime of their life were in effect treated as second-class citizens by the federal government and who paid much of their hard-earned income to a government in which they did not have the right to participate through the power of the ballot. The legislature also is aware of the fact that many of these pioneers have been forced to live out their retirement years in areas far away from the land they loved and nurtured and thereby also suffering, in many cases, the loss of familial relationship with their own kin, an experience that is sad and frustrating to them as well as depriving new generations of Alaskans of the benefits of their wisdom and experience. This legislation hopefully will provide our pioneers with the economic means to remain in and continue to serve their state and to enjoy the opportunity of aiding the new Alaskan in making this state truly "The Great Land." (§ 1 ch 205 SLA 1972)

Chapter 50. Office of Child Advocacy.

Section	Section
10. Office of Child Advocacy	40. Powers and duties of board and director
20. Board of directors for the Office of Child Advocacy	50. Departments to assist Office of Child Advocacy
30. Compensation and expenses	

Editor's note. — For legislative findings, see § 1, ch. 189, SLA 1972, in the 1972 Temporary and Special Acts.

Sec. 47.50.010. Office of Child Advocacy. There is created in the Office of the Governor the Office of Child Advocacy to act as a coordinating body for services for children from prenatal to age 18. The Office of Child Advocacy is administered by a director appointed by the board of directors with the approval of the governor. Staff may be employed in accordance with appropriate budgets. (§ 2 ch 189 SLA 1972)

Sec. 47.50.020. Board of directors for the Office of Child Advocacy. There is created a board of directors for the Office of Child Advocacy. The board consists of the Alaska State Council on the Coordination of Community Child Care plus four members not more than 18 years of age appointed by the governor for a term of two years each, or until the youthful member attains the age of 19 years. (§ 2 ch 189 SLA 1972)

5/27/83

Hay

Representative Albert Adams:
Senator Bob Ziegler:
Representative Ron Wendte:
Representative Jack McBride:

Dear Sirs:

I am writing to express disagreement with SB 215 2d rule, concerning Alaska Longevity Bonus payments.

I disagree with the plan to fund the bonus out of the Permanent Fund distribution, and the elimination of the long time residency requirement. There are many more needy programs and capital improvements needed. I would not be so adamant if the longevity bonus were based on need. This program could be as overextended as the current Social Security program, as more people become eligible. It is no longer an Alaskan Longevity Bonus if there is only one year residence requirement. The name would have to be Old Age Bonus.

It is not keeping with the intent of the program to decrease residency requirement. It was started to encourage long term Alaskans to remain in the state with higher living costs. To enable many lower income elderly to remain around family and friends. To decrease the residency requirement could ultimately hurt the low income elderly.

You must consider the effects this could have on many low income Supplemental Security Income and state aid persons. This could cancel their medicaid benefits and perhaps SSI benefits. At present the Federal Government gives an exclusion of income to the Longevity Bonus for these federal programs. This exclusion is granted each year. One reason for granting it is the fact not all aged are eligible. This exclusion could be in jeopardy once everyone over 65 is eligible.

You could be forcing the people this program was started for to take a choice between these programs or the bonus. There could be a regulation requiring them to apply for the bonus as a prior resource. This bill will ultimately hurt the low-income long-time residents. In particular low income Alaskan Natives who led a subsistence lifestyle and did not pay into the Social Security program as early as many city dwellers did.

There are too many question to consider that haven't been addressed. Let this go to court and let the courts decide. The intent of the program might hold up.

I am in favor of Representative Haye's amendment to cancel with a grand-fathers clause.

Sincerely,

Jean Cloudy

Jean Cloudy, Rt. 1 Box 64, Ketchikan, Ak. 99901

I will be in Juneau 6/5, 6/6, 6/7 # evenings 759-3450

Rep. Adams

T E L E G R A M C O P Y

TELETYPE UNIT
RECEIVED
JUL 24 1982
39802

02401 NL ANCHORAGE AK 457 06-13 1850 ADT

J AND R SECRETARIAL SERVICES 586-6846

1395

FOR: HONORABLE SENATOR BILL RAY, CHAIRMAN LEGISLATIVE COUNCIL
STATE OF ALASKA STATE OFFICE BUILDING
JUNEAU AK

WE ARE SOMEWHAT PERPLEXED AT RECENT EVENTS REGARDING LEGISLATION CONCERNING THE LONGEVITY BONUS. MORE PARTICULARLY, IT APPEARS THAT THE SETTLEMENT WHICH WAS PREVIOUSLY REACHED IN THIS MATTER IS BEING QUESTIONED IN THE HOUSE. WE ARE WRITING AT THIS POINT TO EXPLAIN OUR POSITION AND SOME OF THE POSSIBLE RAMIFICATIONS OF PENDING LEGISLATION.

THE CASE OF BEST V. SCHAFFER WAS FILED IN JULY OF 1982. SUBSEQUENTLY, WE REACHED AN AGREEMENT WITH THE LEGISLATIVE COUNCIL WHICH WE THOUGHT REPRESENTED A VALID COMPROMISE ON BOTH SIDES. ON AUGUST 24, 1982, THE SUPERIOR COURT APPROVED THAT AGREEMENT AND ORDERED THE LEGISLATIVE COUNCIL TO USE ITS BEST EFFORTS TO SECURE THE ENACTMENT DURING THE FIRST REGULAR SESSION OF THE 13TH ALASKA LEGISLATURE OF THE LEGISLATION DESCRIBED IN THE AGREEMENT. THE AGREEMENT WAS VERY SIMPLE. IT REQUIRED ONLY TWO THINGS. FIRST, ALL ALASKANS OVER 65 WITH ONE YEAR OF RESIDENCY MUST BE TREATED EQUALLY IN THE FUTURE. SECONDLY THOSE ALASKANS OVER 65 WHO HAVE LIVED IN ALASKA FOR MORE THAN 1 YEAR AS OF JULY 1, 1982 MUST RECEIVE RETRO ACTIVE PAYMENTS OF DLRS250 A MONTH FROM THE EFFECTIVE DATE BACK TO JULY 1, 1982.

FRANKLY, WE FELT THAT WE CONCEDED MUCH BY ENTERING INTO THAT AGREEMENT. WE LIKE THE LONGEVITY PROGRAM AND DO NOT WANT TO SEE IT KILLED. IN CONJUNCTION WITH MR RODNEY VEST WE DETERMINED THAT IT WAS BETTER TO LOOK FORWARD TO EQUAL TREATMENT RATHER THAN TRY TO GO BACK FOR TEN OR SEVEN YEARS TO RECOVER A HUGE AMOUNT OF RETRO ACTIVE PAYMENTS WHICH WERE UNCONSTITUTIONALLY DENIED THROUGH THE MEMBERS OF OUR CLASS.

WE HAVE COMPROMISED MUCH IN COMING TO OUR PRESENT POSITION, WE DECLINE TO COMPROMISE FURTHER. OUR CLASS IS ALREADY CERTIFIED AND WE ARE ALREADY IN COURT. THE ATTORNEY GENERALS OFFICE HAS PUBLICALLY ADVISED THAT OUR CASE IS INDEFENSIBLE. IF THE LEGISLATION WHICH MEETS THE CRITERIA OF THE SETTLEMENT IS NOT APPROVED WE WILL IMMEDIATELY REQUEST AN ORDER WHICH WILL EITHER OPEN THE PROGRAM TO ALL CLASS MEMBERS OR CLOSE IT TO EVERYONE. ALL PERSONS WHO ARE OVER 65 AND HAVE BEEN HERE ONE YEAR MUST BE TREATED EQUALLY. ADDITIONALLY, IF WE ARE FORCED TO RETURN TO COURT, WE WILL SEE RETRO ACTIVE PAYMENTS FOR OUR CLASS MEMBERS FOR A PERIOD FAR IN EXCESS OF ONE YEAR.

