

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/Z

4028 SJUD LIABILITY INSURANCE - LONGEVITY BONUS

86/Z

A G E N D A

October 5, 1985

- I. History of the liability issue - given by Dr. David McGuire
- II. Presentation from a representative of the following professions.
 - a. Day Care Center Operators - Margaret Wolfe
 - b. Alaska Air Carriers - Dave Zundell
 - c. Alaska Truckers Association - T.J. Thrasher
 - d. Alaska General Contractors - Dick Cattanaugh
 - e. C.H.A.R.R. (Caberet, Hotel and Restaurant Retailers) - Charles Selman
- III. Overview of the Insurance aspect and how it affects society - given by Bill Gee.
- IV. Wrap-up - given by Al Tamagni

EXECUTIVE SUMMARY OF THE PROBLEM

Perhaps one of the gravest problems facing businesses in Alaska today is the dramatic rise in liability premiums. These increases have been so dramatic, in fact, that many Alaskan businesses face the realistic possibility of closing their doors because the cost of insurance is so high that it is not in the best interest of prudent business management to continue to do business. Further, this is not a problem with any one sector of the economy, rather, it is a difficulty faced by day care center operators, tool and equipment rental companies, doctors, air carriers, nurse midwives, lawyers, municipalities, cities, architects, nonprofit organizations, as well as small and large businesses and small, single person proprietorships. Then there is the question of availability in addition to affordability of insurance. Many Alaskan businesses are finding that they cannot find insurance companies to take their account even if they are willing to pay the premiums.

At the present time the problem is compounded by a variety of factors. First, while insurance premiums are being increased, many insurance companies are pulling back from servicing policies in Alaska. The risks, especially in the Bush, are too great. Second, with no legislative remedies under consideration, it appears to many of these companies that Alaskans are content with the situation as it now exists. Third, without a concerted effort by all sectors of the Alaskan economy -- both public and private sectors -- more insurance companies will probably reconsider their coverage policies and the difficulties Alaskans face today will substantially worsen.

WHO IS AFFECTED BY THIS DRAMATIC INCREASE IN LIABILITY INSURANCE?

The cost of liability insurance is a cost of business and is passed along to the consumer as are other costs. ALL Alaskans are paying for this rise in liability insurance in the prices they pay for the goods and services they buy. As the premiums for liability insurance is 'rolled into' the cost of service for a day care center, for instance, that cost will be passed along to all of the parents who send their children to that day care center. Thus all Alaskans are paying for this cost -- if the businesses who are paying the higher liability cost stay in business. At one particular day care center in Anchorage, for instance, the operator must charge parents almost \$200 per child per month just to cover the liability insurance premium -- and coverage for the day care center is only for \$100,000.

WHAT IS THE SOLUTION?

The problem of astronomical liability insurance rates is not new in the United States. Many states have attempted to resolve this issue in a variety of ways. Some proposals are listed below for consideration.

1) PLACE A CAP ON NON-ECONOMIC AWARDS

A noneconomic award is traditionally that sum of money which is given to the victim in compensation for 'pain and suffering.' This award is somewhat nebulous since there is no way to realistically equate the amount of pain and suffering with a dollar figure. The Citizen's Coalition for Tort Reform proposes a cap on noneconomic awards of between \$100,000 and \$250,000 which is in line with legislation passed by the Illinois and California legislatures, respectively.

2) ITEMIZATION OF LOSSES

In the event of an injury, the injured party is reasonably entitled to compensation for lost income. Under current practice, the injured party does have to state how he or she would have made that money. In other words, if a victim feels that he or she 'could have' made \$80,000 in the year that the injury occurred, the jury would be urged to accept that figure. The Citizen's Coalition for Tort Reform feels that the injured party is entitled to fair compensation but that the jury should be instructed to itemize the settlement as far as reasonably possible.

3) MANDATE STRUCTURED SETTLEMENTS

While it is truly unfortunate that anyone must suffer injury, the Citizen's Coalition for Tort Reform feels the victim should not be given a windfall profit but rather, should be compensated for his loss(es) in structured and less risky manner. Structured settlements are intended to compensate for further expenses incurred as a result of the injury and to protect the value of the award to the plaintiff who might mismanage a lump sum award in a short period of time. This mechanism will allow the insurance company to spread its losses out over a period of time making its losses more predictable, thus making insurance and re-insurance more available. This type of settlement ensures that the victim does not become a burden on society if his or her investment is lost and, further, maintains the victim's dignity and pride. These two objectives can be achieved by the insurance company and the injury party to the best interest of both, the insurance company and the injured party receiving all benefits tax free.

4) REQUIRE DISCLOSURE OF COLLATERAL INCOME SOURCES

At the present time, in a law suit, the jury is not allowed to know other sources of the victim's insurance coverage until after a verdict has been reached. In other words, if a victim is suing for medical (economic) as well as 'pain and suffering' (noneconomic) damages, the jury is not allowed to know if the victim is actually covered under another policy. A victim could reasonably have all of his or her medical benefits already paid through one insurance policy and still be suing for that medical coverage. The plaintiff should not be entitled to double indemnity.

5) TIGHTEN THE STATUTE OF LIMITATIONS

Under current statute, a victim may sue up to and including two years after the discovery of an injury. In the case of a broken leg, for instance, the injured party might have sustained the injury in 1978 and, after a number of difficulties, discovers in 1980 that one leg was shorter than the other. Once that discovery has been made, the injured party has two years to file a claim.

Unfortunately the statute of limitations is so loose that suits may be filed for injuries sustained decades earlier. There are cases where suits have been filed by victims who claim that injuries sustained when they were children affected their later life. While the Citizen's Coalition for Tort Reform feels that victims are certainly entitled to settlement of their claims, it is unreasonable to file suit decades after an action.

6) REVERT TO 'SEVERAL' LIABILITY

In the process of filing a suit, often parties who have had little actual participation in the injury are saddled with payment for the entire cost. For instance, suppose a youngster is running along the roof of a school that is closed for the summer. He trips and falls through the skylight. The parents of the child sue the School District, the architect who designed the school, the General Contractor who built the school and the firm which made the skylight itself for damages. Suppose further that the architect has died, the General Contractor has left the state and cannot be found and the firm which made the skylight does not have product liability. The School District is thus the only defendant with insurance. Since the School District is the only party with insurance, it must absorb the entire cost of the legal action even though it minimally responsible for the accident. Under 'several liability' the court would assess a percentage of responsibility and assess damages on that basis. If the School District was held to be 5% responsible for the injury, then the School District should only be responsible for 5% of the total costs incurred by the victim.

