

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984

2990

HSA

SB 186

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SB 227

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1 of funds in other educational matters." 2 Proceedings of the
3 Alaska Constitutional Convention 1514. Delegate Armstrong then
4 made reference to special cases where children in homes or
5 hospitals or other private institutions would not be prohibited
6 from receiving aid under the section. Id. at 1514-15. The
7 thrust of these comments seems to be that aid to a private
8 organization or institution is not prohibited, even if it carries
9 out some educational assistance, as long as it is not primarily
10 an educational institution.

11 It is also important to keep in mind, as noted above
12 at 3-4, that a showing of unconstitutionality must be "manifest"
13 to overcome the presumption of validity to which validly enacted
14 statutes are entitled.

15 C. The Challenged Appropriations

16 1) FAAC 11

17 The appropriation challenged in FAAC 11 reads
18 as follows:

19 The sum of \$100,000 is appropriated
20 from the general fund to the municipal
21 grant account for payment as a grant
22 to the Municipality of Anchorage for
23 a grant to the Alaska Black Leadership
24 Conference for community-based
25 education enrichment.

26 § 106, ch. 50, SLA 1980 at p. 4. The grant was to finance a six
27 week summer program for 200 minority students. Leg. Ex. 11 C.

28 The Alaska Black Leadership Conference is
29 not properly described as an educational institution, as
30 constitution uses that phrase. While the organization under-
31 takes some educational activities, the evidence submitted by the
32 parties suggests that it may accurately be described as an
umbrella organization for several groups which seeks the advance-
ment, in several spheres, of Alaska's black citizens. Its
purposes include "promoting and stimulating cohesiveness within
the Black Community." Gov. Ex. 11a. Member organizations

1 include the Alaska Black Caucus, the Alaska Women's Civic and
2 Social Club, the Black Coalition, the Ministerial Alliance,
3 Mothers for Christian Fellowship, both the Anchorage and
4 Fairbanks branches of the NAACP, the Greater Fairbanks Black
5 Caucus, and diverse other groups. Leg. Ex. 11C. The purposes
6 and powers of the Alaska Black Leadership Conference, as ex-
7 pressed in its articles of incorporation, embrace "charitable,
8 educational, civic, literary and cultural" purposes. Gov. Ex.
9 11a (art. III). Under these circumstances, it would not appear
10 appropriate to conclude that the Alaska Black Leadership Con-
11 ference is a "private educational institutio." within the meaning
12 of the constitution.

13 In some instances, of course, it might be
14 appropriate to look through a corporate structure, for example,
15 if the organization undertook only educational functions, to
16 determine if it really was no more than an educational institu-
17 tion. But that does not appear to be the case here. While the
18 Governor hints in that direction, noting that the organization
19 was incorporated in September, 1980, after the appropriation in
20 question was passed, one of the exhibits submitted by the
21 Governor shows that the organization was functioning at least
22 since 1978. Gov. Ex. 11b. Neither party has raised a question
23 of fact in this regard, and both parties seek resolution by
24 summary judgment. In these circumstances, and without even the
25 allegation of a genuine issue of material fact, this court is
26 not inclined to look behind the exhibits presented to attempt to
27 find a factual dispute concerning the organization's activities.

28 Because the Alaska Black Leadership Con-
29 ference is not a "private educational institution", the appropri-
30 ation of public money to it does not offend article VII, section
31 1 of the Alaska Constitution.

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2) FAAC 25

The appropriation challenged in FAAC 25 reads as follows:

Fairbanks North Star Borough
Association for Education
of Young Children \$20,000
For child care equipment

§ 286, ch. 50, SLA 1980 at p. 53.

The Fairbanks Association for the Education of Young Children is a private non-profit organization comprised of nine day care and pre-school organizations in the Fairbanks area. Leg. Ex. 25C. Its goal is "to provide information and support for young children". Gov. Ex. 25a. It sought, and obtained in the challenged appropriation, \$15,000 for play equipment and \$5,000 for audio-visual equipment, to be used by its various member organizations. Leg. Ex. 25C.

As with the previous appropriation to the Alaska Black Leadership Conference, the issue is whether the Fairbanks Association for the Education of Young Children is a private educational institution. This question is substantially closer than that involving the Alaska Black Leadership Conference in the preceding appropriation.

Supporting the Governor is the fact that the name of the association suggests that it is organized primarily for educational purposes. Additionally, a letter to Representative Brian Rogers from the vice president of the organization, Gov. Ex. 25a, suggests that education is the primary purpose of the Fairbanks Association for the Education of Young Children. For example, it refers to the goal of development of "physical and cognitive skills" of children, refers to the "teacher/child ratio" in its day care centers, and refers to the fact that the day care centers provide care for both preschool and "young school age children".

1 The Legislature argues that the primary
2 function of the Fairbanks Association for the Education of Young
3 Children is to provide, through its member day care centers,
4 child care to pre-school children. The Legislature contends that
5 "FAEYC is a non-profit organization whose goal is to provide
6 information and support for affiliate day care centers." Leg.
7 Ex. 25A. The grant was used to purchase play equipment and
8 audio-visual equipment for child care centers affiliated with
9 FAEYC.

10 The Legislature seeks to distinguish day care
11 centers or child care centers from "private educational institu-
12 tions" in two ways. First, the former are regulated by the
13 Department of Health and Social Services. See 7 AAC 50.120-775.
14 Second, expenses for child care are tax deductible to parents,
15 and, under the Internal Revenue Code, are considered employment
16 related expenses, while private school tuition is not a deduct-
17 ible expense. Thus, the Legislature argues, day care may be
18 distinguished from education. The Legislature also relies upon
19 a lower court decision from Ohio which held that a day care center
20 is not included within the term "educational use" in a zoning
21 ordinance which provided that permitted uses in a residential
22 district include "educational use, public library or museum."
23 Staker v. Brown, 324 N.E.2d 793, 795 (Ohio Com. Pl. 1974). The
24 Legislature concludes that "any educational benefits conferred
25 on children in day care centers is secondary to their basic
26 function which is to allow parents to participate in the work
27 force."

28 A further argument advanced by the Legis-
29 lature is based on the existence of AS 44.33.240-257, which
30 authorizes the Department of Commerce and Economic Development to
31 make loans which directly benefit child care facilities. If aid
32 to private day care centers constitutes prohibited public benefit

1 to "private educational institutions", the Legislature argues,
2 AS 44.33.240 et seq. must be unconstitutional also.

3 As noted above, this issue is closer than the
4 one raised by the grant of the Alaska Black Leadership Con-
5 ference. On balance, the arguments of the Legislature are more
6 persuasive. As noted in the opinion of the Alaska Supreme Court
7 in Sheldon Jackson College v. State, 599 P.2d 127 (Alaska 1979),
8 the purpose of article VII, section 1 was "to support and protect
9 a strong system of public schools." Id. at 129. It seems
10 likely that these appropriations would not frustrate that
11 purpose. The majority of the children to be benefited by the
12 appropriation at issue here are not school age children, and
13 those who are of school age are not diverted from the public
14 schools by FAEYC. There is presumably no or little competition
15 from the public school system for these dollars. Indeed, it
16 might well be argued that expenditure of these funds enhances
17 the public school system, in helping to insure that children who
18 begin formal schooling will have had benefits provided to them
19 during their pre-school years. Moreover, the statement by
20 Delegate Armstrong, quoted above at 60, to the effect that the
21 section was not intended to "prohibit the use of funds in other
22 educational matters", 2 Proceedings of the Alaska Constitutional
23 Convention 1914, suggests that the appropriation is valid.

24 Under all of these circumstances, and
25 remembering the heavy burden that is faced by one who challenges
26 the constitutionality of a validly enacted statute, this court
27 concludes that the Fairbanks Association for the Education of
28 Young Children was not a "private educational institution" as
29 that term is used in the Alaska Constitution. For that reason,
30 the appropriation is not prohibited by article VII, section 1 of
31 that document.

