

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984

2996 HSA SB 347 - SB 387

1 Maryland's decision to grant more generous benefits to families  
2 with fewer children, stated that, "In the area of economics and  
3 social welfare, a State does not violate the Equal Protection  
4 Clause merely because the classifications made by its laws are  
5 imperfect." Id. at 485. This has, of course, been the proper  
6 standard in economic regulation cases. In New Orleans v. Duke,  
7 427 U.S. 297 (1976), for example, the Court without dissent up-  
8 held against equal protection attack a city ordinance barring all  
9 pushcart vendors from the French Quarter except for those who  
10 "have continually operated the same business within the Vieux  
11 Carre ... for eight years prior to January 1, 1972...." In sus-  
12 taining this durational requirement the Court stated that "...the  
13 judiciary may not sit as a superlegislature to judge the wisdom  
14 or desirability of legislative policy determinations made in ar-  
15 eas that neither affect fundamental rights nor proceed along sus-  
16 spect lines." In this sphere, "it is only the invidious dis-  
17 crimination, the wholly arbitrary act, which cannot stand consis-  
18 tently with the Fourteenth Amendment." Id. at 303-304.

19 This deferential standard is particularly appropriate  
20 where the issue involves the elusive legislative judgments inevi-  
21 tably involved in the allocation of public funds, as the Court  
22 has expressly recognized:

23 The basic principle that must govern an as-  
24 sessment of constitutional challenge to a law pro-  
25 viding for governmental payments or monetary bene-  
26 fits is well established. Governmental decisions  
27 to spend money to improve the general welfare in  
28 one way or another are not confided to the  
29 courts. The discretion belongs to [the legisla-  
30 ture] unless the choice is clearly wrong, a dis-  
31 play of arbitrary power, not an exercise of judg-  
32 ment."

33 Mathews v. DeCastro, 429 U.S. 181 (1975).

34 Such a standard of review is virtually required if  
35 courts are to avoid massive judicial tinkering with the innumer-  
36 able legislative judgments involved in the allocation of public  
37 funds. In a wide variety of contexts, the Court has therefore  
38 deferred to legislative judgments. In Idaho Department of

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1 Employment v. Smith, 434 U.S. 100 (1977), the Court sustained  
2 Idaho's decision to provide unemployment benefits to those at-  
3 tending night school, but not to one attending early morning  
4 classes, and reiterated that "This Court has consistently de-  
5 ferred to legislative determinations concerning the desirability  
6 of statutory classifications affecting the regulation of economic  
7 activity and the distribution of economic benefits." Id. at 101.

8 Even where the basic subsistence needs of the poor are  
9 at stake, the Court has adhered in more recent years to the prin-  
10 ciple that allocation of public benefits is a matter largely of  
11 legislative discretion. In Dandridge v. Williams, 397 U.S. 471  
12 (1970), the Court permitted the state to pay less than minimum  
13 subsistence to large families while continuing to provide full  
14 subsistence to small families. Two years later, the Court reaf-  
15 firmed this hands-off approach in Jefferson v. Hackney, 406 U.S.  
16 535 (1972). There the Court sustained, against equal protection  
17 challenge, a state's decision to pay families with dependent  
18 children (AFDC) less than subsistence benefits, while providing  
19 full benefits to other categorical assistance recipients, not-  
20 withstanding the fact that a disproportionate number of those  
21 whose benefits were lowered were Black or Mexican-American. The  
22 Court noted that "Since budgetary constraints do not allow the  
23 payment of the full standard of need" for everyone, the state may  
24 determine who is "least able ... to bear the hardships of an in-  
25 adequate standard of living." Id. at 549. The Court concluded  
26 that "Whether or not one agrees with this state determination,  
27 there is nothing in the Constitution that forbids it." Id. In a  
28 similar case, the Court permitted Florida to grant a property tax  
29 exemption to widows but not to widowers, deferring to the state's  
30 judgment that the financial difficulties of surviving female  
31 spouses are likely to be greater than those of surviving male  
32 spouses. Kahn v. Shevin, 416 U.S. 351 (1974).

33 The lesson of these cases is that legislatures are en-  
34 titled to make their own 'rough judgments' about which categories

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1 of citizens face relatively greater current hardships. From oth-  
2 er cases we learn that the Court defers as well to legislative  
3 determinations of relative prior hardship suffered by different  
4 groups of citizens. In Johnson v. Robinson, 415 U.S. 361 (1974),  
5 for example, the Court sustained Congress' decision to grant edu-  
6 cation benefits to 'cold war (non-combat) veterans' but to ex-  
7 clude from those benefits conscientious objectors who performed  
8 comparable alternative service. The requirements of equal pro-  
9 tection were satisfied, the Court held, because Congress was free  
10 to determine that the hardships and disruption of (even peace-  
11 time) military service were greater than those for alternative  
12 service. Id. at 377-379.

13 Less than a month ago, the U.S. Supreme Court reaff-  
14 firmed the principle of the Johnson case. In Rexan v. Taxation  
15 with Representation, 51 U.S.L.W. 4583 (May 23, 1983), the Court  
16 upheld a special tax break permitting only veterans' organiza-  
17 tions to engage in lobbying while still retaining full tax exempt  
18 status under section 501(c)(3) of the Internal Revenue Code -- a  
19 benefit available to no other organization. Because of the hard-  
20 ships veterans might have encountered, the Court stated that "It  
21 is ... not irrational for Congress to decide that, even though it  
22 will not subsidize substantial lobbying by charities generally,  
23 it will subsidize lobbying by veterans' organizations."

24 Perhaps no case more accurately demonstrates the stan-  
25 dard of review appropriate in this case than U.S. Railroad Re-  
26 irement Board v. Fritz, 449 U.S. 166 (1980). The Railroad Re-  
27 tirement Act of 1974 permitted continued 'windfall benefits'  
28 (combined Social Security and Railroad Retirement benefits) only  
29 for those who had a connection with the railroad industry on De-  
30 cember 31, 1974 or who had completed before that date 25 years of  
31 railroad service. The lower court held that the distinction was  
32 not rationally related to a permissible governmental objective  
33 and that the Act therefore denied equal protection to the plain-  
34 tiff class: those who had left the railroads before December 31,

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1 1974 and had less than 25 years of rail service. The U.S. Su-  
2 preme Court reversed, and sustained the statute, stating that the  
3 courts have "no power to impose upon the States their views of  
4 what constitutes wise economic or social policy." Id. at 175.  
5 "The problems of government," the Court noted, "are practical  
6 ones and may justify, if they do not require, rough accommoda-  
7 tions -- illogical, it may be, and unscientific." Id.

8 The Court's determination to leave to each state legis-  
9 lature the judgment of how to expend public benefits is particu-  
10 larly striking in those cases in which the Court has sustained  
11 such legislative classifications in spite of an argued impact on  
12 a suspect class or a fundamental interest. In Maher v. Roe, 432  
13 U.S. 464 (1977), the Court upheld a legislative choice to provide  
14 public health subsidies for childbirth while withholding them  
15 from women who choose the exercise their fundamental right to an  
16 abortion. In Personnel Administrator v. Feeney, 442 U.S. 256  
17 (1979), the Court sustained a state hiring preference for veter-  
18 ans in spite of a clear disproportionate impact on women. In  
19 Jefferson v. Hackney, 406 U.S. 535 (1972), the legislature's  
20 choice to subsidize fully categories of recipients other than  
21 AFDC beneficiaries impacted disproportionately on Blacks and oth-  
22 er minorities. The tax break for veterans' lobbying organiza-  
23 tions sustained in Regan v. Taxation With Representation, consti-  
24 tuted a differential subsidy that arguably affected the exercise  
25 of First Amendment rights.

26 Judged by the standard of all of these cases, Alaska's  
27 decision to provide a subsidy to a carefully defined group of  
28 senior citizens who experienced the particular hardships of life  
29 in the territory, face more difficult hardships now, and whose  
30 presence provides a benefit to all Alaskans, is clearly defen-  
31 sible.

32  
33 B. The Standard of Review in this Case is not Markedly  
Changed by Use of Alaska's "Sliding Scale" Test

34 Use of the Alaska "sliding scale" equal protection test

1 does not markedly change this approach. In State v. Ostrosky,  
2 \_\_\_ P.2d \_\_\_, Op. No. 2702 (Alaska, July 19, 1983) the Alaska  
3 Supreme Court made its definitive statement on the meaning and  
4 application of Alaska's equal protection test. Basically, the  
5 court stated that the relaxed scrutiny similar to the federal  
6 "rational basis" test would apply except in those instances where  
7 the legislation touched upon fundamental rights, suspect classes,  
8 or other important interests. As the impingement on those rights  
9 grows, the level of scrutiny increases. If, however, the im-  
10 pingement is minimal or does not touch a fundamental right, then  
11 the interest is not entitled to "an elevated position on the  
12 Erickson sliding scale." Slip Op. at 27.

13 We have postulated a single sliding scale of  
14 review ranging from relaxed scrutiny to strict  
15 scrutiny. The applicable standard of review for a  
16 given case is to be determined by the importance  
17 of the individual rights asserted and by the de-  
18 gree of suspicion with which we view the resulting  
19 classification scheme. As legislation burdens  
20 more fundamental rights, such as rights to speak  
21 and travel freely, it is subjected to more rigor-  
22 ous scrutiny at a more elevated position on our  
23 sliding scale. Likewise, laws which embody clas-  
24 sification scheme that are more constitutionally  
25 suspect, such as laws discriminating against ra-  
26 cial or ethnic minorities, are more strictly scru-  
27 tinized....

28 Having selected a standard of review on the  
29 Erickson sliding scale, we then apply it to the  
30 challenged legislation. This is done by scrutin-  
31 izing the importance of the governmental interests  
32 which it is asserted that the legislation is de-  
33 signed to serve and the closeness of the means-to-  
34 ends fit between the legislation and those inter-  
ests. As the level of scrutiny selected is higher  
on the Erickson scale, we require that the assert-  
ed governmental interests be relatively more com-  
pelling and the legislation's means-to-ends fit be  
corresponding closer. On the other hand, if re-  
laxed scrutiny is indicated, less important gov-  
ernmental objectives will suffice in a greater de-  
gree of over/ or under inclusiveness in the means-  
to-ends fit will be tolerated. Compare Vogler v.  
Miller, 660 P.2d 1192 (Alaska 1983), with Rose v.  
Commercial Fisheries Entry Commission, 647 P.2d  
154 (Alaska 1982). As a minimum, we require that  
the legislation be based on a legitimate public  
purpose and that the classification "be reason-  
able, not arbitrary, and ... rest upon some ground  
of difference having a fair and substantial rela-  
tion to the object of the legislation." Isakson  
v. Rickey, 550 P.2d at 362 (quoting State v.  
Wylie, 516 P.2d 142, 145 (Alaska 1973)).

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1 Id. at 25-26.

2 For example, in Ostrosky, the plaintiff had challenged  
3 the limited entry system's transfer provision, arguing that the  
4 free marketability of the permits discriminated on the basis of  
5 wealth or privilege. The court rejected this claim, holding that

6 Since the wealth and lineage classifications  
7 presented here are not different from those which  
8 pervade our system of private property, we do not  
9 place the interest asserted by the Ostroskys --  
10 redistribution of entry permits based on a system  
11 free of these classifications -- in an elevated  
12 position on the Erickson sliding scale. It fol-  
13 lows, of course, that the rational basis test is  
14 the appropriate standard for this federal consti-  
15 tutional claim.

16 Id. at 27 (emphasis added).

17 Exactly how individual interests are to be ranked is  
18 still not entirely clear. Although the court expressly is avoid-  
19 ing "outright categorization of fundamental and nonfundamental  
20 rights," (Id. at 24, quoting with approval from State v. Erick-  
21 son, 574 P.2d at 1, 11-12 (Alaska 1978)), the replacement is not  
22 expressly set out. The court did, however, expressly refer to  
23 the "spectrum of standards" advocated by Justices Marshall and  
24 White in federal equal protection cases, (id. at 23, n.13), and  
25 particularly referred to the dissenting opinion of Justice Mar-  
26 shall in San Antonio Independent School v. Rodriguez, 411 U.S. 1,  
27 reh. denied 411 U.S. 959 (1973). In that opinion, Justice Mar-  
28 shall stated that the standard should be rooted in existing spe-  
29 cific constitutional guarantees:

30 The task in every case should be to determine  
31 the extent of to which constitutionally guaranteed  
32 right are dependent on interests not mentioned in  
33 the constitution. As the nexus between the spe-  
34 cific constitutional guarantee and the non-consti-  
tutional interest draws closer, the non-constitu-  
tional interest becomes more fundamental and the  
degree of judicial scrutiny applied when the in-  
terest is infringed on a discriminatory basis must  
be adjusted accordingly.

35 San Antonio Independent School District v. Rodriguez, 411 U.S. at  
36 102-103 (Marshall, J. dissenting). As a result, it is the degree  
37 of interference with the constitutional right, not the outright  
38 characterization of the right as being infringed or not infringed

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1 which controls the sliding scale.

2 An example of particular relevance to this case is the  
3 Alaska Supreme Court's approach to the level of scrutiny to be  
4 given the permanent fund dividend program in Williams v. Zobel,  
5 619 P.2d 448 (Alaska 1980) (Zobel II). There, as here, the pri-  
6 mary constitutional principle potentially infringed by the resi-  
7 dency requirement is the right to travel or the right to migrate  
8 interstate. There the court stated that:

9 Further, we will no longer regard all dura-  
10 tional residence requirements as automatically  
11 triggering strict scrutiny and requiring a showing  
12 that such a classification is absolutely necessary  
13 to promote a compelling state interest. Instead,  
14 we will balance the nature and extent of the in-  
15 fringement on [the right to travel] caused by the  
16 classification against the state's purpose in en-  
17 acting the statute and the fairness and  
18 substantiality of the relationship between that  
19 purpose and the classification. Id. at 453.

20 As in Zobel II, the primary constitutional value poten-  
21 tially infringed is the right to travel or interstate migration.  
22 Although Mr. Vest attempts to create a heightened right to equal  
23 treatment through the Citizenship Clause, that attempt is well  
24 beyond the accepted ambit of that provision. Simply, the Cit-  
25 izenship Clause guarantees that there will not be greater or  
26 lesser degrees of citizenship once a person become a citizen, or  
27 "bona fide resident" of a particular locale. 1/ Slaughter-House  
28 Cases, 83 U.S. 36, 80 (1873).

29 The primary entitlement is, of course, to equal pro-  
30 tection of the law. Although a state may legitimately restrict  
31 many public benefits to citizens of that state, it may not divide  
32 those benefits in violation of the equal protection clause. Mr.  
33 Vest attempts to bootstrap his argument by arguing for a greater  
34 degree of scrutiny based on the Citizenship Clause. It is his

32 1/ It does not, of course, guarantee automatic access to all  
33 state benefits. Mr. Vest and others may or may not qualify for  
34 veterans' loans, student loans, or a host of other state programs  
based on legitimate non-residency based distinctions.

1 status as a citizen that allows him to raise his claim to equal  
2 protection, and not vice versa.

3 Although the use of a residency requirement must have a  
4 rational basis for its selection, its use in and of itself does  
5 not implicate the Citizenship Clause. An irrational or un-  
6 portable use of residency as a basis for discrimination is, of  
7 course, repugnant -- but no more so than any irrational standard  
8 of measurement. Justice Brennan in his concurring opinion in  
9 Zobel III, on which Mr. Vest relies attacked the unsupportable  
10 use of residency as a deciding line, not the use of residence  
11 itself:

12 But we have never suggested that duration of res-  
13 idence vel non provides a valid justification for  
14 discrimination. To the contrary, discrimination  
15 on the basis of residence must be supported by a  
16 valid stare interest independent of the dis-  
17 crimination itself.

18 Zobel III, 72 L.Ed 2d at 684. Here, as set forth previously at  
19 length, there are independently valid state interests in identi-  
20 fying the veterans of the territorial days for special honor.

21 The only other constitutional value potentially in-  
22 fringed, as in the permanent fund dividend program, is the right  
23 to travel. The Alaska Supreme Court found that the dividend pro-  
24 gram had a de minimus impact on the right to travel. Zobel II,  
25 619 P.2d at 458. As will be shown, the dividend program had a  
26 much more extensive and pervasive impact on the citizenry, and  
27 the individual citizen, than the longevity bonus program. See  
28 section III, below. This lesser impact by the longevity bonus  
29 program does not raise the level of scrutiny to any great degree,  
30 and is on par or below the interest in the right to a limited  
31 entry permit which the Alaska Supreme Court has determined to be  
32 "not of a high order." State v. Ostrosky, Slip Op. at 25.  
33 See also Rose v. Commercial Fisheries Entry Commission, 647 P.2d  
34 154, 158-160 (Alaska 1982). And, as previously shown, there is a  
reasonably close fit between the purposes of the legislation and  
the January 3, 1959 dividing date. As a result, the longevity

1 equal protection analysis.

2  
3 III. SINCE THE LONGEVITY BONUS PROGRAM DOES NOT BURDEN THE  
4 RIGHT TO TRAVEL OR ANY OTHER FUNDAMENTAL INTEREST,  
5 DOES NOT REST UPON A SUSPECT CLASSIFICATION, AND  
6 CLEARLY ADVANCES LEGITIMATE STATE GOALS, IT IS NOT  
7 INVALID UNDER ZOBEL V. WILLIAMS

8  
9 As the cases discussed above make clear, state legisla-  
10 tures are granted wide constitutional latitude in determining how  
11 to distribute subsidies. The special monthly benefit provided by  
12 Alaska to those of its senior citizens who are veterans of the  
13 territory easily passes the constitutional standard established  
14 by those decisions. Plaintiff contends, however, that one deci-  
15 sion of U.S. Supreme Court -- Zobel III -- compels invalidation  
16 of the longevity bonus.

17  
18 Zobel III is not controlling. As we shall show,  
19 Zobel III is an unusual case which invalidated a statute both  
20 constitutionally and fundamentally different from the bonus pro-  
21 gram at issue here. The permanent fund dividend struck down in  
22 Zobel III singled out the new arrival for discriminatory treat-  
23 ment. Each newcomer to the state was treated less well than ev-  
24 ery citizen who arrived ahead of him. This is clearly not the  
25 case under this program: One arriving in Alaska today is not in  
26 any different position with respect to the longevity bonus than  
27 the great and dominant majority of Alaskans.