7) ESTABLISH A SLIDING SCALE OF ATTORNEY'S FEES

Under current practices, a attorney's fees are a combination of expenses and contingency fees -- plus costs. In certain cases, the expenses of investigation are so high and the settlement so low, that the victim may end up with a minimal settlement. There is no guarantee that even if the victim wins a suit that he or she will be left with any remuneration; but the attorney will have his fee covered. A more reasonable mechanism to protect the fiscal rights of the victim is to legislate a sliding contingency fee scale which will ensure that as the victim gets less, the attorney must scale down his fee as well. This approach has been written into law in California and has been upheld as constitutional.

8) REVISE THE CONCEPT OF WRONGFUL DEATH

Wrongful Death is the term used to describe the denial of an estate financial gains because of the premature death of a person. If a breadwinner were to die prematurely, for instance, the dependents are entitled to compensation equivalent to the income that the breadwinner would have earned. This is reasonable. But the method in which this compensation is figured should be scrutinized.

9) ESTABLISHMENT OF A CRITERIA OF MERIT FOR LIABILITY CASES

At the present time there is no mechanism to ensure that when liability cases are initially filed that they are not frivolous. Since it is so easy to file a suit, attorneys can file a suit, knowing that it is frivolous, in the hopes of forcing a settlement from a company that is more interested in avoiding bad publicity than settling a just and reasonable claim. The intent of a liability suit is to compensate a victim for losses incurred. The Citizen's Coalition for Tort Reform feels that an "Affidavit of Meritorious Cause of Action" should be required before a suit is filed as is currently done in Illinois. Only those cases with merit should be considered

10) REPEAL OF SPECIAL DAMAGES

Under current statute and practice, some professions are shielded from suit because of what is known as "Special Damages." Suppose, for instance, that an attorney files suit against an architect for designing a faulty home. At the trial it is discovered that the architect in question did not design the home in question. The suit is dropped but the architect still has legal fees to pay defending himself from a suit brought on by the error of the attorney. Under current statute, the architect would have to file a special damage suit against the attorney in question to recover his losses. But a special damage suit is difficult because the architect must prove loss of business, for instance, because of the bad publicity in the press. This makes his suit more difficult.

The repeal of the special damage statute will place the attorney in the same degree of jeopardy as other professionals with similar background and education.

11) TIGHTENING OF PRE-JUDGMENT INTEREST

Under current statute and practice, awards are made which have a compounded interest attached. Suppose a man is suing a tool company for \$100,000 for an accident which occurred five years earlier. Suppose further that it took another year for a settlement to be reached. While the jury believed it was granting the victim a \$100,000 settlement, the actual cash involved is \$100,000 plus compounded interest for six years. If this jury had known this fact, the final settlement might have been different.

12) REPEAL OF RULE 82

Under current practice under what is known as Rule 82, the victim is entitled to add 10% onto the settlement fee to pay for 'legal expenses.' Originally this was intended to assist the victim in covering his legal expenses. But by allowing the 10% as an additional expense, the victim is recovering 10% more than the jury awarded. There is no reasonable reason why this practice should be continued.

13) LIMIT RECOVERY OF PUNITIVE DAMAGES

The intent of a punitive damage suit is to compensate a victim for damage caused by poor quality goods or services which were intentionally portrayed as good quality goods and services. The Citizen's Coalition for Tort Reform feels that there would be a reasonable upward dollar limit placed on punitive damages. The point of punitive damages is to rectify the damage, not drive the company out of business.

October 7, 1985

Committee Chairman
Senate Judiciary Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator:

At the recent Southeast Conference annual convention the membership unanimously passed a resolution urging the Alaska State Legislature to establish reasonable dollar limits on liability judgements and to reduce exposure to liability of the State and other public entities. Enclosed is a copy of that resolution

We will appreciate your efforts to enact legislation which will help cities know the limits of their liabilities, and thus be able to insure themselves at a reasonable level.

If there is anything we can do to promote this resolution please let me know. Thank you.

Sincerely,


John Farnan
Executive Director

A RESOLUTION OF THE SOUTHEAST CONFERENCE
URGING THE ALASKA LEGISLATURE TO ENACT
LEGISLATION TO ESTABLISH REASONABLE DOLLAR
LIMITS ON LIABILITY JUDGEMENTS AND TO
REDUCE EXPOSURE TO LIABILITY OF THE STATE
AND OTHER PUBLIC ENTITIES.

WHEREAS, staggering judgements and settlements in liability claims against municipalities throughout the nation have increased during recent years, even when negligence was not proven; and,

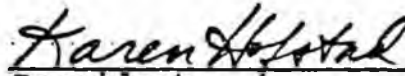
WHEREAS, some municipalities have been faced with bankruptcy because liability judgements and settlements have far exceeded their financial capabilities, creating a financial burden for taxpayers; and,

WHEREAS, the large growth in payment of liability claims by states and other public entities has resulted in many municipalities being unable to obtain liability insurance and/or affordable insurance; and,

WHEREAS, legislators of at least twenty-eight states have passed bills to set some reasonable dollar limits on liability judgements and to reduce exposure to liability of the state and other public entities;

NOW THEREFORE BE IT RESOLVED BY THE SOUTHEAST CONFERENCE that the Alaska State Legislature be urged to enact legislation to set reasonable dollar limits on liability judgements and to reduce exposure to liability of the State of Alaska and other public entities. BE IT FURTHER RESOLVED that copies of this resolution shall be sent to Governor Bill Sheffield, the Senate President, the Speaker of the House, House and Senate Labor and Commerce Committees, Judiciary Committees, State Affairs Committees, and the Commissioner of Commerce and Economic Development.

PASSED AND APPROVED at the annual meeting of the Southeast Conference held in Wrangell, Alaska, this 20th day of September, 1985.



President

(offered by City of Wrangell)



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.