WE UNDERSTAND THAT YOU HAVE YOUR OWN COUNSEL AND THAT THERE ARE MANY POLITICAL CONSIDERATIONS INVOLVED. WE WRITE IN THE SPIRIT OF EXPLANATION RATHER THAN THREAT. WE WOULD SIMPLY LIKE TO MAKE CERTAIN THAT EVERYONE UNDERSTANDS THAT MR VEST AND THE OTHER CLASS MEMBERS WILL NOT COMPROMISE FURTHER, NOR WILL THEY BE DENIED THEIR DAY IN COURT IF LEGISLATION COMPLYING WITH THE TERMS OF THE SETTLEMENT IS NOT APPROVED.

HENRY J. CAMAROT

MARK A. SANDBERG

MEMORANDUM

Reala from → Lince
State of Alaska

TO Lisa Ridd, Commissioner
Department of Administration

DATE June 2, 1983

FILE NO

TELEPHONE NO 465-2300

FROM Robert D. Heath
Commissioner
Department of Revenue

SUBJECT Senate Bill 215

There have been several versions of Senate Bill 215 addressing the question of a longevity bonus account. The latest I have before me is House CS for CS Senate Bill 215 (State Affairs).

Hopefully I can eliminate some of the confusion that seems to have developed concerning the fiscal impact of this measure.

The first point I want to address is the methodology for computing longevity bonuses for a "regular year." The bill states in Sec. 1, as it has in past versions, that bonuses are derived at simply by multiplying 12.5 percent times the income available for distribution (AS 37.13.140). Once the 12.5 percent is calculated at the end of the fiscal year and put aside in a longevity bonus account, it will start to accrue interest. So the interest must be added in and paid out with the longevity bonuses as the Department of Revenue testified last week before Chairman Abood's State Affairs Committee. The actual amount of interest, however, has little significant impact relative to the total picture.

Secondly, the exception to the addition of interest, however, is in the first year. Part of that payment is a flat appropriation of \$17.5 million from the FY 82 figure of \$142.3 million available for distribution and no interest is included. The remainder of the first year's payment is 12.5 percent of the FY 83 figure of \$198.06 available for distribution plus interest on the 12.5 percent that is set aside. Interest is not figured on the \$142.3 million but on the 12.5 percent of the \$198.06 million. The total amount then during the first year amounts to \$43.3 million. I want to stress that this \$43.3 million will be paid in the following year (FY 84).

The attached table presents the payments over a period of future years. The assumptions underlying these numbers are based on our March 83 forecast and, as you are well aware, will change quarterly when we reassess the state's oil revenue situation. Please note we do not address Sec. 12 of this bill.

If you have any further questions, please feel free to contact us.

RDH:VDW:jas

Attachment

Expenditure Year
(millions of current \$)

	<u>FY 84</u>	<u>FY 85</u>	<u>FY 86</u>	<u>FY 87</u>	<u>FY 88</u>
Appropriation (deducted from FY 82 \$142.3)	17.5	0.0	0.0	0.0	0.0
Transfer (12.5% of prior FY's distribu- table income)*	24.8	30.8	42.6	54.5	62.3
Interest (at 8%)	<u>1.0**</u>	<u>1.2</u>	<u>1.7</u>	<u>2.2</u>	<u>2.5</u>
Available for Payments	43.3	32.0	44.3	56.7	64.8

* This money is not available for transfer until the final day of the fiscal year and therefore is available for expenditure the fiscal year following.

** On \$24.8m only. Assumes the \$17.5 million is payed out almost immediately.

A REPORT ON THE
DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD

December 15, 1982

Commissioner, Department
of Revenue

Bob Heath

Deputy Commissioners, Department
of Revenue:

Taxation
Treasury

Joe Donohue
Peter Bushre

Members of the
Alcoholic Beverage Control Board

Chairman
Member
Member
Member
Member

William Gordon
Donald J. House
William K. Smith
Joseph W. Berberich
Chuck J. Green

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

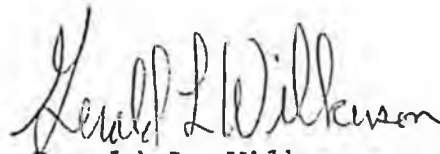
December 15, 1982

Members of the
Legislative Budget and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

A REPORT ON THE
DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD

December 15, 1982



Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

TABLE OF CONTENTS

	<u>Page</u>
Purpose of the Report	1
Organization and Function	3
Report Conclusion	5
Findings and Recommendations.	7
Analysis of Public Need	9
Appendixes:	
A. Revenue Compared with Expenditures.	14
B. Number of Licenses by Type.	15
C. Description of License Types and Fees	16
Agency Response:	
Department of Revenue	19

PURPOSE OF THE REPORT

In accordance with the provisions of Alaska Statutes 24.20.271(1) and 44.60.050 (Sunset Legislation) an examination of the Alcoholic Beverage Control Board was conducted to determine whether there is a demonstrated need to continue liquor regulation in its present form. To determine that need we reviewed Board activities for Fiscal Year 1982 to see if the Board has been operating in an efficient and effective manner.

AS 44.66.010 specifies that the Alcoholic Beverage Control Board will terminate on June 30, 1983, but will continue until June 30 of the following year for the purpose of concluding its affairs. This report should be considered during the legislative oversight function in determining whether the Board should be allowed to terminate, be reestablished in its present form or be reestablished in a modified form.

ORGANIZATION AND FUNCTION

In 1933 the Territorial Legislature created the Board of Liquor Control with full power, authority, and control to prescribe (1) rules and regulations to govern the manufacture, barter, sale and possession of intoxicating liquors, (2) qualifications of those engaged in that business, and (3) license fees and excise taxes. The present Alcoholic Beverage Control Board (hereinafter referred to as the ABC Board or the Board) was established in 1959, and the same broad powers and duties conferred on the Board of Liquor Control were transferred to the new ABC Board at that time.

Members are appointed for three-year terms by the Governor and serve at his pleasure subject to confirmation by the Legislature. Membership is limited by statute to five persons (two liquor industry representatives, three non-industry representatives). A director, also appointed by the Governor, serves as executive officer and is responsible for enforcement of Title 4 liquor laws and regulations developed by the Board. Although he is not a member of the Board, the director may cast a tie-breaking vote.

The ABC Board is a regulatory, quasi-judicial agency, vested with the powers, duties, and responsibilities for the control of alcoholic beverages, including the power to propose and adopt regulations, and to hear appeals. The Board may order the director to issue, renew, revoke, transfer, or suspend licenses and permits.

Title 4 prescribes the type of licenses, fees, and specific activities allowed under each license classification (see schedule of license types and fees in Appendix C). Fees are payable at the time of application and are not reduced or prorated in any way for periods less than the statutory calendar year. To renew an already existing liquor license, the application must be filed (and the corresponding fees paid) on or before February 28.