28  
29 Moreover, the Permanent Fund Dividend plan provided  
30 incrementally greater benefits measured solely by the mere length  
31 of residence in Alaska. Thus, it could have been sustained only  
32 if the Court were willing to accept the constitutionally imper-  
33 missible conclusion that "the longer one stays, the worthier one  
34 is." Eligibility for the bonus program, in contrast, is not de-  
signed to reflect "past contribution" measured incrementally by  
mere length of residence. It is, as we demonstrate below, a  
wholly different program supported by different and constitution-  
ally permissible goals.

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1  
2 A. Unlike the Permanent Dividend Fund Plan in  
3 Zobel III, the Longevity Bonus Does Not  
4 Advance an Illegitimate State Purpose

5 The Court's holding in Zobel III only established two  
6 propositions of law: (1) rewards for past contributions cannot  
7 be based solely on length of residence; and (2) recognizing resi-  
8 dency accumulated before the date of enactment of a statute is  
9 not rationally related to the purpose of creating incentives to  
10 stay in the future.

11 Beyond those two holdings, the impact of Zobel III is  
12 in its strong implication that the United States Supreme Court  
13 will not tolerate a certain kind of discrimination between bona  
14 fide residents. This discrimination is the creation of "fixed,  
15 permanent distinctions between an ever-increasing number of perm-  
16 anent classes of concededly bona fide residents, based on how  
17 long they lived in the state." Zobel III, 72 L.Ed.2d at 677.  
18 See also id. at 680 (stating that it would be "clearly impermis-  
19 sible" to "divide citizens into expanding numbers of permanent  
20 classes"). Although the Court's opinion avoided ruling on the  
21 constitutionality of the "prospective" portion of the dividend  
22 distribution plan, the concurring opinions of Justices O'Connor  
23 and especially Brennan indicate that the plan as a whole would  
24 not have passed constitutional muster.

25 The Court's opinion in Zobel III restated the three  
26 purposes advanced in justification of the distinctions among res-  
27 idents made by the dividend plan. Those purposes were stated as

28 (a) the creation of a financial incentive for in-  
29 dividuals to establish and maintain residence in  
30 Alaska; (b) the encouragement of prudent manage-  
31 ment of the Permanent Fund; and (c) apportionment  
32 of benefits in recognition of "undefined 'contri-  
33 butions of various kinds, both tangible and intan-  
34 gible, which residents have made during their  
years of residency.'

Id. at 678.

The Court concluded that the distinctions among resi-  
dents made under the plan did not satisfy the rational basis

1 test. Under the plan, residents were to receive greater benefits  
2 for greater durations of residency. The plan was also to be ap-  
3 plied retroactively so that residency before enactment of the  
4 plan would also be counted toward increased benefits. The  
5 Court's opinion focused on the retrospective aspect of the plan.  
6 The Court failed to see any rational relationship between this  
7 retrospective aspect of the plan and the first two purposes noted  
8 above. In that regard, the Court stated:

9 Assuming arguendo that granting increased dividend  
10 benefits or each year of continued residence might  
11 give some residents an incentive to stay in the  
12 State in order to reap increased dividend benefits  
13 in the future, the State's interest is not in any  
14 way served by granting greater dividends to per-  
15 sons for their residency during the 21 years prior  
16 to the enactment.

17 Nor does the State's purpose of furthering  
18 the prudent management of the Permanent Fund and  
19 the State's resources support retrospective appli-  
20 cation of its plan to the date of statehood.

21 Id. at 678-679.

22 Mr. Vest argues, in this respect, that Zobel III stands  
23 for the proposition that any recognition of past residency is  
24 unconstitutional. Zobel III, instead, is much more limited and  
25 traditional, namely, that only an irrational use of residency is  
26 unconstitutional. The "retrospective" portion struck down, i.e.,  
27 residency before the date of enactment, was not invalidated in  
28 the abstract, but rather because it was not connected to the as-  
29 serted purposes. Here that connection exists.

30 The third, and only remaining goal asserted in Zobel  
31 III, did relate to the distinctions made by the Dividend Plan.  
32 That goal was to reward citizens for "past contributions" to the  
33 state, a "past contribution" measured solely and exclusively by  
34 the incremental length of residence. But as Shapiro v. Thompson,  
394 U.S. 618 (1969), had made clear, such a goal was constitu-  
tionally impermissible. Sustaining such a goal "would permit the  
State to apportion all benefits and services according to the  
past tax [or intangible] contributions of its citizens." Id. at

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1 632-633. The permanent fund dividend rested on the premise that  
2 any citizen who had resided in Alaska for ten years was exactly  
3 five times worthier than one who had resided in the state for two  
4 years. As the Court had held in Shapiro, "The Equal Protection  
5 Clause prohibits such an apportionment of state services." Id.,  
6 quoted and emphasis added in Zobel III, 72 L.Ed 2d at 679.

7 Thus, since two of the goals offered by the state in  
8 Zobel were irrelevant, and the third impermissible, the statute  
9 fell for lack of any reason to support the distinctions it drew.  
10 The distinction drawn by the longevity bonus program, however, is  
11 supported by three legitimate purposes. Therefore it is consti-  
12 tutional under the standard established by Zobel III.

13 Zobel III was not the opinion of a unified Court. The  
14 Court as a whole concluded that the distinctions were invalid  
15 under the Equal Protection Clause at least insofar as they were  
16 applied retroactively to provide greater benefits based on length  
17 of residence before enactment of the dividend plan. In a concur-  
18 ring opinion written by Justice Brennan for himself and three  
19 other members of the Court, it was emphasized that

20 The Court today reaffirms the important principle  
21 that, at least with respect to durational-residen-  
22 cy discrimination, a State's desire "to reward  
citizens for past contributions" is "clearly not a  
legitimate state purpose."

23 72 L.Ed 2d at 683. Beyond that, however, Justice Brennan's opin-  
24 ion indicates that a least four of the justices considered the  
25 constitutional concerns raised by the dividend plan to be such as  
26 "might well preclude even the prospective operation of Alaska's  
27 scheme." Id. at 681.

28 But Zobel III did not rule that all discriminations  
29 between bona fide residents based on length of residency were  
30 unconstitutional per se. Again, even Justice Brennan, whose  
31 opinion is the harshest of the attacks on the plan, would only  
32 automatically overturn residency discrimination having no inde-  
33 pendent valid state interest:

34 It is, of course, elementary that the Constitution

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1 does not bar the States from making reasoned dis-  
2 tinctions between citizens. Insofar as those dis-  
3 tinctions are rationally related to the legitimate  
4 ends of the State they present no constitutional  
5 difficulty, as our equal protection jurisprudence  
6 attests. But we have never suggested that dura-  
7 tion of residence vel non provides a valid justi-  
8 fication for discrimination. To the contrary,  
9 discrimination on the basis of residence must be  
10 supported by a valid state interest independent of  
11 the discrimination itself.

12 Id. at 684 (emphasis added).

13 It is noteworthy that the Court as a whole declined to  
14 take an additional step and invalidate the prospective component  
15 of the unlimited and ever-expanding dividend distribution plan.  
16 Although five justices signed on to the concurring opinions of  
17 Justices Brennan and O'Connor, and even though under the reason-  
18 ing of the concurring opinions the entire program would have been  
19 expressly overturned, the Court refused to make that holding.  
20 Zobel III, therefore, also stands for the proposition that the  
21 residency provisions of the dividend plan represent "the water's  
22 edge"; i.e., that distinctions such as those made by the dividend  
23 program mark the boundary into unconstitutional territory. Dis-  
24 tinctions between residents that are not unlimited and "ever-  
25 expanding" are not automatically invalid, and must be analyzed on  
26 a case-by-case basis.

27 Nothing in Zobel III suggests that it is impermissible  
28 for a state to provide a special benefit to persons who suffered  
29 a particular past hardship, who may now suffer relatively greater  
30 hardship than others, and who, if forced by hardship to leave,  
31 would deprive the state of a unique repository of its cultural  
32 heritage. As we demonstrate below, these legitimate goals, none  
33 of which were involved in the Permanent Fund Dividend Program  
34 overturned in Zobel III, provide ample justification for the lon-  
gevity bonus program.

The purposes expressed in the longevity bonus statute  
are different from the purposes struck down in Zobel III. First,  
the purpose of using length of residence as a means of measuring  
present hardship is a different objective than rewarding for past

1 contributions. In fact, Justices Dimond and Matthews, in their  
2 ultimately correct dissent to the Alaska Supreme Court's uphold-  
3 ing of the dividend program, would have expressly upheld the lon-  
4 gevity bonus program on this rationale. After stating that "I  
5 can understand why in some circumstances the state might desire  
6 to reduce turnover within a particular group of the population,"  
7 Justice Dimond in a footnote stated

8 For example, free admission to pioneer homes, AS  
9 47.25.020 - 47.25.030, and a state longevity bo-  
10 nus, AS 47.45.010, both require lengthy residency  
11 periods. Both those programs, however, are appar-  
12 ently designed to help those individuals who would  
13 like to retire in the state but cannot do so be-  
14 cause of the high cost of living. The state might  
15 well want to limit these benefits to those that  
16 would suffer the most hardship by being forced to  
17 leave, and it seems reasonable to suppose that a  
18 long period of residency would be some indicia of  
19 close ties to Alaska and the disruption that leav-  
20 ing might cause.

21 Zobel II, 619 P.2d at 469, n.13 (J. Dimond dissenting).

22 Nothing in Zobel III indicates that it is an impermis-  
23 sible goal for a state to provide a special benefit to a group  
24 which the state believes suffers relatively greater present hard-  
25 ship than others. And, again, the United States Supreme Court  
26 has repeatedly held this to be a valid legislative determin-  
27 ation. 2/

28 Second, another primary purpose of the longevity bonus  
29 program is to allow persons who were here in territorial days and  
30 have continuing ties with the state to remain so as to continue  
31 to enrich our culture and provide present contributions to the

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32 2/ See, for example, Kahn v. Shevin, 416 U.S. 351 (1974)(state  
33 may conclude that widows face greater hardships than widowers);  
34 Dandridge v. Williams, 397 U.S. 471 (1970)(state may conclude  
that smaller families face greater hardship than large families);  
and Jefferson v. Hackney, 406 U.S. 535 (1972)(state may conclude  
that disability aid recipients face greater hardships than A.D.C.  
recipients). Indeed, the goal of providing relief to a broad  
category of persons thought to suffer greater present hardship is  
so well established that the cases above would not likely have  
been brought in the first place had it not been for the arguably  
disproportionate impact the programs had on persons defined by  
race or gender.

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1 present Alaska society. In other words, the program is not a  
2 benefit to the pioneers as much as it is a benefit to those non-  
3 pioneers who came to the state after 1959. It is the desire of  
4 that later arriving group to not be deprived "of the benefits of  
5 [the territorial pioneers] wisdom and experience." AS 47.45.170.  
6 The continued presence of these persons is a source of common  
7 cultural strength that is shared by all, new and old residents  
8 alike. Nothing in Zobel III indicates that this purpose is un-  
9 constitutional.

10 These purposes in and of themselves would justify the  
11 longevity bonus program. But even the remaining purpose set out  
12 in AS 47.45.170 was not struck down in Zobel III. Zobel III  
13 struck down the rationale that persons could be rewarded for past  
14 services to the state based on graduated lengths of residency.  
15 It struck down the idea that a person who has been in the state  
16 ten years has contributed five times as much to the state's well-  
17 fare as a person who has been here two years. The longevity bo-  
18 nus program, on the other hand, is primarily motivated as a means  
19 of compensating a certain class of Alaska citizens for past hard-  
20 ship suffered in common:

21 Legislature further finds and states that this  
22 legislation recognizes the economic hardship suf-  
23 fered by many elderly Alaskans.... These pioneers  
24 are the same Alaskans, who in the prime of their  
25 life were in effect treated as second-class citi-  
26 zens by the federal government and who paid much  
27 of their hard-earned income to a government in  
28 which they did not have the right to participate  
29 through the power of the ballot.

30 AS 47.45.170.

31 Nothing in Zobel III indicates that it is impermissible  
32 for a state to have as a goal the compensation of a group of its  
33 citizens who have in the past suffered a particular hardship.  
34 Indeed, the veterans' benefit cases clearly establish that this  
is a fully legitimate governmental purpose. See, for example,  
Johnson v. Robinson, 415 U.S. 361 (1974), and Regan v. Taxation  
with Representation, 51 U.S.L.W. 4583 (May 23, 1983). Like pro-  
grams retroactively compensating a group of veterans for their

1 hardship suffered through wartime service, the longevity bonus  
2 program is intended to compensate those citizens who before 1959  
3 endured a status not shared by persons arriving after that date.

4 Therefore, the purposes of the longevity bonus program  
5 as set out in AS 47.45.170 have not been struck down by either  
6 the Zobel III decision or any other decisions of the Alaska or  
7 U.S. Supreme Courts.

8 B. Equal Protection Analysis Generally does not Particu-  
9 larly Concern Itself with the Type of Distinction Made  
10 by the Bonus Program

11 The question before this court, then, is whether the principles  
12 of the existing cases can be expanded so as to render illegiti-  
13 mate the purpose of honoring a state's past by singling out a  
14 certain minority group who represent that past for all Alaskans;  
15 persons "who in the prime of their life were in effect treated as  
16 second-class citizens by the federal government and who paid much  
17 of their hard-earned income to a government in which they did not  
18 have the right to participate through the power of the ballot";  
19 persons who in many instances had been "forced to live out their  
20 retirement years in areas far away from the land they loved and  
21 nurtured and thereby also suffering, in many cases, the loss of  
22 familial relationship with their own kin, an experience that is  
23 sad and frustrating to them as well as depriving new generations  
24 of Alaskans of the benefits of their wisdom and experience."  
25 AS 47.45.170. Neither the underlying purpose nor the established  
26 principles of the Equal Protection and Citizenship Clauses re-  
27 quire an extension of previous holdings to the longevity bonus  
28 program.

29 Although the Equal Protection Clause has been extended  
30 in recent decades to many new areas, the history of that expan-  
31 sion follows a clearly defined course. Certain basic principles  
32 have underlain that expansion. As the following discussion will  
33 show, neither the history of that development nor those princi-  
34 ples imply an expansion to the type of situation before this  
court. Although the expansion of equal protection is certain to

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1 continue down its path, that path bypasses nullifying the longev-  
2 ity bonus program.

3 This program is a benefit given by the overwhelming  
4 political majority, persons who arrived in this state after 1959,  
5 to a political minority without regard to race or creed. Such a  
6 program and intent is not the type of activity that the Equal  
7 Protection or Citizenship Clauses were enacted or interpreted to  
8 include.

9 It is safe to say that until the past few decades an  
10 attack of this sort on the longevity bonus program would have  
11 been dismissed almost out of hand. At first, the U.S. Supreme  
12 Court took an extremely narrow view of these clauses' ambit:

13 We doubt very much whether any action of a state  
14 not directed by way of discrimination against the  
15 Negroes as a class, or on account of their race,  
16 will ever come within the purview of this provi-  
17 sion. It is so clearly a provision for that race  
18 ... that a strong case would be necessary for its  
19 application to any other.

20 The Slaughter House Cases, 83 U.S. (16 Wall.) 36, 21 L.Ed. 394,  
21 410 (1873). This extremely narrow interpretation was quickly  
22 recognized as being erroneous, and was soon extended to all ra-  
23 cial classifications. Yick Wo v. Hopkins, 118 U.S. 356, 369  
24 (1886). For a number of years the standard use of the clause  
25 followed fairly closely to its original intent, namely that

26 [A]ll men, without regard to race or color, should  
27 have the same rights to acquire real and personal  
28 property and to enter in to business enterprises;  
29 criminal and civil law, in procedures or penal-  
30 ties, should make no distinctions whatsoever be-  
31 cause of race or color; there should be no segre-  
32 gation of individuals on the basis of race or col-  
33 or as to the right to own or use land; there  
34 should be no segregation of individuals on the  
35 basis of race or color in the use of utilities,  
36 such as transportation or hotel; with reserva-  
37 tions, for here there is substantial divergence,  
38 there should be no segregation in the schools. It  
39 was generally understood that Congress could leg-  
40 islate to secure these ends, without regard to  
41 whether the particular objective was frustrated by  
42 state action or by state inaction. On the other  
43 hand, the clause was meant to have no bearing on  
44 the right to vote; the evidence of its contemplat-  
45 ed effect on state anti-miscegenation laws is un-  
46 clear; and it was generally understood to have no  
47 bearing on segregation of a purely private sort in

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1 situations fairly independent of the law; as in  
2 churches, cemeteries, or private clubs.

3 John P. Frank and Robert F. Munro, "The Original Understanding of  
4 "Equal Protection of the Law," 50 Colum. L. Rev. 131, 167-168  
5 (1950). See also Alexander M. Bickel, "The Original Understand-  
6 ing and the Segregation Decision," 69 Harv. L. Rev. 1 (1955).

7 But the expansion of the Equal Protection Clause beyond  
8 the relatively narrow bounds of racial concerns was impeded by  
9 the pre-eminence of the Due Process Clause as the vehicle for the  
10 U.S. Supreme Court's constitutional defense of the sanctity of  
11 contract and property rights. <sup>3/</sup> In addition to using a differ-  
12 ent provision to defend constitutional rights, there was also a  
13 marked difference in concern about the rights to be defended.

14 The difference in the ranking of constitutional values  
15 and the relative unimportance of the Equal Protection Clause was  
16 highlighted in the opinion of Justice Holmes in Buck v. Bell, 274  
17 U.S. 200 (1927). In rejecting an attack based upon the Equal  
18 Protection Clause against compulsive sterilization of the mental-  
19 ly retarded, Justice Holmes stated

20 But, it is said, however it might be if this  
21 reasoning were applied generally, it fails when it  
22 is confined to the small number who are in the  
23 institutions named and is not applied to the mul-  
24 titudes outside. It is the usual last resort of  
25 constitutional arguments to point out shortcomings  
26 of this sort.

27 Id. at 207-208 (emphasis added). This famous characterization of  
28 equal protection arguments as the "usual last resort" began to  
29 change when cases like Nebbia v. New York, 291 U.S. 502 (1934),  
30 and West Coast Hotel v. Parrish, 300 U.S. 379 (1937), heralded  
31 the demise of substantive due process.

32 United States v. Carolene Products, 304 U.S. 144  
33 (1938), set out what was to become the other great theme of equal  
34

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3/ E.g., Mugler v. Kansas, 123 U.S. 623, 661 (1887); Allseyer v.  
35 Louisiana, 165 U.S. 578 (1897); Lochner v. New York, 198 U.S. 45  
36 (1905).

