

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3680 HSTA HB 238 - HB 239 556

Conversely, if the legislature held the amount of the ALB constant over the years instead of providing a regulator escalator, the ALB costs of the option would be:

Chart 2

ALB COSTS THROUGH FY 2034  
WITHOUT ESCALATION (in millions)

	<u>Nominal \$</u>	<u>Constant \$</u>	<u>Present Value</u>
Current Law	5,419	1,391	880
Annuity Program	619	432	369
Annuity Program w/1986 Stairstep	864	539	444
Stairstep	1,040	586	470
Means Test	3,199	945.9	634.9

In addition to the general fund costs of (1) continuing the current ALB for existing recipients, and (2) providing a gradually reduced ALB for new recipients, the committee bill envisions that individual annuity accounts will be "front loaded" with funds drawn from the earnings of the undistributed income account of the Alaska permanent fund.

Estimating the costs of "front loading" is a three step process. First, the committee assumed that the legislature would provide sufficient front loading to allow those 35 and younger to receive a \$50 base supplement, and those over 35 to receive a supplement which is increased 10% for each year of age up to 65. Second, the committee assumed that participation rates would be very low in younger Alaskans, and extremely high for those older Alaskans receiving the greatest front-loading. The cost of "front load payments" under those assumptions -- with and without

the grandfathering of existing recipients are reflected in Chart 3.

Finally, the effect of front loading is to more rapidly reduce the "target" ALB, and hence reduce general fund obligations. Thus, the net cost of any front loading must be offset by "ALB savings," which are also reflected in Chart 3:

Chart 3

EFFECT OF 3-YEAR FRONT LOADING  
(in millions)

	<u>Nominal \$</u>	<u>Constant \$</u>	<u>Present Value</u>
<u>Annuity Program (3% Esc.)</u>			
Front-Load Payments	113	101	96
(ALB Savings)	(126)	(69)	(31)
Net Cost (Savings)	<u>(13)</u>	<u>32</u>	<u>65</u>
<u>Annuity Program (No Esc.)</u>			
Front-Load Payments	113	101	96
(ALB Savings)	(91)	(57)	(46)
Net Cost (Savings)	<u>22</u>	<u>44</u>	<u>50</u>
<u>Annuity &amp; 1986 Stairstep (3% Esc.)</u>			
Front-Load Payments	79	71	67
(ALB Savings)	(82)	(41)	(31)
Net Cost (Savings)	<u>(3)</u>	<u>30</u>	<u>36</u>
<u>Annuity &amp; 1986 Stairstep (No Esc.)</u>			
Front-Load Payments	79	71	56
(ALB Savings)	(56)	(30)	(23)
Net Cost Savings	<u>23</u>	<u>41</u>	<u>44</u>

The net costs (or savings) of front loading for any particular program can then be added (or subtracted) from the appropriate column of Charts 1-2. From that exercise, it is

apparent that front loading does not materially affect the cost ranking of any of the options considered.

Finally, under stair-stepping, those who do not reach age 65 by FY 1990 will receive no longevity bonus. Of those who are denied the bonus in the future, a portion will apply for state Old Age Assistance. As noted previously, a number of current ALB recipients are apparently eligible for OAA and Medicaid but have not applied because of the bonus. There is thus a segment of Alaska's elderly who are now eligible for OAA and Medicaid, and who might apply for benefits under those programs if the ALB were denied.

It is difficult to predict the number of elderly who would actually turn to state welfare assistance if and when the ALB program were terminated. Currently, one out of every 2.65 income-eligible ALB recipients actually applies for OAA. Under the "moderate low" scenario of Chart 4, one half of those elderly would apply for OAA. Under the "moderate high" scenario, two-thirds of the eligible elderly would apply for assistance once the bonus program is terminated. Cumulative costs, <sup>15/</sup> in increased OAA and Medicaid benefits, through the year 2010 under these two scenarios are as follows:

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<sup>15/</sup> The cost estimates in Chart 4 should be viewed as substantially equivalent to constant 1986 dollar estimates. Although they are technically nominal dollars, they assume no increase in OAA or Medicaid benefits as the years go by. If one assumes that OAA and Medicaid benefits keep close pace with inflation, these estimates would then better reflect constant

Chart 4

INCREASED OAA/MEDICAID COSTS THROUGH 2010  
(in millions)

Moderate Low

81.3

Moderate High

150.2

It is possible that increased OAA costs would also result from the committee bill. Although, under the bill, the ALB is gradually phased out, rather than abruptly terminated, those new elderly who have not participated in the annuity program may eventually find themselves in need of welfare assistance. The degree of that problem, of course, is a function of participation rates -- which are difficult to determine. However, because -- under the committee bill -- the ALB is phased out, rather than abruptly terminated, 16/ and because a portion of Alaska's population will participate in the annuity program, the committee believes that -- even with low participation rates -- the impact of the bill upon old age assistance programs is likely to be less severe than under the stairstepping approach.

Finally, the committee looked at the cost of various options after 1999. As noted previously, it has been a goal of the

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dollar costs.

16/ Thus under stairstepping, a person turning 65 in 1991 would receive no ALB whatsoever. On the other hand, under the committee bill, a person turning 65 in 1991, and who has not participated in the annuity program, will still receive a longevity bonus of \$222.61 per month.

committee to develop a longevity bonus program in which general fund obligations would be minimized as oil revenues declined. Chart 5 indicates the cost of stairstepping, the means test proposal and the annuity program with and without stairstepping, which would be incurred in the 21st century:

Chart 5

COSTS INCURRED AFTER YEAR 1999  
(in millions: Nominal \$)

<u>3% Escalation</u>	
Annuity Program	69.9
Annuity Program w/1986 Stairstep	285.3
Stairstep	588.3
Means Test	N/A
 <u>No Escalation</u>	
Annuity Program	0
Annuity Program w/1986 Stairstep	128.4
Stairstep	291
Means Test	2,486.2

The Benefit Concept's Proposal

The committee investigated an approach proposed by Benefit Concepts, Inc. and Kidder Peabody & Co., Inc. The proposal is essentially an investment program for endowing the longevity bonus program. That is, a substantial investment (approximately \$350 million) would be made in the initial years of the program, and the return from that investment is estimated to be sufficient

to make the declining longevity bonus payments required under the committee's annuity approach. 17/

Benefit Concepts proposes that the state invest in single premium whole life insurance policies (SPL's) taken out on Alaska's elderly. The state would be the owner and beneficiary of the policies. Benefit Concepts' projections indicate that this type of investment would be superior to other options which they believe would be appropriate for such an investment plan, such as guaranteed investment contracts (GIC's), corporate bonds or government securities.

The Benefit Concepts proposal was analyzed by the actuarial firm of Johnson & Higgins at the committee's request. That firm concluded that (1) the costs of the program may be understated when compared with data used by OMB (see footnote); (2) should the state consider "endowing" the ALB program, it should not limit its choices to the low risk alternatives considered by

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17/ Subject to available funds, the state could "endow" any program by investing enough cash to produce the revenue to pay the costs of the program. Indeed, the concept of "endowment" is implicit in the "present value" calculations made by the Office of Management and Budget for the longevity bonus alternatives analyzed. Two points deserve attention. First, in order to avoid dedicated fund problems, the income from any such investment would be deposited in the general fund, and subject to annual appropriation to pay program costs. Second, the assumptions used by Benefits Concepts in making their cost estimates differ in two important respects from the assumptions used by OMB. Benefit Concepts used different population projections, and assumed a different interest environment. Both these differences understate the cost of their proposal when compared with programs using OMB estimates. The committee, therefore, cautions against direct cost comparisons.

Benefit Concepts, but should also examine other investment options; and (3) the primary advantage of the SPL approach over other low risk investments is the substantial tax advantage available to some insurance companies in providing this type of policy. These tax advantages are under scrutiny by the federal Treasury Department, and could well be eliminated through revisions to the Internal Revenue Code in the near future. It would be likely that an insurance company would insist on passing any tax changes through to the policy holder, thus removing the advantage of this type of investment.

The committee is unable to make a firm recommendation regarding this proposal to the legislature but believes that the concept may warrant further consideration by the state's financial experts.

#### The Alaska Pioneers' Home

On July 30, 1984, Governor Sheffield requested the committee to consider expanding its inquiry to include Alaska's Pioneers' Home Program. Because of time constraints, and the fact that the committee developed an alternative to the ALB program which has no application to the Pioneers' Home, the committee was unable to consider alternatives to this program in any depth.

The committee, however, shares Governor Sheffield's concerns over the program. Under AS 47.25.030, an individual must have resided in Alaska for 15 consecutive years, or 30 total years, in

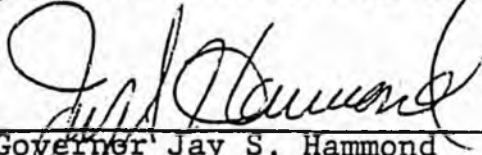
order to be eligible for admission to the homes. Plainly, that requirement raises substantial constitutional questions.

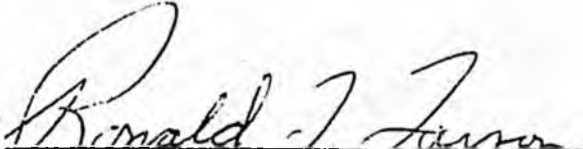
To date, no one has filed suit over the Pioneers' Home eligibility requirements. It is this committee's recommendation that the legislature develop and consider alternatives to the existing residency requirements during this session. The pressure and tension created by the Vest litigation has made it more difficult, over the past 2½ years, to develop a sound replacement for the ALB program. That experience need not, and should not be repeated for the Pioneers' Homes.

One alternative for replacing the current residency requirements warrants note. The legislature may wish to develop a point system that would determine eligibility for Pioneers' Home admission based upon the hardship that would be suffered if the applicant were forced to seek housing out of state. Location of home, family and friends would all be relevant to assessing that hardship; yet hard and fast residency rules would be avoided.

#### Conclusion

The undersigned members of the committee respectfully recommend that the legislature consider and enact the annuity proposal discussed in this report.

  
Governor Jay S. Hammond

  
Representative Ronald Larson

*Bill Ray*  
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*Robert C. Kallenberg*  
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Robert C. Kallenberg

JAN 12 1985

IN THE \_\_\_\_\_

BY \_\_\_\_\_

\_\_\_\_\_ BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending the longevity bonus program and the permanent fund dividend program in order to establish an annuity program; and providing for an effective date."

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

\* Section 1. FINDINGS AND PURPOSE. The legislature finds and declares that

(1) it is in the public interest to continue the longevity bonus program. However, as oil reserves decline over the years, it will become increasingly difficult to provide the benefits of the longevity bonus program through the general fund. As a result, that program must be phased out over the years;

(2) it is appropriate that individuals save for their own retirement, and it is also appropriate that the state establish both means and incentives for Alaska residents to set aside retirement funds. Accordingly, it is a purpose of this legislation to create an annuity program, and to encourage Alaskans to participate in that program by authorizing general fund supplements which would result in annuity payments which are larger than an individual could earn through private investment of the permanent fund dividend;

(3) many retired Alaskans have made their retirement plans in reliance on the availability of both the existing longevity bonus and the permanent fund dividend. Accordingly, the legislature finds that it is appropriate to continue both those programs for these individuals;

(4) the most suitable source of funds for the annuity program created by this Act are those permanent fund earnings currently distributed as dividends. This Act applies the annual permanent fund dividend of younger Alaskans to annuity accounts unless the individual alternatively elects to receive cash. In so doing, this Act will promote wise stewardship of the permanent fund by giving each participant a direct financial stake in its long-term profitability; and

(5) neither the longevity bonus program, nor the annuity program, should be viewed as a form of welfare. Other state and federal programs are available to meet the basic necessities of life, and amounts received by any individual under this Act are not calculated on the basis of need.

\* Sec. 2. AS 43.23.005 is amended to read:

(c) A parent, guardian, or other authorized representative may claim a permanent fund dividend on behalf of an unemancipated minor or on behalf of an incompetent individual who is eligible to receive a dividend [PAYMENT] under this section.

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

(d) A person who is eligible to receive a permanent fund dividend under this section, or who is authorized to claim a dividend on behalf of another under (c) of this section, may elect to receive cash in lieu of an annuity share. Alternatively, a person may elect to receive not less than 25 percent of his dividend in cash and the remainder as an annuity credit. A person exempt under AS 47.45.015(b) will automatically receive cash without the necessity of election.

\* Sec. 4. AS 43.23.015 is amended to read:

Sec. 43.23.015. APPLICATION AND PROOF OF ELIGIBILITY. (a) The commissioner shall adopt regulations under the Administrative Procedure Act (AS 44.62) establishing the process for determining the eligibility of individuals for permanent fund dividends. The

commissioner may require an individual to provide proof of eligibility, and the commissioner may use other information available from other state departments or agencies to determine the eligibility of an individual.

(b) The department shall prescribe and furnish an application form for claiming a permanent fund dividend. The application must contain a statement of eligibility and a certification of residency in substantially the following form:

I certify that

( ) I am a state resident on the date of this application and I have been a state resident for at least six months immediately preceding the date of this application; or

( ) (name), the individual on whose behalf I am applying, is a state resident and has been a state resident for at least six months immediately preceding the date of this application.

I understand that a false claim of residency to obtain a permanent fund dividend for myself or for another is a criminal offense and that if convicted I will forfeit future permanent fund dividends and that I will lose or must repay all permanent fund dividends that have been credited or paid to me, including any accrued interest in my annuity account. I understand that this penalty is in addition to any criminal penalties imposed.