The staff of the ABC Board is divided into three major functions: administration, licensing, and enforcement. A brief description of the services provided by those functions follows:

Administration. The director of the ABC Board provides all administrative support needed by the Board including overseeing all staff functions, preparing budget documents, and directing the preparation and implementation of administrative and public hearings, and directing special enforcement investigations.

REPORT CONCLUSION

Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting those practices are not within the scope of this review but require legislative consideration. In debating these decisions the legislative oversight committees should take into consideration the findings and alternatives presented in this report, so that the potential impact of the policy changes can be evaluated.

Report Conclusions

Title 4 of the Alaska Statutes established the ABC Board to control the manufacture, barter, possession and sale of alcoholic beverages in the State in order to protect the public's health, safety and welfare. We believe this control should continue to exist, however, it is our opinion, the ABC Board has not met its mandated enforcement responsibilities of Title 4 of the Alaska Statutes. We recommend the ABC Board reevaluate its interpretation and application of the enforcement requirements of Title 4.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Alcoholic Beverage Control Board should reevaluate its interpretation and application of the enforcement requirements of Title 4.

Alaska Statute 04.06.075 states that the director of the ABC Board shall enforce Title 4 and regulations adopted by the Board. Title 4 also provides that a person who violates a provision of the Title or adopted regulations is guilty, upon conviction, of a class A misdemeanor. To enable the Director and enforcement personnel to accomplish this task, Title 4 also provides for the exercise of peace officer powers, upon concurrence of the Commissioner of Public Safety.

Although these statutes clearly show that the ABC Board is mandated to enforce Title 4, it is ABC's opinion the primary responsibility for enforcement rests with State and local law enforcement agencies. As a result, few criminal complaints have resulted from ABC enforcement activities. During Fiscal Year 1982, only eight criminal complaints were filed, five of which were originated by ABC personnel.

The ABC Board utilizes a Notice of Violation to communicate to licensees that a violation allegedly occurred. However, Notices of Violation of and by themselves carry no penalty. Again, the ABC Board relies primarily on State and local law enforcement agencies to provide information to generate a Notice. Over 60 percent of the Notices issued during Fiscal Year 1982 were the result of work performed by local law enforcement agencies.

State and local law enforcement agencies are required to investigate and report violations of Title 4 to the ABC Board. However, this responsibility is only a small part of their total criminal enforcement responsibilities in the State of Alaska. As a matter of priority, these agencies cannot devote sufficient time to the enforcement of Title 4. Therefore, this responsibility must and does rest with the ABC Board.

It is our opinion that the ABC Board should reevaluate its interpretation of the enforcement responsibilities of Title 4 and, within staffing limitations, reconsider the direction of current ABC enforcement efforts.

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

PURPOSE OF THE REPORT

In accordance with the provisions of Alaska Statutes 24.20.271(1) and 44.60.050 (Sunset Legislation) an examination of the Alcoholic Beverage Control Board was conducted to determine whether there is a demonstrated need to continue liquor regulation in its present form. To determine that need we reviewed Board activities for Fiscal Year 1982 to see if the Board has been operating in an efficient and effective manner.

AS 44.66.010 specifies that the Alcoholic Beverage Control Board will terminate on June 30, 1983, but will continue until June 30 of the following year for the purpose of concluding its affairs. This report should be considered during the legislative oversight function in determining whether the Board should be allowed to terminate, be reestablished in its present form or be reestablished in a modified form.

(Intentionally left blank)

ORGANIZATION AND FUNCTION

In 1933 the Territorial Legislature created the Board of Liquor Control with full power, authority, and control to prescribe (1) rules and regulations to govern the manufacture, barter, sale and possession of intoxicating liquors, (2) qualifications of those engaged in that business, and (3) license fees and excise taxes. The present Alcoholic Beverage Control Board (hereinafter referred to as the ABC Board or the Board) was established in 1959, and the same broad powers and duties conferred on the Board of Liquor Control were transferred to the new ABC Board at that time.

Members are appointed for three-year terms by the Governor and serve at his pleasure subject to confirmation by the Legislature. Membership is limited by statute to five persons (two liquor industry representatives, three non-industry representatives). A director, also appointed by the Governor, serves as executive officer and is responsible for enforcement of Title 4 liquor laws and regulations developed by the Board. Although he is not a member of the Board, the director may cast a tie-breaking vote.

The ABC Board is a regulatory, quasi-judicial agency, vested with the powers, duties, and responsibilities for the control of alcoholic beverages, including the power to propose and adopt regulations, and to hear appeals. The Board may order the director to issue, renew, revoke, transfer, or suspend licenses and permits.

Title 4 prescribes the type of licenses, fees, and specific activities allowed under each license classification (see schedule of license types and fees in Appendix C). Fees are payable at the time of application and are not reduced or prorated in any way for periods less than the statutory calendar year. To renew an already existing liquor license, the application must be filed (and the corresponding fees paid) on or before February 28.

The staff of the ABC Board is divided into three major functions: administration, licensing, and enforcement. A brief description of the services provided by those functions follows:

Administration. The director of the ABC Board provides all administrative support needed by the Board including overseeing all staff functions, preparing budget documents, and directing the preparation and implementation of administrative and public hearings, and directing special enforcement investigations.

Licensing. The licensing staff currently consists of three full-time employees responsible for issuing and receiving application forms, maintaining records and files for all licenses, collecting fees, issuing all licenses and permits authorized by the Board, and answering inquiries from the general public on routine licensing matters.

Enforcement. The ABC Board currently employs five investigators - three operating from the Anchorage central office, one operating from the Fairbanks field office, and one operating from the Juneau field office. One Anchorage Investigator position is vacant. Services provided include (1) surveillance and inspections of licensed premises, (2) investigations to obtain information to be used in criminal and civil proceedings and investigations into suspected licensing violations, (3) public appearances relating to ABC laws and regulations, and (4) assisting the licensing staff in handling inquiries from the general public.

REPORT CONCLUSION

Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting those practices are not within the scope of this review but require legislative consideration. In debating these decisions the legislative oversight committees should take into consideration the findings and alternatives presented in this report, so that the potential impact of the policy changes can be evaluated.

Report Conclusions

Title 4 of the Alaska Statutes established the ABC Board to control the manufacture, barter, possession and sale of alcoholic beverages in the State in order to protect the public's health, safety and welfare. We believe this control should continue to exist, however, it is our opinion, the ABC Board has not met its mandated enforcement responsibilities of Title 4 of the Alaska Statutes. We recommend the ABC Board reevaluate its interpretation and application of the enforcement requirements of Title 4.

(Intentionally left blank)

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Alcoholic Beverage Control Board should reevaluate its interpretation and application of the enforcement requirements of Title 4.

Alaska Statute 04.06.075 states that the director of the ABC Board shall enforce Title 4 and regulations adopted by the Board. Title 4 also provides that a person who violates a provision of the Title or adopted regulations is guilty, upon conviction, of a class A misdemeanor. To enable the Director and enforcement personnel to accomplish this task, Title 4 also provides for the exercise of peace officer powers, upon concurrence of the Commissioner of Public Safety.

Although these statutes clearly show that the ABC Board is mandated to enforce Title 4, it is ABC's opinion the primary responsibility for enforcement rests with State and local law enforcement agencies. As a result, few criminal complaints have resulted from ABC enforcement activities. During Fiscal Year 1982, only eight criminal complaints were filed, five of which were originated by ABC personnel.