1 protection: the safeguarding of the political process and the  
2 protection of the individual against the power of the majority.  
3 Justice Karlan Fiske Stone's "footnote four" expressed the theme  
4 that would underlie the expansion of equal protection beyond the  
5 borders of race-based discrimination:

6 It is unnecessary to consider now whether  
7 legislation which restricts those political pro-  
8 cesses which can ordinarily be expected to bring  
9 about repeal of undesirable legislation, is to be  
10 subjected to more exacting judicial scrutiny under  
11 the general prohibitions of the Fourteenth Amend-  
12 ment than are most other types of legislation....

13 Not need we enquire whether similar consider-  
14 ations enter into the review of statutes directed  
15 at particular religious, or national, or racial  
16 minorities: whether prejudice against discreet  
17 and insular minorities may be a special condition,  
18 which tends seriously to curtail the operation of  
19 those political processes ordinarily to be relied  
20 upon to protect minorities, and which may call for  
21 a correspondingly more searching judicial inquiry.

22 Id. at 152-153, n.4 (citations omitted). 4/

23 The concern with the unresponsiveness of the political  
24 process to all persons, rather than simply racial minorities was  
25 also a central theme of the Warren Court. 5/ This underlying  
26 concern is central to the great expansion of the Equal Protection  
27 Clause beyond concerns about race -- to concerns about protecting  
28 specific constitutional rights like freedom of religion 6/; to  
29 implied constitutional rights such as the right to travel 7/; to  
30 the rights of non-racial groups who are often subject to dis-  
31 crimination such as aliens 8/; women 9/, illegitimate

32 4/ Cf. South Carolina State Highway Dep't v. Barnwell Bros., 303  
33 U.S. 177, 184, n.2 (1938) (similar concerns under the Commerce  
34 Clause for protecting those who do not have a political voice).

5/ E.g., Ely, "The Chief," 88 Harv. L. Rev. 11 (1974).

6/ Wisconsin v. Yodi, 406 U.S. 205 (1975).

7/ Memorial Hospital v. Maricopa County, 415 U.S. 250 (1974).

8/ Graham v. Richardson, 403 U.S. 365 (1971).

9/ Schleginger v. Ballard, 419 U.S. 498, 508 (1975).

1 children 10/, and the poor 11/; and to directly clearing the  
2 political process itself. 12/

3 Generally, this area of expansion shows a twin concern  
4 with: (1) clearing the channels of the political process (for  
5 example, reapportionment, "one man-one vote," and voter qualifi-  
6 cations); and (2) equal treatment for those whom the majority in  
7 the political process may mistreat as a class. 13/

8 This concern is evident in the use of equal protection  
9 to protect the right to travel. Durational residency, or resi-  
10 dency based discrimination, is often illegitimate because of the  
11 infringement of residency requirements upon the constitutional  
12 right to travel freely from state to state. As the U.S. Supreme  
13 Court noted in Memorial Hospital v. Maricopa County, 415 U.S. 250  
14 (1974), the primary concern was protecting newcomers from the  
15 prejudices of the established majority:

16 Not unlike the admonition of the Bible that, "Ye  
17 shall have one manner of law, as well for the  
18 stranger, as for one of your own country,"

19 10/ Trimble v. Garden, 97 S.Ct. 1459, 1463 (1977)

20 11/ Bounds v. Smith, 97 S.Ct. 1491, 1498 (1977).

21 12/ Gray v. Saunders, 372 U.S. 368 (1963)(voting rights);  
22 Bulluck v. Carter, 405 U.S. 134 (1972)(filing fees); Reynolds v.  
Sims, 377 U.S. 553 (1964) ("one man-one vote").

23 13/ E.g., John Hart Ely, Democracy and Distrust: A Theory of  
24 Judicial Review (Harvard University Press 1980). See also  
25 Archibald Cox's Review of Democracy and Distrust, 94 Harv. L.  
26 Rev. 714 (1981); Bali, "Judicial Protection of Powerless  
27 Minorities," 59 Iowa L. Rev. 1059 (1974); Black "The Unfinished  
28 Business of the Warren Court," 46 Wash. L. Rev. 3, 8-9 (1970);  
29 Brest, "The Supreme Court, 1975 Term -- Forward: In Defense of  
30 the Anti-discrimination Principle," 90 Harv. L. Rev. 1, 6-12  
31 (1976); Karst, "The Supreme Court, 1976 Term -- Forward: Equal  
32 Citizenship Under the Fourteenth Amendment," 91 Harv. L. Rev. 1,  
33 8-10, 24-26 (1977); Tribe, "Structural Due Process," 10 Yale  
34 C.R.-C.L. L. Rev. 269 (1975). Some of these authors,  
particularly Ely, attempt to expand this notion beyond the Equal  
Protection and Citizenship Clauses to all constitutional  
interpretations. This expansion beyond the Fourteenth Amendment  
has been criticized as ignoring the many substantive values found  
in the text of the constitution, such as the right to free speech  
and the right to freedom of religion. E.g., Cox, supra; Tribe,  
"The Puzzling Persistence of Process-based Constitutional  
Theories", 89 Yale L. Journal 1063 (1980).

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1 Leviticus 24:22 (King James version), the right of  
2 interstate travel must be seen as insuring new  
3 residents the same rights to vital government ben-  
4 efits and privileges in the States to which they  
5 migrate as are enjoyed by other residents.

6 Id. at 261.

7 The Court's decision in Zobel III is also based upon  
8 this theme. Although not directly grounded in the right to trav-  
9 el, the court as a whole was primarily concerned about the prin-  
10 ciple of a political majority of citizens apportioning benefits  
11 and burdens based solely upon their more senior status over new-  
12 comers. It was on this basis that the Court rejected the ration-  
13 ale of "reward for past contribution" -- that society would de-  
14 generate into a social and political ranking based solely upon  
15 various degrees of residency:

16 If the states can make the amount of a cash divi-  
17 dend depend on length of residence, what would  
18 preclude varying university tuition on a sliding  
19 scale based on years of residence -- or even lim-  
20 iting access to public facilities, eligibility for  
21 student loans, for civil service jobs, or for gov-  
22 ernment contracts by length of domicile? Could  
23 States impose different taxes based on length of  
24 residence? Alaska's reasoning could open the door  
25 to state apportionment of other rights, benefits  
26 and services according to length of residency. It  
27 would permit the states to divide citizens into  
28 expanding numbers of permanent classes. Such a  
29 result would be clearly impermissible.

30 Zobel III, 72 L.Ed.2d at 680.

31 Justice Brennan in his concurrence, although basing his  
32 concerns in the Citizenship Clause as well as the Equal Protec-  
33 tion Clause, expressed the same basic notion -- that the measur-  
34 ing of each citizen against another based solely upon seniority  
35 in the state is antithetical to our notions of a unified society.

36 In effect, then, the past-contribution rationale  
37 is so far-reaching in its potential application,  
38 and the relationship between residents and con-  
39 tribution to the state so vague and insupportable,  
40 that it amounts to little more than a restatement  
41 of the criterion for discrimination that it pur-  
42 ports to justify. But while duration of residence  
43 has minimal utility as a measure of things that  
44 are, in fact, constitutionally relevant, resort to  
45 duration of residence as the basis for distribu-  
46 tion of state largesse does closely track the con-  
47 stitutionally untenable position that the longer  
48 ones residence, the worthier one is of the state's

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1 favor. In my view, it is difficult to escape from  
2 the recognition that underlying any scheme of  
3 classification on the basis of duration of resi-  
4 dence, we shall almost invariably find the unstat-  
5 ed premise that internal "some citizens are more  
6 equal than others." We rejected that premise and,  
7 I believe, implicitly rejected most forms of dis-  
8 crimination based upon length of residence, when  
9 we adopted the Equal Protection Clause.

10 Id., 72 L.Ed.2d at 685.

11 The concern was not with recognizing past residence  
12 where that trait is of importance (Id. at 684); instead, the con-  
13 cern is with the unfounded and indiscriminate advantage given  
14 length of residence in and of itself -- the favoring of a three-  
15 year resident over a two-year resident as well as favoring a 50-  
16 year resident over a 25-year resident. The Court's decision in  
17 Zobel rejects the concept of the newcomer "as stranger," and is  
18 concerned with the effect on the political fabric of our society  
19 by allowing discrimination against relative newcomers imposed by  
20 those in power. It is, in this regard, an extension and applica-  
21 tion of the underlying goals and principles that were part and  
22 parcel of the expansion of the equal protection doctrine in the  
23 past few decades.

24 But to apply those principles to the longevity bonus  
25 program would be to detour sharply from the evolving trend. It  
26 would be an extension of the equal protection rationale outside  
27 of the existing channel.

28 The longevity bonus program is not a case where the  
29 political majority is dividing benefits or assigning burdens to  
30 the detriment of a smaller class. It is not a case where there  
31 is an indication that newcomers or more recent arrivals are  
32 looked upon with disfavor or disrespect. Twenty-year residents  
33 and one-month residents are treated exactly the same.

34 Treating a smaller group of "pioneers" with respect and  
honor does not mean that "non-pioneers" are dishonored. It is,  
in fact, the non-pioneers -- those that arrived after 1959 -- who  
initiated the program and wish to continue the distribution of  
that program's benefits.

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1 This court, therefore, should not extend the holding of  
2 Zobel III and other equal protection cases to this new area. It  
3 is not an illegitimate purpose for a political majority to honor  
4 a non-racially or non-insular and distinct minority for valid and  
5 socially laudatory reasons. All Alaskans gain and take pride in  
6 the "pioneers" and the tradition they represent. The honoring of  
7 that minority strengthens Alaska society as a whole. Each citi-  
8 zen, whether a one-month resident or a twenty-year resident,  
9 shares in the tradition and cultural richness that comes from the  
10 continued presence of the pioneer minority. Compensating that  
11 minority for the pre-statehood hardships, the second class citi-  
12 zenship, and the present hardships that would be faced by that  
13 group if retirement Outside became necessary, cannot be termed  
14 illegitimate or be condemned as socially unworthy. Nor is this a  
15 situation, like that perceived to exist in Zobel, where length of  
16 residence threatens or forebodes an extension of a divisive prin-  
17 ciple to the entire social structure -- where all citizens will  
18 be judged by the length of their residence as many have been  
19 judged by the color of their skin.

20 Nor, like the past contribution analysis in the perman-  
21 ent fund dividend program, are the residence standards tenuously  
22 related to the goals in mind. Statehood marked a new era for  
23 Alaska. Although not precise, it is as good a dividing line as  
24 any to determine who to honor in the name of Alaska's past.

25 Consequently, this court should not attempt to read  
26 existing equal protection cases as including the purposes ex-  
27 pressed for the longevity bonus program within their prohibition.  
28 Such a reading is not required by the language of the decisions,  
29 nor is it required by the underlying principles those decisions.

30  
31 IV. SEVERABILITY

32 Plaintiff Vest argues that if this court should find  
33 the residency provisions of the longevity bonus act unconstitu-  
34 tional, it should read those provisions out of the act and then

1 ignore or sever, the non-severability clause enacted as a part of  
2 the act. (The non-severability section appears at Sec. 2, ch.  
3 205, SLA 1972). The remainder of the provisions of the act, he  
4 argues, should be applied to all bona fide residents over the age  
5 of 65.

6 Alaska's statutes include a general severability stat-  
7 ute, or saving clause, which provides that every law should be  
8 construed as though it contained a clause indicating that if  
9 parts of the act are held invalid, the rest should stand. AS  
10 01.10.030. The Alaska Supreme Court, in Lynden Transport, Inc.  
11 v. State, 532 P.2d 700 (Alaska 1975), interpreted a general  
12 clause such as Alaska's as setting up a very weak presumption for  
13 severability. In the absence of a specific severability clause  
14 within an act, general clauses are regarded as "mere codifica-  
15 tions of a canon of statutory construction." Id. at 712. In the  
16 light of this canon, the test for severability set out in Lynden  
17 was announced:

18 The test for determining the severability of a  
19 statute is twofold. A provision will not be  
20 deemed severable unless it appears both that,  
21 standing alone, legal effect can be given to it  
22 and that the legislature intended the provision  
23 to stand, in case others included in the act and  
24 held bad should fall.

25 Id. at 713 (emphasis added). Thus, even if the non-severability  
26 clause in the bonus act were read out of the act, as Vest sug-  
27 gests is appropriate, we must apply the test set out in Lynden.  
28 The longevity bonus act fails that test.

29 There is no complete law left to apply if the residency  
30 requirements are read out of the act. Vest agrees that a  
31 "bonafide" residency requirement is permissible; in order to re-  
32 write the bonus act, the legislature must determine whether that  
33 requirement should be 30 days or six months or one year or two  
34 years or some other period. AS 47.45.010 not be purged of the  
allegedly offensive language without substituting some other lan-  
guage, and the legislature must make that substitution. AS

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1 47.45.030 (permitting absences from the state of up to six  
2 months) would likely be rewritten by the legislature if a shorter  
3 residency requirement were inserted in the act. The entire pur-  
4 poses section, AS 45.47.170, would have to be mutilated beyond  
5 recognition to remove the references to the statehood date and  
6 the 25 year requirement. Particularly with reference to the pur-  
7 poses section, there would simply be no law left to apply.

8 The bonus act also fails the second prong of the Lynden  
9 test. A reading of the act as a whole indicates that it was in-  
10 tended to benefit those pioneers who were in Alaska prior to  
11 statehood and who had maintained continuous domicile for 25  
12 years. The purposes section on its face leaves no doubt as to  
13 this legislative intent. Vest does not argue that the purposes  
14 section should be read any other way. In arriving at the test  
15 set out in Lynden Transport, supra, the supreme court quoted from  
16 Sutherland's treatise on Statutes and Statutory Construction:

17 If the valid parts are dependent or not  
18 severable from the invalid parts, all must fall.  
19 The valid parts must be enforceable as a separate  
20 law. If the remaining valid portions would not  
21 be passed by the legislature without the invalid,  
22 the statute must fail in its entirety. When the  
23 most important features or the paramount intent  
24 is invalid, the entire act must fall.

25 532 P.2d at 712 (emphasis added). The residency features, as  
26 amplified in the purposes section, are the paramount intent of  
27 the legislature. This is apparent from the face of the act as a  
28 whole. As such, even without the non-severability section which  
29 appears in the act, they cannot be severed from the remainder of  
30 the act.

31 In addition the bonus act does contain a non-sever-  
32 ability section which specifically states that the general sav-  
33 ings clause in AS 01.10.030 does not apply to the act, and that  
34 "if any provision of this Act...is held invalid, this entire Act

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1 shall be considered invalid." <sup>14/</sup> Vest argues that this section  
2 should be ignored because, he alleges, it was passed with a bad  
3 motive. He states, without citation or support, that one of the  
4 purposes of the non-severability section is to "blackmail pro-  
5 spective litigants by the threat that a suit can avail them noth-  
6 ing." Vest Memorandum at 7. Vest recognizes that the clause may  
7 have had other, valid purposes. The obvious, legitimate purpose  
8 which is apparent from the face of the act is that the leg-  
9 islatre intended that if the act could not validly be applied  
10 only to the limited class specified in the act, it should not be  
11 broadened to include a larger class but rather should fail in its  
12 entirety.

13 A motive to discourage potential plaintiffs from lit-  
14 igating may not be lofty, but it is not unconstitutional. See,  
15 e.g., the Alaska Native Claims Settlement Act, wherein the  
16 following clause appears:

17 In the event that the State initiates litigation  
18 or voluntarily becomes a party to litigation to  
19 contest the authority of the United States to  
20 legislate on the subject matter or the legality  
21 of this Act, all rights of land selection granted  
22 to the State by the Alaska Statehood Act shall be  
23 suspended as to any public lands . . .

24 43 U.S.C.A. 1609(b) (Supp. 1982).

25 But even if the "blackmail" purpose could be shown to  
26 exist, and even if it were unconstitutional, Vest's reading of  
27 the cases dealing with legislative motivation is misplaced. The  
28 general rule is that a court will not inquire into the underlying  
29 motivations of legislators.

30 In Palmer v. Thompson, 403 U.S. 217 (1970), plaintiffs

31 <sup>14/</sup> If Vest were to persuade this court that the residency  
32 provisions should be severed from the act, the court would then  
33 need to address the question of whether the non-severability  
34 clause could be severed. The state submits that although the  
clause would probably pass the first prong of the Lynden test, it  
would fail the second. It is doubtful that the legislature would  
have passed the act as a whole without the non-severability  
section.

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1 argued that the decision of the city of Jackson, Mississippi to  
2 close its previously segregated public swimming pools was racial-  
3 ly motivated. The city closed the pools after a judgment inval-  
4 idating enforced segregation was affirmed by the Court of  
5 Appeals. The city argued that it could not economically operate  
6 integrated schools. The Court held:

7 But no case in this Court has held that a legis-  
8 lative act may violate equal protection solely  
9 because of the motivations of the men who voted  
10 for it. The pitfalls of such analysis were set  
11 forth clearly in the landmark opinion of Mr.  
12 Chief Justice Marshall in Fletcher v. Peck, 6  
13 Cranch 87, 130 (1810), where the Court declined  
14 to set aside the Georgia Legislature's sale of  
15 lands on the theory that its members were cor-  
16 ruptly motivated in passing the bill.

17 A similar contention that illicit motivation  
18 should lead to a finding of unconstitutionality  
19 was advanced in United States v. O'Brien, 391  
20 U.S. 367, 383 (1968), where this Court rejected  
21 the argument that a defendant could not be pun-  
22 ished for burning his draft card because Congress  
23 had allegedly passed the statute to stifle dis-  
24 sent. That opinion explained well the hazards of  
25 declaring a law unconstitutional because of the  
26 motivations of its sponsors. First, it is  
27 extremely difficult for a court to ascertain the  
28 motivation, or collection of different motiva-  
29 tions, that lie behind a legislative enact-  
30 ment....It is difficult or impossible for any  
31 court to determine the 'sole' or 'dominant' mo-  
32 tivation behind the choices of a group of legis-  
33 lators. Furthermore, there is an element of fu-  
34 tility in a judicial attempt to invalidate a law  
because of the bad motives of its supporters. If  
the law is struck down for this reason, rather  
than because of its facial content or effect, it  
would presumably be valid as soon as the legisla-  
ture or relevant governing body repassed it for  
different reasons.

403 U.S. at 224, 225. The court went on to distinguish the cases  
relied on by Vest, Griffin v. County School Board, 377 U.S. 218  
(1964) and Gomillion v. Lightfoot, 364 U.S. 339 (1960), holding  
that "The focus in those cases was on the actual effect of the  
enactments, not upon the motivation which led the States to be-  
have as they did." Id. at 225.