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

(c) Except as provided in (d) of this section or as may be provided by regulations adopted by the department, an individual must personally sign the application for permanent fund dividends,

including the certification of residency required under (b) of this section.

(d) The application and certification of residency of an unemancipated individual under 18 years of age or of an incompetent individual must be signed by the individual's parent, legal guardian, or other authorized representative.

(e) If a public agency claims a cash [PERMANENT FUND] dividend on behalf of an individual under (i) of this section, the public agency shall hold the dividend in trust for the individual. Money held in trust under this subsection shall be invested by the commissioner in accordance with AS 37.10.070.

(f) A minor or an incompetent individual may not maintain a claim against the state or any officer or employee of the state based either on the manner in which the parent, guardian, or authorized representative other than a public agency of the state managed or disposed of permanent fund dividends received on behalf of the minor or incompetent, or any election made or not made on that individual's behalf under AS 43.23.005(d).

(g) If an individual is aggrieved by a decision of the department determining the individual's eligibility for a permanent fund dividend or the individual's authority to claim a permanent fund dividend on behalf of another, the individual may appeal that decision to the superior court in accordance with AS 44.62.560. An appeal under this section does not entitle the aggrieved individual to a trial de novo. The appeal shall be based on the record of the administrative proceeding from which appeal is taken and the scope of the appeal is limited to matters contained in the record of the administrative proceeding.

(h) The penalty and enforcement provisions of AS 43.23.035 apply to an individual who claims a permanent fund dividend on behalf of another.

(i) The permanent fund dividend application form shall be prepared to allow an applicant, other than a person exempt under AS 47.45.015(b), to elect to receive cash in lieu of a permanent fund dividend.

\* Sec. 5. AS 43.23.035 is amended to read:

Sec. 43.23.035. PENALTIES AND ENFORCEMENT. (a) In addition to any criminal penalties imposed by state law, if an individual is convicted of a crime in connection with a false statement made in a certification required under AS 43.23.015, and the conviction is not reversed, that individual forfeits all permanent fund dividends credited or paid, together with any additional credits to his annuity account and is not eligible for a future permanent fund dividend.

(b) If the commissioner determines that a cash [PERMANENT FUND] dividend should not have been claimed by or paid to an individual, the commissioner may use all collection procedures or remedies available for collection of taxes under this title to recover the payment of a permanent fund dividend that was improperly made. A notice of an improperly paid dividend must be sent to the individual within 10 years after the improper payment. If notice is not sent within the 10-year period, proceedings may not be commenced in court for recovery of the improper payment.

(c) If the commissioner determines that a permanent fund dividend should not have been credited to an individual's annuity account, the commissioner may after notice and opportunity for hearing, direct the commissioner of administration to debit the individual's annuity account for the amount wrongly credited. If the

credit is the fault of the individual, the debit must be made within 10 years. If the credit is the fault of the state, the debit must be made within three years.

\* Sec. 6. AS 43.23.055 is amended to read:

Sec. 43.23.055. DUTIES OF THE DEPARTMENT. The department shall

(1) annually [PAY PERMANENT FUND DIVIDENDS FROM THE DIVIDEND FUND] make payments to exempt individuals under AS 47.45.015(b) and those who elect cash under AS 43.23.005(d);

(2) adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for claiming a permanent fund dividend or for making election under AS 43.23.005(d); the department shall set the time limit for applications for permanent fund dividends so that the number of eligible applicants is determined by October 1 of the year for which the dividend is declared and permanent fund dividends for a year are paid before April 30 of the year following the year;

(3) adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for an individual upon emancipation or upon reaching majority to apply for permanent fund dividends not credited or received during minority because the parent, guardian, or other authorized representative did not apply on behalf of the individual; [AND]

(4) assist residents of the state, particularly in rural areas, who because of language, disability, or inaccessibility to public transportation need assistance to establish eligibility and to apply for permanent fund dividends; and

(5) provide the commissioner of administration with information necessary to maintain individual annuity account records and administer the annuity program.

\* Sec. 7. AS 43.23.065 is amended to read:

Sec. 43.23.065. EXEMPTION OF PERMANENT FUND DIVIDENDS. (a) Fifty percent of a cash payment received under AS 43.23.005(d) [THE ANNUAL PERMANENT FUND DIVIDEND PAYABLE TO AN INDIVIDUAL] is exempt from levy, execution, garnishment, attachment, or any other remedy for the collection of debt. This exemption applies to an eligible individual's permanent fund dividend both before and after payment is made to the individual. An exemption is not available under this section for cash payments [PERMANENT FUND DIVIDENDS] taken to satisfy (1) child support obligations required by court order or decision of the child support enforcement agency under AS 47.23.140 -- 47.23.220; (2) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired, or (3) court ordered restitution under AS 12.55.045 -- 12.55.051 or AS 12.55.100. A child support obligation under (1) of this section has priority over a debt owed to an agency of the state, and a permanent fund dividend may not be taken to satisfy a debt under (2) of this section until any portion of the dividend necessary to satisfy a child support obligation has been taken.

(b) When an individual owes a past due debt described in (a)(1) of this section, the department shall require that the individual take his or her permanent fund dividend in cash.

(c) The courts of this state may, as a condition of any civil judgment or restitution order under AS 12.55.045 -- 12.55.051 or AS 12.55.100, require the defendant to take his or her permanent fund dividend in cash.

\* Sec. 8. AS 43.23.075 is amended to read:

Sec. 43.23.075. ELIGIBILITY FOR PUBLIC ASSISTANCE. (a) In determining the eligibility of an individual under a public assistance program administered by the Department of Health and Social Services in which eligibility for assistance is based on financial need, the Department of Health and Social Services may not consider a permanent fund dividend as income or resources received by the recipient of public assistance or by a member of the recipient's household unless required to do so by federal law or regulation. The Department of Health and Social Services shall notify all recipients of public assistance of the effects of [RECEIVING] a permanent fund dividend credit or cash payment.

(b) An individual who is denied medical assistance under 42 U.S.C. 1396 -- 1396p (Social Security Act, Title XIX) solely because of the credit or receipt of a permanent fund dividend by the individual or by a member of the individual's household is eligible for state-funded medical assistance under the general relief assistance program (AS 47.25.120 -- 47.25.300). The individual is entitled to receive, for a period not to exceed four months, the same level of medical assistance as the individual would have received under 42 U.S.C. 1396 -- 1396p (Social Security Act, Title XIX) had there been no permanent fund dividend program.

(c) An individual who is denied assistance solely because permanent fund dividends credited to or received by the individual or by a member of the individual's household are counted as income or resources under federal law or regulation is eligible for cash assistance under the general relief assistance program (AS 47.25.120 -- 47.25.300). Notwithstanding the limit in AS 47.25.130, the individual is entitled to receive, for a period not to exceed four months, the same amount as the individual would have

received under other public assistance programs had there been no permanent fund dividend program.

\* Sec. 9. AS 37 is amended by adding a new chapter to read:

CHAPTER 16: ANNUITY PROGRAM

Sec. 37.16.010. ANNUITY INVESTMENT FUND. (a) The annuity investment fund is established as a separate fund in the state treasury. Notwithstanding the provisions of AS 37.13.145, an amount equal to the permanent fund dividends taken as annuity credits under AS 43.23 shall be annually transferred from the dividend fund to the annuity investment fund.

(b) The legislature may appropriate either general funds, or earnings upon the undistributed income account in the Alaska permanent fund, to the annuity investment fund. Any funds appropriated under this subsection shall be allocated to the individual annuity accounts of those who are eligible to receive a dividend for that year and do not elect cash under AS 43.23.005(d). The allocation shall be made in the following manner:

(1) A credit will be made to the account of each individual who is at least 18 years old;

(2) The credit for each person from the age of 18 through age 35 is the base amount. The size of the base amount is determined according to the amount of the appropriation;

(3) The credit for persons over the age of 35 is the base amount, increased for each year of age over 35 up to and including the age of 65. The incremental increase for each year of age is a percentage over the credit for the prior year of age. That percentage shall be established with due regard for historical and projected permanent fund returns on investment;

(4) If a person elects to receive a portion of his dividend in cash under AS 43.23.005(d), the allocation to which he is otherwise entitled will be proportionately reduced.

(c) Money in the annuity investment fund shall be invested by the commissioner of revenue in investments authorized under AS 39.35.110. The commissioner of administration shall credit individual annuity accounts with earnings at a rate equal to the rate of interest earned by the annuity investment fund.

(d) The legislature may annually appropriate to the Department of Administration an amount sufficient to pay monthly annuity payments for the subsequent fiscal year under AS 37.16.030 from the annuity investment fund. Funds appropriated under this subsection shall be transferred from the annuity investment fund to the Department of Administration in order to meet the current demands of the annuity program.

(e) The legislature may annually appropriate from the annuity investment fund an amount sufficient to administer the annuity program. Any costs of administration funded under this subsection shall be equitably allocated among all individual annuity accounts.

(f) Notwithstanding AS 39.35.110 or (c) of this section, the commissioner of revenue may invest all or part of the annuity investment fund in commercial insurance contracts.

Sec. 37.16.020. ANNUITY PROGRAM. (a) The annuity program is administered by the commissioner of administration. The commissioner of administration shall adopt regulations necessary to implement the annuity program.

(b) The commissioner of administration shall maintain records of individual annuity accounts and make annuity payments under AS 37.16.030.

Sec. 37.16.030. PAYMENT OF ANNUITIES. (a) An individual with one or more annuity credits may receive an annuity upon reaching the age of 65.

(b) An annuity under this section is a monthly payment during the life of the annuitant. The amount of the monthly payment shall be based upon the principal and accrued interest in the person's annuity account and shall be paid in the form of a straight life annuity. The size of the annuity may not vary on account of sex.

(c) An individual need not be a resident of the state to be eligible to receive an annuity payment from his or her account.

(d) An annuity share may not be assigned, sold, or otherwise transferred from one individual to another. The right to receive an annuity under this section terminates upon the death of the person who is eligible for the annuity and does not pass to that person's estate.

(e) If a person dies prior to age 65, his account shall be equitably distributed among the annuity accounts of all individuals of the same age.

(f) An individual does not receive a vested property right in an annuity payment until that payment is made. Notwithstanding the provisions of this section, the state is not obligated to provide annuity payments for annuity credits granted under AS 43.23.005.

\* Sec. 10. AS 43.23.095(6) is repealed and re-enacted to read:

(6) "permanent fund dividend" means a credit to an annuity account under AS 37.16, unless the individual is either exempt under AS 47.45.015(b) or elects cash under AS 47.23.005(d);

\* Sec. 11. AS 47.45.010(a) is amended to read:

(a) A person who is 65 years of age or over, who resides in the state for at least one year immediately preceding application for a

longevity bonus under this chapter may apply to the commissioner of administration for qualification to receive a monthly bonus [OF \$250].

\* Sec. 12. AS 47.45 is amended by adding a new section to read:

Sec. 47.45.015. AMOUNT OF BONUS. (a) Subject to (b) of this section, the monthly longevity bonus is equal to \$250, increased by three percent each year beginning in fiscal year 1987, minus the maximum possible annuity for a person 65 years of age under the annuity program (AS 43.23.110 -- 43.23.120), as determined by the commissioner of administration.

(b) A person who is 65 years of age or over prior to January 1, 1986 is exempt from the annuity program reduction established in (a) of this section.

\* Sec. 13. AS 47.45.070 is amended to read:

Sec. 47.45.070. UNQUALIFIED PERSONS. An unqualified person is one who

(1) does not meet the age or residence requirements as provided for under this chapter;

(2) meets the age and residence requirements of this chapter but either is confined in a state or federal mental health institution or facility and is certified by the state as unable to manage personal affairs, or resides in a nursing home as that term is defined in AS 08.70.180(5); however, if that person, at the time of commitment or commencement of residence, provided the principal support of a spouse, the commissioner of administration may determine to pay the confined person's bonus to the person's spouse until the spouse is qualified for a bonus;

(3) is otherwise qualified but confined in a penal or correctional institution or facility; upon completion of sentence or upon the conferral of a pardon, parole or probation, the person may

make application; confinement outside the state shall be considered as residence in the state if a person was convicted and sentenced from a court in Alaska; revocation of parole or probation shall be cause for immediate disqualification until release from confinement is again effected;

(4) voluntarily leaves the state and remains absent from the state for a continuous period of more than 180 days.

\* Sec. 14. Section 11, ch. 38, SLA 1984 is amended to read:

Sec. 11. Sections 7 and 9 of this [THIS] Act [AND AS 47.45] are repealed June 30, 1985.

\* Sec. 15. AS 43.23.045(c) is repealed.

\* Sec. 16. This Act applies only to permanent fund dividends for years beginning after December 31, 1985.

\* Sec. 17. This Act takes effect January 1, 1986.

REPORT OF THE MINORITY MEMBERS OF THE GOVERNOR'S LONGEVITY  
BONUS TASK FORCE TO THE FOURTEENTH ALASKA STATE  
LEGISLATURE AND GOVERNOR BILL SHEFFIELD

February 1, 1985

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## I. INTRODUCTION

The purpose of this report is to provide a broad view of the issues involved in resolving the future of the longevity bonus program. Each of the options discussed before the committee has both its merits and drawbacks. The minority members of the task force believe a more complete discussion of the various proposals is necessary so that policy makers can decide which of the options is the best one for the State.

The options covered in this report are the annuity proposal, the means test proposal, the stairstepping proposal, and maintaining the current program.