James O. Smith
Signature of Camera Operator

11/7/89
Date

LONGEVITY

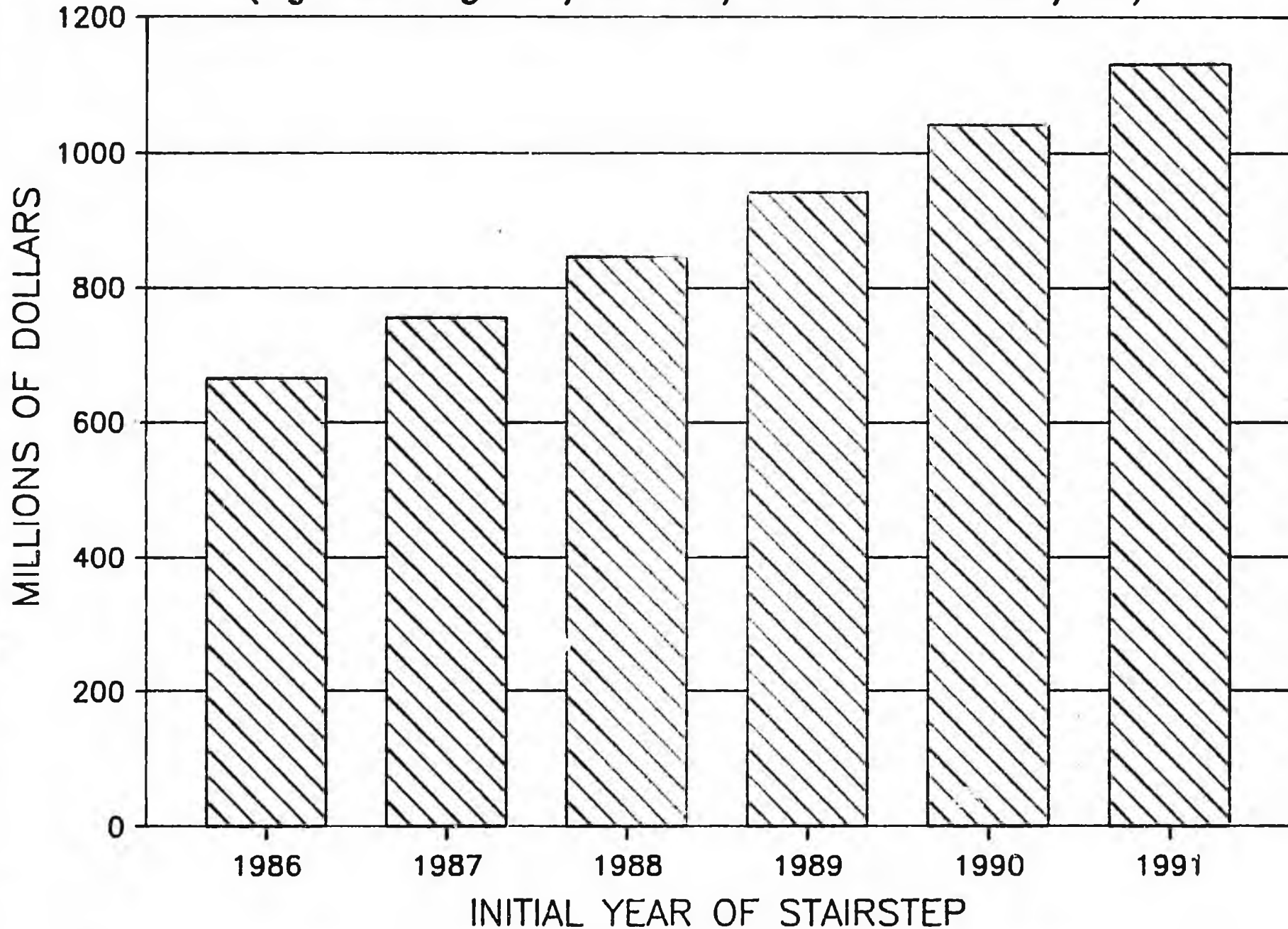
BONUS

See also:

Senate Judiciary Committee 1985-86
file on S.B. 56

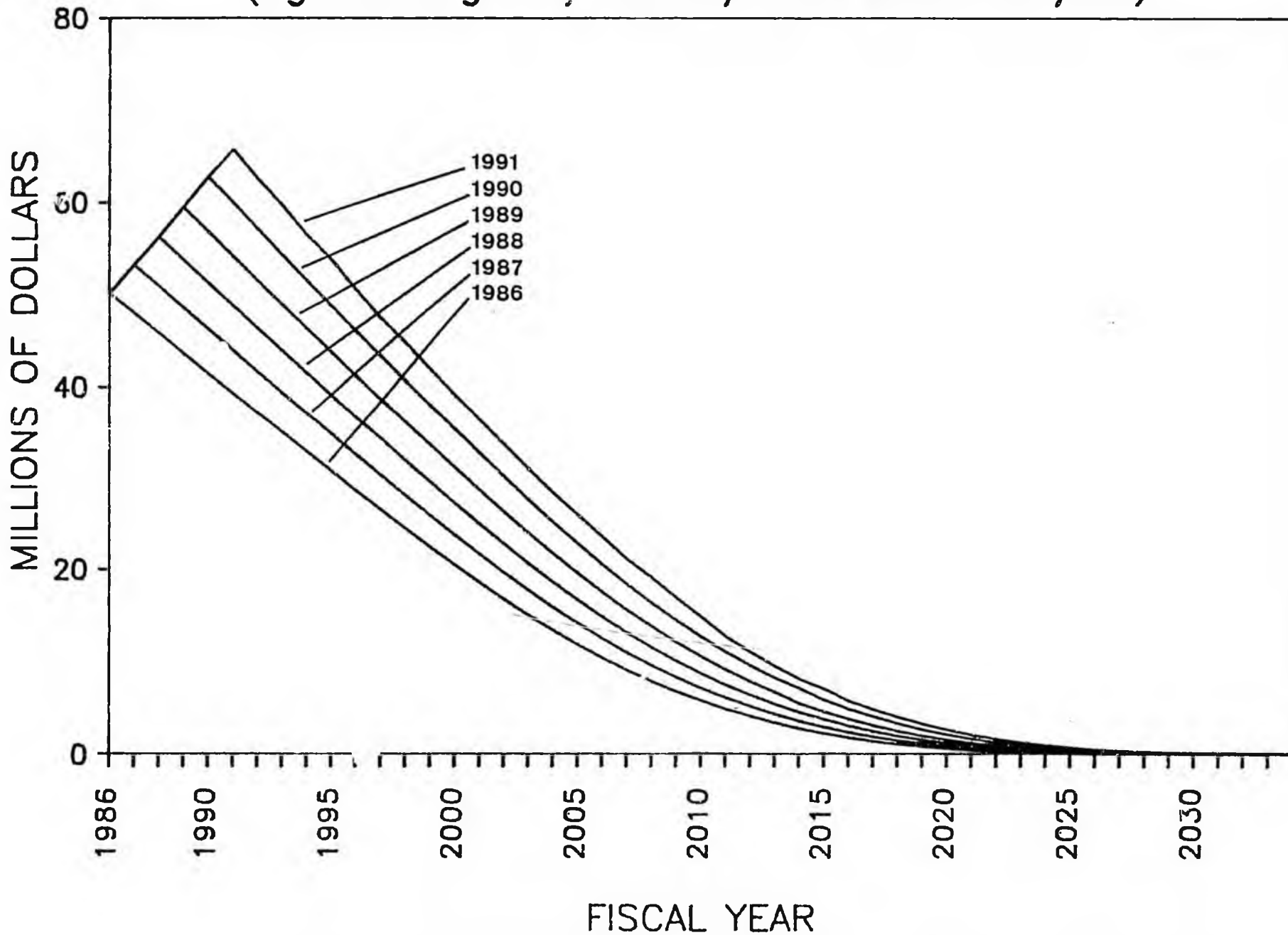
STAIRSTEP PROGRAM COSTS, FY 1986-2034

(age 66 eligibility on July 1 of indicated year)



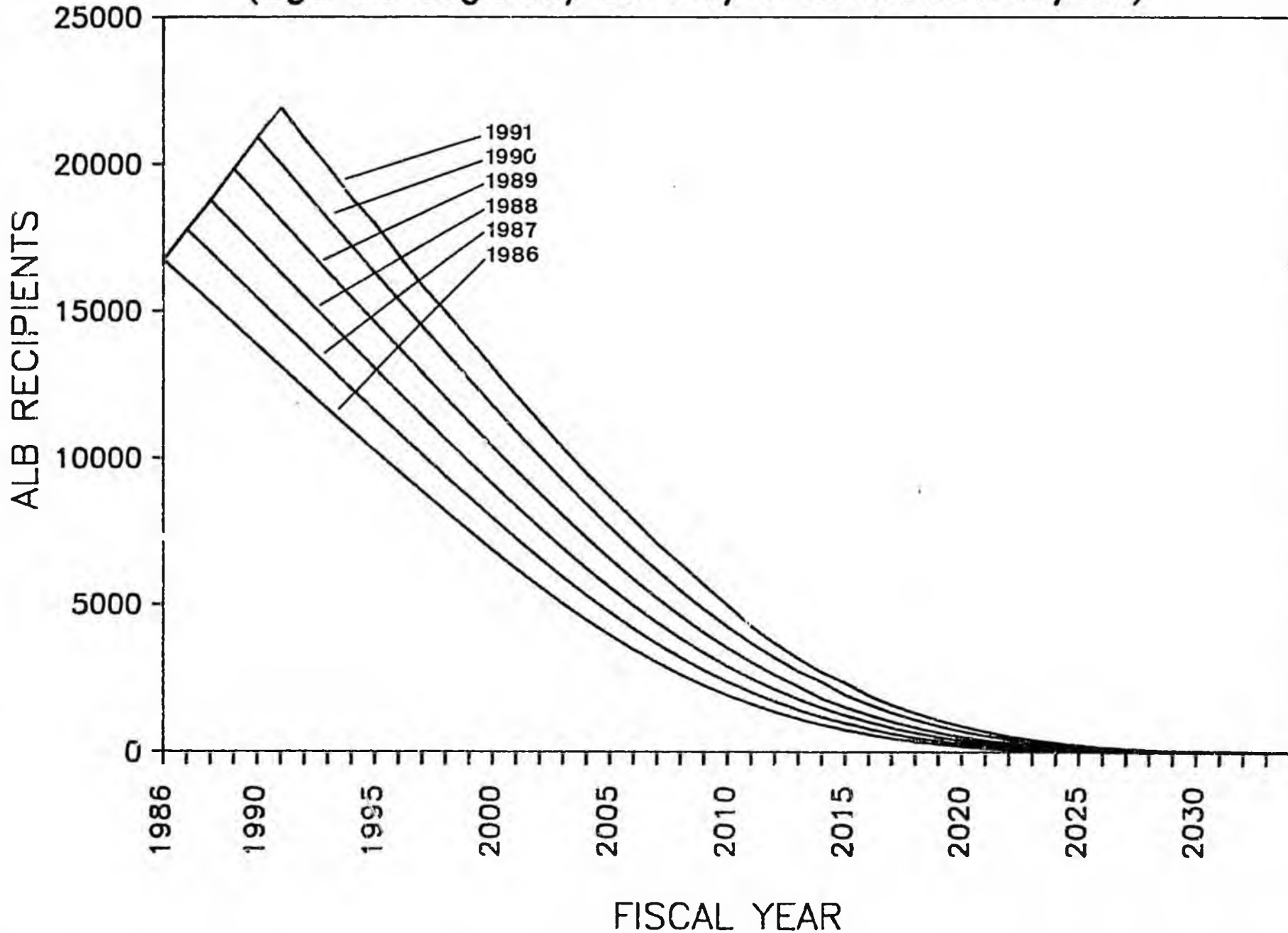
ANNUAL STAIRSTEP PROGRAM COSTS

(age 66 eligibility on July 1 of indicated year)



ALB POPULATIONS UNDER STAIRSTEP PLANS

(age 66 eligibility on July 1 of indicated year)



STAIRSTEP POPULATIONS AND COSTS, FY 1986-2034

Fiscal Year: 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997

POPULATIONS

STAIR86	16744	16012	15276	14540	13809	13082	12360	11641	10927	10216	9512	8817
STAIR87	16744	17768	16989	16205	15421	14642	13869	13100	12336	11576	10821	10072
STAIR88	16744	17768	18769	17941	17109	16277	15451	14631	13815	13005	12200	11400
STAIR89	16744	17768	18769	19828	18949	18066	17184	16308	15437	14573	13714	12861
STAIR90	16744	17768	18769	19828	20913	19982	19046	18111	17183	16261	15346	14437
STAIR91	16744	17768	18769	19828	20913	21908	20839	19890	18823	17940	16873	15819

ANNUAL COSTS (millions)