In U.S. v. O'Brien, 391 U.S. 367 (1969) the court ac-  
knowledged that it would occasionally look to statements of leg-  
islator as an aid in interpreting a statute.

It is entirely a different matter when we are  
asked to void a statute that is, under well-

1 settled criteria, constitutional on its face, on  
2 the basis of what fewer than a handful of Con-  
3 gressmen said about it. What motivates one leg-  
4 islator to make a speech about a statute is not  
necessarily what motivates scores of others to  
enact it, and the stakes are sufficiently high  
for us to eschew guesswork.

5 391 U.S. at 384. The Court again distinguished cases such as  
6 Gomillion which stand "not for the proposition that legislative  
7 motive is a proper basis for declaring a statute unconstitution-  
8 al, but that the inevitable effect of a statute on its face may  
9 render it unconstitutional." Id. Vest admits that a non-  
10 severability clause is constitutional on its face. Proof of an  
11 illicit motive, even if available, would not render the section  
12 void.

13 V. REMEDIES

14 Plaintiff Vest has moved this court for partial summary  
15 judgment in his favor, reserving for a later determination the  
16 question of what remedies, if any, might be appropriate. The  
17 state joins this request that the court reserve judgment on the  
18 question of r es. In the event that this court should find  
19 that the act unconstitutional, the state requests the oppor-  
20 tunity to submit additional briefing or be heard again by this  
21 court prior to any judgment being entered which would affect pre-  
22 sent recipients of the bonus. Many of the people who presently  
23 receive the bonus depend upon it for their daily subsistence, and  
24 would be greatly harmed by a sudden disruption in payments. The  
25 state asks the opportunity to present evidence showing this hard-

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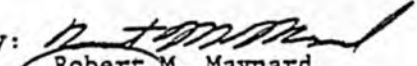
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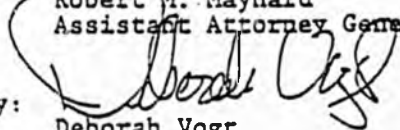
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1 ship in order to assist the court in fashioning an appropriate  
2 remedy.

3 DATED: July 22, 1983

4 NORMAN C. GORSUCH  
5 ATTORNEY GENERAL

6 By:   
7 Robert M. Maynard  
8 Assistant Attorney General

9 By:   
10 Deborah Vogt  
11 Assistant Attorney General

12 By:   
13 Walter Dellinger  
14 of Counsel

15  
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HB 1922 J

Dept. of Law  
Y./14

LONGEVITY BONUS STATUS

1. Vest v. State at the Superior Court:

Vest originally sued in the summer of 1982. A three-way agreement was signed by our office, Vest and the Legislative Council staying the case through the 1983 legislative session, on the Council's agreement to use its best efforts to enact legislation which treated all senior Alaskans equally. No legislation was enacted, and Vest reactivated the suit shortly after the close of the session.

Vest filed a short summary judgment memorandum arguing that the residency requirements (25 years continuous residency, and residency in the territory prior to statehood) were invalid after the U.S. Supreme Court decision in Zobel. He also argued that the provisions violated the Citizenship Clause and the Alaska equal protection clause. Finally, he argued that the residency provisions should be stricken from the act, and the program opened up to all residents.

The state argued that Zobel was not a per se bar to residency requirements, that the court should judge the program under the federal rational basis test, that states have broad leeway in deciding whom to benefit when distributing state resources, and that there were valid, rational reasons for favoring pre-statehood residents over those who came later. The state also argued that the residency requirements were not severable from the remainder of the act, and if they were invalid the court could not open up the program.

Judge Carpeneti ruled on December 17, 1983 in favor of Vest on all arguments except severability. He found that the act infringed the federally protected right-to-travel and applied the strict scrutiny test, noting that the program did not merely delay benefits, as in Sosna v. Iowa, 419 U.S. 393 (1975) (one year requirement for divorce not invalid), but rather denied newer arrivals entirely of the ability to participate in the program. He further read Zobel as implying that the U.S. Supreme Court would have applied strict scrutiny in that case if it had reached the issue. Once determining that strict scrutiny applied, the court held the residency requirements invalid since there was no compelling state interest to support them.

Judge Carpeneti enjoined the program, and stayed his own order for 30 days. The state filed its appeal, and then moved for an extended stay pending final disposition by the state supreme court. The state's motion was granted on January 13, 1984.

## 2. State v. Vest, Supreme Court:

On January 10, 1984, Judge Carpeneti reduced his order to a written judgment, thus preparing the way for appeal. The state's appeal papers were filed that day. The appellate rules provide that the superior court has 40 days to certify the record (about February 20, but since the record is relatively small, it may take less time), the state then has 30 days to file its appeal brief (about March 22), Vest has 30 days to answer (about April 22) and the state has 20 days to reply (about May 12). Vest's counsel have talked about moving for expedited treatment, but to date have not filed such a motion.

## 3. Other considerations:

The drafters of any legislation replacing the present program should consider the proposed program with an eye to the federal eligibility rules for Supplemental Social Security. Our adult public assistance program (blind, disabled and aged) is tied to those rules. The federal statute and regulations are attached, and provide for two relevant exemptions for "income."

One deals specifically with our program (although not by name) and exempts payments under a program enacted prior to July 1, 1973 if payments are not based on need and are based solely on the recipient's attainment of age 65 and duration of residence in the state. An amendment to the present act reducing the residency requirement to one year would come within this exemption.

The second exemption is for assistance which is based on need and furnished by a state or subdivision. The statute is silent on what constitutes "need," but the regulation states that "assistance is based on need when it is provided under a program which uses the amount of your income as one factor to determine your eligibility." Thus we believe that any program with an income cap would come within this exemption.

# Alaska State Legislature

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Representative Mitch Abood  
CHAIRMAN

## House Committee on State Affairs

### MEMORANDUM

TO: House State Affairs Committee Members  
FROM: Roger Poppe, Committee Aide  
DATE: March 20, 1984  
SUBJECT: Miscellaneous Information on CSSB 347 (Fin)

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In conversation with Gretchen Keiser, who drafted and researched the Memo from the House Research Agency to Representative Al Adams (February 24, 1984, revised February 28, 1984), I asked her how the recent changes in CSSB 347 (Fin) as amended by Senate Finance affected the comparative study done in her memo. She told me that there are two basic changes:

- 1) The Senate Finance Committee amended the amount in CSSB 347 (Fin) to be \$250/month instead of \$200/month.
- 2) The projections made by Senate Finance were based on a population of elderly that was estimated at 14,500 as of July 1, 1984. This amount is also the amount used in the Fiscal Note issued by the Dept. of Administration dated February 27, 1984. The House Research Agency study was based on a common base projection of 15,500 elderly as of July 1, 1984.



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y. State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

February 24, 1984  
revised 2/28/84

MEMORANDUM

TO: Representative Al Adams  
FROM: *G. Keiser* Gretchen Keiser and *Teal* David Teal, Legislative Analysts  
RE: Number of Recipients and Annual Costs of the Longevity Bonus Program under Several Alternatives. Research Request No. 84-032

Louann Cutler, of your staff, requested that we prepare tables which would present the projected number of recipients and annual costs of the Longevity Bonus Program between FY 1985 and FY 2000 under the following alternatives:

- (1) the current program (25-year senior residents age 65 and over; \$250/month);
- (2) House Bill 507 (one-year senior residents with less than \$15,000 annual income; \$250/month);
- (3) House Bill 321 (all one-year senior residents; \$250/month);
- (4) CS Senate Bill 347 (all one-year senior residents; \$200 +3% annual adjustment/month or a percent of the longevity bonus account, whichever is less);
- (5) Senate Bill 465 (all one-year senior residents; annuity payment of variable amount depending upon annuity shares owned; gradual phase-out of longevity bonus); and
- (6) House Bill 655/Senate Bill 474 (all one-year senior residents through FY 90, thereafter increase eligibility age to 66 in FY 91, 67 in FY 92, etc.; \$250/month).

In addition, Louann requested that we project the FY 85 costs of the retroactive payments to one-year senior residents who would have been eligible in FY 83 and/or FY 84, as proposed in the CSSB 347, SB 465, and HB 655/SB 474 alternatives.

Table 1 presents the projected number of recipients under the alternatives identified above. In all cases, the numbers represent the projected recipients at the midpoint of each fiscal year. These recipient projections form the basis for computing projected annual costs

presented in Table 2. Because of the uncertainties regarding the future mortality, migration, income, age distribution of the senior population of Alaska, and participation of the entire population in an annuity replacement program we believe that these projections should be viewed as rough approximations.

A computer analysis of the House Bill 655/Senate Bill 474 stair-stepping alternative was conducted in order to estimate the projected number of recipients and cumulative costs under different assumptions with respect to: (1) the future migration of elderly in and out of Alaska, (2) the year stair-stepping would begin, (3) the year interval between subsequent stair-stepping, and (4) the qualified elderly population and projected annual growth rate. Table 3 summarizes the projected number of recipients and the cumulative costs of the stair-stepping concept through FY 2000 under several assumptions.

As indicated in Table 3, each set of assumptions generates different projections of the number of recipients and costs, but clearly the greatest differences occur when the year in which stair-stepping commences is altered and/or when stair-stepping is changed from one to two-year intervals. Stair-stepping every two years, in effect, allows most older persons to eventually qualify until, of course, the eligibility age gets quite high (e.g. 73 years in FY 2005 if two-year stair-stepping commences in FY 91). Under a program which increases the eligibility age every two years, the annual costs remain considerably higher than under a program which stair-steps every year. The annual number of recipients and costs under each of these cases are presented in detail in Attachment A.

The assumptions employed in projecting the number of recipients and costs for the various alternatives are consistent to the maximum extent possible. Each table includes footnotes which document the source of pertinent assumptions. In addition, a summary of each longevity bonus program alternative and its attendant assumptions is included in Attachment B.

We hope that this information will be useful to you. Please contact us if we can be of further assistance.

GK:DT

Attachments

TABLE 1. PROJECTED NUMBER OF LONGEVITY BONUS RECIPIENTS UNDER  
THE CURRENT PROGRAM AND PROPOSED ALTERNATIVES

Fiscal Year <sup>1</sup>	Projected Recipients <sup>2</sup> Under Current Program (25-Year Residents)	Projected Recipients <sup>3</sup> (All One-Year Residents)	Projected Recipients <sup>4</sup> One-Year Residents With < \$15,000 Annual Income	Projected Recipients <sup>5</sup> One-Year Residents With Stair-stepping Beginning FY 91
1985	10,672	15,950	11,458	15,950
1986	11,320	16,768	11,875	16,768
1987	11,968	17,627	12,244	17,627
1988	12,616	18,531	12,549	18,531
1989	13,264	19,481	12,865	19,481
1990	13,912	20,480	13,191	20,480
1991	14,560	21,530	13,495	18,887
1992	15,208	22,634	13,738	17,454
1993	15,856	23,795	13,994	16,142
1994	16,504	25,015	14,244	14,923
1995	17,152	26,297	14,506	13,781
1996	17,800	27,645	14,791	12,703
1997	18,448	29,063	15,137	11,685
1998	19,096	30,553	15,500	10,724
1999	19,744	32,119	15,864	9,814
2000	20,392	33,766	15,830	8,951

Prepared By: House Research Agency, February 1984.

TABLE 1 (Continued)

Footnotes

<sup>1</sup>All figures represent the mid-fiscal year projection which forms the basis for computing the annual costs.

<sup>2</sup>Net monthly recipient growth is projected to be 54/month, which is the average of the current longevity bonus program's net monthly growth between FY 79 and FY 83 (actual) and FY 84 (estimated).

<sup>3</sup>Assumes 5 percent annual growth rate in elderly population. Five percent is the midpoint of the range of 4 - 6 percent projected annual elderly growth rates obtained during August 1983 conversations with Mr. Dave Swanson, then State Demographer of the Alaska Department of Labor and Dr. Scott Goldsmith, Economist of the Institute of Social and Economic Research, University of Alaska.

It is important to note that this 5 percent represents a continuous growth rate which is commonly used in demography and yields an effective growth rate of 5.127 percent annually. An analogous situation would be a money market account with a particular interest rate compounded daily yielding a higher effective annual rate.

It is also assumed that 97 percent of the elderly have at least one year of residency, based on information obtained from a 1981 University of Alaska survey of older Alaskans and the 1979 and 1980 Permanent Fund Dividend applications.

<sup>4</sup>Based on a 1980 Census income survey of elderly Alaskans, adjusted for inflation to 1983 income dollars.

<sup>5</sup>Based on a 5 percent annual growth rate in the elderly population through FY 90. The death rate and age distribution applied to the recipients beginning in FY 91 are based on 1980 Census data. The most recent migration data available are based on the 1970 Census and indicate a 4 percent net out-migration among elderly between 1965-1970. It is assumed that elderly out-migration has decreased somewhat as the state has matured and more health and social services for the elderly have become available. A three percent net out-migration is applied to the elderly population after FY 90.

TABLE 2. PROJECTED ANNUAL COSTS<sup>1</sup> OF THE LONGEVITY BONUS PROGRAM UNDER  
THE CURRENT PROGRAM AND PROPOSED ALTERNATIVES  
(In Millions of Dollars)

Fiscal Year	Current Program (25-Year Residents)	One-Year Residents (HB 521)	One-Year Residents with < \$15,000 Annual Income (HB 507)	One-Year Residents 12.5% Permanent Fund Earnings (CSSB 347) <sup>2</sup>	One-Year Residents Annuity Replacement (SB 465) <sup>3</sup>	One-Year Residents With Stair-Stepping Beginning in FY 91 (HB 655/SB 474)
1985	\$32.3	\$48.3	\$34.7	\$37.7	\$48.3	\$48.3
1986	34.2	50.7	35.9	41.8	47.4	50.7
1987	36.2	53.3	37.0	45.3	46.3	53.3
1988	38.2	56.0	38.0	49.0	45.0	56.0
1989	40.1	58.9	38.9	53.0	43.4	58.9
1990	42.1	61.9	39.9	57.5	41.5	61.9
1991	44.0	65.1	40.8	62.2	39.3	57.1
1992	46.0	68.5	41.6	67.3	36.8	52.8
1993	48.0	72.0	42.3	72.9	34.0	48.8
1994	49.9	75.7	43.1	78.9	30.7	45.1
1995	51.9	79.5	43.9	85.5	27.0	41.7
1996	53.8	83.6	44.7	92.6	22.9	38.4
1997	55.8	87.9	45.8	100.3	18.2	35.3
1998	57.8	92.4	46.9	108.6	13.1	32.4
1999	59.7	97.1	48.0	117.6	7.4	29.7
2000	<u>61.7</u>	<u>102.1</u>	<u>47.9</u>	<u>127.3</u>	<u>1.0</u>	<u>27.1</u>
TOTAL	\$751.7	\$1,153.0	\$669.3	\$1,197.5	\$502.3	\$737.7
RETROACTIVE PAYMENTS <sup>4</sup> in FY 85		--	--	\$15.6	\$30.5	\$30.5

Footnotes

<sup>1</sup>Costs include annual bonus payments plus expenses for administering the Longevity Bonus Program by the Department of Administration. The annual bonus payments were computed by multiplying the projected mid-fiscal year number of recipients times the annual bonus under each alternative.

An alternate method of cost calculation, which is based on the total of 12 monthly bonus cost computations (i.e., projected number of recipients each month times monthly bonus) yields very similar cost estimates. For example, if an initial population of 1,000 recipients were growing 5 percent annually (5.127 percent effective rate), the costs of a program which paid a \$250 monthly bonus under both methods would be:

A: 1,026 recipients<sub>mid-fiscal yr</sub> × \$3,000 annual bonus = \$3.078 million

B: [monthly recipients (i.e., 1,004 in July, 1,008 in August, etc.) × \$250] totaled over 12 months = \$3.080 million

And: \$3.078/\$3.080 = 0.9994

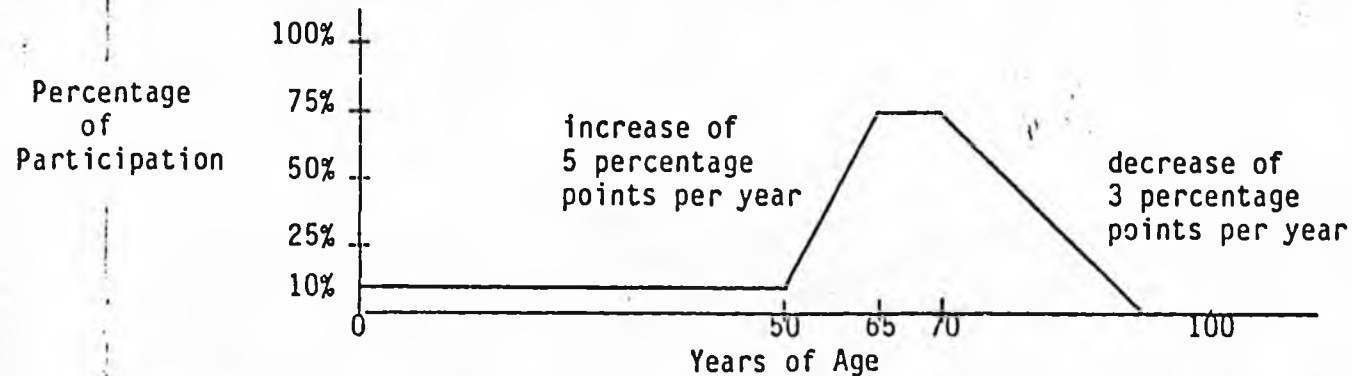
The administrative cost is estimated to be 0.89 percent of the annual bonus payments in FY 85, which reflects an increase due to the addition of several thousand recipients and is based on an average of the additional expenses identified by the Department of Administration in recent fiscal notes for the proposed longevity bonus alternatives. Beginning in FY 86, the administrative cost drops to 0.82 percent, as determined from the Department of Administration's FY 84 (Authorized) and FY 85 (Governor's) longevity bonus program budgets. The annual costs of managing the investments of funds created by CSSB 347 and SB 465 are not included.