## II. PHILOSOPHICAL DIFFERENCES

Each of the options considered represents a significantly different philosophy about the future of the program.

The philosophy underlying the annuity proposal is that the current bonus program should be replaced with a retirement program for all of the state's citizens. The majority report states, "[t]he Committee believes that there is a need for future State participation in the building of retirement security ..." The annuity proposal presumes that individuals need encouragement from the State to prepare for their final years, even though a majority of Alaskans save for their retirement through private sector investments and employer retirement programs.

The annuity proposal also assumes that there is still a need to provide cash assistance to elders regardless of their length of residency. And finally, this proposal would require Alaskans to choose between the alleged short term benefits of the permanent fund dividend program and the supposed long term benefits of the annuity program.

In contrast, stairstepping emphasizes three facts: (1) the original program was always intended to end if the courts ever declared it to be unconstitutional; (2) there are a large number of older Alaskans who have counted the bonus into their retirement plans, despite its constitutional status; and (3) the State faces a declining revenue picture.

Stairstepping takes care of the needs of Alaska's elders at the expense of the needs of younger Alaskans. The proposal also assumes that younger individuals will provide for their own retirement security through the private sector or will be eligible for public assistance. Further, fiscal reality is faced by phasing out the program (and the general fund cost) entirely, not shifting the general fund cost to another funding source. And finally, stairstepping does not

take need into account because many Alaskan elders reject need as a criteria for receipt of a bonus.

The philosophy behind the means test proposal can be contrasted with both the annuity and stairstepping proposals. It assumes the longevity bonus program should continue, but provides a larger benefit to those who need it the most. In other words, even though we cannot afford to continue the current program at its present cost forever, poorer individuals need a larger bonus payment. Also, the means test proposal is crafted to mesh with federal entitlement programs so the State can provide more benefits for the poor overall with less State cash.

The last option, maintaining the current program, assumes that the bonus should continue in its present form because all Alaskans rely on it, regardless of whom it was originally intended to benefit. Also, it emphasizes the importance of the bonus and its priority for State funding in spite of declining revenues and competition with other statewide needs.

### III. ANNUITY PROPOSAL

Although the committee majority favors the annuity, there are certain aspects of the proposal that the majority report does not discuss.

#### A. Summary

The annuity proposal has three basic features: (1) Continuing the bonus program for all persons age 65 by 1986, and paying these persons a benefit level of \$250 per month, plus 3 percent cost of living increase, for life. (2) Phasing out the bonus program for every one under 65 in 1986, and paying these persons an ever reducing benefit level until sometime in the early part of the next Century. (3) Creating a State supplemental retirement program for those under 65 by 1986 who choose to invest their permanent fund dividends in it.

#### B. Front-loading

The annuity bill allows the Legislature to increase the monthly annuity amount by subsidizing or "front-loading" the account with annual appropriations.

The purpose of front-loading is to increase the amount of the monthly annuity check and to provide a tax shelter for those who invest their dividends in the program. Both of these aspects are considered necessary inducements to increase participation in the program.

Though the cost of front-loading depends on the number of people who participate in the program, the task force majority estimates that at least \$79 million will be required in the first three years, in addition to the funding necessary to continue the phase out bonus program. Since the revenue picture is a clear obstacle to getting this funding from the general fund, the majority proposes that front-loading dollars come from the permanent fund reserve account. We do not support use of the reserve account to pay for the annuity program, since the appropriate uses of the account are already spelled out in statute.

It is also likely that front-loading will be necessary far beyond 1989. Tax counsel has advised the committee that tax shelters will only be available in the years in which the program is front-loaded.

It also seems likely that once the subsidizing begins, it will be difficult to end. This appears especially true if short term front-loading increases the annuity checks of elder Alaskans more than those of younger Alaskans, as the majority report indicates.

It is also possible that the Legislature could decide not to front-load the program at all.

The amount of the bonus each year is tied to the maximum annuity of a 65 year old. Since the maximum annuity will be smaller if it is not subsidized, the general fund cost of the phase out bonus program would be more than the majority report indicates.

#### C. 3% Escalator

The bonus and the cost of the program itself are increased dramatically by a 3% annual escalator. If this is really intended to be an automatic cost of living increase, it should be tied to some acknowledged COLA indicator. In the past, the bonus amount has been increased for valid economic reasons, not automatically.

#### D. Participation

The more Alaskans that participate in the annuity program, the more likely it is to succeed. We are skeptical, however, about the ability of the program to achieve a high and continuous rate of participation.

According to the Governor's Office of Management and Budget, 40% of current bonus recipients have annual incomes of less than \$10,000. According to the IRS, only 2% of taxpayers within this income category buy

IRAs even though it is to their advantage to do so. The statistics on deferred compensation plans are similar. Generally, people without spare cash do not put off receiving income because they cannot afford to. Under this proposal, bonus checks will be reduced each year, yet individuals will have to give up their permanent fund dividends in order to make up the difference.

By grandfathering in current ALB recipients, the bill does protect the current income of today's elders who are at least 65. But what about everyone else? According to the Permanent Fund Corporation's recent report on the dividend program, about 18% of adult recipients making less than \$26,000 annually used their 1982 dividend to reduce debt and another 22% used it to help with regular expenses. Clearly, these individuals are using their dividends to meet basic needs.

The annuity proposal asks the Alaskans who can least afford it to make a very difficult choice -- either they take the cash now to meet basic needs or they skimp on basic needs and defer their dividend for a promise of a future payment. And they have to trust that the program will still be in existence, and that they will live to 65.

Even those Alaskans who can afford the program may be reluctant to participate. Consider the following facts:

1. The tax deferrable status is uncertain even with front-loading because the IRS has not yet ruled on it. If this program is not considered a shelter by the IRS, there are many other tax shelters available in the private sector.
2. There are no survivor benefits. No matter how long you defer your dividend, if you die, your account is split up amongst all the other accounts in your age category. None of your heirs, nor your estate, have a right to any part of the balance in the account.
3. An individual can never liquidate or transfer his annuity account if he decides to change investment strategy. In other words, the money goes in, you cannot take it out.
4. Even if you live to 65, there is still no assurance that you will get any or all of your annuity. Because there is no vested property right, the State could either end the program

at any time without owing you any money or could pay you less than you originally invested.

E. Legality of the Proposal

In general, this proposal appears to be constitutionally sound. It should be noted, however, that the grandfathering of current bonus recipients would create a protected class of persons. Any law that establishes such a classification is subject to an equal protection challenge. However, it seems unlikely that such a challenge would succeed, since the classification is a rational one that furthers a legitimate public purpose. Please refer to the discussion in section IV - E for further information.

F. Conclusion

The question for policy makers is whether this particular annuity proposal makes good economic sense on both a State and a personal level.

IV. STAIRSTEPPING PROPOSAL

A. Summary

The stairstepping proposal continues the current program for five years and then begins to phase out the program by increasing the age of eligibility by one year, each year beginning in July, 1991. In effect, any one who is 60 or older by July of 1985 would qualify for a \$250 monthly bonus from age 65 until death.

B. Impact on Younger Alaskans

The proponents of stairstepping do not dispute the fact that the proposal protects today's elders, but does not protect those who will turn 60 after July of 1985. In fact, its purpose is to ensure that those who have counted on the bonus for their retirement years receive it throughout the rest of their lives. Since we do face a gloomy revenue picture, backers of this proposal believe the only affordable method of protecting the bonus for current elders is to discontinue the program for everyone else.

This should not be interpreted as a lack of concern for the retirement years of individuals under age 60. Instead, it reflects a philosophy of truly "substituting private thrift for public largesse", the alleged theme of the annuity proposal. It reflects a belief that there are plenty of savings options

available in the private sector for those individuals who are in a position to defer cash until some future time. Further, it reflects the belief that the annual permanent fund dividend can be used for this purpose now and that establishing a State annuity program to encourage saving the dividend for retirement is unnecessary.

Finally, it is important to reiterate that the original bonus program was intended to self-destruct if it was ever declared unconstitutional. The stairstepping proposal accomplishes this task while minimizing the harm which would otherwise occur.

#### C. Why Protection for 60 Year Olds Instead of 65 Year Olds

The group of Alaskans who do count on the bonus extends beyond those who are currently eligible to those who are about to become eligible. In general, it is accurate to state that the older and poorer an individual is, the more that individual needs both the bonus and the dividend.

It is true that any age cut off is arbitrary. The reason that age 60 has been chosen, however, is that those who are within five years of retirement are most in need of the bonus. Also, five years appears to be adequate to allow Alaskans in their 50s to prepare for a retirement without the bonus. At the very least, it gives these Alaskans plenty of notice that they can no longer expect to receive a bonus.

It should be noted that if the method of stairstepping is changed, the bonus of more Alaskans will be protected. For example, instead of waiting five years and then stairstepping one year each year, stairstepping could begin immediately but occur every other year. This would allow a much larger group of Alaskans to receive a bonus, but receipt would begin at a more advanced age.

#### D. Legality of the Proposal

Stairstepping creates two classes of people: those who receive bonuses and those who do not. Any law that establishes classifications is subject to an equal protection challenge under both the Federal and State constitutions. A challenge will not succeed, however, if the classifications embodied in the law are rational, and further legitimate governmental purposes. They do not need to meet the test of furthering a compelling State interest, as other laws do.

The stairstepping approach would not affect any constitutional right beyond general equal protection. It would provide benefits to newcomers who met the one year age requirement, and thus would not thwart the right to travel.

Stairstepping embodies a balance between recognition that our elders need the bonus on the one hand, and a perception that the State cannot continue to fund an ever expanding program indefinitely. In a recent case, the Alaska Supreme Court reaffirmed that the recognition of "grandfather right" and "hardship" are legitimate goals of the limited entry law under equal protection analysis. Kalmakoff v. State, Op. No. 2900 (January 11, 1985). It appears that court would find it legitimate for the Legislature to "grandfather" those who are presently receiving the bonus or expecting to receive it in the near future, since those individuals would suffer the most hardship if the program were suddenly ended. Individuals younger than 60 at the date of enactment would have considerable notice that the program would not be available to them at retirement, and would have some wage-earning years to adjust their expectations. Also, the State's revenue expectations are certainly a legitimate element in deciding what program should be enacted.

In sum, it appears that stairstepping is constitutional and would withstand any legal challenge.

#### E. Conclusion

Stairstepping continues to be a valid method of dealing with the current longevity bonus crisis. Though not all Alaskans would benefit from it, it is a fair, rational approach to a problem that does not have any easy solutions.

### V. MEANS TEST PROPOSAL

#### A. Summary

Under the means test proposal, an individual age 65 or over may apply for a bonus of \$250 a month if his or her adjusted gross income was less than \$25,000 for the year prior to application. An individual who does not meet the income requirement, or who chooses not to apply for \$250, is eligible for a bonus of \$100 per month.

The \$25,000 income cap will allow 80% of Alaskan elders to continue to receive the \$250 monthly bonus. At the same time, the proposal would reduce payments to those elderly Alaskans for whom a monthly bonus is not a

financial incentive to remain in the State. These wealthier individuals will continue to be honored with a smaller monthly bonus that can be viewed as a psychological incentive to remain in Alaska.

#### B. Reasons for a Means Test Program

Many elder Alaskans have vehemently opposed creation of a "welfare" bonus program. These individuals feel that the bonus was originally intended to reward them for their contributions to Alaska and that it never was intended to be a form of public assistance. Indeed, some of these elders appear to prefer no future for the bonus program at all if that future is based on need.

Why then should the Legislature seriously consider a means test proposal? One important reason is the federal government's position on the impact of future bonus income on public assistance. Since federal officials insist that the \$250 bonus be counted when determining public assistance eligibility for some Alaskan elders, this proposal represents a direct method of cancelling the affect of the federal action. It would eliminate the loss of Federal Supplemental Security Income and Old Age Assistance for 750 Alaskans and non-nursing home medicaid benefits for 314 Alaskans.

Also, federal officials have indicated that they will be flexible in determining whether a program meets their definition of need. Though this proposal still allows 80% of current recipients to continue to get \$250 a month, federal officials believe it will fall within their definition.

The proponents of this proposal are not insensitive to the wishes of those elders who are opposed to any needs based program. Rather, they have attempted to craft a proposal that does alleviate the federal concern as well as the concern of these elders. Actually, this proposal would not implement a "welfare" program. It is only a needs based one in the sense that it does draw distinctions among elders based on income. But it is not a "welfare" program because it is not only for the very poor. All elders get a bonus and most elders get the same bonus; only the wealthiest 20% get less than the others.

Moreover, there are many elders who do not share the strong feelings about a potential "welfare" stigma. These individuals are not always the most vocal, but they are still important. This proposal emphasizes their importance and points out another method of dealing with the state's fiscal reality by giving a

larger bonus to those who need it the most.

### C. Legality of the Proposal

The largest legal question posed by this proposal is whether the one year residency requirement would be valid for the \$250 bonus since its receipt would be based on a person's income. The United States Supreme Court has held that a one year residency requirement infringes on the federally protected right to travel when used in a program which provides the "basic necessities of life." Thus, in Shapiro v. Thompson, 394 U.S.618 (1969), the court struck down a one year residency requirement for welfare assistance.

But every government program does not provide for "basic necessities of life." For example, in Hawaii Boating Association v. Water Transportation Facilities, 651 F.2d 661 (9th Cir. 1981), the court found that a one year residency requirement for reduced rates for boat moorage did not impair the right to travel, since the benefit involved was not significant.