The ABC Board utilizes a Notice of Violation to communicate to licensees that a violation allegedly occurred. However, Notices of Violation of and by themselves carry no penalty. Again, the ABC Board relies primarily on State and local law enforcement agencies to provide information to generate a Notice. Over 60 percent of the Notices issued during Fiscal Year 1982 were the result of work performed by local law enforcement agencies.

State and local law enforcement agencies are required to investigate and report violations of Title 4 to the ABC Board. However, this responsibility is only a small part of their total criminal enforcement responsibilities in the State of Alaska. As a matter of priority, these agencies cannot devote sufficient time to the enforcement of Title 4. Therefore, this responsibility must and does rest with the ABC Board.

It is our opinion that the ABC Board should reevaluate its interpretation of the enforcement responsibilities of Title 4 and, within staffing limitations, reconsider the direction of current ABC enforcement efforts.

Recommendation No. 2

The Office of the Governor should keep appointments to the Alcoholic Beverage Control Board current and staggered as required by AS 04.06.030.

During our review of appointments to the ABC Board we noted the following exceptions:

1. Past appointments to the Board have not been made in accordance with the provisions of AS 04.06.030(b) which requires the Governor to fill vacancies to unexpired terms within 30 days of the vacancies. Our review of appointments showed one position remained vacant for 92 days and another position was vacant for 152 days.
2. AS 04.06.030(a) requires appointments to be overlapping terms of 3 years. We found that the terms of two members will expire on January 31, 1984, and the terms of two other members will expire January 31, 1985.

We recommend the Office of the Governor appoint new members or reappoint current members to vacant ABC Board seats in a timely manner and in compliance with AS 04.06.030. We also recommend that the appointment terms be staggered as required by law.

We further recommend the Office of the Governor establish a talent pool for Board appointments. The concept of a talent pool is to have a list of persons available and desiring to serve as a Board member. Many sources exist in the State to establish such a pool. Liquor industry associations could be requested to provide a list of members who would like to serve as an industry representative on the Board.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analysis indicates both positive and negative attainments of the ABC Board and how its activities relate to the public need factors defined by AS 44.66.050. This analysis is not intended to be comprehensive in nature.

I. The extent to which the board, commission or program has operated in the public interest.

Public protection gained through licensing to control liquor manufacture and traffic has been adequately provided by the ABC Board. However, the Board is also charged with enforcement of the alcoholic beverage control laws, rules, and regulations. As previously documented in this report, it is our opinion the ABC Board has not met its statutory responsibilities in protecting public health, safety, and welfare (see Recommendation No. 1).

II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personal matter.

The 1980 revisions to Title 4 have, for the most part, been beneficial to the operation of the ABC Board. However, those sections which deal with suspension and revocation of licenses and permits place severe restrictions upon the ability of ABC to suspend and revoke licenses for the illegal act of licensee employees.

The Board is also restricted in meeting its statutory responsibilities in protecting the public health, safety and welfare by the size of the enforcement staff which consists of one agent in Juneau, one in Fairbanks and three, including a supervisory agent in Anchorage. Including the supervisory agent, there are only five agents with inspection and enforcement responsibilities for 1,483 licensed premises. However, one other Anchorage Investigator position is vacant.

- III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

The last major revisions to Title 4 of the Alaska Statutes were the result of action by the 1980 session of the Legislature. The ABC Board participated in the process of developing those revisions.

- IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

The ABC Board has met an average of ten times during 1980 and 1981. During each year they have met at least once in each of the four judicial districts. Each meeting has been adequately advertised and open to all interested persons. Staff of the ABC Board are located in Anchorage, Juneau and Fairbanks and are available to answer inquiries of the general public during all normal business hours. We believe this has provided an adequate forum for allowing public input on Board regulations and decisions.

- V. The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

As noted in IV above, the Board has provided an adequate forum for obtaining input from the public.

- VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

As noted in past reviews the number of formal hearings continue to be few in number. However, the ABC Board has the authority to hold its own hearings on protests which it exercises as a part of its regularly scheduled meetings. Hearings in this manner have been accomplished in a timely manner since the Board meets at least ten times each year.

VII. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

Our review of licensing activity of the ABC Board to determine whether all statutory qualifications of licensees were being met revealed no exceptions. The Board has therefore, presented qualified applicants to serve the public.

VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

No discrepancies were noted during our review of the ABC Board affirmative action program.

IX. The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to I and II above and to the previous section, Findings and Recommendations.

(Intentionally left blank)

APPENDIXES

APPENDIX A

STATE OF ALASKA
DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD
REVENUE COMPARED WITH EXPENDITURES
Fiscal Years 1980, 1981 and 1982
(UNAUDITED)
(Note 1)

	<u>1980</u>	<u>1981</u>	<u>1982</u>
Revenue (See Schedule 1)	\$1,028,982	\$1,494,489	\$1,548,393
Expenditures	<u>(483,121)</u>	<u>(556,589)</u>	<u>(562,178)</u>
<u>Excess of Revenue Over Expenditures</u>	<u>\$ 545,861</u>	<u>\$ 937,900</u>	<u>\$ 986,215</u>

Schedule 1
Revenue Collected

<u>Types of License</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>
Liquor License Application	\$ 76,050	\$ 83,250	\$ 86,350
Pub	494	100	400
Beverage Dispensary	501,850	771,050	773,200
Club	24,650	39,500	39,300
Common Carrier	14,150	25,800	29,050
Restaurant	44,250	60,750	69,600
Roadhouse	3,250	-0-	-0-
Retail Store	248,350	330,700	335,400
Wholesale General	79,500	138,500	156,000
Wholesale Malt Beverage	15,300	13,200	21,600
Miscellaneous (Note 2)	<u>21,138</u>	<u>31,639</u>	<u>37,493</u>
<u>Total</u>	<u>\$1,028,982</u>	<u>\$1,494,489</u>	<u>\$1,548,393</u>

Note 1

This revenue/expenditure comparison was prepared from available records and discussions with ABC Board personnel. The records were not audited by us and accordingly we do not express an opinion on the ABC Board Revenue Compared with Expenditures, nor the Schedule of Revenue Collected.

Note 2

Includes recreational-site licenses, caterer's, special events and conditional contractor's permits.

APPENDIX B

STATE OF ALASKA
DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD
NUMBER OF LICENSES BY TYPE
Fiscal Years 1980, 1981 and 1982

<u>Types of License</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>
Pub	1	1	1
Beverage Dispensary	607	620	634
Club	61	63	65
Common Carrier	64	72	88
Restaurant	146	182	215
Roadhouse	20	-0-	-0-
Retail Store	431	438	445
Wholesale General	16	15	16
Wholesale Malt Beverage	6	7	7
Miscellaneous (Note 1)	<u>10</u>	<u>9</u>	<u>12</u>
<u>Total</u>	<u>1362</u>	<u>1407</u>	<u>1483</u>

Note 1

Includes recreational-site licenses, caterer's, special events and conditional contractor's permits.