32 ////////////////

1 V. UNCONSTITUTIONAL DELEGATION OF POWER

2 The Governor challenges one item in one of the ap-
3 propriation acts in question on the theory that it is an un-
4 constitutional delegation of power. In § 50, ch. 120, SLA 1980
5 at p. 65, the Legislature provided:

6 The sum of \$5,267,248 shall be reduced
7 from the total of the personal services
8 line items contained in the appropriations
9 made by this Act for operating expenditures
10 for the fiscal year beginning July 1, 1980,
11 and ending June 30, 1981. The total reduction
shall be from general fund appropriations
and reductions shall be equitably allocated
among the state agencies by the division of
budget and management, Office of, the Governor.

12 The Legislature's delegation of the power to decide how the
13 reduction should specifically be allocated among state agencies
14 is challenged by the Governor as an invalid delegation of
15 legislative authority to the Governor. ^{23/}

16 The Legislature argues that "[a] delegation of dis-
17 cretion to the executive branch of government is constitutional
18

19 23. In his Memorandum in Support of Summary Judgment, at
20 p. 64, the Governor states: "This item was vetoed by the
21 governor. However, the court has ruled that this veto was
22 improperly exercised. Mem. decision motion for partial judgment
23 on pleadings, February 26, 1982." This court has reviewed the
24 Memorandum of Decision of February 26, 1982, and can find no
25 indication in the memorandum that the court ruled that the
26 Governor's item veto power was improperly exercised regarding
27 this item. That Memorandum of Decision was issued by The
28 Honorable Thomas E. Schulz, to whom this case was assigned for
29 a brief period following Judge Stewart's retirement. Therefore,
30 this court also reviewed Judge Stewart's Memorandum of Decision
31 of December 2, 1981, upon which Judge Schulz's Partial Judgment
32 was based, and could not find any indication that Judge Stewart
had ruled that the Governor's veto was improperly exercised in
regard to this item in that document, either. Therefore, the
Governor's statement that "the court has ruled that this veto was
improperly exercised" appears to be incorrect.

33 Technically, the matter may be moot. However, under
34 the "public interest" exception to the mootness doctrine, In Re
35 G.M.B., 473 P.2d 1006, 1008, (Alaska, 1971), it is appropriate
36 to resolve this matter. That is, this dispute is likely a re-
37 curring one, and its nature is such that the mootness doctrine,
38 if applied, would effectively preclude review of the issue.

1 where the Legislature provides sufficient standards for the
2 exercise of that discretion." The Legislature notes that the
3 approach it took was an alternative to merely reducing all
4 personal services line items by one percent, which it clearly
5 had the power to do, and that the Governor was given "specific
6 criteria sufficiently definite to pass constitutional muster,"
7 that is, the direction that the reductions be "equitably al-
8 located" among the state agencies.

9 In DeArmond v. Alaska State Development Corp., 376 P.2d
10 717 (Alaska 1972), the Supreme Court cited with approval a
11 treatise to the effect that "a legislature may delegate its non-
12 legislative functions and confer discretion in the administration
13 of the law, but may not delegate purely legislative powers in the
14 absence of constitutional authorization." Id. at 723 n.16, citing
15 16 CJS Constitutional Law § 133 (1956). The Legislature has, in
16 this case, argued often and persuasively that the spending power
17 is a legislative power, and only a legislative power (with the
18 Governor playing a limited constitutional role through the
19 exercise of the veto). Thus, unless the Legislature can point
20 to a specific constitutional authorization to delegate away part
21 of that power, the item in question must be an invalid delegation.

22 The Legislature points to no such constitutional pro-
23 vision. It argues at length that this case is distinguishable
24 from a case cited by the Governor, but that argument misses the
25 mark. The case in question, State of New Mexico, ex rel.
26 Holmes v. State Board of Finance, 367 P.2d 929 (N.M. 1961), held
27 invalid a statute delegating discretion to an executive agency
28 to apportion reductions in appropriations. The Legislature
29 attempts to distinguish Holmes on the grounds that the reductions
30 there were non-mandatory, non-specific, and there was no
31 direction as to which type of appropriations should be reduced.
32 This exercise of distinguishing Holmes overlooks the Governor's

1 central argument that the power in question here, the spending
2 power, cannot be delegated at all -- even if standards for the
3 exercise of the power are set out with great particularity by
4 the legislature.

5 Even assuming that the Legislature could show that
6 this power may be delegated, it is questionable whether the
7 standards set out in the act in question are specifically
8 definite. An almost identical provision in a general ap-
9 propriation bill in 1963 was the subject of an attorney general
10 opinion in this state. The provision in question read as
11 follows:

12 The total amount appropriated from the
13 general fund by section 6 of this Act
14 is reduced by the amount of \$900,000.
15 The apportionment of this reduction
16 shall be made by the Governor from among
17 the sums appropriated to the departments
18 of the executive branch.

19 § 7, CSMB 34 (1963). This provision specified exactly the
20 amount to be reduced, directed the Governor to make the re-
21 duction, and said that the reduction should be apportioned
22 among the executive departments. The only difference between it
23 and the item in the instant case is that it did not decree an
24 "equitable" allocation (though that might be inferred from the
25 use of the word "apportionment"), and it was not restricted to
26 personal services items. This almost identical provision was,
27 in the opinion of the attorney general, unconstitutional, for
28 the reason that it was an improper delegation of legislative
29 power to the executive. The opinion relied to some extent on
30 Holmes, supra, and noted that Holmes "was based on the more
31 specific grounds, also applicable to CSMB No. 34, that there
32 was a lack of sufficient standards to guide the [executive] in
its determinations." 1963 Opn. Atty. Gen. No. 9, April 9, 1963,
at 3. This court agrees that a second basis for striking down
the item in question would be a lack of sufficient standards to

1 guide the executive, even assuming that the power could be
2 delegated at all.

3 CONCLUSION

4 For the reasons set out above, the challenged appropriations
5 are variously upheld or invalidated as noted above.

6 Plaintiffs shall prepare a judgment in conformity with the
7 foregoing opinion.

8 DONE at Juneau, Alaska, this 22 day of May, 1983.

9
10
11 Walter E. Carpeneti
Superior Court Judge

12 CERTIFICATION

13 This is to certify that on the above date I provided a copy
14 of the above Memorandum of Decision to:

15 Theodore E. Fleischer, Esq.
16 Gordon E. Evans, Esq.
17 James L. Baldwin, Esq.

18
19 D. J. ...
Secretary to the Judge

STATE OF ALASKA
FISCAL NOTE

Revision Date 1983

I. REQUEST

Bill/Resolution No.: SB 186
Title: Named Recipient Grants
Sponsor: Senator Sackett
Requestor: Senate C&RA

II. FISCAL DETAIL

Agency Affected: DCRA
Program Category Affected: Development
BRU, Program of Subprogram(s) Affected: LGAD

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANIS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

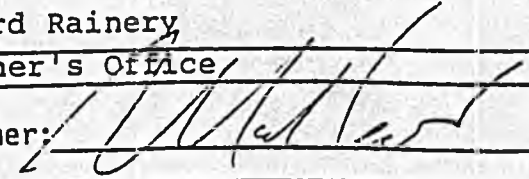
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard Rainery Phone: 465-4703
 Division: Commissioner's Office Date: 3/25/93
 Approved by Commissioner:  Date: _____
 Department: _____

Distribution:

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

SB 469 cont'd

Senator Vic Fischer moved for unanimous consent for the adoption of the State Affairs Committee Substitute offered on page 2539. Without objection, FOR SENATE BILL NO. 469 (SA) was adopted.

CS FOR SENATE BILL NO. 469 (SA) was read the second time.

Senator Ray moved and asked unanimous consent that CS FOR SENATE BILL NO. 469 (SA) be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 469 (SA) was read the third time.