COST86	\$50.2	\$48.0	\$45.8	\$43.6	\$41.4	\$39.2	\$37.1	\$34.9	\$32.8	\$30.6	\$28.5	\$26.4
COST87	\$50.2	\$53.3	\$51.0	\$48.6	\$46.3	\$43.9	\$41.6	\$39.3	\$37.0	\$34.7	\$32.5	\$30.2
COST88	\$50.2	\$53.3	\$56.3	\$53.8	\$51.3	\$48.8	\$46.4	\$43.9	\$41.4	\$39.0	\$36.6	\$34.2
COST89	\$50.2	\$53.3	\$56.3	\$59.5	\$56.8	\$54.2	\$51.6	\$48.9	\$46.3	\$43.7	\$41.1	\$38.6
COST90	\$50.2	\$53.3	\$56.3	\$59.5	\$62.7	\$59.9	\$57.1	\$54.3	\$51.5	\$48.8	\$46.0	\$43.3
COST91	\$50.2	\$53.3	\$56.3	\$59.5	\$62.7	\$65.7	\$62.5	\$59.7	\$56.5	\$53.8	\$50.6	\$47.5

LONG-TERM COST SUMMARY

Stairstepping on July 1:	1986	1987	1988	1989	1990	1991
TOTAL COSTS	\$665	\$755	\$846	\$941	\$1,042	\$1,131
CONSTANT 1985 DOLLARS	\$379	\$429	\$477	\$525	\$572	\$612
PRESENT VALUE	\$314	\$354	\$391	\$428	\$462	\$491

Prepared by the Division of Strategic Planning: 3/26/85

1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
8133	7465	6814	6185	5579	5000	4452	3938	3458	3016	2611	2244	1914	1618
9333	8608	7899	7209	6542	5900	5287	4706	4162	3655	3187	2758	2370	2021
10607	9825	9058	8309	7580	6876	6199	5553	4941	4368	3834	3342	2892	2484
12014	11175	10348	9537	8746	7977	7233	6520	5838	5194	4590	4028	3510	3036
13535	12639	11753	10880	10025	9190	8379	7596	6845	6127	5450	4814	4224	3680
14934	13969	13031	12098	11193	10306	9438	8639	7850	7043	6359	5640	4950	4243
\$24.4	\$22.4	\$20.4	\$18.6	\$16.7	\$15.0	\$13.4	\$11.8	\$10.4	\$9.0	\$7.8	\$6.7	\$5.7	\$4.9
\$28.0	\$25.8	\$23.7	\$21.6	\$19.6	\$17.7	\$15.9	\$14.1	\$12.5	\$11.0	\$9.6	\$8.3	\$7.1	\$6.1
\$31.8	\$29.5	\$27.2	\$24.9	\$22.7	\$20.6	\$18.6	\$16.7	\$14.8	\$13.1	\$11.5	\$10.0	\$8.7	\$7.5
\$36.0	\$33.5	\$31.0	\$28.6	\$26.2	\$23.9	\$21.7	\$19.6	\$17.5	\$15.6	\$13.8	\$12.1	\$10.5	\$9.1
\$40.6	\$37.9	\$35.3	\$32.6	\$30.1	\$27.6	\$25.1	\$22.8	\$20.5	\$18.4	\$16.3	\$14.4	\$12.7	\$11.0
\$44.8	\$41.9	\$39.1	\$36.3	\$33.6	\$30.9	\$28.3	\$25.9	\$23.6	\$21.1	\$19.1	\$16.9	\$14.9	\$12.7

2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
1355	1121	916	736	583	453	346	258	189	127	85	54	35	20
1709	1431	1183	966	776	615	478	365	273	199	134	90	56	37
2117	1789	1497	1238	1011	813	644	500	382	285	208	141	94	59
2607	2222	1811	1515	1253	1024	822	651	506	386	289	211	142	95
3183	2732	2370	1931	1616	1337	1092	877	695	540	412	308	225	152
3669	3161	2698	2340	1907	1596	1320	1078	866	686	533	407	304	222
\$4.1	\$3.4	\$2.7	\$2.2	\$1.7	\$1.4	\$1.0	\$.8	\$.6	\$.4	\$.3	\$.2	\$.1	\$.1
\$5.1	\$4.3	\$3.6	\$2.9	\$2.3	\$1.8	\$1.4	\$1.1	\$.8	\$.6	\$.4	\$.3	\$.2	\$.1
\$6.4	\$5.4	\$4.5	\$3.7	\$3.0	4	\$1.9	\$1.5	\$1.1	\$.9	\$.6	\$.4	\$.3	\$.2
\$7.8	\$6.7	\$5.4	\$4.5	\$3.8	\$3.1	\$2.5	\$2.0	\$1.5	\$1.2	\$.9	\$.6	\$.4	\$.3
\$9.5	\$8.2	\$7.1	\$5.8	\$4.8	\$4.0	\$3.3	\$2.6	\$2.1	\$1.6	\$1.2	\$.9	\$.7	\$.5
\$11.0	\$9.5	\$8.1	\$7.0	\$5.7	\$4.8	\$4.0	\$3.2	\$2.6	\$2.1	\$1.6	\$1.2	\$.9	\$.7

2026	2027	2028	2029	2030	2031	2032	2033	2034
11	6	3	1	0	0	0	0	0
22	12	6	4	1	0	0	0	0
38	23	12	7	4	1	0	0	0
60	39	23	12	7	4	1	0	0
101	64	42	24	13	7	4	1	0
150	100	63	41	24	13	7	4	1
\$.0	\$.0	\$.0	\$.0	\$.0	\$.0	\$.0	\$.0	\$.0
\$.1	\$.0	\$.0	\$.0	\$.0	\$.0	\$.0	\$.0	\$.0
\$.1	\$.1	\$.0	\$.0	\$.0	\$.0	\$.0	\$.0	\$.0
\$.2	\$.1	\$.1	\$.0	\$.0	\$.0	\$.0	\$.0	\$.0
\$.3	\$.2	\$.1	\$.1	\$.0	\$.0	\$.0	\$.0	\$.0
\$.5	\$.3	\$.2	\$.1	\$.1	\$.0	\$.0	\$.0	\$.0

REPORT
TO THE FOURTEENTH LEGISLATURE - FIRST SESSION
AND
TO GOVERNOR BILL SHEFFIELD
FROM
THE STATE SPECIAL COMMITTEE ON THE
ALASKA LONGEVITY BONUS PROGRAM



February 1, 1985

Legislative Reference Library
Legislative Affairs Agency
Pouch Y State Capital
Juneau, Alaska 99811

Alaska State Legislature

RONALD L. LARSON
DISTRICT 18B

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3727



BOX 53
PALMER, ALASKA 99645
(907) 743-3826

House of Representatives

MEMORANDUM

October 17, 1984

TO: House Minority Caucus members

FROM: Rep. Ronald L. Larson
by Gene Annas, I.A.