While the courts have ruled that some programs clearly fall within the "basic necessities" definition (such as welfare, hospitalization, and federal low rent housing) and some programs are clearly outside of that definition (such as moorage fees, practicing law without taking a bar exam, running for city council and COLAs in workers compensation benefits), there is no precise dividing line. A strong argument could be made that this proposal does not provide a "basic necessity" and that the one year requirement is valid.

First, the State has other programs such as old age assistance and medicaid which are available to new Alaskans to provide basic necessities.

Second, the income cap requirement is not typical of a test for welfare eligibility. A welfare program test looks at a person's total assets (i.e., value of their home, boats, cars, etc.), but this proposal only looks at a person's adjusted gross income. The income cap provisions are more properly viewed as a retirement supplement to all but the most wealthy, rather than as a program to fulfill basic needs.

Finally, the purpose of the one year requirement would be to determine, without too much administrative burden, which elders are bona-fide Alaskans as opposed to mere visitors. Like students, older Alaskans tend to travel for extended periods. So long as seniors are not denied basic necessities such as medical care and funds for food and shelter if they are destitute, we

believe the one year requirement would withstand a challenge. The two year residency requirement for student loans was recently upheld for similar reasons.

#### D. Conclusion

This proposal is valid because it addresses the federal support of the public assistance question and because it favors those Alaskans who need the bonus the most. As such, it should be the subject of serious legislative consideration, even though some seniors have reservations about it.

### VI. STATUS QUO PROPOSAL

#### A. Summary

This proposal would continue the present program -- \$250 monthly bonus to all one year residents at least 65 years old -- indefinitely.

#### B. The Bonus as a Priority for State Funding

This proposal asserts that the bonus in its present form is a major priority and should be continued for all Alaskans despite the high cost. If our revenues were not dwindling at an everincreasing pace, we would look more favorably on this proposal. We fear, however, that other statewide needs such as roads, water and sewer, education, and health care will suffer if the bonus program continues in its present form. There are simply not enough oil dollars to meet all our needs. Many other State programs reward and assist elder Alaskans. We hope to continue funding these programs as well as a less expensive bonus program.

#### C. Continuing the Status Quo in FY 86

Although we are uncomfortable with the notion of continuing the program in its present form forever, we feel strongly that if the Legislature and the Governor cannot reach agreement on any other proposals during this session, the current bonus program should be extended for another year. We do not prefer this approach, but we do not want to end the program altogether if 120 days is not enough time to reach consensus on this important issue.

### VII. The Immediate Impact on Public Assistance Eligibility

#### A. How to Protect the Bonus Income of Public Assistance Recipients

Federal and State law treat the longevity bonus payment

in a manner that results in a devastating form of "legal" discrimination for many senior citizens on public assistance. These laws require the senior citizen to apply for the longevity bonus. Then, these same laws reduce or eliminate the amount of public assistance payments, dollar for dollar. The senior citizens on public assistance, unlike the middle and high income seniors who receive the longevity bonus on top of all other income, realize no material gain in their income from receipt of the longevity bonus. Additionally, many of the seniors also lose their entitlement to public assistance medical benefits that the longevity bonus payment does not replace. The poorest of our seniors -- those who need the bonus the most -- are actually harmed by the Alaska longevity bonus.

This "catch 22" affects all seniors who fall into either of two categories:

1. Seniors who reached the age of 65 during 1984 through September 30, 1985, and who did not meet the unconstitutional residency requirements.
2. Seniors who reach the age of 65 after September 30, 1985, irrespective of their residency. This category would include all seniors who would have met the unconstitutional residency requirements.

The effect of this "catch 22" is that the federal government saves federal funds and Alaska's longevity bonus program becomes a cash benefit program for the middle and upper classes of seniors who need the money far less than the poor.

There are only two ways to extend the benefits of the longevity bonus program to our low income senior citizens:

1. create a means test longevity bonus program, or
2. create a "hold-harmless" provision in State public assistance statutes to ensure that the State makes up the difference in federal benefits lost and continues to pay State public assistance to individuals effected by the "catch 22."

The cost to the State would be:

HOLD-HARMLESS COSTS - FY86

	<u>Already Budgeted</u>	<u>Required Fiscal Note</u>
Federal (SSI) Payment	0	1,400,000
State (OAA) Payment	760,000	0
Non-nursing Home Medical	0	413,847
	<u>760,000</u>	<u>1,813,847</u>

If the Nursing Home Exclusion Amendment (see "B", page 13) is not adopted, then the hold-harmless fiscal note should be increased by \$514,982 for FY86.

STATUTE CHANGES

One Statute change would be needed to hold recipients harmless under all currently proposed longevity bonus programs:

Amend Article 4, AS 47.25.430f, to provide that

- (1) The Department must increase the amount of an individual's Adult Public Assistance payment by the amount of any reduction in assistance provided under Title XVI of the Social Security Act which occurs solely because of considering payments made under AS 47.45 as available income; and
- (2) Notwithstanding AS 47.25.435, in determining eligibility for Adult Public Assistance and the amount of Adult Public Assistance payment, the Department will not consider any payment made under AS 47.45 as income available to the applicant or recipient.

Note: Regardless of which longevity bonus proposal is enacted, the hold-harmless provisions above must have an effective date of July 1, 1985. If the means test proposal is enacted, these hold-harmless provisions should sunset on the effective date of the new act to protect funding level of adult public assistance programs.

B. Exclusion of Individuals in Nursing Homes from Eligibility for the Bonus

The bonus can preclude a poor elder from receiving Medicaid assistance while in a nursing home even though it does not offset the cost of care in the nursing home (approximately \$4000/month). Also, the federal government requires that the individual apply for the bonus to get Medicaid. While the State could hold

these individuals harmless at a cost of \$514,982 (General Fund), the Legislature could make nursing home residents ineligible for a bonus.

It should be emphasized that this suggestion is not intended to harm nursing home residents or to judge their worthiness for receipt of a bonus. Rather, it is intended to protect such elders from the exorbitant cost of nursing home care. Irrespective of personal income before entering a nursing home, 97% of Alaskans in nursing homes in the state eventually turn to Medicaid to pay their bills.

#### VIII. COST INFORMATION

##### A. Long Term Costs

The following chart compares the cost of the four proposals in nominal dollars through fiscal year 2034. The chart shows that the general fund costs of both the annuity and stairstepping proposals eventually disappear whereas the means test and status quo proposals continue to need general funds. For the next 50 years, the total costs are as follows:

Annuity proposal	\$1.29 billion
Stairstepping proposal	\$1.13 billion
Means test proposal	\$3.20 billion
Status Quo	\$5.42 billion

The present value (the amount of funding necessary to endow the program today) of the cost of these proposals is:

Annuity proposal	\$620.02 million
Stairstepping proposal	\$496.88 million
Means test proposal	\$634.9 million
Status Quo proposal	\$879.78 million

##### B. Population Forecast

The cost chart is based on a forecast of Alaska's elderly population. This forecast may overstate the number of people who will actually participate in any of the proposed programs, at least in the near term. For example, the population forecast predicts 16,744 eligibles for FY 86, yet only 14,547 elders are currently receiving a bonus. Also, after 2010, the forecast assumes that the elder population remains constant, which does not account for death, migration, etc.

If the population projections do turn out to be too high, then the cost estimates are also too high.

-----MONTHLY PAYMENTS-----						-----POPULATIONS-----			-----ANNUAL COSTS----- (millions)				
FISCAL YEAR	--MEANS TEST BILL--		-----ANNUITY BILL-----			65 & OVER	65		65 BEFORE 1992	ANNUITY BILL*	STAIRSTEP BILL**	CURRENT LAW	MEANS TEST BILL
	MEANS TEST ALB	UNIVERSAL ALB	ALB TO PERSONS 65 BEFORE 1986	MAXIMUM POSSIBLE ANNUITY	RESIDUAL ALB		BEFORE 1986	AFTER 1985					
1986	\$250.00	\$100.00	\$250.00	\$11.92	\$238.00	16,744	15,039	1,705	16,744	\$75.2	\$50.2	\$50.2	\$50.2
1987	\$250.00	\$100.00	\$257.50	\$24.86	\$232.64	17,768	14,149	3,419	17,768	\$80.4	\$53.3	\$53.3	\$46.7
1988	\$250.00	\$100.00	\$265.23	\$39.05	\$226.18	18,769	13,660	5,109	18,769	\$85.0	\$56.3	\$56.3	\$48.6
1989	\$250.00	\$100.00	\$273.18	\$46.94	\$226.24	19,828	12,974	6,854	19,828	\$61.1	\$59.5	\$59.5	\$50.6
1990	\$250.00	\$100.00	\$281.38	\$56.27	\$225.11	20,913	12,293	8,620	20,913	\$64.8	\$62.7	\$62.7	\$52.4
1991	\$250.00	\$100.00	\$289.82	\$67.21	\$222.61	21,908	11,616	10,292	21,908	\$67.9	\$65.7	\$65.7	\$54.0
1992	\$250.00	\$100.00	\$298.51	\$79.93	\$218.58	22,849	10,943	11,906	20,839	\$70.4	\$62.5	\$68.5	\$55.3
1993	\$250.00	\$100.00	\$307.47	\$94.67	\$212.80	23,861	10,273	13,588	19,890	\$72.6	\$59.7	\$71.6	\$56.6
1994	\$250.00	\$100.00	\$316.69	\$111.73	\$204.96	24,799	9,606	15,193	18,823	\$73.9	\$56.5	\$74.4	\$57.7
1995	\$250.00	\$100.00	\$326.19	\$131.53	\$194.66	25,891	8,945	16,946	17,940	\$74.6	\$53.8	\$77.7	\$59.0
1996	\$250.00	\$100.00	\$335.98	\$154.20	\$181.78	26,863	8,291	18,572	16,873	\$73.9	\$50.6	\$80.6	\$59.9
1997	\$250.00	\$100.00	\$346.06	\$180.13	\$165.93	27,692	7,644	20,048	15,819	\$71.7	\$47.5	\$83.1	\$60.5
1998	\$250.00	\$100.00	\$356.44	\$209.76	\$146.68	28,657	7,012	21,645	14,934	\$68.1	\$44.8	\$86.0	\$61.3
1999	\$250.00	\$100.00	\$367.13	\$243.52	\$123.61	29,556	6,396	23,160	13,969	\$62.5	\$41.9	\$88.7	\$61.8
2000	\$250.00	\$100.00	\$378.15	\$281.92	\$96.23	30,511	5,799	24,712	13,031	\$54.9	\$39.1	\$91.5	\$62.5
2001	\$250.00	\$100.00	\$389.49	\$325.34	\$64.15	31,459	5,225	26,234	12,098	\$44.6	\$36.3	\$94.4	\$63.2
2002	\$250.00	\$100.00	\$401.18	\$374.26	\$26.92	32,440	4,676	27,764	11,193	\$31.5	\$33.6	\$97.3	\$64.0
2003	\$250.00	\$100.00	\$413.21	\$429.25	-0-	33,448	4,156		10,306	\$20.6	\$30.9	\$100.3	\$64.7
2004	\$250.00	\$100.00	\$425.61	\$490.97	-0-	34,483	3,666		9,438	\$18.7	\$28.3	\$103.4	\$65.4
2005	\$250.00	\$100.00	\$438.38	\$560.18	-0-	35,721	3,210		8,639	\$16.9	\$25.9	\$107.2	\$66.7
2006	\$250.00	\$100.00	\$451.53	\$637.63	-0-	37,130	2,788		7,850	\$15.1	\$23.5	\$111.4	\$68.3
2007	\$250.00	\$100.00	\$465.07	\$724.15	-0-	38,489	2,402		7,043	\$13.4	\$21.1	\$115.5	\$69.7
2008	\$250.00	\$100.00	\$479.03	\$820.68	-0-	40,309	2,050		6,359	\$11.8	\$19.1	\$120.9	\$71.9
2009	\$250.00	\$100.00	\$493.40	\$928.22	-0-	42,194	1,778		5,640	\$10.5	\$16.9	\$126.6	\$74.0
2010	\$250.00	\$100.00	\$508.20	\$1,047.88	-0-	44,012	1,449		4,950	\$8.8	\$14.9	\$132.0	\$76.1
2011	\$250.00	\$100.00	\$523.44		-0-	45,000	1,213		4,243	\$7.6	\$12.7	\$135.0	\$76.7
2012	\$250.00	\$100.00	\$539.15		-0-	45,000	1,003		3,669	\$6.5	\$11.0	\$135.0	\$75.6
2013	\$250.00	\$100.00	\$555.32		-0-	45,000	819		3,161	\$5.5	\$9.5	\$135.0	\$74.5
2014	\$250.00	\$100.00	\$571.90		-0-	45,000	658		2,698	\$4.5	\$8.1	\$135.0	\$73.5
2015	\$250.00	\$100.00	\$589.14		-0-	45,000	521		2,340	\$3.7	\$7.0	\$135.0	\$72.4
2016	\$250.00	\$100.00	\$606.82		-0-	45,000	405		1,907	\$2.9	\$5.7	\$135.0	\$71.3
2017	\$250.00	\$100.00	\$625.02		-0-	45,000	309		1,596	\$2.3	\$4.8	\$135.0	\$71.0
2018	\$250.00	\$100.00	\$643.77		-0-	45,000	231		1,320	\$1.8	\$4.0	\$135.0	\$70.7
2019	\$250.00	\$100.00	\$663.08	continues	-0-	45,000	169		1,078	\$1.3	\$3.2	\$135.0	\$70.4
2020	\$250.00	\$100.00	\$682.98	to	-0-	45,000	114		866	\$0.9	\$2.6	\$135.0	\$70.1
2021	\$250.00	\$100.00	\$703.47	increase	-0-	45,000	76		686	\$0.6	\$2.1	\$135.0	\$69.9
2022	\$250.00	\$100.00	\$724.57		-0-	45,000	48		533	\$0.4	\$1.6	\$135.0	\$69.6
2023	\$250.00	\$100.00	\$746.31		-0-	45,000	31		407	\$0.3	\$1.2	\$135.0	\$69.3
2024	\$250.00	\$100.00	\$768.70		-0-	45,000	18		304	\$0.2	\$0.9	\$135.0	\$69.0
2025	\$250.00	\$100.00	\$791.76		-0-	45,000	10		222	\$0.1	\$0.7	\$135.0	\$68.7
2026	\$250.00	\$100.00	\$815.51		-0-	45,000	5		150	\$0.0	\$0.4	\$135.0	\$68.4
2027	\$250.00	\$100.00	\$839.97		-0-	45,000	3		100	\$0.0	\$0.3	\$135.0	\$68.1
2028	\$250.00	\$100.00	\$865.17		-0-	45,000	1		63	\$0.0	\$0.2	\$135.0	\$67.8
2029	\$250.00	\$100.00			-0-	45,000			41	\$0.0	\$0.1	\$135.0	\$67.5
2030	\$250.00	\$100.00			-0-	45,000			24	\$0.0	\$0.1	\$135.0	\$67.2
2031	\$250.00	\$100.00			-0-	45,000			13	\$0.0	\$0.0	\$135.0	\$67.0
2032	\$250.00	\$100.00			-0-	45,000			7	\$0.0	\$0.0	\$135.0	\$66.7
2033	\$250.00	\$100.00			-0-	45,000			4	\$0.0	\$0.0	\$135.0	\$66.4
2034	\$250.00	\$100.00			-0-	45,000			1	\$0.0	\$0.0	\$135.0	\$66.1