<sup>2</sup>Annual costs under CSSB 347 include only that portion of the longevity bonus account actually distributed to qualified recipients plus administrative costs. With the exception of FY 85, there is projected to be a annual surplus in the longevity bonus account which would receive contributions equal to 12.5 percent of the distributable income of the Alaska Permanent Fund. On the basis of the Department of Revenue's January 1984 Permanent Fund forecast, the following annual surplus (excluding income) is projected between FY 86 and FY 2000:

FY 1986	\$ 7.1 million	1995	\$61.2 million
87	15.2	96	68.1
88	19.4	97	75.0
89	22.9	98	82.1
1990	28.1	99	89.2
91	35.0	2000	<u>96.5</u>
92	41.1		
93	47.6	TOTAL	\$742.9 million
94	54.4		

<sup>3</sup>Annual costs under SB 465 include only the annual bonus payments and administrative costs. Under the assumptions employed, the annuity program would be self-sustaining and therefore incur no cost to the State. The participation

rate by all Alaskans in the purchase of annuity shares, payable beginning at age 65, is a key assumption and is assumed to be as follows:



<sup>4</sup>The retroactive payments to one-year elderly residents who would have been eligible in FY 83 and FY 84 are estimated as follows:

FY 83 retroactive payments: the total elderly population was estimated to be 14,506 as of July 1, 1982; 97 percent, or 14,071, were residents of at least one year. Applying an annual (continuous) growth rate of 5 percent, the eligible senior citizens are estimated to have totaled 14,432 as of January 1, 1983.

Therefore: 14,432 eligible 1/1/83  
 - 9,481 qualified recipients 1/1/83  
 -----  
 4,951 new recipients eligible for FY83 retroactive payments

And: 4,951 x \$250 x 12 = \$14,853,000 or \$14.9 million

FY 84 retroactive payments: the total elderly population was estimated to be 15,250 as of July 1, 1983; 97 percent, or 14,793, were residents of at least one year. Applying an annual (continuous) growth rate of 5 percent, the eligible senior citizens are estimated to have totaled 15,172 as of January 1, 1984.

Therefore: 15,172 eligible 1/1/84  
 - 9,965 qualified recipients 1/1/84  
 -----  
 5,207 new recipients eligible for FY84 retroactive payments

And: 5,207 x \$250 x 12 = \$15,621,000 or \$15.6 million

In summary, the retroactive payments proposed under CSSB 347, SB 465, and HB 655/SB 474 are as follows:

CSSB 347	\$15.9 million (FY 84 only)
SB 465	30.5 million (FY 83 and FY 84)
HB 655/SB 474	30.5 million (FY 83 and FY 84)

TABLE 3.  
PROJECTED NUMBER OF RECIPIENTS AND CUMULATIVE COSTS THROUGH FY 2000 OF THE HOUSE BILL 655/SENATE BILL 474  
LONGEVITY BONUS PROGRAM PROPOSAL UNDER DIFFERENT ASSUMPTIONS AND YEAR OF COMMENCEMENT OF STAIR-STEPPING

Case	Number of Recipients in FY 2000	Cumulative Cost Through FY 2000 (in millions), <sup>1</sup>	Percent Difference in Cumulative Cost From Base Case
<u>Base case:</u> FY 85 pop. = 15,950; 5 percent annual pop. growth through FY 90; stair-stepping in FY 91; 3 percent net out- migration after FY 90	8,951	\$ 737.7	-----
<u>Case A:</u> same as base case except 4 percent out-migration after FY 90	8,126	\$ 719.2	- 2.5 %
<u>Case B:</u> same as base case except stair-stepping begins in FY 90	7,732	\$ 679.3	- 7.9 %
<u>Case C:</u> same as base case except stair-stepping begins in FY 89	6,654	\$ 620.4	- 15.9 %
<u>Case D:</u> same as base case except stair-stepping begins in FY 86 and occurs every other year	11,341	\$ 646.6	- 12.4 %
<u>Case E:</u> same as base case except stair-stepping begins in FY 89 and occurs every other year	14,771	\$ 779.1	+ 5.6 %
<u>Case F:</u> same as base case except stair-stepping begins in FY 91 and occurs every other year	16,634	\$ 864.0	+ 17.1 %
<u>Case G:</u> same as base case except DOA pop. of 16,860 in FY 85; DOA annual pop. growth of 4.27 per- cent (60/month) through FY 90;	9,082	\$ 755.1	+ 2.4 %

<sup>1</sup>In all cases, the longevity bonus is assumed to remain at \$250/month. Retroactive payments to senior citizens who would have been eligible in FY 83 and/or FY 84, estimated to add \$30.5 million to the FY 85 cost, are not included.

ATTACHMENT A

PROJECTED NUMBER OF RECIPIENTS AND COSTS OF THE HOUSE BILL 655/  
SENATE BILL 474 LONGEVITY BONUS PROGRAM PROPOSAL  
UNDER DIFFERENT ASSUMPTIONS

BASE CASE  
**LONGEVITY BONUS COST ANALYSIS**  
 HB 655/SB 474

FISCAL YEAR	ELIGIBILITY AGE	RECIPIENTS	ANNUAL COST	CUMULATIVE COST
1985	65	15,950	\$48,275,870	\$ 48,275,870
1986	65	16,768	50,715,760	98,991,620
1987	65	17,627	53,315,960	152,307,600
1988	65	18,531	56,049,470	208,357,100
1989	65	19,481	58,923,120	267,280,200
1990	65	20,480	61,944,110	329,224,300
1991	66	18,887	57,124,790	386,349,100
1992	67	17,454	52,791,650	439,140,700
1993	68	16,142	48,821,710	487,962,400
1994	69	14,923	45,134,910	533,097,300
1995	70	13,781	41,681,430	574,778,800
1996	71	12,703	38,420,460	613,199,300
1997	72	11,685	35,342,150	648,541,400
1998	73	10,724	32,436,200	680,977,600
1999	74	9,814	29,683,580	710,661,200
2000	75	8,951	27,072,690	737,733,900
2001	76	8,128	24,583,920	762,317,800
2002	77	7,353	22,241,310	784,559,100
2003	78	6,626	20,042,250	804,601,400
2004	79	5,942	17,972,280	822,573,600
2005	80	5,298	14,023,700	838,597,300

PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:

1985 POPULATION, AGE 65 AND OVER: 15,950

ANNUAL POPULATION GROWTH: 5.127 % through 1990

ANNUAL NET OUT-MIGRATION: 3.000 % after 1990

BONUS AMOUNT IS \$250 PER MONTH

START STAIRSTEP IN 1991

ANNUAL ADMINISTRATIVE COSTS OF \$168 PER RECIPIENT ARE INCLUDED

AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE

APPLIED TO POPULATION PROJECTIONS FOR 1991

PREPARED BY THE HOUSE RESEARCH AGENCY 02-23-1984

CASE A

LONGEVITY BONUS COST ANALYSIS  
HB 655/SB 474

FISCAL YEAR	ELIGIBILITY AGE	RECIPIENTS	ANNUAL COST	CUMULATIVE COST
1985	65	15,950	\$48,275,870	\$ 48,275,870
1986	65	16,768	50,715,760	98,991,620
1987	65	17,627	53,315,960	152,307,600
1988	65	18,531	56,049,470	208,357,100
1989	65	19,481	58,923,120	267,280,200
1990	65	20,480	61,944,110	329,224,300
1991	66	18,705	56,575,510	385,799,800
1992	67	17,120	51,781,310	437,581,100
1993	68	15,680	47,426,890	485,008,000
1994	69	14,357	43,423,830	528,431,900
1995	70	13,131	39,715,690	568,147,500
1996	71	11,987	36,256,510	604,404,100
1997	72	10,921	33,030,880	637,434,900
1998	73	9,926	30,023,490	667,458,400
1999	74	8,997	27,211,420	694,669,800
2000	75	8,126	24,579,340	719,249,100
2001	76	7,308	22,105,170	741,354,300
2002	77	6,548	19,806,460	761,160,700
2003	78	5,844	17,676,530	778,837,300
2004	79	5,190	15,698,480	794,535,800
2005	80	4,583	13,861,850	808,397,600

PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:

1985 POPULATION, AGE 65 AND OVER: 15,950  
ANNUAL POPULATION GROWTH: 5.127 % through 1990  
ANNUAL NET OUT-MIGRATION: 4.000 % after 1990

BONUS AMOUNT IS \$250 PER MONTH

START STAIRSTEP IN 1991

ANNUAL ADMINISTRATIVE COSTS OF \$168 PER RECIPIENT ARE INCLUDED  
AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE  
APPLIED TO POPULATION PROJECTIONS FOR 1991

PREPARED BY THE HOUSE RESEARCH AGENCY 02-23-1984

CASE B

LONGEVITY BONUS COST ANALYSIS  
HB 655/SB 474

FISCAL YEAR	ELIGIBILITY AGE	RECIPIENTS	ANNUAL COST	CUMULATIVE COST
1985	65	15,950	\$48,275,870	\$ 48,275,870
1986	65	16,768	50,715,760	98,991,620
1987	65	17,627	53,315,960	152,307,600
1988	65	18,531	56,049,470	208,357,100
1989	65	19,481	58,923,120	267,280,200
1990	66	17,966	54,338,830	321,619,000
1991	67	16,603	50,217,030	371,836,000
1992	68	15,354	46,440,700	418,276,700
1993	69	14,195	42,933,700	461,210,500
1994	70	13,109	39,648,650	500,859,100
1995	71	12,083	36,546,710	537,405,800
1996	72	11,115	33,618,530	571,024,300
1997	73	10,201	30,854,290	601,878,500
1998	74	9,335	28,235,920	630,114,500
1999	75	8,514	25,752,360	655,866,800
2000	76	7,732	23,384,980	679,251,800
2001	77	6,995	21,156,600	700,408,400
2002	78	6,303	19,064,800	719,473,100
2003	79	5,652	17,095,780	736,569,000
2004	80	5,039	15,242,230	751,811,200
2005	81	4,459	13,487,840	765,299,000

PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:

1985 POPULATION, AGE 65 AND OVER: 15,950  
 ANNUAL POPULATION GROWTH: 5.127 % through 1989  
 ANNUAL NET OUT-MIGRATION: 3.000 % after 1989  
 BONUS AMOUNT IS \$250 PER MONTH  
 START STAIRSTEP IN 1990

ANNUAL ADMINISTRATIVE COSTS OF \$168 PER RECIPIENT ARE INCLUDED  
 AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE  
 APPLIED TO POPULATION PROJECTIONS FOR 1990

PREPARED BY THE HOUSE RESEARCH AGENCY 02-23-1984

CASE C

LONGEVITY BONUS COST ANALYSIS

HB 655/SB 474

FISCAL YEAR	ELIGIBILITY AGE	RECIPIENTS	ANNUAL COST	CUMULATIVE COST
1985	65	15,950	\$48,275,870	\$ 48,275,870
1986	65	16,768	50,715,760	98,991,620
1987	65	17,627	53,315,960	152,307,600
1988	65	18,531	56,049,470	208,357,100
1989	66	17,089	51,688,750	260,045,800
1990	67	15,793	47,767,960	307,813,800
1991	68	14,606	44,175,800	351,989,600
1992	69	13,503	40,839,850	392,829,400
1993	70	12,469	37,715,000	430,544,400
1994	71	11,494	34,764,350	465,308,800
1995	72	10,573	31,978,970	497,287,800
1996	73	9,704	29,349,550	526,637,300
1997	74	8,880	26,858,870	553,496,100
1998	75	8,099	24,496,430	577,992,600
1999	76	7,355	22,244,500	600,237,100
2000	77	6,654	20,124,800	620,361,900
2001	78	5,996	18,135,010	638,496,900
2002	79	5,377	16,262,030	654,759,000
2003	80	4,794	14,498,870	669,257,800
2004	81	4,242	12,830,040	682,087,800
2005	82	3,732	11,287,700	693,375,500

PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:

1985 POPULATION, AGE 65 AND OVER: 15,950

ANNUAL POPULATION GROWTH: 5.127 % through 1988

ANNUAL NET OUT-MIGRATION: 3.000 % after 1988

BONUS AMOUNT IS \$250 PER MONTH

START STAIRSTEP IN 1989

ANNUAL ADMINISTRATIVE COSTS OF \$168 PER RECIPIENT ARE INCLUDED

AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE

APPLIED TO POPULATION PROJECTIONS FOR 1989

PREPARED BY THE HOUSE RESEARCH AGENCY 02-23-1984

CASE D

LONGEVITY BONUS COST ANALYSIS  
HB 655/SB 474

FISCAL YEAR	ELIGIBILITY AGE	RECIPIENTS	ANNUAL COST	CUMULATIVE COST
1985	65	15,950	\$48,275,870	\$ 48,275,870
1986	66	14,709	44,489,070	92,764,920
1987	66	15,167	45,875,440	138,640,400
1988	67	14,051	42,499,340	181,139,700
1989	67	14,467	43,755,840	224,895,600
1990	68	13,408	40,552,470	265,448,000
1991	68	13,996	42,332,850	307,780,900
1992	69	12,955	39,182,570	346,963,400
1993	69	13,467	40,732,760	387,696,200
1994	70	12,441	37,630,490	425,326,700
1995	70	13,033	39,418,110	464,744,800
1996	71	12,010	36,326,940	501,071,800
1997	71	12,714	38,454,420	539,526,100
1998	72	11,692	35,364,950	574,891,100
1999	72	12,361	37,385,770	612,276,900
2000	73	11,341	34,300,870	646,577,800
2001	73	11,946	36,131,830	682,709,600
2002	74	10,926	33,045,450	715,755,000
2003	74	11,535	34,888,140	750,643,100
2004	75	10,516	31,805,520	782,448,600
2005	75	11,094	33,553,500	816,002,100

PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:

1985 POPULATION, AGE 65 AND OVER: 15,950

ANNUAL POPULATION GROWTH: 5.127 % through 1985

ANNUAL NET OUT-MIGRATION: 3.000 % after 1985

BONUS AMOUNT IS \$250 PER MONTH

START STAIRSTEP IN 1986

ANNUAL ADMINISTRATIVE COSTS OF \$168 PER RECIPIENT ARE INCLUDED

AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE

APPLIED TO POPULATION PROJECTIONS FOR 1986

PREPARED BY THE HOUSE RESEARCH AGENCY 02-23-1984

## CASE E

# LONGEVITY BONUS COST ANALYSIS

HB 655/SB 474

FISCAL YEAR	ELIGIBILITY AGE	RECIPIENTS	ANNUAL COST	CUMULATIVE COST
1985	65	15,950	\$48,275,870	\$ 48,275,870
1986	65	16,768	50,715,760	98,991,620
1987	65	17,627	53,315,960	152,307,600
1988	65	18,531	56,049,470	208,357,100
1989	66	17,089	51,688,750	260,045,800
1990	66	17,622	53,299,490	313,345,300
1991	67	16,325	49,377,030	362,722,300
1992	67	16,808	50,836,870	413,559,200
1993	68	15,577	47,115,110	460,674,300
1994	68	16,261	49,183,600	509,857,900
1995	69	15,051	45,523,530	555,381,500
1996	69	15,647	47,324,570	602,706,000
1997	70	14,455	43,720,250	646,426,300
1998	70	15,142	45,797,170	692,223,500
1999	71	13,954	42,205,750	734,429,200
2000	71	14,771	44,677,510	779,106,700
2001	72	13,585	41,088,070	820,194,800
2002	72	14,361	43,435,940	863,630,800
2003	73	13,176	39,851,800	903,482,500
2004	73	13,879	41,979,070	945,461,600
2005	74	12,674	38,393,200	983,854,800

**PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:**

1985 POPULATION, AGE 65 AND OVER: 15,950

ANNUAL POPULATION GROWTH: 5.127 % through 1988

ANNUAL NET OUT-MIGRATION: 3.000 % after 1988

BONUS AMOUNT IS \$250 PER MONTH

START STAIRSTEP IN 1989

ANNUAL ADMINISTRATIVE COSTS OF \$168 PER RECIPIENT ARE INCLUDED

AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE

APPLIED TO POPULATION PROJECTIONS FOR 1989

PREPARED BY THE HOUSE RESEARCH AGENCY 02-23-1984

CASE F

LONGEVITY BONUS COST ANALYSIS  
HB 655/SB 474

FISCAL YEAR	ELIGIBILITY AGE	RECIPIENTS	ANNUAL COST	CUMULATIVE COST
1985	65	15,950	\$48,275,870	\$ 48,275,870
1986	65	16,768	50,715,760	98,991,620
1987	65	17,627	53,315,960	152,307,600
1988	65	18,531	56,049,470	208,357,100
1989	65	19,481	58,923,120	267,280,200
1990	65	20,480	61,944,110	329,224,300
1991	66	18,887	57,124,790	386,349,100
1992	66	19,475	58,904,930	445,254,000
1993	67	18,042	54,569,950	499,824,000
1994	67	18,575	56,183,320	556,007,300
1995	68	17,216	52,070,130	608,077,400
1996	68	17,971	54,356,180	662,433,600
1997	69	16,634	50,311,170	712,744,700
1998	69	17,292	52,301,640	765,046,300
1999	70	15,975	48,318,250	813,364,600
2000	70	16,734	50,613,580	863,978,200
2001	71	15,422	46,644,470	910,622,600
2002	71	16,325	49,376,170	959,998,900
2003	72	15,013	45,409,230	1,005,408,000
2004	72	15,871	48,004,030	1,053,412,000
2005	73	14,562	44,042,960	1,097,455,000

PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:

1985 POPULATION, AGE 65 AND OVER: 15,950

ANNUAL POPULATION GROWTH: 5.127 % through 1990

ANNUAL NET OUT-MIGRATION: 3.000 % after 1990

BONUS AMOUNT IS \$250 PER MONTH

START STEP IN 1991

ANNUAL ADMINISTRATIVE COSTS OF \$168 PER RECIPIENT ARE INCLUDED

AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE

APPLIED TO POPULATION PROJECTIONS FOR 1991

PREPARED BY THE HOUSE RESEARCH AGENCY 02-23-1984

## CASE G

**LONGEVITY BONUS COST ANALYSIS**  
HB 655/SB 474

FISCAL YEAR	ELIGIBILITY AGE	RECIPIENTS	ANNUAL COST	CUMULATIVE COST
1985	65	16,860	\$51,030,170	\$ 51,030,170
1986	65	17,580	53,172,240	104,202,400
1987	65	18,331	55,442,700	159,645,100
1988	65	19,113	57,810,100	217,455,200
1989	65	19,929	60,278,600	277,733,800
1990	65	20,780	62,852,490	340,586,300
1991	66	19,164	57,962,490	398,548,800
1992	67	17,710	53,565,810	452,114,600
1993	68	16,378	49,537,650	501,652,200
1994	69	15,141	45,796,790	547,449,000
1995	70	13,983	42,292,660	589,741,600
1996	71	12,889	38,983,870	628,725,500
1997	72	11,856	35,860,420	664,586,000
1998	73	10,881	32,911,850	697,497,800
1999	74	9,958	30,118,870	727,616,600
2000	75	9,082	27,469,690	755,086,300
2001	76	8,247	24,944,430	780,030,800
2002	77	7,461	22,567,460	802,598,300
2003	78	6,724	20,336,160	822,934,400
2004	79	6,029	18,235,830	841,170,200
2005	80	5,375	16,258,680	857,428,900

## PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:

1985 POPULATION, AGE 65 AND OVER: 16,860ANNUAL POPULATION GROWTH: 4.270 % through 1990ANNUAL NET OUT-MIGRATION: 3.000 % after 1990

BONUS AMOUNT IS \$250 PER MONTH

START STAIRSTEP IN 1991

ANNUAL ADMINISTRATIVE COSTS OF \$168 PER RECIPIENT ARE INCLUDED

AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE

APPLIED TO POPULATION PROJECTIONS FOR 1991

PREPARED BY THE HOUSE RESEARCH AGENCY 02-23-1984

ATTACHMENT B

ASSUMPTIONS ACCOMPANYING THE PROJECTED NUMBER OF RECIPIENTS  
AND ANNUAL COSTS UNDER THE CURRENT LONGEVITY BONUS  
PROGRAM AND PROPOSED ALTERNATIVES

- I. CURRENT PROGRAM: Provides monthly payments of \$250 to elderly who are 65 years or older, have 25 years of residency and have been residents since statehood.