RE: Report on State Special Committee on Alaska Longevity Bonus Program

Enclosed is a summary of the meetings which were held by the Special Committee on the Longevity Bonus Program.

These meetings were held on August 1st, Sept. 6th, and October 12th, 1984, in the Conference room at the Legislative Information Office, 1024 W. 6th Ave., Anchorage, AK 99501

August 1, 1984

The meeting of the State Special Committee on the Alaska Longevity Bonus Program was called to order on August 1, 1984, at 9:30 a.m., by Governor Jay Hammond, Chairman.

Committee members present were: Jay Hammond, Chairman
Senator Bill Ray, Vice Chair
Senator Jay Karttula
Rep. Al Adams
Marsha Hubbard
Lisa Ridd
Olga Steger
Robert Kallenberg
Gene Annas, Aide/ Rep. Ron Larson

Agenda and speakers in order of appearance follows:

1. History of the Longevity Bonus Program

Marian Schaeffer, Administrator of Longevity program gave a brief history of the program. She stated that in 1972 there were 4,200 recipients over 65 with 25 years residency who received \$100/month.

The recipients have grown to 10,000 as of May 1, 1984. The increase amount paid is \$250/month has cost an additional \$10,000,000 annually. The program is now restricted to age 65 and one year residence. The recipient must apply monthly for benefit. A new bill passed May 1, 1984 and will end in June, 1985.

Projected recipients as of Aug. 1, 1984 is 13,099. The new bill calls for retroactive payments up to Sept., 1984.

Former Senator Clem Tillion commented that the Longevity Bonus was set up to motivate senior citizens to stay in Alaska, and was to cover essentially the cost of living.

2. Legal Problems with the program

Mr. Bob Maynard

The approach used to cut down the first Longevity program was based on "Equal protection." The previous longevity program was in the black area legally, and the one now is in the white area, and preferably the one to be adopted should be in the gray area.

Mr. Maynard feels that focus should be made on the reason for the program, which must be legitimate. Criteria of the program must be related to reason.

The problem of residence as a criteria is that once a resident is determined they must be treated equally.

Possible approaches:

1. Criteria of hardship to those who have lived in state longer was not struck down by the Supreme Court.
2. Find reasons for past contributions by Senior Citizens, i.e., the precedent has been set by the Federal Government to award a special group like WWII Veterans for their contributions.

Problems to come up with massive screening criteria.

If the court feels the new Longevity Program is trying to get around the first opinion, there will be very close scrutiny made of the new program.

Staying away from residency, the new program will be less vulnerable. Use residency as criteria, and not as ultimate purpose.

Sen. Bill Ray commented, "The programs, Permanent Fund Dividend, and Longevity Bonus programs were challenged out of order and probably the two would have stood the test had they been challenged in reverse order; i.e., The Longevity Bonus were tested first, (Vest vs State of Alaska)."

Jon Tillinghast, L.L.B., suggested an option to the Longevity Bonus program, and that is a straight annuity where 1/3 of the Permanent Fund is put in to sustain the program. This would get the general fund out of the annuity program, but does lead to many legal ramifications which need solving.

Sen. Bill Ray commented, "Any annuity program must be mandatory, and not optional."

Rep. Al Adams feels the money to support an annuity program should come from the general fund, and not the Permanent Fund. He pointed out that any employee in Alaska has the option of getting into an individual or group annuity program now. He also feels this proposal of Jon Tillinghast would build another bureaucracy.

Sen. Rick Halford, reported on Sen. Bill 465 on a collective annuity, which he said would meet a need rather than a collective program. He felt a new program should be prioritized that gives cash for this leaves the individual independent of the program.

3. Population Projections

Gregg Erickson, Economist, Office of Management and Budget gave a report titled, "Alaska's Changing Population; Factors Affecting the Future of the Longevity Bonus Program."

Report summary:

Since the first Alaska census in 1880, Alaska's elderly population has been disproportionately smaller than the national average. This remains so today, with three percent of Alaska residents in the over-65 category, compared with more than 11 percent of the United States population. The direct cause has been the historic tendency of the elderly to leave Alaska.

Studies by the Division of Strategic Planning, Office of Management and Budget (OMB) indicate that this longstanding pattern of elderly net out-migration has ended: OMB's demographic modeling studies, together with analysis of recent census data, Permanent Fund Dividend statistics, and the initial applicant response to the newly expanded Alaska Longevity Bonus (ALB) suggest that the net out-migration of elderly Alaskans has ceased. This may be due to declining out-migration or to compensating in-migration.

When the original Longevity Bonus law was adopted in 1972, the drafters expressed hope that the legislation would enable "pioneers to remain in and continue to serve their state...". If OMB findings are confirmed by further analysis, it may mean that the hopes expressed 14 years ago have-- at least for the present--finally been fulfilled.

Other finding of the OMB analysis include:

- ° The net out-migration of elderly from Alaska declined during the early 1970s from its level in the 1960s, but increased again during the post-pipeline recession of the late 1970s. This suggests that factors which have come into play most strongly during the 1980s may have been as important as the Bonus program in arresting the trend of net out-migration. These factors may include improved economic conditions, better medical care, expansion of other government programs for the elderly, and the generally milder winters of the 1980s.
- ° Analysis of historical data on the populations receiving the Bonus from 1973 to 1983 suggests that six to seven percent of the individuals eligible for the program did not initially apply for the benefit. OMB estimates that an additional two percent of the eligible population never apply for the monthly checks.
- ° OMB forecasts that the over-65 population of Alaska in July of 1985 will stand at 16,100, of whom 15,000 will be qualified Bonus recipients.

4. Revenue Projections:

Gordon Harris, Economist, OMB, prefaced his remarks appropriately by saying, "Revenue projection is a Black Art."

At present there is approximately \$3.5 billion annual revenue which will remain fairly constant to the end of the century from 1984. The operating budget is around \$2 billion and with a modest 6% annual growth increase there would be a disaster time in the mid 1990s for the operating expenses would far outstrip the projected revenues. Mr. Harris mentioned that the initiation of a State Income Tax would add approximately \$300,000,000 annually.

5. Legislation Review:

Rebecca Burch, Staff Assistant to Commissioner Lisa Rudd gave a review of pertinent legislation.