The question being: "Shall CS FOR SENATE BILL NO. 469 (SA) (credited service under the Public Employees' Retirement System; efd) pass the Senate?" The roll was taken with the following result:

CSSB 469 SA 3RD

Yeas: 20 Bennett, Eliason, Fahrenkamp,
Faiks, Ferguson, Fischer Paul,
Fischer Vic, Gilman, Halford,
Josephson, Kelly, Kerttula, Moss,
Mulcahy, Pettyjohn, Ray, Rodey,
Sackett, Sturgulewski, Ziegler

Nays: 0

and so, CS FOR SENATE BILL NO. 469 (SA) passed the Senate.

Senator Ray moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 469 (SA) was engrossed, signed by the President and Secretary and transmitted to the House for consideration.

SENATE BILLS IN THIRD READING

SB 186

SENATE BILL NO. 186 (named recipient grants; efd) which was held from May 15 was before the Senate in third reading.

Senator Ferguson moved and asked unanimous consent that SENATE BILL NO. 186 be returned to second reading for the purpose of a specific amendment. Without objection, it was so ordered.

Senator Ferguson offered Amendment No. 1:

Page 1, lines 27-29: Delete "A CONTRACT SHALL BE EXECUTED WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THE APPROPRIATION OR ALLOCATION" and insert "A contract shall be executed within 60 days after the effective date of the appropriation or allocation"

Senator Ferguson moved and asked unanimous consent that Amendment No. 1 be adopted. Without objection, Amendment No. 1 was adopted.

SENATE BILL NO. 186 am was before the Senate in third reading.

Senator Ray moved that SENATE BILL NO. 186 am be placed at the bottom of the calendar. Without objection, it was so ordered.

SECOND READING OF HOUSE BILLS

HB 504

CS FOR HOUSE BILL NO. 504 (FIN) (establishing the teacher scholarship loan program; efd) was read the second time.

Senator Faiks moved and asked unanimous consent for the adoption of the Rules Senate Committee Substitute offered on page 1107. Senators Ray and Gilman objected.

SENATE BILLS IN THIRD READING

SB 186

SENATE BILL NO. 186 am (named recipient grants; efd) was before the Senate in third reading.

Senator Ferguson moved and asked unanimous consent that SENATE BILL NO. 186 am be returned to second reading for the purpose of a specific amendment. Without objection, it was so ordered.

Senator Ferguson offered Amendment No. 2:

Page 1, lines 17-29 through Page 2, line 1:
restore existing language

Page 2, line 12: insert new subsection to read: "(f) The rural areas as defined by A: 44.47.560(5)(A) and (B) are exempt from the requirements in subsection (a)."

Senator Ferguson moved for the adoption of Amendment No. 2. Senator Ray asked unanimous consent. Without objection, Amendment No. 2 was adopted.

SENATE BILL NO. 186 am was before the Senate in third reading.

The question being: "Shall SENATE BILL NO. 186 am (named recipient grants; efd) pass the Senate?" The roll was taken with the following result:

SB 186 AM 3RD

Yeas: 14 Bennett, Eliason, Fahrenkamp,
Falks, Ferguson, Fischer Vic, Gilman,
Josephson, Kerttula, Moss, Mulcahy,
Ray, Sackett, Ziegler

Nays: 6 Fischer Paul, Holford, Kelly,
Pattyjohn, Rodey, Sturgulewski

and so, SENATE BILL NO. 186 am passed the Senate.

SB 186 cont'd

Senator Ray moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

SENATE BILL NO. 186 am was engrossed, signed by the President and Secretary and transmitted to the House for consideration.

CITATIONS

Senator Ray moved and asked unanimous consent that the Rules be suspended and the publication requirement be waived on the Citation In Memoriam - Lynda Michelle Farris and be taken up as a special order of business. Without objection, it was so ordered.

Senator Ray moved that the following citations be approved:

Honoring - Session IV Close-up Students
by Senators Ray, Ferguson and Sturgulewski
Representatives Adams and Fuller

Honoring - Session V Close-up Students
by Senators Ray, Ferguson and Sturgulewski
Representatives Adams and Fuller

Honoring - Ruth Allman
by Representatives M.M. Miller, Duncan,
Hayes, Liaka, Cato and Fritz
Senators Ray, Ziegler, Vic Fischer,
Sturgulewski and Kerttula

In Memoriam - Lynda Michelle Farris
by Senators Paul Fischer and Gilman
Representatives Fritz and Malone

Without objection, the citations were approved and referred to the Secretary for transmittal.

UNFINISHED BUSINESS

SJR 32

Senator Fahrenkamp, Chairman, moved and asked unanimous consent that the Resources Committee referral be waived on SENATE JOINT RESOLUTION NO. 32 (proposing an amendment to the Constitution of the State of Alaska creating a fund to finance the construction of capital projects). Without objection, it was so ordered.

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190

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 190
 Title Spec. approp. Sealaska Heritage Foundation, Wrangell Totem Poles
 Requested by Senate Finance Committee Date 5/6/83

II. FISCAL DETAIL

Agency Affected Administration
 Program Category Affected Grants
 BRU, Program, or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	0	0				
200 TRAVEL	0	0				
300 CONTRACTUAL	0	0				
400 COMMODITIES	0	0				
500 EQUIPMENT	0	0				
600 LAND & STRUCTURES	0	0				
700 GRANTS, CLAIMS, ETC.	0	0				
TOTAL	0	0				

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0				
FEDERAL FUNDS	0	0				
OTHER (Specify Fund Source)	0	0				

POSITIONS

FULL TIME	0	0				
PART TIME	0	0				
TEMPORARY	0	0				

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

IV. DATE May 6, 1983

Original: Legislative Finance

PREPARED BY John Sackett
 AGENCY Senate Finance Committee
 PHONE 465-3753

Wrangell Cultural Heritage Committee

P.O. Box 1050
Wrangell, Alaska

May 17, 1983

SB 190
RECEIVED
MAY 19 1983

Rep. Mitchell Abood
Pouch V
Juneau, Alaska 99811

Dear Rep. Abood,

Senate Bill 190 has passed the Senate and has been forwarded to the House Finance Committee and House State Affairs Committee. The Wrangell Totem Poles and Shakes Island Restoration Project proposal was submitted to every legislator the latter part of February 1983. We hope that you received a copy and have had time to review the project.

Subsequently, a revised budget was also sent to everyone in March noting that the project request had been cut to \$178,000 from the original \$327,500. After discussing the project with several of the legislators it became obvious that with declining revenue it would be best to cut the project down. We would initially lose out on the apprentice program which would have offered employment for at least a year but would at least be hopeful in having the basic project funded.

We urge you to schedule a hearing of Senate Bill 190 in the House State Affairs Committee as soon as possible. We would be most happy to furnish you with additional information on the project or answer any specific questions you may have. We also would urge you to give the proposal submitted by Sealaska Heritage Foundation due consideration. It is also an important project to the native people of Alaska.

Sincerely,



Ms. Pat Greene
Secretary-Treasurer

(907) 874-3770/874-3414

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Add a new section 12:

Section 12. Section^s_^ 3 and 8 of this Act are retroactive to July 1, 1982.

Renumber existing Section 12 to Section 13.

(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 (HCSSB 353 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 CSSB 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)

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.

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

EQUAL RETIREMENT BENEFITS
CS SB 215 (2d Rules)

SECTION 1

Establishes the Longevity Bonus Account as a separate account within the Alaska permanent fund and also takes 12.5 percent of the income of the permanent fund earned during a fiscal year that is available for distribution and transfers it to the Longevity Bonus Account. Section 1 also states that the money shall be reinvested, and the Legislature may annually appropriate money in the Longevity Bonus Account to the Alaska Longevity Bonus Fund to pay monthly longevity bonuses.

SECTION 2

Changes percentage of Permanent Fund Earnings distributed to 37.5 percent (To coincide with Section 1).

SECTION 3

Establishes a 1 year residency and over 65 years of age as the qualifications for the Longevity Bonus.

SECTION 4

Establishes a \$250 a month payment plus a 3 percent annual increase, unless the amount available is too small, then the amount available is divided by the number of qualified applicants.