Projected Recipients: Initial number of recipients is estimated by the Department of Administration to be 10,348 as of July 1, 1984. The future net growth in recipients is projected to be 54/month, which is an average of the program's net monthly growth between FY 79 and FY 84. Figures represent mid-fiscal year projections (i.e., the number of recipients as of January 1).

Annual Cost: equals annual bonus payments plus administrative costs.

- annual bonus payments = mid-fiscal year recipients x \$250 x 12
- administrative costs are estimated to equal 0.82 percent of the annual bonus payments, as determined from the Department of Administration's FY 84 (authorized) and FY 85 (requested) longevity bonus program budgets.

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- II. HOUSE BILL 521: Opens program to all elderly with at least one year of residency as of July 1, 1984 and provides monthly payments of \$250.

Elderly Population: Total senior population is estimated to be 16,032 on July 1, 1984. Projections are based on a 5 percent continuous annual growth rate in elderly population, which yields a 5.127 percent effective growth rate.

Projected Recipients: It is assumed that 97 percent of the elderly are residents of at least one year, or 15,550 as of July 1, 1984. The assumption that three percent of the elderly have less than one year of residency is based on a 1981 University of Alaska survey of older Alaskans and information from the 1979 and 1980 Permanent Fund Dividend applications. Figures represent the mid-fiscal year population of eligible elderly (i.e., the number of recipients as of January 1).

House Bill 521 (continued)

Annual Cost: equals annual bonus payments plus administrative costs:

- annual bonus payments = mid-fiscal year recipients x \$250 x 12
- administrative costs are estimated to equal 0.89 percent of the annual bonus payments in FY 85, reflecting an increase due to the addition of several thousand recipients. Beginning in FY 86, the administrative costs drop back to 0.82 percent of the annual bonus payments, as determined from Department of Administration's FY 84 (authorized) and FY 85 (requested) longevity bonus program budgets.

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III. HOUSE BILL 507: Opens program to elderly with at least one year of residency and an annual income of less than \$15,000. Provides monthly payments of \$250.

Elderly Population: Total elderly population is estimated to be 16,032 as of July 1, 1984. Projections are based on 5 percent annual growth rate.

Elderly Income: The elderly income distribution, which indicates the percentage of the elderly who fall within specific income categories, is based on the 1980 Census income survey of elderly Alaskans. The distribution has been adjusted for inflation to 1983 income dollars. Future inflation is assumed to be 5 percent annually through FY 2000.

Projected Recipients: It is estimated that 71.8 percent of the elderly had a 1983 annual income below \$15,000 and have lived in Alaska at least one year; 11,458 would be eligible for monthly payments. Since the \$15,000 income ceiling is not adjusted upward to account for inflation in subsequent years, the percentage of elderly eligible would gradually decrease:

FY 85	71.8 %
FY 90	64.4 %
FY 95	55.2 %
FY 2000	46.9 %

Annual Cost: equals annual bonus payments plus administrative costs

- annual bonus payments = mid-fiscal year recipients x \$250 x 12
- administrative costs = 0.89 percent of the annual bonus payments in FY 85 and drop to 0.82 percent in subsequent fiscal years.

Computer Analysis: The attached Tables 1a and 1b present the projected number of recipients and annual costs of the income ceiling alternative under different assumptions regarding annual inflation.

PROJECTED NUMBER OF RECIPIENTS AND COSTS OF THE LONGEVITY  
BONUS PROGRAM UNDER AN ANNUAL INCOME CEILING OF \$15,000

TABLE 1a. Assumptions: 5 percent annual inflation; 5 percent annual growth rate in elderly population.

FISCAL YEAR	ONE YEAR RESIDENTS	RECIPIENTS	INCOME CEILING#	ANNUAL COST##	CUMULATIVE COST
1985	15,950	11,458	15,000	34,680,810	34,680,810
1986	16,768	11,875	14,286	35,918,260	70,599,060
1987	17,627	12,244	13,605	37,032,900	107,632,000
1988	18,531	12,549	12,958	37,955,800	145,587,800
1989	19,481	12,865	12,341	38,910,290	184,498,100
1990	20,480	13,191	11,753	39,898,310	224,396,400
1991	21,530	13,495	11,193	40,815,670	265,212,000
1992	22,634	13,738	10,660	41,552,890	306,764,900
1993	23,794	13,994	10,153	42,326,270	349,091,200
1994	25,014	14,244	9,669	43,083,440	392,174,600
1995	26,297	14,506	9,209	43,874,110	436,048,700
1996	27,645	14,791	8,770	44,738,070	480,786,800
1997	29,062	15,137	8,353	45,784,220	526,571,000
1998	30,552	15,500	7,955	46,882,500	573,453,500
1999	32,119	15,864	7,576	47,981,070	621,434,500
2000	33,766	15,830	7,215	47,878,610	669,313,100

# Income ceiling is discounted by 5 percent annually.

##Cost equals annual bonus payments plus administrative costs (0.89 percent in FY 85 and 0.82 percent thereafter).

TABLE 1b. Assumptions: 6 percent annual inflation; 5 percent annual growth rate in elderly population.

FISCAL YEAR	ONE YEAR RESIDENTS	RECIPIENTS	INCOME CEILING#	ANNUAL COST##	CUMULATIVE COST
1985	15,950	11,458	15,000	34,680,810	34,680,810
1986	16,768	11,875	14,151	35,821,030	70,501,830
1987	17,627	12,123	13,350	36,666,860	107,168,700
1988	18,531	12,367	12,594	37,406,070	144,574,800
1989	19,481	12,617	11,881	38,161,950	182,736,700
1990	20,480	12,848	11,209	38,861,110	221,597,800
1991	21,530	13,000	10,574	39,318,800	260,916,600
1992	22,634	13,158	9,976	39,796,750	300,713,400
1993	23,794	13,312	9,411	40,263,360	340,976,700
1994	25,014	13,478	8,878	40,766,060	381,743,600
1995	26,297	13,718	8,376	41,490,510	423,234,100
1996	27,645	13,976	7,902	42,270,500	465,504,600
1997	29,062	14,108	7,455	42,672,490	508,177,000
1998	30,552	13,935	7,033	42,148,440	550,325,500
1999	32,119	13,760	6,635	41,619,850	591,945,300
2000	33,766	13,532	6,259	40,928,260	632,873,600

# Income ceiling is discounted by 6 percent annually.

##Cost equals annual bonus payments plus administrative costs (0.89 percent in FY 85 and 0.82 percent thereafter).

IV. CS SENATE BILL 347: Opens program to all elderly with at least one year residency. Provides monthly payments, beginning with either \$200 in FY 85 (with 3 percent annual adjustments thereafter) or a portion of the longevity bonus account, whichever is less. Also provides retroactive payments to elderly who would be qualified in FY 84.

Elderly Population: Total elderly population is estimated to be 16,032 as of July 1, 1984. Projections are based on a 5 percent annual growth rate.

Projected Recipients: It is assumed that 97 percent of the elderly are residents of at least one year, or 15,550 as of July 1, 1984. Figures represent the mid-fiscal year population of eligible elderly (i.e., the number of recipients as of January 1).

Annual Cost: includes only that portion of the longevity bonus account actually distributed to qualified recipients plus administrative costs. With the exception of FY 85, there is projected to be an annual surplus in the longevity bonus account, which would receive annual contributions of 12.5 percent of the distributable income of the Alaska Permanent Fund. On the basis of the Department of Revenue's January 1984 Permanent Fund forecast, there is projected to be a surplus of \$742.9 million (excluding income) in the longevity bonus account by FY 2000. The sponsors estimate that by FY 2005, the program will be self-sustaining and require no further contributions from the Alaska Permanent Fund earnings. House Research Agency did not investigate this aspect of the proposal.

Retroactive Payment: The total elderly population was estimated to be 15,250 as of July 1, 1983; 97 percent, or 14,793, were residents of at least one year. Applying an annual growth rate of 5 percent, we estimate a population of 15,172 eligible senior citizens as of January 1, 1984.

Therefore:

15,172	eligible 1/1/84
- 9,965	current recipients 1/1/84
5,207	new recipients eligible for FY84 retroactive payments
5,207 x \$250 x 12 = \$15,621,000 or <u>\$15.6 million</u>	

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V. SENATE BILL 465: Opens the longevity bonus program to all elderly with at least one year residency. The bonus payment is gradually reduced and replaced, over 15 years, with annuity payments. Persons of any age can elect to participate in the annuity program through the annual purchase of one share (up to a maximum of 15 shares) by foregoing their Permanent Fund Dividend. For the first five years after enactment, persons 65 and older may annually purchase an annuity share for a \$100 reduction in their Permanent Fund Dividend. Provides monthly payments of \$10.50/annuity share for annuitants 65 years and older.

Senate Bill 455 (continued)

Elderly Population: Total elderly population is estimated to be 16,032 as of July 1, 1984. Projections are based on a 5 percent annual growth rate.

Projected Bonus and Annuity Recipients: It is assumed that 97 percent of the elderly are residents of at least one year, or 15,550 as of July 1, 1984. Projections are presented for the mid-fiscal year population of eligible elderly (i.e., the number of recipients as of January 1) in order to estimate annual costs.

Annual Longevity Bonus Cost: equals annual bonus payments plus administrative costs. Under SB 465, the bonus payment is reduced \$16.50 each year. Therefore, the annual bonus payments gradually decrease over 15 years until the bonus equals \$0 after FY 2000.

- annual bonus payments = mid-fiscal yr recipients<sub>FY 85</sub> x bonus<sub>FY 85</sub> x 12 and so forth in each fiscal year as the recipients increase and the bonus decreases.
- administrative costs are estimated to be 0.89 percent of the annual bonus payments in FY 85, reflecting an increase due to the addition of several thousand recipients. Beginning in FY 86, the administrative cost drops to 0.82 percent of the annual bonus payments, as determined from the Department of Administration's FY 84 (Authorized) and FY 85 (Governor's) longevity bonus program budgets.

Total Population: is estimated to be 490,000 as of July 1, 1983, based on a preliminary estimate by the Alaska Department of Labor. The total population is projected to grow at a 2.5 percent annual rate through the year 2000. This projected growth is based on the assumption that the state's population will grow at a lower rate than the 3.4 percent growth rate recorded by the Alaska Department of Labor during the period 1970-82.

Annuity Program Participation Rate: is assumed to be as follows:

Ages 0-50:	10%
Ages 51-64:	increases 5%/year of age from 10% to 75%
Ages 65-70:	75%
Ages 71 and over:	decreases 3%/year of age from 75% to 0%

Annual Annuity Deposit: equals the new annuity shares purchased in a given year times the foregone Permanent Fund Dividend for that year minus the refunds paid to individuals who leave the state. The estimate of new annuity shares each year is based on the participation rate times the projected population for that year. The projected Permanent Fund Dividends foregone are based on the Department of Revenue's January 1, 1984 forecasts through FY 2000. The refunds are based on: (1) an assumption of 3 percent annual out-migration in the state's total population, and (2) a calculation of the amount of the refunds which equal the participation rate times the previous Permanent Fund Dividends foregone times the number of years the program has been in effect.

Payable Annuity Shares: equals the total annuity shares held by the elderly 65 years and older minus the number of shares eliminated from the program through death or out-migration. Death rates are based on 1980 data from the Alaska Department of Labor's 1982 Population Overview. The elderly out-migration is assumed to equal 3 percent annually, which is slightly lower than the 4 percent rate available from the 1970 Census because as the state has matured and more health and social services for the elderly have become available.

Annual Annuity Payments: equals the number of payable annuity shares x \$16.50/annuity share x 12 months plus administrative costs (i.e. 0.89 percent of the payments in FY 85 and 0.82 percent in FY 86 and thereafter).

Annuity Balance: cumulative surplus of annual annuity deposit minus annual annuity payment. Includes an 8 percent rate of return on annuity fund investments, which is the same rate of return used by the Division of Retirement and Benefits in its annual actuarial valuation of the State's retirement systems.

Computer Analysis: the attached table presents a summary of the above calculations for fiscal years 1985 through 2000. Assumptions may be changed and additional computer simulations prepared upon request.

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VI. HOUSE BILL 655/SENATE BILL 474: Opens the program to all elderly with at least one year of residency through FY 90. Beginning in FY 91, the age requirement for eligibility increases to 66 and the age requirement increases one year at the beginning of each succeeding fiscal year. Provides a monthly payment of \$250. Also provides retroactive payments to elderly who would have qualified in FY 83 and FY 84.

Elderly Population: Total elderly population is estimated to be 16,032 as of July 1, 1984. Projections are based on 5 percent annual growth rate in elderly population.

Projected Recipients through FY 90: It is assumed that 97 percent of the elderly are residents of at least one year, or 15,550 as of July 1, 1984. Figures represent the mid-fiscal year population of eligible elderly (i.e., the number of recipients as of January 1).

Projected Recipients beginning in FY 91: Stair-stepping essentially caps the eligible population at the FY 90 level, with the exception of minor in-migration of older persons who exceed the increasing age requirement in succeeding years. The number of recipients decreases annually as a function of attrition through death and migration out of Alaska. The age-specific death rates and age distribution data are based on the 1980 Census. The most recent elderly migration data are based on the 1970 Census and estimated to be 4 percent annual net out-migration.

# LONGEVITY BONUS COST ANALYSIS

SB 465

(in millions of dollars)

FISCAL YEAR	LONGEVITY BONUS PROGRAM			ANNUITY PROGRAM			
	RECIPIENTS	ANNUAL COST	CUMUL COST	ANNUAL DEPOSIT	PAYABLE SHARES	ANNUAL PAYMENTS	FUND BALANCE
1985	15,950	\$48.28	\$ 48.28	\$ 26.03	15,950	\$ 3.19	\$ 24.67
1986	16,768	47.37	95.64	30.02	31,496	6.29	52.27
1987	17,627	46.28	141.92	32.86	46,624	9.31	81.90
1988	18,531	44.95	186.87	35.30	61,278	12.23	113.36
1989	19,481	43.37	230.24	38.56	75,373	15.05	147.82
1990	20,480	41.50	271.74	50.51	81,221	16.21	196.69
1991	21,530	39.33	311.08	55.35	89,651	17.90	252.88
1992	22,634	36.93	347.91	60.41	97,629	19.49	317.31
1993	23,794	33.97	381.88	65.56	105,094	20.98	390.84
1994	25,014	30.72	412.59	70.72	111,972	22.35	474.35
1995	26,297	27.04	439.64	75.92	118,149	23.59	568.82
1996	27,645	22.91	462.55	81.14	123,526	24.66	675.33
1997	29,032	18.28	480.83	86.26	128,025	25.56	794.91
1998	30,552	13.12	493.95	91.45	131,514	26.25	928.92
1999	32,119	7.38	501.34	96.75	133,865	26.72	1,078.86
2000	33,766	1.02	502.36	102.19	134,932	26.94	1,246.45

**PROJECTIONS ARE BASED ON THE FOLLOWING ASSUMPTIONS:**

1985 POPULATION, AGE 65 AND OVER: 15,950

ANNUAL POPULATION GROWTH: 2.500 %

ANNUAL OUT-MIGRATION: 3.000 %

BONUS AMOUNT IS \$250 PER MONTH IN 1985 AND IS REDUCED BY \$16.50 EACH YEAR

ANNUITY PAYMENT IS \$16.50 PER SHARE PER MONTH

ANNUITY BALANCE INCLUDES INTEREST AT 8.00% PER YEAR

ANNUITY PROGRAM PARTICIPATION RATES:

AGES 0-50: 10%

AGES 51-64: INCREASES STEADILY FROM 10% TO 75%

AGES 65-70: 75%

AGES 71 AND OVER: DECREASES STEADILY FROM 75% TO 0%

ANNUAL ADMINISTRATIVE COSTS OF \$168 PER RECIPIENT ARE INCLUDED

AGE DISTRIBUTION AND MORTALITY RATES FROM 1980 CENSUS DATA ARE APPLIED TO POPULATION PROJECTIONS

PREPARED BY THE HOUSE RESEARCH AGENCY 02-28-1984

Annual Cost: equals annual bonus payments plus administrative costs.

- annual bonus payments = mid-fiscal year recipients x \$250 x 12 months
- administrative costs are estimated to be 0.89 percent of the annual bonus payments in FY 85, reflecting an increase due to the addition of several thousand recipients. Beginning in FY 86, the administrative cost drops to 0.82 percent of the annual bonus payments, as determined from the Department of Administration's FY 84 (Authorized) and FY 85 (Governor's) longevity bonus program budgets.

FY 83 Retroactive Payments: The total elderly population was estimated to be 14,506 as of July 1, 1982; 97 percent, or 14,071, were residents of at least one year. Applying an annual growth rate of 5 percent, we estimate a population of 14,432 eligible senior citizens as of January 1, 1983.

Therefore:     14,432 eligible 1/1/83  
                  - 9,481 current recipients 1/1/83  
                  4,951 new recipients eligible for FY83 retroactive payments

Therefore:     4,951 x \$250 x 12 = \$14,853,000 or \$14.9 million

FY 84 Retroactive Payments: The eligible senior citizens as of January 1, 1984 is similarly estimated to be 15,172.