Summary:

1. The initial proposal for all residents 65 years old, and 1 year residents, is too costly.
2. Phase out program of over 65 year old/ 1 year residence.
3. Phase out program for 65 year old/ 1 year residence, but establish more old age benefits.
4. A stair step program: over 65 in 1985, over 66 in 1986, over 67 in 1987, and so on. This program wouldn't give much benefit as the death rate would overtake the recipients.

Paula Scavera, Staff member, Senator Bill Ray's office presented further legislative considerations.

1. Health insurance for elderly.
2. Point system was suggested, however this seem impractical.
3. Grandfathering opening one year and close off, then this would certainly be challenged for it includes only a certain group.
4. Nursing home care vs Longevity Bonus.

Gov. Jay Hammond summed up with what he called a "Laundry List" of problems and considerations against which proposals to resolve the Longevity Bonus issue should be measured:

1. IRS taxation questions
2. Supplemental Security Income (SSI) questions
3. Impact of federal/state assistance programs
4. Limitation of payment (bonus or annuity) to residents, only
5. In any annuity, should there be a limit on number of shares accumulated?
6. If not, should there be a limit on the size of the annuity?
7. Can a phase out of the bonus be accomplished without affecting those who would have received the longevity bonus under the original program?
8. How well is the original legislative intent accomplished?
9. Should need be a requirement?
10. Could need be a requirement for only those who would not have received the original program?
11. Comparative difficulty of administration
12. Legality
13. Comparative costs
14. Unfunded liability question
15. Impact on permanent fund
17. Impact on general fund
18. What is the "magnet effect" (attracting influx of older persons who otherwise would not come to Alaska)
19. Should health insurance be an annuity option
20. What is the most acceptable annuity approach?
21. What is the most acceptable needs based approach?
22. What is the most acceptable means of phasing out the program (stairstepping, etc.)?
23. Relationship, if any, to the pioneer home issue

Senator Rick Halford made a final comment that any program to be considered should have a cash benefit to the senior citizen as this would make the benefit independent to the individual.

Marsha Hubbard, Committee member made some comments about an optional program entailing a negative income tax approach. She pointed out that ALB program is set up for senior citizens now, but does not allow for up coming generations.

Meeting adjourned, 4:15 p.m, August 1, 1984

September 6, 1984

The meeting of the State Special Committee on the Alaska Longevity Bonus Program was called to order on September 6, 1984, at 9:30 a.m., by Governor Jay Hammond, Chairman.

Committee members present were: Jay Hammond, Chair
Senator Bill Ray, Vice Chair
Senator Jay Kerttula
Rep. Al Adams
Rep. Ron Larson
Marsha Hubbard
Olga Steger
Robert Kallenberg

The meeting opened with the introduction of Committee Member Ron Larson and Susan Blumenshine, Secretary for the Special Committee for the Alaska Longevity Bonus Program.

Thomas Terry, attorney with Morrison & Foerster, San Francisco, CA, was introduced to the Committee. He represents the firm in regards to IRS issues, a major concern to the Committee. Governor Hammond stated that Morrison & Foerster was selected after the Committee's discussion at the last meeting at which time they had asked John Katz, Special Counsel to the Governor in the State's office in Washington, D.C., to list those law firms that could provide the tax counsel to the Committee. Morrison & Foerster was ranked as one of the top two on the list.

At this time, the thrust of the Committee appears to be that an annuity should be first focused upon.

Otto Lowe of Kidder-Peabody, and Daniel Carpenter of Benefit Concepts presented suggestions and concepts they thought might be pertinent to the program. Kidder-Peabody is a major U.S. based international investment bank that performs a number of financial services and investment services. Benefit Concepts is a New York based, large advisory firm to major corporations which Kidder-Peabody deals with in regard to pension plans. Mr. Carpenter outlined their joint proposal for a three point program to help fund the Longevity Bonus Program in the future.

Mr. Carpenter stated that they were not giving the presentation as a finalized plan for the program, but to apply for a job to develop such a program. The basic program they discussed was:

1. Formation of a consortium of insurance companies that would allow funds invested by the State to fund the Longevity Bonus to earn high interest rates for a long period of time. A group of insurance companies, chosen for their financial stability and their ability to back up promises they make, will allow the State of Alaska to get a higher rate of return than government securities or bank CD's and yet have the same sort of financial security of principal. Alaska has to determine what is necessary rate of return for funding this program.

2. Part II of the program ties directly to the annuity concepts which have been expressed to this Committee before. The idea of voluntarily having each Alaskan decide, on his own, if he wants to defer part of his Permanent Fund

dividend check toward a retirement annuity that is tied into the Longevity Bonus.

3. Part III is probably the most complicated and visionary. It requires that people have an understanding of where we are going 15, 20 or 30 years into the future. Kidder-Peabody could design a special type of investment insurance policy where the State is the owner and beneficiary of the investment policy or citizens receiving the Longevity Bonus. At the time of death, a person's policy earnings would revert to the State. The Committee concluded that the Kidder-Peabody proposal warranted further exploration.

Governor Hammond introduced Mr. Jon Wolfe of the Older Alaskans Commission, and Rhonda Montgomery and Kyle Kercher of the Pacific Northwest Long-Term Care Center. They are going to be involved in an extensive survey of Longevity Bonus recipients, which is being aided by the Pacific Northwest Long-Term Care Center and offered to share the results of that information with the Committee. The survey would look at older Alaskans and where their conditions and needs are. The survey is the first of a major piece of research in which data will be plugged into a tracking system, where the OAC and Pacific Northwest Center can look at the services that older Alaskans have and use. Initial data from the survey should be available sometime in December, 1984.

Paula Scavera, Researcher for Senator Ray, presented a draft bill for Senator Ray. The bill proposes a semi-true annuity option, which functions much like a commercial annuity. Each year an amount of a person's Permanent Fund dividend, by choice, would be credited to his annuity account and the money itself would remain in the Permanent Fund and when the person reaches 65, he would receive an annuity based upon the principal and earnings credited to his annuity account. Annuity accounts would not replace the Longevity Bonus for those who are now, or near, 65, because the annuities would not make that much money. Eventually, the general fund would be left with a \$0 amount because the annuity account would be making the target amount. However, up until this time there would be an unfunded liability to this program. This proposal would eventually phase the Longevity Bonus Program out approximately in the year 2003. If a person moved out of the State they would no longer qualify to receive those annuities and when that person dies, the State would be the beneficiary of accumulated funds. Two major points are 1) that it would be an individual decision to put money into annuity and would be based on each personal dividend; and 2) the general fund obligations would gradually zero out, but until this time there would be an unfunded liability.