APPENDIX C

STATE OF ALASKA
DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD
DESCRIPTION OF LICENSE TYPES AND FEES

<u>Source</u>	<u>Description</u>	<u>Annual Fee</u>
Application Fee	For each license application.	\$ 50
Beverage Dispensary	To sell or serve on the licensed premises alcoholic beverages for consumption on the licensed premises only.	1,250
Restaurant or Eating Place	To sell beer and wine for consumption only on the licensed premises.	300
Club	To sell alcoholic beverages for consumption only on the licensed premises.	600
Bottling Works	To operate a bottling works where beer and wine may be bottled and sold.	250
Brewery	To operate a brewery where beer is manufactured and bottled or barreled for sale.	500
Winery	To operate a winery where wine is manufactured and bottled or barreled for sale.	250
Package Store	To sell alcoholic beverages to a person in response to a verbal solicitation for purchase received from the person present on the licensed premises or in response to a written solicitation made by a person known to the licensee for a purchase to be received by the person making the solicitation.	750

<u>Source</u>	<u>Description</u>	<u>Annual Fee</u>
Retail Stock	To sell the remaining stock of a package liquor store when the owner wishes to close or terminate business. Sale may only be to licensed persons.	\$ 100
General Wholesale	To sell alcoholic beverages in the original package, and wine in bulk, in quantities of not less than five gallons to holders of licenses.	1,000 First: \$100,000 of sales plus \$500 - 10,000 on additional sales
Wholesale Malt Beverage and Wine	To sell malt beverages and wine in the original packages in quantities of not less than five wine gallons to holders of licenses.	200 First \$20,000 of sales plus \$300 - 10,000 based on additional sales
Distillery	To operate a distillery where alcoholic beverages are distilled and bottled or barreled for sale.	500
Community Liquor	Authorizes a municipality to operate a beverage dispensary or a package store or both subject to the same conditions and fees applicable to beverage dispensary or package liquor store licenses.	1,250 Beverage Dispensary 750 Package Store
Common Carrier Dispensary	To sell alcoholic beverages for consumption aboard a vehicle, boat, aircraft, or railroad buffet car licensed by the State or federal agency for passenger travel.	350 Per vehicle, boat, aircraft or railroad car
Recreational Site	To sell beer and wine at a recreational site during and one hour before and after a recreational event which is not a school event, for consumption on designated areas at the site.	400

<u>Source</u>	<u>Description</u>	<u>Annual Fee</u>
Pub	To se'll beer and wine for consumption only at designated premises located on the campus of an accredited college or university.	\$ 400
Caterer	Authorizes the holder of a beverage dispensary license to sell or dispense alcoholic beverages at conventions, picnics, social gatherings, sporting events or similar affairs held off the holder's licensed premises.	50
Special Events	To sell or dispense beer or wine for consumption at designated premises for a specific occasion and limited period of time. Only a nonprofit organization may acquire the permit.	50 Per day
Conditional Contractor	To sell beer or wine for consumption only on designated premises for one year from the date of issuance of the permit at construction sites which are located outside a city and inside the boundaries of a military or naval reservation.	600

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH 5
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

March 2, 1983

RECEIVED
MAR 02 1983
LEGISLATIVE
AUDIT

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, AK 99811

Dear Mr. Wilkerson:

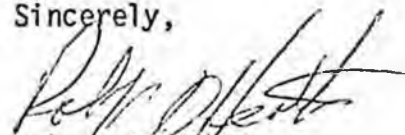
This letter is in response to your Recommendation No. 1 contained in your preliminary audit report of the Alcoholic Beverage Control Board dated December 15, 1982.

Without generating a lengthy dissertation about staff and budgetary limitations, utilization of present staff, and administrative/judicial due process, we generally believe your recommendation has merit. However, if we understand your perception of enforcement by the board to be criminally oriented, under present law heavy reliance on other state and local law authority is required, and no single agency could fill a void which the report implies exists.

The board at each and every monthly meeting evaluates its enforcement function through granting or denying license applications, sitting in informal conference, and reviewing hearing officer decisions. The board has scheduled "workshop" sessions during its two-day April meeting in Juneau and will review law and regulations in light of your opinion.

Thank you for the opportunity to respond.

Sincerely,


Robert D. Heath
Commissioner of Revenue

cc: Patrick L. Sharrock, Director
ABC Board

ABC Board Members

AMENDMENT #1

OFFERED IN THE HOUSE:

By: Judiciary Committee

To: _____ ^{SENATE} ~~HOUSE~~ BILL No. 208

SENATE BILL No. _____

PAGE: 1

LINE: 12

Delet 1987
insert 1984

ISSUES IN LONGEVITY BONUS LEGISLATION

Background

Last year the U.S. Supreme Court struck down Alaska's original Permanent Fund dividend distribution program. The Court ruled in the Zobel case that the program's cumulative residency requirements violated the Equal Protection Clause of the U.S. Constitution.

Within a month of the Zobel decision, Anchorage-area resident Rodney Vest challenged the Alaska longevity bonus (ALB) program on equal protection grounds. The program pays \$250 per month to all Alaska residents over 65 who: (a) resided in Alaska before Alaska achieved statehood on January 3, 1959; and (b) have resided in Alaska at least 25 years.

Vest is 68 years old and began his residence in Alaska three months after statehood. The court has certified his suit as a class action, which means that he represents all other individuals who might claim the longevity bonus program's residency requirements are unconstitutional.

Concerned that the lawsuit could force an immediate end to the program, the Legislative Council agreed last August with Vest to use its "best efforts" to obtain legislation addressing Vest's lawsuit in return for Vest's promise to stay the litigation until the end of the 1983 legislative session. Under the stay agreement, the Legislative Council promised to seek legislation which: (1) "treats equally" all one-year Alaska residents 65 or over; and (2) retroactively pays those individuals who have been denied bonuses in FY83.

If the legislation called for in the stay agreement is enacted during this regular session, the suit will be dismissed. If this legislation is not enacted, Vest's lawyers have announced their intention to continue the litigation and sue for retroactive payments for the class for back years -- perhaps back to 1972.

Issues

1. What are the chances the state will win in court?

The Legislative Council entered this agreement on the advice of the Department of Law and other counsel that the current law is unconstitutionally discriminatory. The

Department of Law has since described the program as indefensible. Virtually every attorney who has considered the subject believes the current law is unconstitutional and would be struck down by the courts.

The statute which created the program in 1972 is specifically non-severable; if any provision is struck down, the entire statute falls. If the court finds the program unconstitutional, the court will probably order all payments stopped.

2. What is the purpose of the longevity bonus program?

The 1972 legislation creating the program suggested four purposes:

(a) reward the past contributions of Alaska's pioneers;

(b) provide a financial incentive for Alaska's pioneers to remain in the state in the face of the state's high cost of living;

(c) retain the wisdom and experience of Alaska's pioneers; and

(d) compensate for past hardships -- such as the inability to vote in federal elections -- suffered by Alaska's pioneers.

The Zobel case and other recent constitutional decisions strongly imply that these purposes cannot legally sustain the program, either because the purposes are impermissible, or because the program's methods are not rationally related to these purposes. The program's supporters often offer two additional purposes which -- unlike the current law -- apply to a program which makes payments to all senior citizens, not just pioneers. These additional purposes are:

(e) diversify the age structure of Alaska's population by encouraging elderly people to live in the state; and

(f) provide income supplements and relief to Alaska's elderly, who have a lower average income than the rest of the adult population.