NOTES:

TOTAL COSTS, 1986-2034:	\$1,287.8	\$1,131.0	\$5,418.9	\$3,199.2
CONSTANT 1985 DOLLARS, 1986-2034:	\$764.38	\$625.01	\$1,391.12	\$945.9
PRESENT VALUE, 1986-2034:	\$620.02	\$496.88	\$879.78	\$634.9

- \* Persons 65 before 1986 grandfathered (i.e., stairstepping starts in 1986). Annual costs include three years of "front loading" (\$25.2 in '86, \$26.5 in '87, and \$27.7 in '88).
- \*\* Persons 65 before 1992 grandfathered (i.e., stairstepping starts in FY 1992).

Although we think it is important to point out this data limitation to policy makers, we do not suggest that another set of data be used. Rather, we wish to only point out the conservative nature of the projections.

C. Cost of the Annuity Proposal

This particular chart shows the cost of the annuity program if an average participation rate of 30% is achieved, if 100% of each PFD check is deferred if the Legislature chooses to subsidize the program for the first three years, and if the annuity investment achieves a 3% real rate of return. The actual cost of the annuity program depends on several variables not easily predicted, in addition to population. The value of the dividend each year, the amount of subsidy provided each year, the cost of administering the program, and the real rate of return on the money invested all affect the overall cost of the program.

For example, if front-loading is provided every year and all other assumptions remain the same, the additional 50 year cost would be \$1.95 billion. Every time a variable is changed, the cost estimate also changes.

D. Cost of the Stairstepping Proposal

The stairstepping cost is based on the Adams proposal. If stairstepping began immediately, but the age of eligibility was only increased every other year, the cost of the program would be \$1,641.6 billion.

E. Cost of the Means Test Proposal

It is important to point out that under this proposal, more elders get the higher bonus until FY 2000. At that time, the percentage switches, since the value of money erodes over time.

F. Cost of the Status Quo Proposal

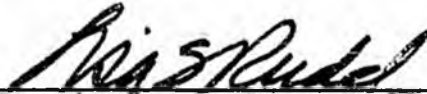
The cost of extending the current program for one year only would be \$50.2 million.

CONCLUSION

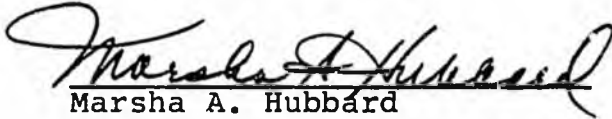
We realize that the majority of the Governor's Task Force favors the annuity proposal, and the majority report reflects that. However, we believe that the report does not adequately address some of the problems with that proposal, nor does it refute what we see as the advantages of the stairstepping and means test proposals. This report is intended to provide additional information on all the proposals being considered. As the Legislature and the Governor begin the process of deciding the future of the longevity bonus, we hope the pros and cons of each proposal will be seriously examined.



Representative Al Adams  
Member of the Committee



Commissioner Lisa Rudd  
Member of the Committee



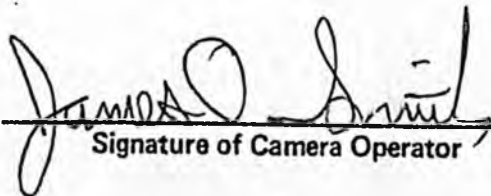
Marsha A. Hubbard  
Member of the Committee



# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

HB

239

HOUSE STATE AFFAIRS COMMITTEE

Bill Number HB 239 Title Stair Stepping - Longevity Date Rec'd \_\_\_\_\_

Fiscal Note	Position Paper	Date requested	From	Amount	Date Rec'd Note	Date Rec'd Paper
1						

CONTACTS

BACKUP LIST

- Lorraine Cutler - Rep. Adams
- David Teal - House Research
- Debra Vogt - Assit. A.G.
- Keith Henry - legal

- Bill
- Sectional
- Rep. Adams Testimony
- A.G.'s opinion
- Lofrote - Admin
- last year's (1984) session laws

HEARING INFORMATION    3/4    3/6    3/7    3/11    3/12    3/15    3/18-3/19

NOTES:

FINAL ACTION



STAIRSTEPPING

<u>Fiscal Year</u> <u>7/1 - 6/30</u>	<u>ALB Age of</u> <u>eligibility</u> <u>HB 239</u>	<u>59 on</u> <u>January 1,</u> <u>1986</u>	<u>59 on</u> <u>July 1,</u> <u>1986</u>	<u>60 on</u> <u>January 1,</u> <u>1986</u>	<u>60 on</u> <u>June 30,</u> <u>1986</u>	<u>60 on</u> <u>July 1,</u> <u>1986</u>
1986	65	59	58	60	60	59
1987	65	60	59	61	61	60
1988	65	61	60	62	62	61
1989	65	62	61	63	63	62
1990	65	63	62	64	64	63
1991	65	64	63	65	65	64
7/1/91-6/30/92- 1992	66	65 become eligible 1/1/92	64	become eligible 1/1/91	become eligible 6/30/91	65
1993	67		65			66
1994	68		66			67
1995	69		67			68
1996	70		68			69
1997	71		69			70
1998	72		70			71
1999	73		71			72
2000	74		72			73
2001	75		73			74
2002	76		74			75
2003	77		75			76
2004	78		76			77
2005	79		77			78
2006	80		78			79
2007	81		79			80
2008	82		80			81
2009	83		81			82
2010	84		82			83
etc	etc		etc never become eligible			etc never become eligible

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 20, 1985

SUBJECT: Sectional analysis of HB 239  
(phase out of longevity bonus program)

TO: Representative Katie Hurley  
Chair, House State Affairs Committee

FROM: Keith B. Levy <sup>KBL</sup>  
Legislative Counsel

You have requested a sectional analysis of HB 239, the so-called "stair-stepping" longevity bonus bill.

Section 1 of the bill provides that, on July 1, 1991, the age requirement for eligibility to receive a longevity bonus payment will increase from 65 to 66 years of age. On July 1 of each year after that, the age of eligibility will increase by one year so that in 1992 it will be 67, in 1993 it will be 68, and so on. As a result, anyone who is not 65 years old before July 1, 1991, will never become eligible for the program. After that date, the only people not already eligible for the longevity bonus who may begin receiving the bonus are those who move to the state, meet the new age requirements, and meet the other requirements such as the one year residency requirement. Because there will be very few new recipients, the program will gradually phase itself out through the mortality of those already eligible when the stair-stepping begins.

Section 2 repeals sec. 11, ch. 38, SLA 1984, which would have repealed the longevity bonus program on June 30, 1985. This is necessary to make it clear that the longevity bonus program is not repealed on that date.

Section 3 provides for an immediate effective date.

If I may be of any further assistance please feel free to contact me.

KBL:mkr  
J13:013



OFFICIAL BUSINESS

Alaska State Legislature  
Senate

POUCH V  
CAPITOL BUILDING  
JUNEAU, ALASKA 99811

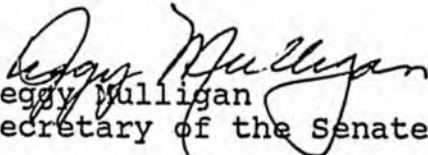
April 2, 1985

MESSAGE TO THE HOUSE

MR. SPEAKER:

The Senate failed to concur in HOUSE CS FOR CS FOR SENATE  
BILL NO. 56 (Fin) (longevity bonus; efd) and respectfully  
requests the House to recede from its amendment to CS  
FOR SENATE BILL NO. 56 (Fin).

(1-17-2 ex)

  
Peggy Mulligan  
Secretary of the Senate

*Longevity*

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 28, 1985

SUBJECT: Sectional analysis of HB 239  
(phase out of longevity bonus program)

TO: Representative Albert P. Adams  
Chairman, House Finance Committee

FROM: Keith B. Levy <sup>KBL</sup>  
Legislative Counsel

You have requested a sectional analysis of HB 239, the so-called "stair-stepping" longevity bonus bill.

Section 1 of the bill provides that, on July 1, 1991, the age requirement for eligibility to receive a longevity bonus payment will increase from 65 to 66 years of age. On July 1 of each year after that, the age of eligibility will increase by one year so that in 1992 it will be 67, in 1993 it will be 68, and so on. As a result, anyone who is not 65 years old before July 1, 1991, will never become eligible for the program. After that date, the only people not already eligible for the longevity bonus who may begin receiving the bonus are those who move to the state, meet the new age requirements, and meet the other requirements such as the one year residency requirement. Because there will be very few new recipients, the program will gradually phase itself out through the mortality of those already eligible when the stair-stepping begins.

Section 2 repeals sec. 11, ch. 38, SLA 1984, which would have repealed the longevity bonus program on June 30, 1985. This is necessary to make it clear that the longevity bonus program is not repealed on that date.

Section 3 provides for an immediate effective date.

If I may be of any further assistance please feel free to contact me.

KBL:ojb  
J12/036

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 8, 1985

SUBJECT: Longevity bonus/annuity program bill  
(CSSB 56 (State Affairs))

TO: Representative Albert P. Adams  
Chairman, House Finance Committee

FROM: Keith B. Levy <sup>KBL</sup>  
Legislative Counsel

You have asked the following questions relating to CSSB 56 (SA), the longevity bonus/annuity program bill:

1. Are the annuity provisions of the bill prohibited by ERISA or other federal or state statutes?
2. What are the implications of AS 43.23.130(f), added by sec. 16 of the bill, which provides that an individual has no vested property right in an annuity payment until that payment is made?

1. Implications of federal/state statutes.

The Employee Retirement Income Security Act of 1974, P.L. 93-406, (ERISA), was enacted by Congress in 1974 to protect certain employees' rights under employee benefit plans maintained for them by their employers or employee organizations if the employer is engaged in interstate commerce or activities affecting interstate commerce. Section 4(a) of the act specifically states the coverages of the act, and refers only to employees and employers. Thus, the act was clearly not intended to apply to the type of annuity plan created by CSSB 56(SA), since there is no employee/employer relationship between the annuitants and the state.

Representative Albert P. Adams.  
February 8, 1985  
Page 2

Moreover, even if the annuity plan could be construed as an employee benefit plan, it would still not be covered by ERISA. Section 4(b) of the act specifically excludes from its coverage governmental employee benefit plans. The term "governmental plan" is defined in sec. 3(32) of the act as

. . . a plan established or maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing. (Emphasis added.)

Accordingly, it is clear that ERISA could not be applied to the annuity plan established in CSSB 56(SA).

I am unaware of any other provisions of federal law that could have an impact on the annuity provisions of CSSB 56(SA) other than the provisions of the Internal Revenue Code. It is my understanding that tax counsel was hired by the Longevity Bonus Committee so that the bill could be prepared to have the least tax impact on annuitants. I would defer to the expertise of tax counsel on matters related to the interpretation of the Internal Revenue Code.

There are a number of provisions of state law related to the establishment of annuity plans in the state (see, e.g., AS 21.45 and 21.48). However, to the extent that these provisions conflict with CSSB 56(SA), the bill would prevail if enacted since it is the later enactment. In any case, nothing in existing law (other than constitutional provisions) could prevent the state from setting up the annuity program the way it wants, since the existing provisions could simply be amended by the legislature. Thus, state law is not an impediment to the provisions of CSSB 56(SA).

2. Vested property rights in the annuity.

AS 43.23.130(f), added by sec. 16 of the bill provides:

An individual does not receive a vested property right in an annuity payment until that payment is made. Notwithstanding this section, the state is not obligated

Representative Albert P. Adams  
February 8, 1985  
Page 3

to provide annuity payments for annuity credits granted under AS 43.23.005.