SECTION 5

Deletes the words "He" and "His", adds the words "the recipient".

SECTION 6

Changes the language so that the Alaska Longevity Bonus Fund can receive funds from the Alaska permanent fund.

SECTION 7

Allows the Commissioner of Administration to have access to state records (other than personal income tax returns) if those records relate to the length of residency of a Longevity Bonus applicant. The information received is to be kept confidential.

SECTION 8

Definition of resident.

SECTION 9

Finding and purposes.

SECTION 10

Technical language for funding purposes.

SECTION 11

Repeals definition of bonus and domicile in Alaska statues.

SECTION 12

Effective date.

SB. 25

FISCAL YEAR 84

SOURCE	% OF ELDERLY	TOTAL DIV. DISTRIBUTED	25% OF	AMOUNT NEEDED	SIZE OF BONUS	SAVINGS ACCOUNT
Aetna	2.9	169	42.2	41.01	3,000	1.19
Travelers	2.9	169	42.2	41.01	3,000	-1.19
Mercer						
Low	3.1	169	42.2	43.18	3,000	(.98)
Moderate	3.1	169	42.2	43.18	3,000	(.98)
High	3.1	169	42.2	43.18	3,000	(.98)

FISCAL YEAR 85

SOURCE	% OF ELDERLY	TOTAL DIV. DISTRIBUTED	25% OF	AMOUNT NEEDED	SIZE OF BONUS COLA	BONUS FLOOR	SAVINGS ACCOUNT
Aetna	2.9	121.6	30.4	44.49	3090	<u>2110</u>	(14.09)
Travelers	2.9	121.6	30.4	44.49	3090	2110	(14.09)
Mercer							
Low	3.1	121.6	30.4	46.43	3090	2023	(16.02)
Moderate	3.19	121.6	30.4	47.78	3090	1965	(17.38)
High	3.28	121.6	30.4	49.14	3090	1911	(18.74)

FISCAL YEAR 2000

SOURCE	% OF ELDERLY	TOTAL DIV. DISTRIBUTED	25% OF	AMOUNT NEEDED	SIZE OF COLA	BONUS FLOOR	SAVINGS ACCOUNT
Aetna	3.0	792.34	198.08	121.11	4814		76.97
Travelers	2.9	792.34	198.08	118.35	4814		79.23
→ Mercer							
Low	3.1	792.34	198.08	124.157	4814		73.92
Moderate	4.55	792.34	198.08	182.229	4814		15.86
High	6.0	792.34	198.08	240.305	4814	3698	(42.22)

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)

I. REQUEST

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

II. FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME		2.0	2.0	2.0	2.0	2.0
PART-TIME		3.0	-0-	-0-	-0-	-0-
TEMPORARY						

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

Alaska Permanent Fund Income

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

Prepared By: Robert T. Michael
 Division: Pioneers' Benefits

Phone: 465-4401

Date: 5/20/83

Approved by Commissioner: Lisa Rudd
 Department: ADMINISTRATION

Date: 5/19/83

Distribution:

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Copy to Sponsor

Copy to Requestor (if different from Sponsor)

3/8/83

IV. ANALYSIS:

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

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

ASSUMPTIONS

- a) Residence requirements for eligibility for the Longevity Bonus Program would change from 25 years to one year, and the requirement for domicile in Alaska on or before January 3, 1959, would be eliminated.
- b) An estimated 6,072 additional persons would become eligible under the new regulations. Based on the number of people over age 65 who qualified for permanent fund dividends in 1982, we estimate payment of the longevity bonus to 16,500 people in FY84.
- c) Retroactive benefits to July 1982 will be payable to the additional 6,072 persons plus 250 present recipients over age 65 who qualified for the Bonus in FY83 by completing 25 years of continuous Alaska domicile. Total cost of these retro payments is expected to be \$18,966,000.
- d) An increase in the Longevity Bonus staff will be needed to process the initial flood of applications, and continuing increased staff will be necessary to process the greater workload of the expanded program.
- e) Annual growth of the program will be approximately 89 per month after the initial surge of applications. This figure is based on the number of applications received in addition to new inquiries in the past year. The current growth rate is 65 applicants per month.
- f) The Act takes effect on July 1, 1983.
- g) Operating expenses (exclusive of the amount of the monthly Bonus payment) and retroactive benefits will be funded from the General Fund.

Monthly Longevity Bonus payments are estimated to be:

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

Additional funds needed for FY84 are computed as follows:

	Annual Cost
Personal Services	\$85,140
Clerk V, PFT (two positions)	\$53,460
Clerk II, PPT (three positions, 6 mo.)	\$31,680

IV. ANALYSIS: (continued)

Contractual Services 87,000

Added postage, bonus warrants, printing of new regulations and application forms, data processing charges, increased telephone tolls.

Commodities 2,000

Office supplies and file cabinets for application and recipient files.

Grants

Additional funds needed for Bonus payments to estimated 6,072 additional persons who will be eligible due to one-year residence requirement. 9,663,500

Retroactive payments for those who would have been eligible on July 1, 1982 (est. 6,322 x 12 x \$250) 18,966,000

Additional FY84 funds required \$28,803,640

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

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

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

I. REQUEST

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

II. FISCAL DETAIL

Agency Affected: Administration
 Program Category Affected: Social Services
 BRU, Program of Subprogram(s) Affected: L ngevity Bonus Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	2.0	2.0	2.0	2.0	2.0
PART-TIME	3.0	-0-	-0-	-0-	-0-
TEMPORARY					

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

Alaska Permanent Fund Income

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

Prepared By: George T. Michael
 Division: Pioneers' Benefits

Phone: 465-4401
 Date: 5/20/83

Approved by Commissioner: Lisa Rudd
 Department: ADMINISTRATION

Date: 5/20/83

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3/8/83

IV. ANALYSIS:

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

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

ASSUMPTIONS

- a) Residence requirements for eligibility for the Longevity Bonus Program would change from 25 years to one year, and the requirement for domicile in Alaska on or before January 3, 1959, would be eliminated.
- b) An estimated 6,072 additional persons would become eligible under the new regulations. Based on the number of people over age 65 who qualified for permanent fund dividends in 1982, we estimate payment of the longevity bonus to 16,500 people in FY84.
- c) Retroactive benefits to July 1982 will be payable to the additional 6,072 persons plus 250 present recipients over age 65 who qualified for the Bonus in FY83 by completing 25 years of continuous Alaska domicile. Total cost of these retro payments is expected to be \$18,966,000.
- d) An increase in the Longevity Bonus staff will be needed to process the initial flood of applications, and continuing increased staff will be necessary to process the greater workload of the expanded program.
- e) Annual growth of the program will be approximately 89 per month after the initial surge of applications. This figure is based on the number of applications received in addition to new inquiries in the past year. The current growth rate is 65 applicants per month.
- f) The Act takes effect on July 1, 1983.
- g) Operating expenses (exclusive of the amount of the monthly Bonus payment) and retroactive benefits will be funded from the General Fund.

Monthly Longevity Bonus payments are estimated to be:

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

Additional funds needed for FY84 are computed as follows:

	Annual Cost
Personal Services	\$85,140
Clerk V, PFT (two positions)	\$53,460
Clerk II, PPT (three positions, 6 mo.)	\$31,680

IV. ANALYSIS: (continued)

Contractual Services 87,000

Added postage, bonus warrants, printing of new regulations and application forms, data processing charges, increased telephone tolls.

Commodities 2,000

Office supplies and file cabinets for application and recipient files.

Grants

Additional funds needed for Bonus payments to estimated 6,072 additional persons who will be eligible due to one-year residence requirement. 9,663,500

Retroactive payments for those who would have been eligible on July 1, 1982 (est. 6,322 x 12 x \$250) 18,966,000

Additional FY84 funds required \$28,803,640

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

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

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

RECEIVED
MAY 25 1983

M

Pioneers have received 160A & etc.
Some stands

We would like to address the issue of "longevity ~~bon~~ bonuses payments, which is now before the "House"

We feel "New comers" or those who qualify with one year residency

requirements are as worthy as the Alaskan Pioneers - and it is discrimination to deny us the Bonus. Check our background and we have gone through the depression & hardships

We have the same day to day living expenses and Medical bills

etc as the "Pioneers" (Alaskans)

The initial intent of the program to reward Pioneer Alaskans for "kicking old age" (Hayes quote). We qualify for old age.