3. What are the options?

Numerous approaches have been suggested for this problem. They include:

(a) continue to litigate, making zero or minor changes in the current law;

(b) continue to litigate, but make the statute severable and amend the law to provide for a more likely constitutional

"back-stop" plan to be triggered by an injunction against the program;

(c) open up the program to all one-year Alaska residents over 65, and then close it in FY84, giving all recipients a "grandfather" right to continue receiving benefits;

(d) open up the program to all one-year residents over 65 on an indefinite basis;

(e) phase out the longevity bonus program by reducing the monthly payments each year, either with or without simultaneous gradual increases in public assistance;

(f) open up the program -- with reduced benefits -- to all one-year residents over 65 on a temporary basis while the Legislature and administration investigate other options;

(g) phase out the longevity bonus program by increasing the age of eligibility each year;

(h) end the program;

(i) replace the longevity bonus program with an annuity program, either immediately or gradually;

(j) "buy out" all one-year Alaska residents over 65 as of the end of FY84 by paying them the amount of payments they would have received over their likely lifespans, and then end the program;

(k) replace the longevity bonus program with comprehensive health insurance for Alaska's elderly; and

(l) limit longevity bonus payments to those elderly individuals who can prove that the payments would help relieve especially heavy financial pressures to relocate out of the state.

The first six options -- fight the lawsuit, fight the lawsuit with a backstop trigger, grandfather one-year resident senior citizens, open the program indefinitely, phase out the program, and open up the program temporarily while considering the long-run options -- are receiving the most attention in the session's final days.

The fourth option -- open the program indefinitely -- is contained in HB36, SB200, and SB215. The first two bills would use General Fund monies to finance the opened-up program. SB215, which has passed the Senate, would use 12.5 percent of the Permanent Fund's annual income for this purpose.

Because current law earmarks one-half of the Fund's income to pay Permanent Fund dividends, passage of SB215 would reduce annual dividends by 25 percent. (The other half of the

interest earnings are re-invested in the Fund so as to protect it against inflation.) This year, the dividend would be cut from about \$350 to about \$250.

The administration has circulated a proposal to implement the fifth option, phase-out. This proposal would reduce longevity bonus payments by \$25 a month each year for 10 years -- thus eliminating the program -- while simultaneously increasing old age assistance by the same amount.

4. Population issues.

Population estimates for Alaska's elderly vary widely, both as to the number of them today and their likely growth rate. Calculations made from estimates provided by the Department of Revenue and Dr. Scott Goldsmith of the University of Alaska indicate, however, that almost 20,000 Alaskans will be eligible for this program in FY86. This is double the 9,731 current recipients.

More controversial still is the impact of induced in-migration and reduced out-migration caused by an opened-up longevity bonus program itself. This is the "X factor" in the population equation, because no one can predict the long-run impact of paying \$3,000 to each senior citizen (\$6,000 per couple).

What is clear is that Alaska is a much different place in 1983 than it was in 1972. The state is also changing all the time in ways that make this a more attractive place for the elderly to live. The cost of living is lower, relative to costs in the Lower 48, than it used to be. The state also has more amenities such as improved medical facilities, improved transportation services (such as bus systems), and higher-quality television.

Elderly people are thus now more likely to stay in the state as they get older, and even more likely to come from the Lower 48 to live, particularly if they have family here. Senior citizens have doubled in number in the past decade, a rate of growth substantially greater than that of the rest of the population.

5. Impacts of alternatives.

(a) Impacts on future litigation.

The current law is clearly unconstitutional, so any strategy predicated on fighting the lawsuit will result in defeat. If the Legislature elects to litigate, attorneys familiar with the case predict that defeat will come in September when the Superior Court judge hearing the case rules the law unconstitutional.

Legal opinions are divided on the constitutionality of the "grandfather" option. Opening up the class of eligible recipients to include people over 65 who were one-year residents as of FY84 would resolve the Vest suit. The Department of Law thinks, however, that it may well bring another one -- which would probably be successful. Several private attorneys with a record of successful constitutional challenges have also said the grandfather plan would be vulnerable to attack on equal protection grounds. On the other hand, Legislative Counsel and private counsel retained by the Senate to research constitutional residency questions believe that while the question is certainly debatable, analogous precedents suggest the grandfather plan would be found constitutional.

(b) Impacts on recipients.

All but three of the plans outlined above will lead to immediately reduced benefits for existing recipients. The exceptions are the options of continuing to litigate, grandfathering, and indefinitely opening up the program at \$250/month of General Fund monies. Continuing to litigate, however -- at least without making the statute severable or adding a backstop constitutional plan triggered by the first adverse court ruling -- will almost certainly lead to a sudden termination of the program. Most lawyers predict that the judge hearing the case will not only find the current law unconstitutional, but will also order payments stopped pending appeal.

SB215 does not contain an explicit reduction of benefits, but it will result in reduced longevity bonus payments by holding total payments to a total of 12.5 percent of Permanent Fund income. Calculations based on the Revenue-Goldsmith estimates indicate projected monthly payments over the next five years will be:

FY84	\$204
FY85	\$142
FY86	\$184
FY87	\$224
FY88	\$243

The Department of Administration's projections track these estimates closely. SB215 co-sponsor Sen. Bill Ray, however, accepts neither these figures nor the Department's. The report on SB215 provided by the Senate Ad Hoc Committee on Residency predicts that under the legislation longevity bonus payments will fall below the current \$250/month in at least one year, FY85.

Phasing out the longevity bonus program while increasing public assistance would leave a bad taste in the mouth of many recipients, who feel the bonus is not "welfare" but a reward for past contributions to Alaska. On the other hand, phasing out the bonus program without simultaneously increasing public

assistance would hurt many of Alaska's poorest people, some of whom depend on this monthly check. Other recipients are apparently among the wealthiest residents of the state.

Finally, SB215 would reduce the Permanent Fund dividends of Alaska's elderly by 25 percent, just as it would reduce the annual dividends of all Alaskans. Even though the elderly would receive Permanent Fund income through their longevity bonus payments, the link between dividends and Fund performance represented by the dividends might be diluted for them as well as for other Alaskans.

(c) Impacts on the state budget.

The uncertainty about the numbers of elderly Alaskans today and in the future makes estimates of long-run costs a risky enterprise. It is clear, however, that the price tag will be high. The following is a rough approximation of the total cost of each option over the next 10 years:

10-year phase-out of ALB without increases in public assistance	\$230,000,000
Current program	\$460,000,000
10-year phase-out of ALB with increases in public assistance	\$540,000,000
SB215 (uses 12.5 percent of Permanent Fund income to open up ALB program indefinitely to all one-year residents over 65)	\$675,000,000
Open up ALB program indefinitely to all one-year residents over 65 at \$250/month	\$775,000,000

(The cost of grandfathering at current payment levels has not been estimated, but it would be lower than opening up the program indefinitely and will decrease -- rather than increase -- each year after FY84.)

Choosing to fight the Vest lawsuit also endangers the public treasury. As stated above, Vest's attorneys have announced their intention to press for retroactive payments going back farther than FY83 if the Legislature does not abide by the stay agreement.

These retroactive payments could cover the entire decade the program has been in effect, and could amount to \$40-80 million dollars. Enrolling those individuals owed retroactive payments for the past 10 years would also pose substantial problems in administration, as some could be in Arizona or Australia today.

(d) Impacts on state policy.

Opening up the program to all one-year residents 65 or over will increase Alaska's population above what it would be otherwise, although no one can say by how much. This increased population of elderly would have some beneficial effects; it would allow extended families to stay or come together, for example, thereby reducing the sense of isolation felt by many Alaskans today. There may, however, be significantly cheaper methods of increasing the numbers of senior citizens in Alaska than paying more than three quarters of a billion dollars in the next 10 years.