The significance of this section is that, a person could elect to take the permanent fund dividend in the form of an annuity credit for their entire lives and lose the entire benefit if a future legislature chose to repeal the program or spend the money elsewhere. If the bill is enacted, the state would not be obligated to make annuity payments and a person would have no legal rights to them except for payments already received.

It is clear that an individual has no property interest in a permanent fund dividend payment other than that created by statute. Accordingly, the legislature can set up the statutory scheme so that a person has no vested interest in receiving an annuity payment if that person elects to take an annuity credit instead of a cash permanent fund dividend. In discussing the nature of these kinds of property rights, the United States Supreme Court has said:

To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it.

\* \* \*

Property interests, of course, are not created by the Constitution. Rather, they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law -- rules or understandings that secure certain benefits and that support claims of entitlement to those benefits. (Emphasis added).

Board of Regents v. Roth, 408 U.S. 564, 33 L.Ed 2d 548, 561, 92 S.Ct. 2701 (1971) (nontenured employee of state university has no property interest in job that would require hearing before dismissal without cause). In other words, an individual has no vested right to benefits from the state unless the statutes creating those benefits create such an entitlement. AS 43.23.130(i) makes it clear that the annuity program is not an entitlement. Thus, if a person were to select an annuity credit under the bill, they would do so knowing that, under the provisions of the bill, they have no

Representative Albert P. Adams  
February 8, 1985  
Page 4

right to sue the state if they never receive an annuity payment.

If I may be of further assistance please feel free to contact me.

KBL:ojb  
J11/067

COMMITTEE REPORT

HOUSE

(11)

FURTHER:

3/22/85

Date: 3-29-85

The Committee on FINANCE has had CSSB 56(Fin)

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

under consideration and recommends:

do pass  do not pass

do pass with attached amendments(s)

replace with <sup>H</sup>CS for CS SB 56 (Finance)  same titl  
 new titl

and recommends do pass

AND attaches a "Letter of Intent"  New Fiscal Note

reports it back without recommendation  Zero Fiscal Note Attached

referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING

DO PASS

Curtis H. Aides  
John Campbell  
John J. Gorman  
John J. ...  
John J. ...  
Steve Regan

MEMBERS HAVING

OTHER RECOMMENDATIONS:

Donald ... No Rec  
Paul Kelly (No Rec)  
Jim ... No Rec  
David ... No Rec.

Curtis H. Aides  
CHAIRMAN

SECTIONAL ANALYSIS OF HCS CS SB 56 (FIN)

Section 1. This is the findings and purpose section. It articulates why the legislature is phasing out the program.

Section 2. This section phases out the program. Only those individuals who turn 65 by July of 1986 will be eligible for a monthly bonus for the rest of their lives.

Section 3. Under current law, a bonus recipient can be Outside for 6 months without losing eligibility for the bonus for the next year. This section would only allow the recipient to be Outside for 3 months without losing eligibility.

Section 4. This section disqualifies those who reside in nursing homes, nursing wings of Pioneer homes, and mental health facilities from receiving a longevity bonus. This is because they will lose their medicaid eligibility if they continue to receive a bonus and the amount that medicaid pays for their care far exceeds the \$3,000 in annual bonus income. (Please refer to letter of intent for further details.)

Section 5. This section "holds harmless" those bonus recipients who would otherwise lose their medicaid, SSI, and OAA benefits because the federal government now considers the bonus as a prior resource when determining eligibility for these programs. (Please refer to letter of intent for further details.)

Section 6. This section repeals the July 1, 1985 termination date of the current longevity bonus program.

Sections 7 and 8. These sections make all of the bill go into effect on July 1, 1985 except for section 6 which goes into effect immediately.

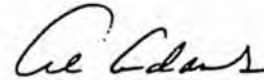
HOUSE JOURNAL

HOUSE FINANCE COMMITTEE  
LETTER OF INTENT  
FOR  
H CS CS SB 36 (FINANCE)

HCS CS SB 36 (FIN) phases out the longevity bonus program in a fair and just manner by insuring that today's seniors in their sixties will receive a monthly longevity bonus for the rest of their lives regardless of need. The bill does, however, address the income of these seniors who are eligible for public assistance.

Because the federal government has indicated that the longevity bonus will be considered a prior resource when determining eligibility for medicaid and supplemental security income (SSI), many of Alaska's poorest seniors who qualify for the bonus will lose their medicaid and SSI benefits. Also, because the state funded Old Age Assistance (OAA) program must follow the federal ruling, these same seniors will lose their OAA benefits as well. This bill will hold the affected seniors harmless from this federal ruling by authorizing the state to pay those medicaid, SSI and OAA benefits that the federal government no longer allows, with one exception. Instead of paying the federal portion of medicaid for eligible nursing home residents, these individuals are prohibited from receiving a bonus. This is because the federal portion of their medicaid benefits far outweigh the \$3,000 in annual bonus income and because the cost to the state of paying both the bonus and the federal medicaid portion of their nursing home care is prohibitive. Nursing home care in Alaska averages \$140 per day.

The legislature recognizes that the federal government may consider the bonus as a prior resource for other programs for which eligibility requirements are controlled at the federal level. Therefore, it is the intent of the legislature that the House and Senate Health, Education & Social Services Committees conduct a joint review of the relationship between eligibility for a longevity bonus and eligibility for federal assistance programs and report back to the legislature next session. The review should consider, but is not limited to, the following items: (1) an inventory of programs for which receipt of the bonus will change eligibility for the federal program, (2) the cost of holding bonus recipients harmless for each program, (3) how best to administer hold harmless programs; (4) how an individual would fare under each program if the individual were made ineligible for a bonus, (5) proposals for legislative action, and (6) the federal reaction to any proposed legislative actions. In conducting the review, the Committees should work closely with the House and Senate Finance Committees and the affected state agencies.



---

Al Adams, Chairman  
House Finance Committee

Original sponsors: Ray, Halferd,  
Carratt, et al

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 56 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to a longevity bonus; and providing  
7 for an effective date."

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

9 \* Section 1. FINDINGS AND PURPOSE. The legislature finds and declares  
10 that

11 (1) the state is committed to the elderly and has been since  
12 territorial days, as evidenced by the many programs benefiting the elderly,  
13 including the Alaska longevity bonus program; the Alaska Supreme Court in  
14 *Schafer v. Vest*, however, struck down the original longevity bonus program,  
15 thus requiring action by the legislature; as a result, the program is now  
16 open to an ever-increasing number of recipients, placing an ever-expanding  
17 burden on the general fund;

18 (2) projections of declining oil revenue, combined with an  
19 increasing senior citizen population, make it clear that the longevity  
20 bonus program will be increasingly difficult to fund and it must be  
21 amended;

22 (3) the state still desires to recognize the achievements of  
23 Alaska's elderly, who served Alaska prior to statehood; thus, the legisla-  
24 ture is committed to the principle that those currently receiving the  
25 longevity bonus will continue to receive it in the future;

26 (4) this legislation provides for the eventual phasing out of  
27 the current program in as fair and cost effective a manner as possible,  
28 leaving it to subsequent legislatures to decide if another program is  
29 needed to assist future Alaskan elders at some later point in time.

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

(a) A person who is 65 years of age or over on or before July 1, 1936, who resides in the state for at least one year immediately preceding application for a longevity bonus under this chapter may apply to the commissioner of administration for qualification to receive a monthly bonus of \$250 upon reaching age 65.

\* Sec. 3. AS 47.45.030 is amended to read:

Sec. 47.45.030. ABSENCE FROM THE STATE. After qualification, a recipient shall notify the commissioner of administration when the recipient expects to be absent from the state if the absence is for a continuous period that exceeds 30 days. After that notification, the recipient may no longer receive bonuses from the Department of Administration after the last regularly approved monthly application. Upon returning to the state, the recipient may again make application for a bonus. Whenever the absence is for a continuous period that exceeds 90 [180] days the recipient shall be disqualified from receiving bonuses for the next 12 calendar months after returning to the state. However, when the commissioner of administration determines a period of absence is beyond the control of the recipient, the recipient may not be disqualified if the recipient still otherwise qualifies upon returning to the state. Continual absences from the state, even though reported, and failure to notify the commissioner of an expected absence may be grounds for disqualification.

\* Sec. 4. AS 47.45.070 is amended to read:

Sec. 47.45.070. UNQUALIFIED PERSONS. An unqualified person is one who

(1) does not meet the age or residence requirements as provided for under this chapter;

(2) meets the age and residence requirements of this chap-

1  
2 but either is confined in a state or federal mental health insti-  
3 tution or facility and is certified by the state as unable to manage  
4 personal affairs, or resides in a nursing home as that term is defined  
5 in AS 08.70.130; however, if that person, at the time of commitment or  
6 commencement of residence, provided the principal support of a spouse,  
7 the commissioner of administration may determine to pay the confined  
8 person's bonus to the person's spouse until the spouse is qualified  
9 for a bonus;

10 (3) is otherwise qualified but confined in a penal or  
11 correctional institution or facility; upon completion of sentence or  
12 upon the conferral of a pardon, parole or probation, the person may  
13 make application; confinement outside the state shall be considered as  
14 residence in the state if a person was convicted and sentenced from a  
15 court in Alaska; revocation of parole or probation shall be cause for  
16 immediate disqualification until release from confinement is again  
17 effected;

18 (4) voluntarily leaves the state and remains absent from  
19 the state for a continuous period of more than 90 (130) days.

20 \* Sec. 5. AS 47.45 is amended by adding a new section to read:

21 Sec. 47.45.122. ELIGIBILITY FOR PUBLIC ASSISTANCE. (a) An  
22 individual whose public assistance is denied or reduced solely because  
23 of the receipt of a bonus under this chapter by the individual or by a  
24 member of the individual's household is eligible for assistance under  
25 the general relief assistance program in AS 47.25.120 - 47.25.300.  
26 Notwithstanding the limit in AS 47.25.130, the individual is entitled  
27 to receive the same amount as the individual would have received under  
28 other public assistance programs had the individual not received a  
29 longevity bonus.

30 (b) In this section "other public assistance" means

- (1) Supplemental Security Income (42 U.S.C. 1381 - 1385);
- (2) Medicaid (42 U.S.C. 1396 - 1396p); and
- (3) Adult Public Assistance (AS 47.25.430 - 47.25.615).

\* Sec. 6. Section 11, ch. 38, SLA 1984 is repealed.

\* Sec. 7. Sections 1 - 5 of this Act take effect July 1, 1985.

\* Sec. 8. Section 6 of this Act takes effect immediately in accordance with AS 01.10.070(c).

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SUMMARY OF FISCAL NOTES FOR HCS CS SB 56 (FIN)

Fiscal Note #1:	\$413.8	Non-nursing home Medicaid
Fiscal Note #2:	\$2160.0	OAA/SSI
Fiscal Note #3:	\$ 399.0	Loss of nursing wing ALB income to Pioneers' Homes
Sub-Total	\$2972.8	
Fiscal Note #3:	(\$1712.4)	Savings from not paying ALB's to nursing home residents.
	<hr/> <hr/>	
TOTAL	\$1260.4	Net additional general funds required.

NOTE: No funds are provided in these fiscal notes for the payment of bonuses.  
These funds are provided in FY 86 budget.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

(Pin FISCAL DETAIL)

Bill/Resolution No.: HCS CSSB 56 Agency affected: Dept. Health & Social Serv  
Title: Longevity Bonus Program Category Affected: Social

Sponsor: Senator Ray, et al. BRU, Program or Subprogram(s) Affected: and Economic Assistance  
Requestor: House Finance Committee Medical Assistance

Date of Request: 3/27/85

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		0				
<b>CAPITAL</b>						
<b>REVENUE</b>		(413.8)				

FUNDING: (Thousands of Dollars)

GENERAL FUND	413.8				
FEDERAL FUNDS	(413.8)				
OTHER					
<b>TOTAL</b>					

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: Attach a separate page if necessary

The bill authorizes state funds to replace lost federal funds for medicaid benefits for non-nursing home medicaid recipients. There is no increase in operating expenditures, only a change in funding source.

*APA*

Prepared By: Representative Al Adams -Chair Phone: 465-3706  
Division: House Finance Committee Date: 3/27/85

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST (Fin) FISCAL DETAIL  
 Bill/Resolution No.: HCS CSSB 56 Agency Affected: Dept. Health & Social Serv  
 Title: Longevity Bonus Program Category Affected: Social & Economic Assistance  
 Sponsor: Senator Rav, et al. BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
 Requestor: House Finance Committee General Relief Assistance \_\_\_\_\_  
 Date of Request: 3/27/85

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		2160.0				
800 MISCELLANEOUS						
TOTAL OPERATING		2160.0				

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		2160.0				
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See attached analysis

A2A

Prepared By: Representative Adams Chairman Phone: 465-3706  
 Division: House Finance Committee Date: 3/27/85

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Agency: \_\_\_\_\_

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

7/1/84

## Fiscal Note Analysis

HCS CS SB 56 (Fin)

1. Costs reflect replacing lost supplemental security income monthly payments with General Relief Assistance:

			<u>FY cost</u>
FY 86:	750 persons/month	=	1,400.0
FY 87:	794 persons/month	=	1,530.5
FY 88:	838 persons/month	=	1,669.8
FY 89:	884 persons/month	=	1,821.6
FY 90:	933 persons/month	=	1,987.4

2. Costs also reflect replacing lost Old Age Assistance monthly payments with General Relief Assistance:

			<u>FY cost</u>
FY 86:	750 persons/month	=	760.0
FY 87:	794 persons/month	=	830.7
FY 88:	838 persons/month	=	906.3
FY 89:	884 persons/month	=	988.8
FY 90:	933 persons/month	=	1017.9

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST (Fin) FISCAL DETAIL  
 Bill/Resolution No.: HCS CSSB 56 Agency Affected: Administration  
 Title: Longevity Bonus Program Category Affected: Social and Economic assistance for the aged.  
 Sponsor: Senator Ray, et al BRU, Program or Subprogram(s) Affected:  
 Requestor: House Finance Committee Longevity Bonus and Pioneers' Home  
 Date of Request: 3/27/85

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		(1712.4)				
800 MISCELLANEOUS						
TOTAL OPERATING		(1712.4)				

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

REVENUE		(399.0)				
---------	--	---------	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		(1313.4)				
FEDERAL FUNDS						
OTHER						
TOTAL		(1313.4)				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See Attached Analysis.