It is causing stress & worry. Think about it - some are so old & ill they will receive only a few checks. "The young may die, but the old must live"

Please think & consider the facts - you needed us last fall now we need you

Please vote - yes -
Thank you -

PRR

Grace T. Trajner " 80	Patricia Wheeler 72
C. R. M ² Callough - 81	Parthy Gauthier 65
Edna M. Clift 69	Eleanor Field 67
Evelyn W. Burtram 69	Alta Kallman
Eugene Kucpava	Valora Small 75
Norman V. Boling	Coretta Matthews
Frank George 74	Albert J. Kelly
Margaret Stinson 68	Helen P. Knight
Henry J. Kuhn 70	Madysa Boylan
Patricia A. Kuhn	Alice Jensen
Rena Morris 81	Jeanne Young 65
Rose Labadie 80	Hanna Mattinson 65
Jessie O. Ainsworth 87	Casey Jone 70
	Adrian H. Kooly 82
	Philip's Lira 70
	Maudine Lira 67

These signatures from the above
 Senior at Kenai - live at the
 2 " Complex apts - & from some
 at the Kenai Community Center,

SB 215

No. 24

SENATE JOURNAL SUPPLEMENT

5/5/83

SB
215

THE LEGISLATURE OF THE STATE OF ALASKA
FISCAL NOTE

REQUEST

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

FISCAL DETAIL

Agency Affected Department of Administration
Program Category Affected _____
BRU, Program, or Subprogram(s) Affected Alaska Longevity Bonus Program

EXPENDITURES (Thousands of Dollars)

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

FUNDING (Thousands of Dollars)

GENERAL FUND	53.7	54.2	54.7	55.2	55.7
FEDERAL FUNDS					
OTHER (Specify Fund Source)					
Permanent Fund Earnings	42250.0	30400.0	42130.0	58830.0	61430.0

POSITIONS

FULL TIME	1.0	1.0	1.0	1.0	1.0
PART TIME					
TEMPORARY					

DATE 5/3/83

PREPARED BY
AGENCY
PHONE

John Sackett
John Sackett, Chairman
Senate Finance Committee

NOTE REGARDING THE FOLLOWING FRAME(S) ON MICROFILM:
COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES.
TITLE PAGE ONLY HAS BEEN FILMED.

THE LONGEVITY BONUS PROGRAM:
OPTIONS UNDER THE VEST SETTLEMENT

JON K. TILLINGHAST
Birch, Horton, Bittner, Pestinger & Anderson

March 8, 1983

35-215

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 BONUS 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)

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7

Senator Vic Fischer

Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954



May 16, 1983

TO: All Senators

FROM: Senator Vic Fischer

RE: SB 227--Alaska Council on Science and Technology

SB 227 continues the existence of the Alaska Council on Science and Technology but extensively modifies its purpose and functions. The main features of this bill are:

- 1) repeal of the council's grant making authority (sec 4);
- 2) repeal of the northern technology small grants program (sec 5);
- 3) elimination of the laundry list of purposes, powers and duties of the council (streamlining of functions);
- 4) gives the council a role in development and implementation of federal Arctic Science Policy;
- 5) moves the council to the Office of the Governor (OMB);
- 6) removes designated seats on the council and increases size to nine members; and,
- 7) continues the council through 1987.

I believe this bill meets most of the needs and concerns of the legislature, the governor's office, and the Alaska scientific community. It should assist Senator Murkowski in promoting the Arctic Research and Policy Act. It repeals the grants process which has generated concern among some legislators. It meets the Governor's need for scientific advice within the OMB. It allows for greater private sector involvement on the council.

SB 227 is the result of an extensive sunset hearing held jointly by the Senate and House State Affairs Committees. It has the support of the Governor as well as the council itself. The bill has a zero fiscal note because the council is a reduced continuation item in the Governor's budget (less than 50% of last year's budget).

I. REQUEST

II. FISCAL DETAIL

Bill/Resolution No.: SB 227 Agency Affected: Office of the Governor
 Title: "An Act relating to the AK Council on Science & Tech. BRU, Program of Subprogram(s) Affected: Exec. Operatio
 Sponsor: State Affairs & providing for an OMB
 Requestor: Sen. V. Fischer effective date."

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		-0-	-0-	-0-		
200 TRAVEL		-0-	-0-	-0-		
300 CONTRACTUAL		-0-	-0-	-0-		
400 COMMODITIES		-0-	-0-	-0-		
500 EQUIPMENT		-0-	-0-	-0-		
600 LAND & STRUCTURES		-0-	-0-	-0-		
700 GRANTS, CLAIMS, ETC		-0-	-0-	-0-		
TOTAL OPERATING		-0-	-0-	-0-		

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

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

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

There is currently 100.0 for FY 84 for the Alaska Council on Science and Technology within the Office of Management and Budget/Division of Strategic Planning Budget.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Michael A. Nizich, Director Phone: 465-3616
 Division: Administrative Services Date: 4/6/83
 Approved by Commissioner: *Lawrence J. Yerman* Date: 4/6/83
 Department: Office of the Governor

Distribution:

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

A

Editor's note. — Section 1, ch. 149, SLA 1977, provides: "The legislature finds that the substantial increase in the number of state agencies, boards and commissions, and the proliferation of rules and regulations which each has adopted have contributed to a public disenchantment with the operation of state government, and that there is need for an effective and regular system of scrutiny of the programs and activities of

all agencies, boards and commissions. The legislature further finds that the establishment of a system for periodic review by the public and the executive and legislative branches of certain state agencies, boards and commissions will help the governor and the legislature to determine the need for the continued existence of each of the agencies, boards and commissions."

Sec. 44.66.010. Termination of state boards and commissions.
 (a) Boards and commissions listed in this subsection expire on the date set out after each:

- (1) Alcoholic Beverage Control Board (AS 04.06.010) — June 30, 1981;
- (2) Alaska Transportation Commission (AS 42.07.011) — June 30, 1983;
- (3) State Board of Parole (AS 33.15.010) — June 30, 1980;
- (4) Alaska Public Utilities Commission (AS 42.00.010) — June 30, 1985;
- (5) Alaska Pipeline Commission (AS 42.06.010) — June 30, 1981;
- (6) Alaska Council on Science and Technology (AS 44.19.181) — June 30, 1983;
- (7) Alaska Renewable Resources Corporation (AS 37.12.010) — June 30, 1982;
- (8) Alaska Code Revision Commission (AS 24.20.075) — June 30, 1982;
- (9) Rural Development Council (AS 44.47.160 — 44.47.190) — June 30, 1987.

(b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

(c) A commission scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years. (§ 3 ch 149 SLA 1977; am § 3 ch 101 SLA 1978; am § 10 ch 179 SLA 1978; am § 3 ch 44 SLA 1980; am § 1 ch 115 SLA 1980; am § 11 ch 131 SLA 1980; am § 11 ch 136 SLA 1980; am § 3 ch 172 SLA 1980)

Effect of amendments. — The first 1978 amendment added paragraph (6) of subsection (a).

The second 1978 amendment added paragraph (7) of subsection (a).

The first 1980 amendment substituted "(AS 04.06.010) — June 30, 1981" for "AS

04.06.010 — June 30, 1979" in paragraph (1) of subsection (a).

The second 1980 amendment substituted "1983" for "1979" at the end of the paragraph (2) of subsection (a).

The third 1980 amendment substituted "1985" for "1980" at the end of paragraph (4) of subsection (a).

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The fourth 1980 amendment added paragraph (8) of subsection (a).