Therefore:     15,172 eligible 1/1/84  
                  - 9,965 current recipients 1/1/84  
                  5,207 new recipients eligible for FY84 retroactive payments

Therefore:     5,207 x \$250 x 12 = \$15,621,000 or \$15.6 million

Combined total FY 83 and FY 84 retroactive payments:

                  \$ 14,853,000 FY83  
                  + 15,621,000 FY84  
                  \$ 30,474,000     or \$30.5 million

Prepared By: House Research Agency, February 1984.

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STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: February 28, 1984  
Page 1 of 2

REQUEST

Bill/Resolution No.: SSSB 350  
Title: An act creating the Alaska-US Olympic Trust Fund  
Sponsor: Ferguson, Fahrenkamp, Bennett & Faiks  
Requestor: Finance  
Date of Request:

FISCAL DETAIL

Agency Affected: Administration/Office of Gov.  
Program Category Affected: General Government Centralized Administrative Services/Finance  
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		15.0	0	0	0	0
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		1,108.0	0	0	0	0
800 MISCELLANEOUS						
TOTAL OPERATING		1,123.0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		1,123.0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Kenneth E. Bischoff *KEB* *A*  
Division: Finance

Phone: 465-2240  
Date: February 28, 1984

Approved by Commissioner: Lisa Rudd *A. B. Miller*  
Agency: DEPARTMENT OF ADMINISTRATION

Date: 3-2-84

Distribution (by Agency preparing fiscal note):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

Sponsor Substitute for Senate Bill 350  
 Fiscal Note Analysis  
 Prepared by Division of Finance  
 Department of Administration  
 February 28, 1984

We have assumed that the State will match the full \$1,000,000 private donations.

The State employee match of \$108,000 is based on the assumption that 50% of the 18,000 State employees (as of December 31, 1983) will not opt out of this program. We sense that many employees will not view with favor, monies withheld without their prior approval and will exercise their option to withdraw.

The estimated cost of producing the payroll deduction authorization forms and administering the program is \$15,000.

Private donations (Office of the Governor)	\$1,000,000	
State employee match (Office of the Governor)	108,000	A
Administrative cost (DOA)	<u>15,000</u>	
Total	<u><u>\$1,123,000</u></u>	

A:  $50\% \times 18,000 \times \$1.00 \times 12 \text{ months} = \$108,000$

Position Paper

SSSB 350

The Department of Administration is seriously concerned with the intent of Section 3 of Sponsor Substitute Senate Bill 350. As written, one dollar a month will be deducted from the salary of each State employee. The employee must take an action to avoid making a contribution.

Currently, before a contribution type deduction is made from an employee's salary, a deduction authorization form is signed by the employee and presented to the Division of Finance. Without expressed written approval the Division does not consider that authority has been granted to make a deduction of this nature from an employee's wages.

There is also a question as to whether or not section 3 of SSSB 350 violates Article I of the Alaska Constitution. The Attorney General's office has indicated that it is a possibility and they will be looking into that aspect at such time as the bill is passed by the legislature.

The mechanics of SSSB 350 would not pose a major accounting difficulty, although considerable effort will be required to set up a payroll deduction for all State employees, except those that opt out of the program. Contributions deducted from employee salaries would be accumulated in a miscellaneous deduction account and transferred to an agency trust account established for the Office of the Governor. Private donations would be deposited directly to the trust account. The Office of the Governor would periodically draw a warrant on the trust account, payable to the United States Olympic Committee in Alaska.

Although the payroll system has the ability to automatically deduct authorized contributions from employees' salaries it does have a limit as to the number of deductions that can be made for an employee. When the limit is exceeded for an employee the Payroll Section is required to manually intervene in order to properly apply the deductions.

Currently few employees have reached the deduction limit of the system. SSSB 350 will not severely increase the manual payroll effort required at this time. Caution must be used when considering additional legislation of this nature in order to assure that the automated deduction limits of the payroll system are not exceeded and the Payroll Section is not forced to a largely manual effort to properly account for and distribute the payroll deductions.

Based on our reading of this bill, its provisions are effective for FY 85 only and will cease June 30, 1985.

Kenneth E Bischoff <sup>A</sup>

Kenneth E. Bischoff  
Director  
Division of Finance  
Department of Administration

2/28/84  
Date

Bruce I. Ludwig for

Bruce I. Ludwig  
Acting Director  
Division of Labor Relations  
Department of Administration

2/22/84  
Date

A. Blum for

Commissioner Lisa Rudd  
Department of Administration

3-2-84  
Date

Position Paper

SB 350

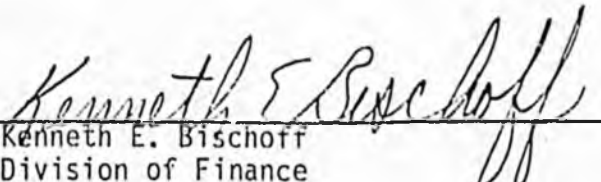
The Department of Administration supports the bill in its intent, however, caution is advised concerning the open-ended appropriation to match all contributions. The salary deduction contribution from State employees, assuming a 20% participation, is estimated at \$45,000. The real concern, however, is that the potential amount of private donations is unlimited. Large donations from multi-national corporations could conceivably require the State to match millions of dollars. For this reason it is recommended that a "not-to-exceed" amount be inserted in Section 2(c).

The intent of Senate Bill 350 would not pose a major accounting difficulty. Contributions deducted from employee salaries would be accumulated in a miscellaneous deduction account and transferred to an agency trust account established for the Office of the Governor. Private donations would be deposited directly to the trust account. The Office of the Governor would periodically draw a warrant on the trust account, payable to the United States Olympic Committee in Alaska.

Although the payroll system has the ability to automatically deduct authorized contributions from employees' salaries it does have a limit as to the number of deductions that can be made for an employee. When the limit is exceeded for an employee the Payroll Section is required to manually intervene in order to properly apply the deductions.

Currently few employees have reached the deduction limit of the system. Senate Bill 350 will not severely increase the manual payroll effort required at this time. Caution must be used when considering additional legislation of this nature in order to assure that the automated deduction limits of the payroll system are not exceeded and the Payroll Section is not forced to a largely manual effort to properly account for and distribute the payroll deductions.

Based on our reading of this bill, its provisions are effective for FY 85 only and will cease June 30, 1985.

  
\_\_\_\_\_  
Kenneth E. Bischoff  
Division of Finance

2/15/84  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Commissioner Lisa Rudd  
Department of Administration

2/16/84  
\_\_\_\_\_  
Date

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_, 1984  
Page 1 of 2

<b>REQUEST</b> Bill/Resolution No.: <u>SB 350</u> Title: <u>An act creating the Alaska-US Olympic Trust Fund</u> Sponsor: <u>Ferguson</u> Requestor: <u>Finance</u> Date of Request: _____	<b>FISCAL DETAIL</b> Agency Affected: <u>Administration</u> Program Category Affected: <u>General Government Centralized Administrative Services/Finance</u> BRU, Program of Subprogram(s) Affected: _____
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**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	0	10.0	0	0	0	0
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	10.0	0	0	0	0
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
GENERAL FUND	0	10.0	0	0	0	0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
FULL-TIME		0				
PART-TIME		0				
TEMPORARY		0				

**SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:**

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Kenneth E. Bischoff *KES*  
 Division: Finance

Phone: 465-2240  
 Date: February 15, 1984

Approved by Commissioner: Lisa Rudd *LRR*  
 Agency: DEPARTMENT OF ADMINISTRATION

Date: 2/16/84

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

SB 350  
Fiscal Note Analysis  
Prepared by Division of Finance  
Department of Administration  
February 15, 1984

This analysis does not attempt to address the cost of matching private donations or contribution of State employees.

The estimated cost of producing the payroll deduction authorization forms and administering the program is \$10,000.



this talent is also available in the state, and we would look for it here. If the program succeeds, presumably the school districts will continue the same with local support and the gradual build-up of Olympic sports in our school systems would start.

In addition to the above type of pilot programs, the State portion of the funds will be utilized to promote the Junior Olympic movement in Alaska. Talented athletes with Olympic potential throughout Alaska will be recruited and sought out for future development and training. Under these scenarios, it would be expected Alaska would then even excel beyond its current high participation in adding Olympic sports. Emphasis would be placed in Olympic-type sports that are not currently popular in American schools. Under these programs, incentives would be provided to smaller statutory athletes, both male and female, as hope that Alaska would become a 'hotbed' of Olympic athletic talent known throughout the United States and the world.

Here is a sample of the Olympic type sports that will be discussed for implementation:

- Archery
- Shooting (and Air Pistol)
- Cycling
- Equestria
- Table Tennis
- Biathalon
- Team Hand Ball
- Hockey (Men and Women)
- Canoe-Kayak
- Cross Country Skiing

Also, if possible to be involved in the purchase of snow-making equipment for the making of trails in various areas throughout the state to become a national training center for Olympic athletes.

Under the current provisions of the bills where State employees and officers have to take the initiative confirmatively and affirmatively authorize a one dollar per month for a twelve month donation, it is estimated that only twenty percent of the estimated 15,000 State employees will be involved to participate. This is caused by inertia and red tape. A rough calculation would therefore produce these gross revenues for the state and U.S. Olympic cause.

15,000 people x 20% = 3,000

3,000 x \$12 = \$36,000 From the Private Sector

With a state dollar-for-dollar matching formula, the net of the Olympic cause would be \$72,000, \$36,000 being sent to

the Olympic Committee in Colorado Springs, and \$36,000 remaining in Alaska for implementation of the above programs to encourage Olympic sports in our schools.

If, on the other hand, the Legislature, with the cooperation of APEA, would reverse the procedure in the legislation, and by legislative amendment authorize the deduction of \$12 a year for the Olympic cause for the Olympic year 1984 only from the pay of each employee (with the right of any employee to opt out on ten days notice--it is estimated that virtually 99% of the sum of state employees would not exercise their obligation of objection of a \$1 per month Olympic donation for 1984. Under this scenario, the revenues would be \$180,000 in private donations from the state employees and a \$180,000 dollar-for-dollar matching appropriation which would be used for the State of Alaska.

The State Olympic Committee consists of these persons:

Ed Merdes, Co-Chairman

Chuck Sasara, Co-Chairman

Other members of the official state Olympic Committee are: Lou Williams, owner of the Ketchikan Daily News; Glen Olan, President of Alaska Pacific University in Anchorage; Lauren Lounsberry, Anchorage, and Charity Kadow of the Legislative Affairs Agency Office.

The State Olympic Committee has been active and will continue to be active in continuing to accept private sector donations from all over the state to augment the Olympic programs in Alaska.

FEB 23 1984



# BOYS' CLUBS OF FAIRBANKS, INC.

P.O. BOX 1154  
FAIRBANKS, ALASKA 99707



February 23, 1984

**DON DENNIS**  
Executive Director

**BOB HARDIN**  
President

**ELMER "CHUCK" SMITH**  
Vice President

**CARROLL BARBER**  
Secretary-Treasurer

Hon. Bob Bettisworth  
Vice Chairman, House Finance Committee  
and Chairman, Budget & Audit Committee  
Pouch V  
Juneau, Ak. 99811

Re: Alaska-United States Olympic Trust Fund

Dear Bob:

This will confirm and constitute a follow-through to Steve Frank's Feb. 21st call to me re: the above. Steve requested me as State Olympic Chairman to provide back-up information for the legislature re: passage of HB488 and SB350. As you know the original form of these bills were identical. Basically they provide the opportunity for state officers and employees to contribute \$1 a month for FY '84-'85 only from their salaries to further the Olympic cause both nationally and in-state. When legislation passes and the governor signs the same Alaska and the state employees will get national recognition from all persons who respect and support the Olympic cause. The bill provides that each dollar of contribution by state employees and those from the private sector will be matched dollar-for-dollar by the state legislature.

Since last contacting you Sen. Ferguson called me and advised that Sponsor Substitute for Senate Bill 350 cleared the Senate Finance Committee unanimously. Frank advised me that he feels the bill will pass the Senate shortly. Please note that in SB350, as revised, a copy of which is enclosed, the Senate changed it to an "opt-out" rather than keeping the "opt-in" language that was in the original bill. As you know HB488 is an "opt-out" bill. Bob, it would seem to me, having some legislative experience myself, that since the Senate version will pass first and be sent over to the House in the "opt-out" form that it would be advisable for the House to take action on SB350 rather than acting on HB488 and duplicating legislative work.

During our phone conversation Steve advised me that Mitch Abood's State Affairs Committee wanted basic back-up information on the anticipated manner in which the revenues in the fund will be expended to further the Olympic cause in Alaska. As you know all private donations the committee raises--state employee contributions under the bill are in this category--are sent to the USOC Training Center in Colorado Springs for the direct support to our Olympic athletes.

**CHARLES CLUTTS**  
Coordinator of Officials

**DON KLEPPER**  
Legion Baseball Liaison

**BOB HINMAN**  
Base Ruth Baseball Liaison

**KEN RANKIN**  
Little League Baseball Liaison

**DICK ENGBREYTON**  
Youth Football Liaison

**JIM WILLIAMS**  
Little Drubblers Liaison



**BOYS' CLUBS OF FAIRBANKS, INC.**

P.O. BOX 1154  
FAIRBANKS, ALASKA 99707



Page 2

**DON DENNIS**  
Executive Director

**BOB HARDIN**  
President

**ELMER "CHUCK" SMITH**  
Vice President

**CARROLL BARBER**  
Secretary-Treasurer

The legislative matching contributions on the other hand are "public funds". Under USOC rules these can remain in the state of origin for promoting the Olympic cause in that state. It is these matching funds and their proposed use for Olympic purposes in Alaska which will be discussed hereafter.

Since the Olympic Trust Fund concept is a creative approach to encouraging participation in the Olympic sports by Alaskans and the first time it has been used in any state, it is apparent that the committee's projected use of the same must be flexible enough to meet the reality of Alaska's arctic and coastal conditions in the promotion of Olympic sports. In that context and spirit here is our initial plan to utilize the revenues in the Trust Fund.

1. To encourage local cross-country skiing enthusiasts and groups to build new and up-grade existing cross-country skiing trails in communities, both rural and urban, throughout the state. Trust Fund monies will be used as "seed" money to encourage such groups and communities to undertake the expansion and awareness of the sport at the earliest possible age for Alaskan youth. Working with such groups and individuals our goal is to have Alaska excel in excellence and over-all public participation in this sport even beyond that experienced in the Scandavian countries.....20%

2. The same encouragement and upgrading for alpine skiing..20%

3. Encourage local community groups both within and without the public and private school systems to start new Olympic sports in their communities, which they locally select. We have in mind here such official Olympic sports as: archery; air pistol shooting; biathlon; fencing; handball, and similar Olympic sports. The Trust Fund will provide "seed" money to start such programs and thereby encourage local groups to provide "sweat equity" and in-kind donations.....50%

4. The remaining 10% will be preserved in the fund as a contingency for unexpected occurrences and to encourage other Olympic programs. The committee has no intention of hiring any full-time staff. Everything will be volunteer. Private donations of the in-kind variety will be used in the state in furtherance of the above programs.

Finally, Steve asked who appointed the state Olympic chairman. It is a US Olympic Committee in Colorado Springs who appoints the 50 state chairman for indefinite terms. The state chairman then appoints his own committee.

Sincerely yours,

Edward A. Herdes, USOC State Chairman  
"Striving To Help Mold The Future Of Fairbanks Through It's Youth"

**CHARLES CLUTTS**  
Coordinator of Officials

**DON KLEPPER**  
Legion Baseball Liaison

**BOB HINMAN**  
Base Ruth Baseball Liaison

**KEN RANKIN**  
Little League Baseball Liaison

**DICK ENGBRETSON**  
Youth Football Liaison

**JIM WILLIAMS**  
Little Dribblers Liaison

INTRODUCTION OF BILLS (Senate)(cont'd)

SB 347 (cont'd)

residence of an applicant for, or a recipient of, a monthly bonus ...." If Commissioner receives confidential information, he could only use it to confirm or rebut an applicant's declaration of length of residence. If a person discloses information obtained under the new provision for a purpose other than determining residency for the Longevity Bonus Program, that person would be subject to the penalty that applies to unauthorized disclosure of that information by the agency or person that has primary custody and control.

Repeals sec. 2, ch. 205, SLA 1972: AS 01.10.030 does not apply to this Act [establishing the Longevity Bonus Program]. If any provisions 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."

Effective July 1, 1984.

Introduced January 11 and referred to Judiciary and Finance.

Appropriation  
(supplemental)  
(operation of  
Legislature)

SENATE BILL NO. 348, by Senator Kerttula. Makes a supplemental appropriation in the amount of \$250,000 to the Legislative Affairs Agency for operation of the Thirteenth Legislature, Second Session. Lapses June 30, 1984. Effective immediately.

Introduced January 11 and referred to Finance.

Recreational  
Activities in  
State Parks

SENATE BILL NO. 349, by Senators Faiks, Kerttula, Bennett, Halford and Pettyjohn. Amends law on the administration of state parks and recreational facilities. AS 41.21.020(a)(6) directs the Dept. of Natural Resources to adopt regulations "governing the use and designating incompatible uses within the boundaries of state park and recreational areas to protect property and to preserve the peace." The bill would add: "In adopting regulations under (a)(6) ..., the department shall consider whether the use of dogs, horses, and other animals for packing gear, pulling sleds, or for other recreational use is compatible within a state park or recreational area."

Does not provide for an effective date (effective 90 days after Governor's signature).

Introduced January 12 and referred to Resources.

AK-US Olympic  
Trust Fund

SENATE BILL NO. 350, by Senators Ferguson & Faiks. Would create the "Alaska-United States Olympic Trust Fund" in the Office of the Governor, consisting of money obtained from salary deduction contributions of officers and employees of the state, from private donations, and from state matching contributions. The fund would be made available to the official U.S. Olympic Committee in Alaska.

During fiscal year 1984-1985, one dollar a month would be deducted

INTRODUCTION OF BILLS (Senate)(cont'd)

SB 350 (cont'd)

from the salary of each state employee who requests involvement in the program. The state would match these salary deductions as well as all private donations received.

Effective June 30, 1984 and repealed June 30, 1985. Identical to HB 488.

Introduced January 12 and referred to Finance.

Art Works in  
Public  
Buildings

SENATE BILL NO. 351, by Senator Ferguson. Eliminates requirement that works of art be included in all public buildings or facilities constructed, remodeled or renovated after June 30, 1975: "A building or facility constructed after June 30, 1975, or remodeled or renovated after June 30, 1975, may [SHALL] include works of art, including but not limited to sculptures, paintings, murals or objects relating to Native art." (Underlined material added, bracketed material deleted.)