APA

Prepared By: Representative Adams - Chairman Phone: 465-3706  
 Division: House Finance Committee Date: 3/27/85  
 Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Agency: \_\_\_\_\_

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

7/1/84

HCS CS SB 56 (Fin)

Fiscal note analysis:

This bill makes persons who reside in nursing homes and government operated mental health facilities ineligible for the Longevity Bonus.

ASSUMPTIONS

1. Those persons who would be affected in mental health facilities, Pioneers' Homes and nursing homes was approximately 608 as of February 1985. For the purpose of this fiscal note, it is assumed this number will remain unchanged.  
( $608 \times 12 \times \$250 = \$1,824,000$  savings.)
2. There are approximately 133 nursing care residents of the Pioneers' Homes who use the Longevity Bonus to pay their monthly charges for care. Loss of the Longevity Bonus to these people would result in loss of revenue as program receipts for the Pioneers' Homes.  
( $133 \times 12 \times \$250 = \$399,000$  est. loss of program receipts)
3. Of the approximate 133 nursing care residents of the Pioneers' Homes who would be affected, approximately 93 would have incomes reduced to the point they would become eligible for the monthly stipend payable under AS 47.25.020 (b) and (c). ( $93 \times 12 \times \$100 = \$111,600$ .)

In Millions of Dollars

Fiscal Year	HCSCSSB 56	CSSB 56 (Annuity)
86	50.2	50.2
87	48.0	53.1
88	45.8	55.7
89	43.6	58.2
90	41.4	60.3
91	39.2	61.7
92	37.1	62.4
93	34.9	62.5
94	32.8	61.7
95	30.6	60.0
96	28.5	56.9
97	26.4	52.1
98	24.4	45.9
99	22.4	37.6
00	20.4	27.0
01	18.6	15.7
02	16.7	14.0
03	15.0	12.5
04	13.4	11.0
05	11.8	9.6
06	10.4	8.4
07	9.0	7.2
08	7.8	6.2
09	6.7	5.3
10	5.7	4.3
11	4.9	3.6
<b>TOTALS</b>	<b>645.7</b>	<b>903.1</b>

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<b>TOTALS as of 2034</b>	<b>665.0</b>	<b>916.5</b>
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SUMMARY OF DEPARTMENT OF LAW'S OPINION OF STAIRSTEPPING

Stairstepping creates two classes of people: those who are 60 or over today and those who are 59 or younger today. Thus, like all programs that create two classes of people, it could be the subject of an equal protection challenge.

The concept would withstand such a challenge. It would be subject to the "rational basis" test, i.e. the state would have to prove that it is rationally related to a legitimate purpose. The state's rational basis is the need to balance the reliance of the elderly on the program with the state's declining revenues.

There is some confusion about the AG's opinion of stairstepping every other year instead of every year. The AG has said that if stairstepping occurred every other year all Alaskans would eventually become eligible if they live long enough but the program costs would increase dramatically. Therefore the balance represented by waiting five years and then stairstepping every year is considered constitutional by the AG because it protects today's elders while recognizing revenue constraints. For more information on this point, please refer to the last paragraph of both the attached opinions from the AG.

Prepared by Deborah Vogt,  
Assistant AG, January, 1988

Stairstepping -- Legal Analysis:

The stairstepping concept embodied in the bill which passed the House last year (H.B. 655) would raise the age of eligibility for bonus payments one year each year, beginning in 1991. The bill would thus provide continuing bonus payments to any person who reached the age of 65 by 1990. Younger persons would not qualify under the bill.

Any law which establishes classifications is subject to a challenge under the equal protection clauses of both the Alaska Constitution and the United States Constitution. A challenge will not succeed if the classifications embodied in the law are rational, and further legitimate governmental purposes. Thus, the existing longevity bonus law could be challenged because it treats differently those over age 65 and those younger than age 65; however, such a challenge would fail because of the obvious rationale for providing retirement security to senior citizens who are past their wage earning years.

Some laws which implicate further constitutional rights beyond simple equal protection, such as racial discrimination or the federally protected right to travel, are subjected to a much higher degree of scrutiny under the equal protection clauses. Rather than simply meeting the requirement of rationality, these laws must further a compelling state interest in order to be valid.

The stairstepping approach would not implicate any constitutional right beyond general equal protection. It would

provide benefits to newcomers who met the age requirement, and thus would not implicate the right to travel. <sup>1/</sup> Thus, the bill must only be rational, and substantially further legitimate state purposes in order to be valid.

The approach embodies a balance between recognition of the fact that Alaska's elderly and near elderly have planned and relied on the longevity bonus program on one hand, and a perception that the state cannot continue to fund an ever expanding program indefinitely. In a recent case, the Alaska supreme court reaffirmed that the recognition of "grandfather rights" and "hardship" are legitimate goals of the limited entry law under equal protection analysis. Kalmakoff v. State, Op. No. 2900 (January 11, 1985). It appears that that court would find it legitimate for the legislature to "grandfather" those who were presently receiving the bonus or expecting to receive it in the near future, since those individuals would suffer the most hardship if the program were precipitously ended. Individuals younger than 60 at the date of enactment would have considerable

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<sup>1/</sup> The bill, like the current law, would require that an applicant have lived in the state one year in order to qualify. This requirement serves to separate bona-fide Alaskans from visitors, and as such is clearly constitutional. Benefits under the bill would be available to any new resident of the state, after one year, so long as that individual met the age requirement.

notice that the program would not be available to them at retirement, and would have some wage-earning years to adjust their expectations.

The state's revenue expectations are certainly a legitimate element in balancing what program should be enacted. While a stairstepping approach which would raise the eligibility age by one year every other year would eventually phase out the program and delay benefits rather than deny them altogether to younger residents, this option would also increase dramatically the overall costs of the program.

Means test -- Legal analysis:

The means test bill would institute a two part longevity bonus program. Full benefits of \$250 per month would be available to an applicant whose adjusted gross income for the preceeding year was less than \$25,000. Individuals whose income exceeded that amount, or who did not chose to apply under that provision, would be eligible for benefits of \$100 per month. A person must have resided in the state for one year for either benefit.

The question has been raised as to whether the one year residency requirement would be valid for the part of the program which would provide full benefits of \$250 per month, since benefits are based on a person's income. The United States

STATE OF ALASKA  
STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
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SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

March 9, 1984

The Honorable Hugh Malone  
Alaska State House of Representatives  
Pouch V  
Juneau, Alaska 99811

Dear Representative Malone:

You have asked what legal arguments could be made in defense of the "stair-stepping" approach to the longevity bonus program (HB 655) which has passed the house.

As you know, the bill would raise the eligibility age for benefits by one year each year starting in 1990. Effectively, this means that if a person has reached age 65 by 1990, that person will receive benefits but if a person is 64 in 1990, that person will never be old enough to qualify for benefits.

The most important difference in analysis between this program and the existing longevity bonus program (as well as certain other proposed alternatives) is that HB 655 cannot be viewed, in any way, as infringing on the federally protected "right to travel." While HB 655 does create a closed class - those who are 65 in 1990 versus those who are not - the class is not defined by any characteristic such as race or residency or sex which would give rise to close scrutiny by a court. Thus, a court should subject the program to the minimal "rational basis" equal protection test which requires only that legislation be rationally related to legitimate purposes.

It would appear that HB 655 is the result of a balancing between a recognition that many of our elderly have planned and relied on the longevity bonus program on one hand, and a perception that the state cannot afford to fund an expanding program indefinitely. You have asked specifically whether a "limited-revenue" argument can defend a state funded program. A state certainly may not, for example, close its schools or libraries or swimming pools to blacks while keeping them open to whites on the grounds that it would be too expensive to open those facilities. Nor may a state, as we have seen,

The Honorable Hugh Malone  
Alaska State House of Representatives --

March 9, 1984  
Page 2

limit welfare benefits to long term residents on the grounds that it would be too expensive to pay newcomers. But that is because those sorts of discrimination are invalid on their own, and not because it is "illegitimate" for a legislature to consider the state's revenue needs. It is certainly legitimate for a legislature to consider whether or not a program is affordable.

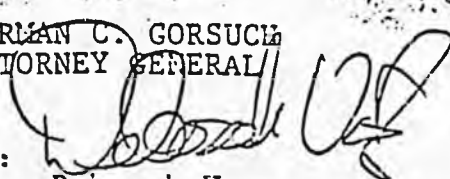
It is legitimate for the legislature to consider the reliance interest of those individuals who presently receive a bonus or who have planned on it in the near future. HB 655 would recognize that it is difficult for the elderly to change their economic circumstances; many present recipients have planned their lives around the bonus. By not beginning the "stair-stepping" until 1990, the bill also recognizes that those who are near retirement age may find it difficult to augment their planned retirement income without the bonus. Obviously, those who are younger will have time to make alternate plans. Assuming that the legislature determines that the program cannot be funded indefinitely, it would seem that a six year lead time before phasing out benefits is a rational choice.

It is my understanding that certain members of the legislature have examined the possibility of phasing out the program more slowly -- for example, stair-stepping every two years instead of every year. A slower phase-out would result in a delay of benefits rather than a complete denial, at least in the early years of the program. (At some point, however, a person would have to be so old to qualify that this type of program would be an effective denial.) I understand that the one year stair step was preferred by the House because the projected cost of the program closely matches the state's projected revenue curve, while a slower phase-out would require increased expenditures in years in which the state's revenues will be declining. It is our opinion that these considerations are legitimate.

Please let us know if we can be of any further assistance.

Sincerely,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:   
Deborah Vogt  
Assistant Attorney General

DV:jf

SUMMARY OF CHAPTER 38 SLA 84

The act's highlights are as follows:

Allows all one year residents who are at least 65 to receive a monthly bonus of \$250.

Establishes the State Special Committee on the Alaska Longevity Bonus Program. The committee includes 2 representatives, 2 senators, 2 executive branch officials, and 3 public members appointed by the Governor. The committee is directed to "determine the feasibility of replacing the longevity bonus program ... with an annuity program, a needs-based program, or other longevity program." The committee is further directed to consider the "format and structure", cost, opinions of current recipients, and sources of funding for all alternatives developed by the committee. The Committee must report to the legislature and governor by 2/1/85.

The act and the law are repealed on 6/30/85.



LAWS OF ALASKA

1984

Source

HR 717 am

Chapter No.

38

AN ACT

Relating to the longevity bonus program, requiring the payment of longevity bonuses from appropriations from the general fund; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 11

Approved by the Governor: April 27, 1984
Actual Effective Date: April 28, 1984

Chapter 38

AN ACT

Relating to the longevity bonus program, requiring the payment of longevity bonuses from appropriations from the general fund; and providing for an effective date.

\* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds and declares that

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

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

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

(4) it is in the public interest to continue the longevity bonus program for elderly Alaskans irrespective of need.

(b) The longevity bonus program is not a form of welfare and is not a substitute for or supplement to public assistance. Other programs are available to provide the basic necessities of life. The longevity bonus program is intended to encourage elderly Alaskans to spend their retirement years in the comfort of their homes.

\* Sec. 2. AS 47.45.010 is amended to read:

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

(a) A person who is 65 years of age or over, who resides in the state for at least one year immediately preceding application for a longevity bonus under this chapter [WAS DOMICILED IN THE TERRITORY ON OR BEFORE JANUARY 3, 1959 AND WHO HAS MAINTAINED A CONTINUOUS DOMICILE IN THE TERRITORY OR STATE FOR 25 YEARS] may apply to the commissioner of administration for qualification to receive a monthly bonus of \$250.

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

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

\* Sec. 3. AS 47.45.030 is amended to read:

Sec. 47.45.030. ABSENCE FROM THE STATE. After qualification, a [A] recipient shall notify the commissioner of administration when the recipient [HE] expects to be absent from the state if the absence is for a continuous period that exceeds 30 days. After that notification, the recipient may [SHALL] no longer receive bonuses from the Department of Administration after the [HIS] last regularly approved monthly application. Upon returning [HIS RETURN] to the state, the recipient [HE] may again make application for a bonus. Whenever the absence is for a continuous period that exceeds 180 days the recipient shall be disqualified from receiving bonuses for the next 12 calendar months after returning [HIS RETURN] to the state. However, when the commissioner of administration determines a period of absence is beyond the control of the recipient, the recipient [HE] may not be disqualified [,] if the recipient [HE] still otherwise qualifies upon returning [HIS RETURN] to the state. Continual absences from

state, even though reported, and failure to notify the commissioner of an expected absence may be grounds for disqualification.

\* Sec. 4. AS 47.45.090(a) is amended to read:

(a) The [THERE IS THE] Alaska longevity bonus fund is created for the purpose of paying the monthly bonuses provided for in this chapter. The fund consists only of [ALL] money made available by appropriations of the [STATE] legislature from the general fund, and [FROM OTHER APPROPRIATED FUNDS, ALL CONTRIBUTIONS FROM WHATEVER SOURCE, AND] income and interest derived from the investment of money of the longevity bonus fund.