The fifth 1980 amendment added paragraph (9) of subsection (a).

Sec. 44.66.020. Agency programs. (a) Agency programs and activities listed in this subsection which are specifically designated as provided in AS 44.66.030 are subject to termination during the regular legislative session convening in the month and year set out after each:

- (1) programs in the budget categories of general government, public protection, and administration of justice — January, 1980;
- (2) programs in the budget categories of education and the University of Alaska — January, 1981;
- (3) programs in the budget categories of health and social services — January, 1982;
- (4) programs in the budget categories of natural resources management, development and transportation — January, 1983.

(b) An agency program or activity designated in (a) of this section shall be subject to termination during the regular legislative session convening four years after the preceding review and may be subject to termination at any time upon the recommendation of the Legislative Budget and Audit Committee and the concurrence of the legislature as if under AS 44.66.030. (§ 3 ch 149 SLA 1977)

Sec. 44.66.030. Program identification. During the legislative session preceding each of the years set out in AS 44.66.020, the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category which shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill which, if enacted into law, would terminate those designated programs and activities on or before July 1 of the following year. (§ 3 ch 149 SLA 1977)

Sec. 44.66.050. Legislative oversight. (a) Before the termination, resolution, continuation or reestablishment of a board or commission under AS 08.03.010 or AS 44.66.010, or of an agency program under AS 44.66.020 and 44.66.030, a committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Legislature, shall hold one or more hearings to receive testimony from the public, the commissioner of the department having administrative responsibility for each named board, commission, or agency program, and the members of the board or commission involved. The hearings may be joint hearings. The committee shall also consider the proposed budget of the board, commission, or agency program, prepared in accordance with AS 37.07.050(f), and the performance audit of the activities of the board, commission, or agency program, prepared by the legislative audit division as prescribed in AS 24.20.271(1). The committee may consider

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any other report of the activities of the board, commission or program, including but not limited to annual reports, summaries prepared by the Legislative Affairs Agency, and any evaluation or general report of the manner of conduct of activities of the board, commission, or agency program prepared by the office of the ombudsman.

(b) During a public hearing, the board, commission or agency shall have the burden of demonstrating a public need for its continued existence or the continuation of the program, and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest.

(c) A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:

(1) the extent to which the board, commission or program has operated in the public interest;

(2) 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 personnel matters;

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

(4) 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;

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

(6) 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;

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

(8) 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; and

(9) 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.

(d) As to for purposes of the 60th day officer of the of the comm program wi with a sumn following:

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Sec. 44.0 termination commission which is su the departr this chapte 1977)

(d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

(4) an assessment of alternative methods of achieving the purposes of the program;

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

(e) The committee of reference may introduce a bill providing for the reorganization or continuation of the board, commission or agency program. No more than one board, commission, or agency program shall be continued or reestablished in any legislative bill, and the board, commission, or agency program shall be mentioned in the title of the bill. (§ 3 ch 149 SLA 1977)

Sec. 44.66.060. Existing claims. This chapter shall not cause the termination or dismissal of a claim or right of a citizen against a board, commission or program of an agency terminated under this chapter which is subject to litigation. Claims and rights shall be assumed by the department to which the board or commission terminated under this chapter was attached for administrative purposes. (§ 3 ch 149 SLA 1977)

B

Editor's notes. — The Older Americans Act, P.L. 89-73, may be found in 42 U.S.C. § 3001 et seq.

Section 14 of ch. 79, SLA 1981, provides: "TRANSFER OF PROGRAMS AND RESPONSIBILITIES. The following are transferred to the Older Alaskans Commission in the Department of Administration:

(1) the programs conducted under the Older Americans Act, P.L. 89-73, as amended, and the persons who administer those programs in the division of adult and aging services, Department of Health and Social Services;

(2) the programs conducted under AS 47.65.010 — 47.65.060, and the persons

who administer those programs in the division of adult and aging services, Department of Health and Social Services; and

(3) the Governor's Advisory Committee on Aging."

Section 15 of ch. 79, SLA 1981, provides: "CONTINUING RESPONSIBILITY OF THE DEPARTMENT OF ADMINISTRATION. This Act does not affect the responsibility of the Department of Administration for the Alaska longevity bonus program (AS 47.45.010 — 47.45.170) or the Alaska Pioneers' Homes (AS 47.25.010 — 47.25.110)."

Sec. 44.21.240. Definitions. In AS 44.21.200 — 44.21.240, "commission" means the Older Alaskans Commission. (§ 2 ch 79 SLA 1981)

Article 5. Alaska Council on Science and Technology.

Section

- 241. Council established
- 242. Purpose, powers, and duties
- 253. Records, reports

Section

- 254. Definitions
- 255. Short title

Editor's notes. — This article derived from AS 44.46.070 — 44.46.110.

Sec. 44.21.241. Council established. (a) There is established in the Department of Administration the Alaska Council on Science and Technology. The council consists of seven members who are appointed by the governor upon the recommendations of the state's scientific, engineering, and related communities and organizations. Members have overlapping three-year terms, except that, of the first members, two have terms of one year, two have terms of two years, and three have terms of three years. Two members shall be selected from different executive departments of state government having significant research activities, two members shall be selected from the Alaska academic community, two members must have significant activities or direct interests in research and shall be selected from the general public, and one member shall be selected from the staff of the legislature. The council shall elect one of its members as chairman. A chairman may be elected for successive terms as chairman and serves until his successor is designated. Four members constitute a quorum.

(b) Council members receive no compensation but are entitled to the travel and per diem provided by law for members of boards or commissions. (AS 44.21.200; Executive Order No. 48, § 4 (1981))

Editor's Notes. — As enacted, this section was designated AS 44.21.200 and was renumbered by the revisor of statutes pursuant to AS 01.05.031(b).

Sec. 44.21.242. Purpose, powers, and duties. (a) The purpose of the council is to review and recommend the scientific and technological research needs of state government, to issue research grants and contracts, to oversee the issued grants and contracts, to promote high standards of research for the priorities proposed by the council, and to address stated legislative or administrative requests for research.

(b) The council may

(1) apprise itself of local, state, federal, and private research programs, activities, and needs;

(2) convene committees, task forces, conferences, public hearings, and other meetings necessary to carry out the council's purposes;

(3) award research grants and contracts on a fair and competitive basis and administer those grants and contracts;

(4) enter into agreements creating one or more systems of information exchange with any appropriate research funding sources;

(5) at the request of any state agency, enter into and administer, but not perform, the research under research grants and contracts funded by that state agency;

(6) investigate the need for and when necessary establish advisory committees for reviewing its program;

(7) request and receive from any agency of the state government the assistance and data needed to carry out the requirements of this section;

(8) hire an executive director and staff that may be necessary to implement AS 44.21.241 — 44.21.255.

(c) The council shall

(1) develop methods of surveying research needs of the state, based on the present and future information needs of policy makers, state agencies, and the public at large;

(2) annually review the research needs and propose priorities for funding;

(3) annually submit to the governor and the legislature the findings of the council, including a listing, description, ranking, and justification of research needs, and a commentary on significant research activities of the preceding year funded by the state and including the relationship of that research to the state's needs and priorities;

(4) promote and enhance standards for research activities for which the council has administrative oversight;

(5) establish review procedures for research proposals;

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(6) at the request of either the governor or the legislature, advise in a timely fashion on inquiries concerning scientific investigation or comment;

(7) evaluate and forward to appropriate agencies and persons products of research activities funded by the council; the council shall prepare comments to accompany research reports summarizing the applications, importance, or further research needs demonstrated by the findings of council-supported research;

(8) coordinate its data and information needs with other research organizations in order to avoid unnecessary duplication;

(9) not conduct any research itself other than that necessary to further the purpose of the council as provided in (a) of this section;

(10) supply to any person or agency requesting assistance the available information on past or present research activities for which the council has information, except that the council shall not release information which may endanger the acceptance of any research proposal which is at the time competing with other proposals for funding. (AS 44.21.210; Executive Order No. 48, § 4 (1981))

Revisor's notes. — A reference to AS 44.21.200 — 44.21.240 was changed to AS 44.21.241 — 44.21.255 in subsection (b)(8) by the revisor of statutes under AS 01.05.031 to conform to the renumbering of the chapter.