SB215 also carries more than the obvious cost of reducing every Alaskan's annual Permanent Fund dividend by 25 percent. The Senate bill would also increase Alaska's elderly population, although the "ceiling" represented by 12.5 percent of the Permanent Fund's income would reduce payments and thus not cause as much population growth as simply opening up the program at the current \$250/month.

Critics raise three additional concerns about SB215:

--The taking of 12.5 percent of Permanent Fund income may create a precedent for other groups wanting their own share of the Fund's income.

--Taking 25 percent of everyone's Permanent Fund dividends to fund a program which makes payments to about three percent of Alaskans seems inequitable to some. Although SB215 supporters argue that all Alaskans will eventually receive longevity bonus payments, this is clearly untrue, because some will die before reaching 65.

--Using Permanent Fund income to finance the longevity bonus program does not, as SB215 supporters claim, "take Alaska's senior citizens out of the budget process," because the Legislature must still appropriate the payments each year.

6. A proposal

Two facts stand out from the current mass of confusion surrounding the longevity bonus program: (a) it will be found unconstitutional; and (b) almost everyone believes that some program meeting the special needs of some of Alaska's senior citizens should be retained, but there is little agreement on what that program should look like.

With these points in mind, the Legislature should consider a plan which would maintain the program's payments at \$250/month in the short run, and search for a long-run solution.

During the next two years, the Legislature would study the program's public policy goals, the elderly's current population and future growth rates, and long-term fiscal feasibility of various options. A legislative committee should be charged with investigating policies for the elderly used in other states and nations, and take testimony from a broad cross-section of the Alaska public through statewide hearings.

(a) Advantages of proposal.

This plan has five major advantages:

--It would resolve the Vest lawsuit, thereby avoiding the possibility of a court finding the program unconstitutional and ordering its immediate termination.

--It would avoid steep reductions in payments, as it would be unfair to cut off current recipients without warning. This plan provides higher annual incomes for Alaska's senior citizens than does the Senate plan in each of the next two years. FY84 figures follow:

	<u>House</u>	<u>Senate</u>
Longevity bonus	\$3000	\$2448
Permanent Fund dividend	350	260
	<hr/>	<hr/>
	\$3350	\$2708

--It steers clear of the special dedications of Permanent Fund income the Legislature has thus far avoided.

--It recognizes reality. The courts are forcing the Legislature to change the law. Alaska's elderly population is increasing significantly, and will increase faster in the years to come while oil revenues decline.

--It buys time for the Legislature, the administration, and the public to consider the long-run options for dealing with this complex problem without locking us into a "solution" we may soon regret.

(b) Disadvantages of proposal.

This plan's great disadvantage is also one of its greatest advantages. Delay can allow either reflection or inertia. The work needed to find a long-range solution to this problem might not get done.

Another significant disadvantage is immediate cost. FY84 costs could climb above the \$30.2 million currently budgeted by as much as two-thirds.

Finally, there will be some administrative problems caused by the need to verify several thousand claims for FY83 retroactive payments. This administrative difficulty can be reduced by the Legislature's first acknowledging the state's liability for the payments, but delaying the appropriation until FY85. This will allow the Department of Administration time to enroll retroactive claimants and present an accurate budget to the Legislature at the beginning of the 1984 session.

(c) Where do we go from here?

Alaska is a special place, and that special quality comes less from its scenic beauty or natural resources than from the people who choose to live here.

The special quality of Alaskans is obvious in our spirit of innovation. That innovative spirit is demonstrated by three unique public institutions: the Permanent Fund, the Permanent Fund dividends, and the longevity bonus payments. All three are too important to have their fates decided in a rush.

SECTIONAL ANALYSIS OF PROPOSED HCS CS SB 215 (FINANCE)

Title: Same as Senate Title

Sec. 1. Establishes longevity bonus account as a separate account of the permanent fund after July 1, 1985. 12.5 % of the income of the permanent fund is credited to the account.

The bonus account is invested and interest returns to the account.

Sec. 2. After July 1, 1985, the Commissioner of Revenue transfers 37.5 % of undistributed income account to the permanent fund dividend account.

Sec. 3. This section is technical --- the wording of the existing law is exactly the same; the only difference is that this is now subsection (d), due to new addition of subsection (c) in section 2.

Sec. 4. Establishes eligibility qualifications for longevity bonus recipients. Qualifications are: 65 years old or over and residence on or before Statehood. A person can only continue to receive bonuses as long as the person remains a state resident. (Resident is defined in section 9.)

Sec. 5. After July 1, 1985, the amount of the bonus is \$250 or an amount equal to $8 \frac{1}{3}$ % of the amount credited to the bonus account, exclusive of earnings, divided by the number of qualified applicants.

Sec. 6. Rewrites the "absence" section of current law to remove gender references and otherwise read more smoothly.

Sec. 7. Creates the Alaska Longevity Bonus Fund, consisting of money appropriated by the legislature and all other funds from other sources. States that income and interest from investment also are included in the fund. General fund money for the first two years of the program would go into the account and earn interest to pay bonuses, and after July 1, 1985, the permanent fund transfer would go into the account. The Commissioner of Administration is the administrator of the fund.

Sec. 8. Exact same language of Senate bill. Provides for access to records in order to enforce eligibility requirements, but also assures an element of privacy.

Sec. 9. Defines resident as an individual who is physically present in the state with the intent to remain here indefinitely. A person demonstrates this intent only by maintaining a principal place of residence for one year and by providing other proof that may be required by regulation.

Sec. 10. Declares the legislature's findings and purposes for continuation of the longevity bonus program.

Sec. 11. States that the legislature intends to pay for bonuses in FY 84 and 85 out of the general fund.

Sec. 12. States that the amount of the bonus for FY 84 and 85 is \$250.

Sec. 13. Provides that if any section of this act is declared unconstitutional, than the Department of Administration will adopt a new program with the most stringent residency requirements that are constitutionally allowable.

Sec. 14. Provides a cut off date of January 3, 1984, for entrance into the program.

Sec. 15. Repeals the nonseverability clause of the current law and the old definition of "domicile".

Sec. 16. Provides for an immediate effective date.

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

1 IN THE SENATE

BY RAY AND KERTTULA

2

SENATE BILL NO. 215

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act authorizing the use of Alaska permanent fund
7 income to pay longevity bonuses; amending the longev-
8 ity bonus program and the permanent fund dividend
9 distribution program; and providing for an effective
10 date."

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

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

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

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

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

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

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

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

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

4 Sec. 47.45.010 PERSONS WHO MAY QUALIFY FOR LONGEVITY BONUS.

5 (a) A person who is 65 years of age or over, who has been a resident
6 of the state for at least one year immediately preceding the applica-
7 tion for a longevity bonus under this chapter [WAS DOMICILED IN THE
8 TERRITORY ON OR BEFORE JANUARY 3, 1959 AND WHO HAS MAINTAINED A CON-
9 TINUOUS DOMICILE IN THE TERRITORY OR STATE FOR 25 YEARS] may apply to
10 the commissioner of administration for qualification to receive a
11 monthly bonus [OF \$250].