\* Sec. 5. AS 47.45.150 is amended to read:

Sec. 47.45.150. DEFINITIONS. In this chapter

(1) "bonus" means a monthly Alaska longevity bonus payment made to a person or the person's [HIS] beneficiary who qualifies under this chapter;

(2) "resident" or "resident of the state" means an individual who is physically present in the state with the intent to remain in the state indefinitely and to make a home in the state; a person demonstrates the requisite intent by maintaining a principal place of abode in the state for one year and by providing other proof of intent the commissioner may require by regulation, including proof that the person is not claiming residency outside the state ["DOMIC" MEANS THE PLACE WITH WHICH A PERSON HAS A SETTLED CONNECTION OR DETERMINATION OF HIS CIVIL STATUS OR OTHER LEGAL PURPOSES BECAUSE IT IS ACTUALLY OR LEGALLY HIS PERMANENT AND PRINCIPAL HOME].

\* Sec. 6. Section 2, ch. 205, SLA 1972, and AS 47.45.170 are repealed.

\* Sec. 7. SPECIAL COMMITTEE. The State Special Committee on the Alaska Longevity Bonus Program is created, consisting of two members of the Alaska

Senate appointed by the president of the senate, two members of the Alaska House of Representatives appointed by the speaker of the house, two members of the executive branch selected by the governor, and three public members appointed by the governor. The committee shall determine the feasibility of replacing the longevity bonus program, as amended by this Act, with an annuity program, a needs-based program, or other longevity program. In making the determination of feasibility required by this section, the committee shall consider (1) the format and structure of alternative programs; (2) the cost of alternative programs as compared to the cost of the longevity bonus program, as amended by this Act; (3) opinions of recipients of longevity bonus payments on the question of replacing the longevity bonus program with an alternative program; and (4) sources of funding for the alternative programs. The committee shall report its findings on the feasibility of alternative programs, together with draft legislation to implement the alternative programs if the committee finds that one or more programs are feasible, to the legislature and the governor by February 1, 1985.

\* Sec. 8. If any provision of this Act, or the application of this Act to any person or circumstance is held invalid, the remainder of this Act and the application of this Act to other persons or circumstances is not affected by that holding.

\* Sec. 9. (a) A person who was qualified to receive a monthly longevity bonus under AS 47.45 on March 30, 1984 is presumed to be qualified to receive a monthly bonus under AS 47.45 as amended by this Act. Payments under AS 47.45, as amended by this Act, may be made to that person as long as the person continues to qualify for payments under those provisions.

(b) A person (1) who is eligible to receive a monthly longevity bonus under AS 47.45, as amended by this Act, for which that person was not eligible under AS 47.45 on March 30, 1984, and (2) whose application for

longevity bonus for May, June, July, or August, 1984 is received by September 1, 1984, may be paid for each month for which that person is qualified and for which such an application was filed, notwithstanding any other provision of law to the contrary.

\* Sec. 10. Sections 1 - 8 of this Act are retroactive to May 1, 1984.

\* Sec. 11. This Act and AS 47.45 are repealed June 30, 1985.

\* Sec. 12. This Act takes effect immediately in accordance with AS 01.-10.070(c).

POSITION PAPER

HB 239

This bill is a proposed act relating to the longevity bonus program; and providing for an effective date.

This bill would restrict growth and eventually phase out the longevity bonus program by escalating the age of eligibility.

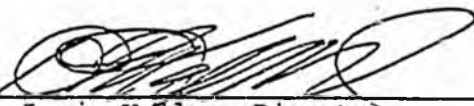
Section 11 of Chapter 38, SLA 84, which would have ended the program on June 30, 1985, would be repealed, and therefore the program would continue.

Beginning on July 1, 1991, the age requirement for eligibility for a longevity bonus would be increased to 66 years of age. On July 1 of each succeeding year the age requirement would be increased by one year. This would have the effect of closing the program to new applicants, except for new residents of Alaska who complete one year of residency at an appropriate age, or those few Alaskans of appropriate age who may have previously chosen not to apply.

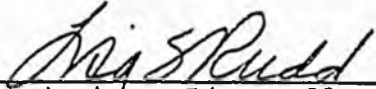
All those presently eligible for the program, and those who come on the program prior to July 1, 1991, would remain eligible and continue to receive longevity bonus payments.

The bill would become effective immediately upon becoming law.

At this point, the Department of Administration is maintaining a neutral position on this bill.

  
\_\_\_\_\_  
E. Louis Keller, Director  
Division of Pioneers' Benefits

2/28/85  
\_\_\_\_\_  
Date

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

3/1/85  
\_\_\_\_\_  
Date

House Bill 239  
Fiscal Note Analysis  
Prepared by the Division of Pioneers' Benefits  
Department of Administration  
March 1, 1985

This Bill would restrict growth and eventually phase out the Longevity Bonus Program by escalating the age of eligibility.

Assumptions

1. Section 11 of Chapter 38, SLA 84, which would have ended the program on June 30, 1985, is repealed, and therefore the program will continue.
2. Beginning on July 1, 1991, the age requirement for eligibility for a longevity bonus would be increased to 66 years of age. On July 1 of each succeeding year the age requirement would be increased by one year. This would have the effect of closing the program to new applicants, except for new residents of Alaska who complete one year of residency at an appropriate age, or those few Alaskans of appropriate age who may have previously chosen not to apply.
3. All those presently on the program, and those who come on the program prior to July 1, 1991, will remain eligible and continue to receive longevity bonus payments.
4. The Bill becomes effective immediately upon becoming law.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

Page 1 of 2

**REQUEST**

Bill/Resolution No.: HB 239  
 Title: Longevity Bonus  
 Program \_\_\_\_\_  
 Sponsor: Finance Committee  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Administration  
 Program Category Affected: Social and Economic Assistance for the Aged  
 BRU, Program or Subprogram(s) Affected: Longevity Bonus Program

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

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS	0	0	0	0	0	0
800 MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</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)**

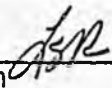
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS:**

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

ANALYSIS: (Attach a separate page if necessary)

Prepared By:  Director  
 Division: Pioneers' Benefits Phone: 465-4400  
 Date: March 1, 1985

Approved by Commissioner: Lisa Rudd   
 Agency: Department of Administration Date: 3/1/85

Distribution (by Agency preparing fiscal note):

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



# Alaska State Legislature

## House of Representatives

### Committee on State Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99811

Official Business

#### Longevity Bonus Hearings

(907) 465-4963

#### INCOME LEVELS AND PARTICIPATION IN A STATE ANNUITY PROGRAM

°Average Alaskan annual income is between \$25,000 - \$26,000

(Alaskans have less purchasing power than the national average after taxes).

°Rural residents tend to earn less than \$10,000 dollars a year

°Almost every rural community has an average annual income of less than \$10,000

°15% of Alaskans earn less than \$5000/year

°25% of Alaskans earn less than \$10,000/year

°30% of Alaskans earn less than \$15,000/year

Source: Department of Revenue - Presented by David Teal, Director of House Research

°Statistics indicate that 14% of the population invest in IRA's

Participation declines as income declines:  
\$100,000/year      80% participation  
\$10,000/year      2% participation

°State of Alaska deferred compensation plan for state employees - participation level

10% of state employees participate in the plan

State workers as a group tend to be higher paid than the average Alaskan population

The plan guarantees tax deferment on both the principal contribution and the interest earnings of an individual account in addition to allowing the withdrawal of funds before 65.

Source: Compiled by David Teal, Director of House Research

## PERMANENT DIVIDEND PROGRAM: ECONOMIC EFFECTS

°The Permanent Fund Dividend Program has a more significant impact on Alaska's Economy than any other category in the State. (With the possible exception of direct welfare expenditures). In some categories, the order magnitude is as high as 4 to 1.

°By 1991 the dividend program will be responsible for almost 10,000 jobs in Alaska, if the program is continued.

°If the state were to cut an amount of state funds from loan subsidies equivalent to the permanent fund dividend expenditure, 2500 jobs in the state would be lost.

°If loan subsidies were decreased by \$100 million dollars and increased state spending in the permanent fund dividend program by \$25 million dollars, there would be no loss of employment with a net budget savings of \$75 million dollars.

°7000 to 8000 jobs in the Alaskan economy are a consequence of the permanent fund dividend program.

°The annuity proposal will cause economic contractions to the extent that money is taken out of the economy.

### Source:

Gregg Erickson, Co-Author of the study on the Alaska Permanent Fund Dividend Program: Economic Effects and Public Attitudes

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

March 22, 1985

Honorable Katie Hurley  
Alaska State House of Representatives  
Pouch V  
Juneau, Alaska 99811

Dear Representative Hurley:

You have asked whether a two year residency requirement in the Alaska Longevity Bonus Program would be legal. The answer is not clear but probably is that such a requirement would not be legal; what is clear is that such a requirement would result in a lawsuit.

The legitimate purpose of a durational residency requirement is to distinguish, in a not too burdensome manner, between those individuals who are truly Alaskans and those who are merely visitors. AS 01.10.055 sets out the constitutional requirements of residency. That statute states, in pertinent part:

(a) A person establishes residency in the state by being physically present in the state with the intent to remain in the state indefinitely and to make a home in the state.

(b) A person demonstrates the intent required under (a) of this section

(1) by maintaining a principal place of abode in the state for at least 30 days or for a longer period if a longer period is required by law or regulation; and

(2) by providing other proof of intent as may be required by law or regulation....

Thus, the critical factor in determining residency is intent, and the law recognizes that external indicators of intent, such as durational residency, are pertinent.

Courts have held that when a fundamental right - such as the right to vote - or when a basic necessity of life - such as welfare - is involved, only a very limited residency requirement will be upheld. This is because the individual right

outweighs the administrative convenience of a longer period. When one of those rights is not involved, such as in the longevity bonus program, the permissible residency requirement will vary from program to program. For example, a 30 day requirement would be of little help in distinguishing resident commercial fishermen from those who live elsewhere but fish in Alaska's fisheries, since non-residents commonly come to the state for months on end. Conversely, in housing loans, since one must intend to use the loan for a permanent home, an applicant evidences the constitutional intent by making the application, so no additional residency requirement will help to weed out visitors.

The federal courts have recently upheld Alaska's two year residency requirement for student loans. The arguments supporting the requirement relied heavily on the fact that student populations are very mobile, many students do not own homes, and a shorter requirement might well induce students who had no intent to make Alaska a permanent home to come to the state simply in order to avail themselves of the liberal loan program. Student loans, of course, are available for use outside the state once an applicant has qualified.

Some of the same considerations are present in the senior citizen population. Because most seniors do not have permanent employment in a particular location, they are more free than younger individuals to move about for relatively long periods of time. But most seniors do have a permanent place of abode, and strong ties to one location or another. Further, the bonus is available only when the recipient is within the state. Thus, unlike student the loan program, there is no incentive to move to the state in order to qualify for the bonus if one has the intent of leaving again as soon as the qualification is met. The question for the court would be whether the longer residency requirement really did help to distinguish between Alaskans and visitors, or rather whether the requirement only served to deny the bonus to bona-fide Alaskans until they had actually been residents for a longer period of time. If the court drew the latter conclusion, it would strike the requirement.

If the state had a significant amount of evidence that non-residents, who did not intend to make Alaska a permanent home, were migrating to the state in order to qualify for the bonus, it is possible that the requirement could be upheld. It is, in my opinion, more likely that any in-migrants (if they could be shown to exist) who fulfill the present requirement of residing in the state for twelve consecutive months, come with the intent of remaining permanently - and are therefore bona-fide

Honorable Katie Hurley  
Alaska State House of Representatives

March 22, 1985  
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Alaskans. Since seniors do visit for extended periods, without the intent to remain, I believe that a one year requirement helps to distinguish between Alaskans and visitors. But I believe that it is doubtful that a two year requirement would be better than a one year requirement at weeding out visitors, and that it is likely that a court would hold that a two year requirement is imposed only to distinguish between new Alaskans and older Alaskans.

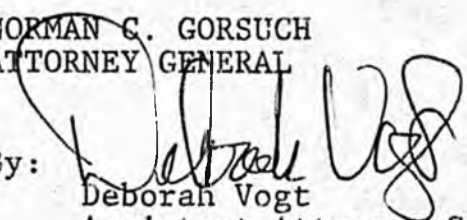
Perhaps the most important consideration here is that a two year requirement would almost surely invite a lawsuit. The state has been embroiled in legal battles over the bonus program for nearly three years. Attorney General Norman Gorsuch has repeatedly expressed his hope that any legislation dealing with the bonus should be clearly constitutional, and alleviate the uncertainty in this area.

Please let me know if I can be of any other assistance.

Sincerely,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:

  
Deborah Vogt  
Assistant Attorney General

DV:jf



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

ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

C+V

15

March 12, 1985

MEMORANDUM

TO: Representative Al Adams  
Attention: Louann Cutler

FROM: Gretchen Keiser *Gretchen Keiser*  
Legislative Analyst

RE: Longevity Bonus Cost Analysis  
Research Request 85-218; Supplemental Information

You requested that this agency prepare a series of simplified tables which present the total recipients, annual and cumulative costs for the various stairstepping options. We were also asked to graph the annual and cumulative costs of the various stairstepping options. These tables and graphs are attached.

Please contact us if we can be of further assistance.

GK

Attachments