Editor's notes. — As enacted, this section was designated AS 44.21.210 and was renumbered by the revisor of statutes pursuant to AS 01.05.031(b).

Sec. 44.21.253. Records, reports. (a) The council shall have its financial records audited by an independent certified public accountant. The internal auditor and legislative auditor shall jointly prescribe the form and content of the financial records of the council and shall be afforded access to these records at any time.

(b) Before January 15 of each year, the council shall submit to the governor and the legislature a comprehensive report describing operations and expenditures and the status of grants and contracts for the last preceding fiscal year.

(c) The provisions of AS 09.25.110 — 09.25.120 apply to the council. (AS 44.21.220; Executive Order No. 48, § 4 (1981))

Editor's notes. — As enacted, this section was designated AS 44.21.220 and was renumbered by the revisor of statutes pursuant to AS 01.05.031(b).

Sec. 44.21.254. Definitions. In AS 44.21.241 — 44.21.255, "council" means the Alaska Council on Science and Technology established in AS 44.21.241. (AS 44.21.230; Executive Order No. 48, § 4 (1981))

Revisor's notes. — A reference to AS 44.21.200 — 44.21.240 was changed to AS 44.21.241 — 44.21.255 and a reference to AS 44.21.200 was changed to AS 44.21.241 by the revisor of statutes under AS 01.05.031 to conform to the renumbering of this article.

C

A PERFORMANCE REPORT ON THE
DEPARTMENT OF ADMINISTRATION
ALASKA COUNCIL ON
SCIENCE AND TECHNOLOGY

December 1, 1982

Commissioner, Department
of Administration

Lisa Rudd

Deputy Commissioners, Department
of Administration:

Administrative Management
Personnel Management
Telecommunications

Anselm Staack
Eleanor Andrews

Alaska Council on Science and Technology

Chairman
Member
Member
Member
Member
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THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

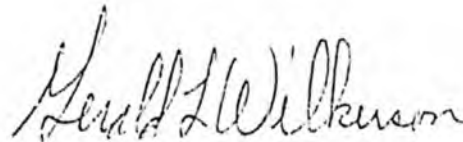
January 6, 1983

Members of the
Legislative Budget and Audit Committee:

In accordance with the intent of Titles 24 and 44 of the
Alaska Statutes, the attached report is submitted for your
review.

A PERFORMANCE REPORT ON THE
DEPARTMENT OF ADMINISTRATION
ALASKA COUNCIL ON
SCIENCE AND TECHNOLOGY

December 1, 1982



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

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PURPOSE AND SCOPE OF THE REPORT

Purpose

In accordance with the intent of Titles 24 and 44 (sunset legislation) we conducted an examination of the Department of Administration, Alaska Council on Science and Technology to determine if the Council has been operating in an effective and efficient manner and if there is a public need for the program.

As required by legislative intent this report shall be considered during the legislative oversight function in determining whether the Alaska Council on Science and Technology should be reestablished. The law currently specifies that this program will terminate as of June 30, 1983.

Scope

Our review consisted of evaluating the efficiency and effectiveness of the Council in (1) coordinating and centralizing research information in the State in order to identify and reduce unnecessary duplication, (2) determining and prioritizing State research needs; and (3) awarding and administering research grants in priority areas. We reviewed the following sources of information:

1. Applicable statutes and legislative intent
2. Budget documents
3. Research needs reports
4. Minutes of Council meetings
5. Correspondence files
6. Surveys of academic, private and governmental institutions
7. Surveys of Council members
8. Tests of records and documents of the Council, and
9. Any complaints filed with the Office of the Ombudsman, State Equal Employment Opportunity Office, or Human Rights Commission.

ORGANIZATION AND FUNCTION

The Alaska Council on Science and Technology was established by the 1978 Session Laws of Alaska, Chapter 101. There are seven Council members: two members are from executive agencies having significant research activities, two members from the Alaska academic community, two members from the general public who have significant activities or direct interest in research, and one member from the staff of the Legislature. Members are appointed by the Governor for overlapping three year terms.

The Council is organized under the Department of Administration which provides financial support. The Council has no regulatory function.

The Council was established to provide research data coordination through information centralization and review and to provide the scientific and technological community with a mechanism to advise decision makers on scientific issues. The purposes of the Council are as follows:

1. Review and recommend the scientific and technological research needs of State government
2. To issue research grants and contracts
3. To oversee the issued grants and contracts
4. To promote high standards of research for the priorities proposed by the Council
5. To address stated legislative or administrative requests for research.

REPORT CONCLUSIONS

Policy Issues

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

Report Conclusions

In our opinion the continuation of the Alaska Council on Science and Technology is not necessary (see Recommendation No. 1).

In the event the Council is reestablished by the Legislature, certain changes need to be made to enable the Council to effectively and efficiently perform the duties intended by the Legislature, and to serve the public interest. These changes are outlined below.

1. Legislation should be introduced requiring State agencies and the University of Alaska to report to the Council on all research funded or contracted out during the year (see Recommendation No. 2).
2. The Council should comply with AS 44.21.242(C)(2) and (3) which require comment on significant State research activities and annual review of research needs. Additionally, the Council should more effectively prioritize research needs (see Recommendation No. 3).
3. The legislature should consider eliminating the authority of the Council to award research grants (see Recommendation No. 4).
4. The Council should formally review its performance in accomplishing the goals and objectives of the program (see Recommendation No. 5).

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Council on Science and Technology should be allowed to terminate.

We have reviewed the activities of the Council in relation to the enabling legislation and the statutory duties and obligations set forth in the Session Laws of Alaska 1978, Chapter 101. The review was performed in order to analyze the efficiency and effectiveness of the Council in meeting the objectives of the Legislature. The primary legislative goals were to coordinate and centralize research information in order to (1) provide concise, relevant scientific information from which informed policy decisions could be made; (2) discover and eliminate unnecessary duplicative research funded by public monies; and (3) to identify areas where research gaps exist. Furthermore, the legislature only intended the Council's coordination function to be a passive collection, commentary on, and dissemination of research information. The Council was never given the authority to actively control research funded by the State. It is in this sense that we use the term "coordination" in the following findings.

In the performance of our review, we found that the Council has been ineffective in meeting the objectives of the Legislature and in some cases has failed to fulfill statutory duties. Due to the analysis presented below, we believe the Council on Science and Technology should be allowed to terminate.

- A. The Council has been ineffective in coordinating statewide research information for the following reasons:
1. Research dollars are appropriated to other entities without requiring coordination with the Council. For example, the University of Alaska was appropriated \$47.7 million for organized research in Fiscal Year 1982. None of this research was coordinated through the Council.
 2. Other State agencies involved in research are not required to report to the Council about what research was funded or performed during the year. Council staff has suggested that some agencies do not consider that the Council's coordination function includes their research programs. Consequently, interaction with State agencies has been limited. Questionnaires received from agency personnel support the conclusion that the Council has had limited effect on State research programs. Some

State employees responding to our questionnaire were unaware of the existence of the Council. Due to this lack of interaction, substantial research monies are not coordinated by the council and any duplicative research has remained undiscovered.

3. Even though we realize that the Council has been limited in its ability to effectively coordinate research information because of the above problems, the Council has also been ineffective in gathering information on research available to them through departmental budget documents, session laws, and various reports required by the Legislature. The Council has limited itself to coordination of its own research budget which has totalled \$3.3 million from Fiscal Year 1979 to 1983. When compared to the University of Alaska's research budget alone, it is clear that the Council has had little statewide effect on research coordination or on reduction of unnecessary duplication.