Changes law that requires 1% of construction cost on public buildings (.5% for rural school facilities) be reserved for works of art. Changes wording to make it optional: "At least one percent ... may [WILL] be reserved ...." Does not provide for an effective date (effective 90 days after Governor's signature.)

Introduced January 13 and referred to State Affairs.

Alaska Rail-  
road Corp.  
(establishing)

SENATE BILL NO. 352, by Senators Kerttula, Faiks & Halford. Establishes the Alaska Railroad Corporation as a public corporation with a separate legal existence from the state. The corporation will operate and manage the Alaska Railroad after its eventual transfer to the state. Legislative "Findings & Purpose" state that it is in the best interests of the state to accept the railroad under the terms and conditions offered by the U.S. government. Cites Alaska's vast natural resource potential and the possibility of extending the Railroad into natural resource areas, thereby lowering freight costs and stimulating long-term economic growth.

Declares that it is in the best interests of Alaskans for the corporation to be created in such a way that "(A) [it] ... will be exclusively responsible for the management of the financial and legal obligations of the Alaska Railroad; (B) the corporation, and not the state, will constitute a common carrier subject to the jurisdiction of the United States Interstate Commerce Commission; (C) [it] ... will have the ability to raise capital by issuing obligations exempt from federal and state taxation; (D) [it] ... may carry out its responsibilities on a self-sustaining basis; (E) the best possible combination of types and levels of safe, efficient, and economical transportation can be provided that is necessary to meet the overall needs of the state, supported when necessary by state investment; (F) the railroad may be operated prudently and according to sound business management practices; and (G) borrowing by the corporation does not directly or indirectly endanger the state's own borrowing capacity."



# BOYS' CLUBS OF FAIRBANKS, INC.

P.O. BOX 1154  
FAIRBANKS, ALASKA 99707



February 23, 1984

**DON DENNIS**  
Executive Director

**BOB HARDIN**  
President

**ELMER "CHUCK" SMITH**  
Vice President

**CARROLL BARBER**  
Secretary-Treasurer

Hon. Bob Bettisworth  
Vice Chairman, House Finance Committee  
and Chairman, Budget & Audit Committee  
Pouch V

Juneau, Ak. 99811

Re: Alaska-United States Olympic Trust Fund HB488 & SB350

Dear Bob:

This will confirm and constitute a follow-through to Steve Frank's Feb. 21st call to me re: the above. Steve requested me as State Olympic Chairman to provide back-up information for the legislature re: passage of HB488 and SB350. As you know the original form of these bills were identical. Basically they provide the opportunity for state officers and employees to contribute \$1 a month for FY '84-'85 only from their salaries to further the Olympic cause both nationally and in-state. When legislation passes and the governor signs the same Alaska and the state employees will get national recognition from all persons who respect and support the Olympic cause. The bill provides that each dollar of contribution by state employees and those from the private sector will be matched dollar-for-dollar by the state legislature.

Since last contacting you Sen. Ferguson called me and advised that Sponsor Substitute for Senate Bill 350 cleared the Senate Finance Committee unanimously. Frank advised me that he feels the bill will pass the Senate shortly. Please note that in SB350, as revised, a copy of which is enclosed, the Senate changed it to an "opt-out" rather than keeping the "opt-in" language that was in the original bill. As you know HB488 is an "opt-out" bill. Bob, it would seem to me, having some legislative experience myself, that since the Senate version will pass first and be sent over to the House in the "opt-out" form that it would be advisable for the House to take action on SB350 rather than acting on HB488 and duplicating legislative work.

During our phone conversation Steve advised me that Mitch Abood's State Affairs Committee wanted basic back-up information on the anticipated manner in which the revenues in the fund will be expended to further the Olympic cause in Alaska. As you know all private donations the committee raises--state employee contributions under the bill are in this category--are sent to the USOC Training Center in Colorado Springs for the direct support to our Olympic athletes.

**CHARLES CLUTTS**  
Coordinator of Officials

**DON KLEPPER**  
Legion Baseball Liaison

**BOB HINMAN**  
Babe Ruth Baseball Liaison

**KEN RANKIN**  
Little League Baseball Liaison

**DICK ENGBRETSON**  
Youth Football Liaison

**JIM WILLIAMS**  
Little Dribblers Liaison



**BOYS' CLUBS OF FAIRBANKS, INC.**

P.O. BOX 1154  
FAIRBANKS, ALASKA 99707



**DON DENNIS**  
Executive Director

Page 2

**BOB HARDIN**  
President

**ELMER "CHUCK" SMITH**  
Vice President

**CARROLL BARBER**  
Secretary-Treasurer

The legislative matching contributions on the other hand are "public funds". Under USOC rules these can remain in the state of origin for promoting the Olympic cause in that state. It is these matching funds and their proposed use for Olympic purposes in Alaska which will be discussed hereafter.

Since the Olympic Trust Fund concept is a creative approach to encouraging participation in the Olympic sports by Alaskans and the first time it has been used in any state, it is apparent that the committee's projected use of the same must be flexible enough to meet the reality of Alaska's arctic and coastal conditions in the promotion of Olympic sports. In that context and spirit here is our initial plan to utilize the revenues in the Trust Fund.

1. To encourage local cross-country skiing enthusiasts and groups to build new and up-grade existing cross-country skiing trails in communities, both rural and urban, throughout the state. Trust Fund monies will be used as "seed" money to encourage such groups and communities to undertake the expansion and awareness of the sport at the earliest possible age for Alaskan youth. Working with such groups and individuals our goal is to have Alaska excel in excellence and over-all public participation in this sport even beyond that experienced in the Scandinavian countries.....20%
2. The same encouragement and upgrading for alpine skiing..20%
3. Encourage local community groups both within and without the public and private school systems to start new Olympic sports in their communities, which they locally select. We have in mind here such official Olympic sports as: archery; air pistol shooting; biathlon; fencing; handball, and similar Olympic sports. The Trust Fund will provide "seed" money to start such programs and thereby encourage local groups to provide "sweat equity" and in-kind donations.....50%
4. The remaining 10% will be preserved in the fund as a contingency for unexpected occurrences and to encourage other Olympic programs. The committee has no intention of hiring any full-time staff. Everything will be volunteer. Private donations of the in-kind variety will be used in the state in furtherance of the above programs.

**CHARLES CLUTTS**  
Coordinator of Officials

**DON KLEPPER**  
Legion Baseball Liaison

**BOB HINMAN**  
Babe Ruth Baseball Liaison

**KEN RANKIN**  
Little League Baseball Liaison

**DICK ENGBRETSON**  
Youth Football Liaison

**JIM WILLIAMS**  
Little Dribblers Liaison

Finally, Steve asked who appointed the state Olympic chairman. It is a US Olympic Committee in Colorado Springs who appoints the 50 state chairman for indefinite terms. The state chairman then appoints his own committee.

Sincerely yours,  
*Ed Merdes*

Edward A. Merdes, USOC State Chairman  
"Striving To Help Mold The Future Of Fairbanks Through It's Youth"

S

B

387

FISCAL NOTE

Revision Date: January 10, 1984

Page 1 of 2

REQUEST

Bill/Resolution No.: SB 387  
 Title: An act relating to state employment.

FISCAL DETAIL

Agency Affected: All  
 Program Category Affected: All

Sponsor: Rules by request of the Governor  
 Requestor: Senate State Affairs  
 Date of Request: January 9, 1984

BRU, Program of Subprogram(s) Affected:  
 All

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Personal Services appropriation in existing budgets.

ANALYSIS: Attach a separate page for any analysis

Prepared By: Frank Raye *Frank Raye*  
 Division: Personnel

Phone: 465-4430  
 Date: 2/10/84

Approved by Commissioner Lisa Rudd *Lisa Rudd*  
 Department: ADMINISTRATION

Date: 2/10/84

4/BDGSF2/0111-09/FISCAL NOTE

Distribution:

- Legislative Finance
- Legislative Sponsor
- Registrar
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Senate Bill 387  
Revised Fiscal Note Analysis  
Prepared by Division of Personnel  
Department of Administration

Date: January 10, 1984

Section 3 of this bill would extend the payment for unused banked medical leave upon death to employees not covered by collective bargaining. Only employees employed continuously since July 1, 1978 and not covered by a collective bargaining agreement, or employees who changed from collective bargaining coverage to coverage of this statute will be eligible. At present, there are only 264 employees to whom this change in statute would apply. The number is likely to decrease over time.

Data from the Division of Retirement and Benefits indicates a death rate among state employees of 1.4 per thousand per year. Therefore for the potentially eligible employees, the annual death rate is less than .4 employees per year. For purposes of calculation, one death per year is used.

The average hours of banked medical leave for potentially eligible employees is 207 hours. The average pay range is range 23.

The estimated annual costs are:

1 employee X 207 hours X \$25.66 per hour = \$5,312.

The actual costs will be borne from existing budgets in a similar manner as payments for sick or terminal leave.

Section 2 of this bill has the potential of shifting the expense associated with use of personal leave to an earlier period. For example, an employee who might separate in FY86 and be paid for unused personal leave may donate leave to another employee who uses it in FY85. There is no net effect in the present value cost to the state for such transfers.

4/BDGSF2/0111-09/2

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: SB 387  
 Title: An act relating to state employment.

**FISCAL DETAIL**

Agency Affected: All  
 Program Category Affected: All

Sponsor: Rules by request of the Governor  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

BRU, Program of Subprogram(s) Affected: All

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES	5.3	5.3	5.3	5.3	5.3	5.3
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>5.3</b>	<b>5.3</b>	<b>5.3</b>	<b>5.3</b>	<b>5.3</b>	<b>5.3</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	5.3	5.3	5.3	5.3	5.3	5.3
FEDERAL FUNDS						
OTHER (Specify Source)						
<b>TOTAL</b>	<b>5.3</b>	<b>5.3</b>	<b>5.3</b>	<b>5.3</b>	<b>5.3</b>	<b>5.3</b>

**POSITIONS:**

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

**SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:**

Personal Services appropriation in existing budgets.

ANALYSIS: Attach a separate page for any analysis

Prepared By: Frank Rave *Frank Rave* Phone: 465-4430  
 Division: Personnel Date: 1/16/84

Approved by: Commissioner Lisa Rudd *Lisa Rudd* Date: 1/17/84  
 Department: ADMINISTRATION

4/BDFS2/0111-09/FISCAL NOTE

**Distribution:**

- Legislative Finance
- Legislative Sponsor
- Registrar
- Office of Management and Budget
- Impacted Agency(ies)

Senate Bill 387  
Fiscal Note Analysis  
Prepared by Division of Personnel  
Department of Administration

Date:

Section 3 of this bill would extend the payment for unused banked medical leave upon death to employees not covered by collective bargaining. Only employees employed continuously since July 1, 1978 and not covered by a collective bargaining agreement, or employees who change from collective bargaining coverage to coverage of this statute will be eligible. At present, there are only 264 employees to whom this change in statute would apply. The number is likely to decrease over time.

Data from the Division of Retirement and Benefits indicates a death rate among state employees of 1.4 per thousand per year. Therefore for the potentially eligible employees, the annual death rate is less than .4 employees per year. For purposes of calculation, one death per year is used.

The average hours of banked medical leave for potentially eligible employees is 207 hours. The average pay range is range 23.

The estimated annual costs are:

$$1 \text{ employee} \times 207 \text{ hours} \times \$25.66 \text{ per hour} = \$5,312.$$

While this fiscal note shows the \$5.3 thousand annual expense, the actual costs will be borne from existing budgets in a similar manner as payments for sick or terminal leave.

Section 2 of this bill has the potential of shifting the expense associated with use of personal leave to an earlier period. For example, an employee who might separate in FY86 and be paid for unused personal leave may donate leave to another employee who uses it in FY85. There is no net effect in the present value cost to the state for such transfers.

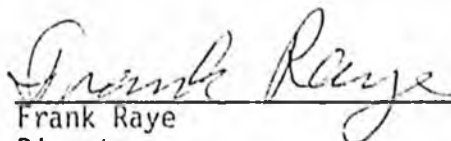
4/BDGSF2/0111-09/2

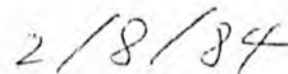
Senate Bill 387  
Position Paper  
Prepared by Division of Personnel  
Department of Administration  
February 7, 1984

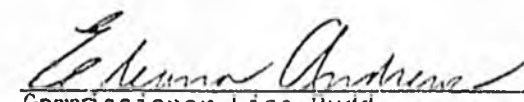
SB 387 makes four changes to the Compensation and Allowances (AS 39.20) and State Personnel Act (AS 39.25). Section 1 relieves part-time officers and employees from the requirement to take five days of personal leave each year. Section 2 extends to all officers and employees covered by the statute the ability to donate accrued personal leave to another officer or employee for use for medical reasons. This ability is currently limited to employees of the legislature; however, most collective bargaining agreements contain such a provision. Section 3 provides for the payment of banked medical leave to the beneficiary upon an employee's death. Most employees are covered by this provision through collective bargaining agreements. Section 4 provides for publicatio in the Alaska Administrative Code of positions placed in the partially exempt service by the Personnel Board. There is no current means of notifying the public of such actions.

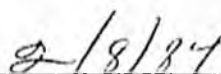
This bill was submitted by the Governor on the recommendation of this Department.

The Department of Administration supports this bill.

  
\_\_\_\_\_  
Frank Raye  
Director  
Division of Personnel  
Department of Administration

  
\_\_\_\_\_  
Date

  
for \_\_\_\_\_  
Commissioner Lisa Rudd  
Department of Administration

  
\_\_\_\_\_  
Date

BILL NO. SB-387

ASSIGNED TO: Josephson

Sponsor: Rules/Governor

SUBJECT: Relating to State Employment

- Sec. 1 Mandates that all state employees except part-time, shall take at least 5 days leave time each calendar year unless department or agency head certifies that such leave was denied.
- Sec. 2 Accrued leave may be donated to another person ONLY FOR MEDICAL REASONS. Time accrued by donor is converted into cash and then reconverted into leave time based on donee's rate of pay.
- Sec. 3 At time of employees separation from state service banked medical leave is cancelled UNLESS separation is caused by employee's death -- then medical leave shall be treated as unpaid compensation.
- Sec. 4 Commissioner (DOA) to submit list of partially exempt service positions for publication in Alaska Administrative Journal

FISCAL NOTE: DOA 0

# ALASKA STATE SENATE

JOE P. JOSEPHSON  
DISTRICT G - ANCHORAGE  
1526 F STREET  
ANCHORAGE, ALASKA 99501  
(907) 277-4419



WHILE IN JUNEAU  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4907  
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COMMITTEES  
HEALTH EDUCATION & SOCIAL SERVICES (CHAIR)  
JUDICIARY (VICE-CHAIR)  
FINANCE  
MAJORITY CAUCUS (CHAIR)

## MEMORANDUM

TO: Senate Finance Committee  
From: Senator Josephson  
Re: SB 387 Leave Time for State Employees  
Date: March 13, 1984

### Sectional Analysis

- Section 1: Exempts part-time officers and employees from taking the mandatory five days of personal leave a year. Personal leave allows full time employees with a rest period so they can then return to work refreshed. Part-time employees do not need to take leave as often as full time employees and this section allows them to save up time to take when they need it.
- Section 2: Extends to all employees under A.S. 39.20 the ability to donate accrued personal leave to another employee for medical reasons. Currently the law applies only to legislative employees, and state employees covered by a collective bargaining agreement are allowed to donate leave. This section would allow all employees to donate leave.
- Section 3: Provides for the payment of banked medical leave to the beneficiary upon an employee's death for employee's not covered under collective bargaining. Currently, unused, banked sick leave is cancelled upon the separation from service of a state worker, regardless of the cause. Currently, state employees covered by a collective bargaining agreement are provided this benefit.

Section 4: Requires that positions placed by the personnel board in partially exempt service be published in the Alaska Administrative Code. No official, comprehensive list is currently published to inform the public of these positions.

Fiscal Information

The original fiscal note of 5.3 has been replaced with a zero fiscal note. Costs are borne by existing budgets.

State Affairs Committee Action

State Affairs Committee passed the bill out of committee on 2/9/84 with a zero fiscal note. Senators V. Fischer, Kelly, Sturgulewski, Rodey and Ray all signed "do pass."

Back up Materials Enclosed

A position paper and fiscal note from the Department of Administration, the Governor's letter of transmittal, State Affairs Committee report form, and copies of appropriate Alaska Statute pages.

(2) two and one-quarter days for each full monthly pay period in the case of officers and employees with two but less than five years of service;

(3) two and one-half days for each full monthly pay period in the case of officers and employees with five but less than 10 years of service;

(4) three days for each full monthly pay period in the case of officers and employees with 10 years or more service. (§ 11-5-6 a ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 10 ch 148 SLA 1976; am § 1 ch 136 SLA 1978)

Effect of amendments. — The 1976 amendment rewrote this section. The 1978 amendment rewrote this section. Am. Jur. 2d reference. — 63 Am. Jur. 2d, Public Officers and Employees, §§ 158, 403.

Cited in State v. Worden, 7 Alas. L.J. No. 9, p. 641 (Sept., 1969).

**Sec. 39.20.210. Determining years of service.** In determining years of service for the purpose of computing personal leave, all service with the Territory and State of Alaska is included. A change in the rate of accrual of personal leave by an officer or employee takes effect upon the beginning of the monthly pay period following the monthly pay period in which the officer or employee completes the prescribed period of service. (§ 11-5-6 b ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 2 ch 136 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "personal leave" for "annual leave" in the first and second sentences.

**Sec. 39.20.220. Requirement that employment be continuous.** Notwithstanding AS 39.20.200, an officer or employee is entitled to personal leave only after having been employed currently for a continuous period of 30 days under one or more appointments without break in service. When an officer or employee completes a period of continuous employment of 30 days, an amount of personal leave is credited to him equal to the amount which, but for this section, would have accrued under AS 39.20.200 during the period. (§ 11-5-6 c ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 3 ch 136 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "personal leave" for "annual leave" and "30 days" for "90 days" in the first and second sentences.

**Sec. 39.20.225. Use of personal leave.** (a) An officer or employee may take personal leave at any time business permits upon permission by the head of the department or agency for which he works.

(b) An officer or employee may take personal leave for medical reasons, regardless of whether business permits, upon permission by the head of the department or agency for which he works. A