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

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

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

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

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

24 Sec. 47.45.030. ABSENCE FROM THE STATE. After qualification a
25 [A] recipient shall notify the commissioner of administration when the
26 recipient [HE] expects to be absent from the state if the absence is
27 for a continuous period that exceeds 30 days. After that notifica-
28 tion, the recipient shall no longer receive bonuses from the Depart-
29 ment of Administration after the [HIS] last regularly approved monthly

1 application. Upon returning [HIS RETURN] to the state the recipient
2 [HE] may again make application for a bonus. Whenever the absence is
3 for a continuous period that exceeds 180 days the recipient shall be
4 disqualified from receiving bonuses for the next 12 calendar months
5 after returning [HIS RETURN] to the state. However, when the commis-
6 sioner of administration determines a period of absence is beyond the
7 control of the recipient, the recipient [HE] may not be disqualified,
8 if the recipient [HE] still otherwise qualifies upon returning [HIS
9 RETURN] to the state. Continual absences from the state, even though
10 reported, and failure to notify the commissioner of an expected ab-
11 sence may be grounds for disqualification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Offered: 4/7/83
Referred: Finance

Original sponsors: Ray and Kerttula

1 IN THE SENATE

BY THE AD HOC COMMITTEE
ON RESIDENCY

2

CS FOR SENATE BILL NO. 215 (Residency)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

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

7

8

9

10

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

12

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

13

Sec. 37.13.147. LONGEVITY BONUS ACCOUNT. The longevity bonus

14

account is established as a separate account in the Alaska permanent

15

fund. Notwithstanding the provisions of AS 37.13.145, 12.5 percent of

16

the income of the permanent fund earned during the fiscal year ending

17

on June 30 of the current year that is available for distribution

18

under AS 37.13.140 shall be credited to the longevity bonus account.

19

(b) Money in the longevity bonus account shall be invested in

20

investments authorized under AS 37.13.120. The longevity bonus ac-

21

count shall be credited with earnings at an interest rate equal to the

22

average rate of interest earned on the Alaska permanent fund.

23

(c) The legislature may annually appropriate an amount suffi-

24

cient to pay monthly longevity bonuses for the subsequent fiscal year

25

under AS 47.45.010(d) from the longevity bonus account to the Alaska

26

longevity bonus fund established under AS 47.45.090.

27

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

28

(b) Notwithstanding any contrary provision of law, each year the

29

commissioner shall transfer to the dividend fund 37.5 [50] percent of

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

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

4 Sec. 47.45.010. PERSONS WHO MAY QUALIFY FOR LONGEVITY BONUS.

5 (a) A person who is 65 years of age or over, who has been a resident
6 of the state for at least one year immediately preceding the applica-
7 tion for a longevity bonus under this chapter [WAS DOMICILED IN THE
8 TERRITORY ON OR BEFORE JANUARY 3, 1959 AND WHO HAS MAINTAINED A CON-
9 TINUOUS DOMICILE IN THE TERRITORY OR STATE FOR 25 YEARS] may apply to
10 the commissioner of administration for qualification to receive a
11 monthly bonus [OF \$250].

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

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

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

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

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

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

1 for a continuous period that exceeds 30 days. After that notifica-
2 tion, the recipient shall no longer receive bonuses from the Depart-
3 ment of Administration after the [HIS] last regularly approved monthly
4 application. Upon returning [HIS RETURN] to the state the recipient
5 [HE] may again make application for a bonus. Whenever the absence is
6 for a continuous period that exceeds 180 days the recipient shall be
7 disqualified from receiving bonuses for the next 12 calendar months
8 after returning [HIS RETURN] to the state. However, when the commis-
9 sioner of administration determines a period of absence is beyond the
10 control of the recipient, the recipient [HE] may not be disqualified,
11 if the recipient [HE] still otherwise qualifies upon returning [HIS
12 RETURN] to the state. Continual absence from the state, even though
13 reported, and failure to notify the commissioner of an expected ab-
14 sence may be grounds for disqualification.

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

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

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

22 (3) "resident" or "resident of the state" means an indi-
23 vidual who is physically present in the state with the intent to
24 remain in the state indefinitely and to make a home in the state. A
25 person demonstrates the requisite intent only by maintaining a princi-
26 pal place of abode in the state for the one year required by AS 47.-
27 45.010(a) and by providing other proof of intent the commissioner may
28 require by regulation, including proof that the person is not claiming
29 residency outside the state or obtaining benefits under a claim of

1 residency outside the state.

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

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

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

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

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

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

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

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

27 * Sec. 10. Sections 3 and 7 of this Act are retroactive to July 1,
28 1982.

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

Offered: 4/30/83
Referred: Finance

Original sponsors: Ray and Kerttula

1 IN THE SENATE BY THE RULES COMMITTEE

2 CS FOR SENATE BILL NO. 215 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing the use of Alaska permanent fund
7 income to pay longevity bonuses; amending the longev-
8 ity bonus program and the permanent fund dividend
9 distribution program; and providing for an effective
10 date."

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

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

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

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

23 (c) The legislature may annually appropriate an amount suffi-
24 cient to pay monthly longevity bonuses for the subsequent fiscal year
25 under AS 47.45.010(d) from the longevity bonus account to the Alaska
26 longevity bonus fund established under AS 47.45.030.

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

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

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

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

4 Sec. 47.45.010. PERSONS WHO MAY QUALIFY FOR LONGEVITY BONUS.

5 (a) A person who is 65 years of age or over, who has been a resident
6 of the state for at least one year immediately preceding the applica-
7 tion for a longevity bonus under this chapter [WAS DOMICILED IN THE
8 TERRITORY ON OR BEFORE JANUARY 3, 1959 AND WHO HAS MAINTAINED A CON-
9 TINUOUS DOMICILE IN THE TERRITORY OR STATE FOR 25 YEARS] may apply to
10 the commissioner of administration for qualification to receive a
11 monthly bonus [OF \$250].

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

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

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

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

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

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

1 for a continuous period that exceeds 30 days. After that notifica-
2 tion, the recipient shall no longer receive bonuses from the Depart-
3 ment of Administration after the [HIS] last regularly approved monthly
4 application. Upon returning [HIS RETURN] to the state the recipient
5 [HE] may again make application for a bonus. Whenever the absence is
6 for a continuous period that exceeds 180 days the recipient shall be
7 disqualified from receiving bonuses for the next 12 calendar months
8 after returning [HIS RETURN] to the state. However, when the commis-
9 sioner of administration determines a period of absence is beyond the
10 control of the recipient, the recipient [HE] may not be disqualified,
11 if the recipient [HE] still otherwise qualifies upon returning [HIS
12 RETURN] to the state. Continual absences from the state, even though
13 reported, and failure to notify the commissioner of an expected ab-
14 sence may be grounds for disqualification.

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

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

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

22 (3) "resident" or "resident of the state" means an indi-
23 vidual who is physically present in the state with the intent to
24 remain in the state indefinitely and to make a home in the state. A
25 person demonstrates the requisite intent only by maintaining a princi-
26 pal place of abode in the state for the one year required by AS 47.-
27 45.010(a) and by providing other proof of intent the commissioner may
28 require by regulation, including proof that the person is not claiming
29 residency outside the state or obtaining benefits under a claim of

1 residency outside the state.

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

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

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

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

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

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

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

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

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

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

4 * Sec. 11. Sections 3 and 7 of this Act are retroactive to July 1,
5 1982.

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

Offered: 5/5/83
Referred: Rules

Original sponsors: Ray and Kerttula

1 IN THE SENATE BY THE FINANCE COMMITTEE
2 CS FOR SENATE BILL NO. 215 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing the use of Alaska permanent fund
7 income to pay longevity bonuses; amending the longev-
8 ity bonus program and the permanent fund dividend
9 distribution program; and providing for an effective
10 date."

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

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

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

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

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

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

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