On two separate occasions we have met and discussed our findings with representatives of the Council. After initial confusion over our use of the term coordination, the Council agreed that they do have a coordination function, as defined earlier in this report. Furthermore, the Council maintains that they have indirectly coordinated statewide research information by means of research needs reports, seminars, conferences, and policy proposals. However, we do not agree that this fulfills the Council's coordination function as envisioned by the Legislature.

The Legislature wanted information not only on research that needed to be done but also on research that was already completed or in progress. Additionally, this process of data collection was seen as a method to discover the use of public monies to fund research that was unnecessarily duplicative. By this the Legislature meant projects authorized and funded by one agency for information that was already available had the agency known of its existence.

Therefore, in our review of the Council, we expected to find a data file and retrieval system at the offices of the Council that would enable legislators or State agencies to readily obtain information on research in Alaska. For example, if a legislator wanted information on hydroelectric power research, he or she would be able to contact the Council and obtain information on projects completed, in

progress or contemplated by any State agency or the University of Alaska and the costs associated with that research. Also, he or she would obtain some commentary by the Council on the results of the research performed including whether it was relevant or valid.

Since we were unable to find information of this type at the Council Office, we concluded that the Council has been ineffective in this regard.

- B. The Council has not complied with the intent of AS 44-.21.242(c)(3) requiring comment on significant research activities funded by the State during the preceding year. This information is required to be in the Council's annual report to the Governor and the Legislature. The Council is hampered in fulfilling this requirement by its lack of knowledge of the types and cost of research funded by public monies. As stated in Section A., causes of this lack of knowledge are due in part to research monies being appropriated to other agencies without requiring coordination through the Council or without requiring agencies to report to the Council.

The Council maintains that they have complied with this requirement. We again reviewed the Council's annual report to determine if the intent of the legislation was fulfilled. The Council's annual report is, in our judgement, a general review of research topics of interest to the State. There is no report or commentary on significant research funded by the State during the preceding year as required by the statute. There is no accumulation of costs. We believe that this is due to a lack of detailed knowledge on the part of the Council as we saw no information of this type at the Council's Office.

- C. The Council is required by AS 44.21.242(c)(2) to annually review the research needs of the State of Alaska, as determined by the Council, and to prioritize those needs for funding. The Council has produced ten research needs reports since its inception, seven reports were prepared in 1980 and three in 1981. None of the needs reports have been annually reviewed and only one of the 1980 reports was revised in 1982.

Within the research needs reports, the Council listed ninety areas needing research. Eighty-five of these needs were listed as priorities in the 1981 annual report to the Governor and Legislature. We believe it would be more effective to limit the number of research needs identified as priorities because it is unrealistic to expect the Legislature to fund eighty-five projects.

Concise, effective presentation of research priorities should result in necessary research being funded by the Legislature.

The Council, on the other hand, maintains that their function is to identify research needs, while priorities for funding can only be determined by the Legislature. We can only reiterate that the Council is obliged to prioritize research needs and in our opinion, concise presentation of priorities is a more effective means of obtaining necessary research funding.

- D. According to AS 44.21.242(b)(3) the Council may award and administer research grants and contracts. We reviewed each research grant awarded since FY'81. During our review, we found that 79% of the grants were being awarded to the University of Alaska. Included in each research grant was a budget detailing costs for performance of the research. Each budget included overhead charged by the University for performance of research. These overhead charges ranged from 25% to 62% of the grant awarded less any expenditures budgeted for research equipment. Total overhead charged amounted to \$677,000 of the \$2,700,000 awarded to the University during Fiscal Years 1981 and 1982. At this same time the Council expended at least \$263,000 administering these same grants. We believe it is an inefficient use of public monies to unnecessarily increase research costs. Since the University of Alaska is receiving 79% of the grants and it is in the business of doing research it would be more efficient to directly appropriate the funds to the University thus saving the State, in this case, at least \$263,000.
- E. In addition to the above, we believe that the primary objectives of the Council are essentially duplicative of functions presently performed by the Arctic Environmental Information and Data Center (AEIDC), University of Alaska, Anchorage. AEIDC's Information Services section performs research data accumulation and centralization functions with the objectives of creating an awareness of research performed or being performed in Alaska, of identifying research needs or gaps, and to aid in avoiding unnecessary duplication of research. AEIDC publishes a yearly Current Research Profile from information accumulated in its data files. This profile outlines research performed in Alaska by subject, investigator, and funding source. This profile and the data files are the basic tools needed for coordination of research information. We believe that it would be more efficient to coordinate research through AEIDC because it is presently equipped with the necessary tools for statewide data collection and retrieval.

In discussions with the Council, they have maintained that AEIDC has no primary objectives in determining and prioritizing research needs or in advising State policy makers, obligations which are important Council functions. Furthermore, the Council states, AEIDC's functions are information storage and retrieval, data dissemination, and problem solving. However, in a publication put out by the Council titled "Scientific and Technological Research Needs in Alaska", a result of joint meetings of the Council and the Polar Research Board, the supervisor of AEIDC Information Services stated the objectives of AEIDC included identifying research needs or gaps and aiding in avoiding unnecessary duplication. Also, in a research grant proposal written by a researcher employed at AEIDC, there is the statement that AEIDC does answer requests for information from governmental entities or in effect, gives advice as to what information is available and what is unknown. Additionally, the Council has stated that it uses the resources of AEIDC to perform its functions of information dissemination.

This evidence supports our conclusion that AEIDC does perform similar functions also attributed to the Council. AEIDC serves as a data collection and retrieval center, identifies research needs or gaps, and on request advises governmental entities on research information. In our judgement, AEIDC is a practical, cost effective alternative to the Council on Science and Technology.

We base our recommendation for allowing the Council on Science and Technology to terminate on our perception of the evidence presented above. However, if the Legislature determines that continuation of the Council is in the best interest of the public, the following recommendations should be implemented.

Recommendation No. 2

Legislation should be introduced requiring all State agencies to report to the Council on all research contracted or performed during the year.

As addressed in section A, the Council has little tangible information and no control over almost all of the monies appropriated each year for research. Coordination in this type of situation is nearly impossible. Attempts to centralize information is made very difficult and time consuming when extensive researching of agency documents is required. Since it is unrealistic to expect all monies for research to be appropriated to the Council, a reasonable alternative is to require all agencies with research budgets to report to the Council on the ultimate allocations and

expenditures of those funds. This would result in a more efficient means of collection and analysis of research information.

Recommendation No. 3

The Council should fulfill its statutory obligations as stated in AS 44.21.242(c)(2) and (3).

- A. As addressed in Section B. of the preceding analysis, the Council has not commented in its annual report on the significant research activities funded by the State during the preceding year. Since the Legislature requires this information, we recommend the Council comply with this requirement.
- B. As addressed in Section C., the Council does not review or effectively prioritize its research needs. We recommend the Council comply with the requirement to annually review its research needs reports. We also recommend the Council rank its priorities by some criteria that would establish a direct relation to policy issues facing decision makers and limit the priorities to a realistic number.

Recommendation No. 4

The Legislature should consider eliminating the authority of the Council to award research grants.

As addressed in Section D. of the preceding analysis, the University of Alaska has received most of the research budget appropriated to the Council. By funnelling the money through the Council, unnecessary costs of at least \$263,000 have been added to the cost of the research. Additionally, the Council has spent a large percentage of its time in reviewing, awarding and administering the grants to the detriment of its other duties. We do not believe that elimination of the authority to award research grants will adversely affect the ability of the Council to coordinate research information, if State agencies are required to report to the Council. Effective coordination can be accomplished by concise reports to the Legislature and Governor on projects funded that were unnecessarily duplicative, poorly done or invalid. Research needs can be effectively presented by analysis of information obtained from agency and University reports to the Council.

Recommendation No. 5

The Council should formally review its performance in accomplishing the goals and objectives of the program.

Periodic performance reviews are a valuable tool in measuring the effectiveness of management policies in achieving program goals. Areas needing improvement or redirection can be identified and procedures updated to more effectively meet management's requirements. These reviews should result in information beneficial to the Council and can be used to measure its success in meeting program objectives.