Governor Hammond presented the third proposal (HB 700). From the money that is now distributed under the Permanent Fund Dividend Program, HB 700 would create two pools: one a dividend pool and the other, a much smaller annuity pool. A person could choose to receive either the dividend or an annuity share or credit. At age 65, a person's annuity would be predicated on the value of that share for that given year times the number of shares held. The major feature of this proposal is that it does not diminish the dividend.

Senator Kerttula moved that the Committee allocate \$12,500 to retain Mr. Jon Tillinghast. The motion was seconded and so ordered.

The next item on the agenda was to decide whether or not to allow Kidder-Peabody to begin work on developing their product for the Longevity Bonus Program. For \$24,500, Kidder-Peabody agreed to have a concrete proposal put together. Governor Hammond wanted to make it clear to Kidder-Peabody that if the Committee allocated \$24,500 for phase one of their program, they may not have the funds to go into phase two, they would only be able to recommend it to other bodies. For that \$24,500, the first phase for Kidder-Peabody would be to develop a product that insurance companies will agree to. The second phase would be to obtain commitments from insurance companies based on Committee specifications.

After discussion, Senator Ray made a motion to direct the Department of Administration to negotiate a contract to investigate alternatives for the funding of the Longevity Bonus. The motion was seconded by Marsha Hubbard and so ordered.

Senator Ray's second motion was to allow no more than \$24,500 of funds be allocated for this contractual arrangement. It was seconded, there were no objections, and it was so ordered.

Governor Hammond mentioned a letter the Committee received from Governor Sheffield regarding the Pioneer Home issue. The Committee was asked to look at the issue and see if they have any recommendations as to how to offset any potential legal determinations relevant to that issue. He then asked Deborah Vogt about renaming the Pioneer Home Program to the Alaska Territorial Pioneer Home Program and open it to everyone with preference granted to those who were here in Alaska under territorial status and what legal implications could arise. She stated that she would have to go back to the statutes, but she thinks the court would say that the territorial residents would have precedent over post-territorial residents. Governor Hammond asked her to look into it further and let him know. Al Adams suggested that the Committee can address the Pioneer Home issue after there is a solution to the Longevity Bonus Program.

With no other discussion, the meeting adjourned.

October 12, 1984

The meeting of the State Special Committee on the Alaska Longevity Bonus Program was called to order on October 12, 1984, at 9:30 a.m., by Governor Jay Hammond, Chairman.

Committee members present were:

- Jay Hammond, Chairman
- Senator Bill Ray, Vice Chair
- Senator Jalmar Kerttula
- Rep. Ron Larson
- Lisa Rudd
- Marsha Hubbard
- Olga Steger
- Robert Kallenberg

A financial summary was reported in a memorandum from Mil Zahn, Committee Assistant.

The Committee's contracts for specialized consulting are in the signing stages with Morrison & Foerster, Benefit Concepts, Inc. (jointly with Kidder-Peabody) and Jon Tillinghast. These contracts will be updated at next meeting.

Benefit Concepts, Inc. advises that they do not plan to attend the October 12th meeting, because there will be little progress to report in such a short time. They will make a presentation at the Committee's November meeting. The contract with Benefit Concepts has been worded requiring Benefit Concepts to have a written package by November 30, 1984 so that the Committee will have some reference material in hand as recommendations are developed for the legislature by February 1, 1985.

Draft Annuity Bills

Consideration of three annuity options on the basis of (A) State Law Issues, (B) Tax Issues, (C) A "Laundry List" comparison was presented.

A. State Law Issues

Jon Tillinghast, Attorney, and Deborah Vogt, Assistant Attorney General, on the request of the Committee analyzed three proposed annuity options with an eye toward possible constitutional issues. The three proposed annuity options were:

1. SB 465, introduced on February 13, 1984 by Senator Rick Halford and eight co-sponsors;
2. HB 700, which was originally introduced at Governor Hammond's request by the House Rules Committee on March 14, 1984, and which has recently been amended in accordance with Governor Hammond's instructions, and
3. A July 24, 1984 draft referred to here as the "Ray option".

The memorandum submitted by Mr. Tillinghast, and Ms Vogt, in summary stated that they concluded in their recommendation that, if the committee wishes to pursue an annuity option--it employ the "Ray option" as its principal vehicle. In order to avoid difficult constitutional problems, the bill should be amended to allow receipt of annuities by non-residents, although the committee may wish to consider a reduction in those annuities based upon actual cost of living differential, and increased administrative costs.

B. Tax Issues

Thomas D. Terry, Attorney, Morrison & Foerster submitted a report to the committee analyzing the three annuity options as to possible tax liabilities.

The report concludes that none of the three proposals is sufficiently grounded in reliable and directly relevant authority to ensure that favorable tax treatment of the annuity credits provided for by the proposals could be obtained. As noted, Morrison & Foerster believe Governor Hammond's proposal offers the best hope for avoiding application of the constructive receipt doctrine because of the potential for credits to achieve greater values than the dividends foregone to receive the credits. Senator Ray's proposal also offers some hope because of the possibility that dividend amounts invested as annuity credits in the Permanent Fund might produce a significantly greater return than individuals could obtain by investing dividends themselves. Each of the proposals also offers a small chance of obtaining favorable tax results on the prior election and Section 72(h) grounds. All of these arguments, however, involve extensions of existing lines of authority to an entirely new area and cannot therefore be relied upon.

It is suggested by Mr. Terry that after the Committee and its advisers have had an opportunity to consider his letter that the several legal consultants to the Committee hold a work session with a view to making recommendations for strengthening the proposals from a tax standpoint.

C. Comparisons of annuity options

Governor Hammond's, "Laundry List" was given to Committee members, and some copies were distributed to audience.

This Laundry List was to be used as a guide to compare HB 700 Concept - "Annuity Pool" funded by 1/3 of money to be distributed from Permanent Fund earnings and the "true annuity" concept and each was to be weighed on a scale of 1-10, the higher the number the more favorable the value.

Marsha Hubbard brought up a question affecting people now receiving Social Security, Medicare, Alaska public assistance, whether or not these people could be harmless from the Annuity or Longevity Bonus Program.

Lisa Rudd suggested that the next meeting focus in on costs. The Dept. of Administration is much concerned with this approach and recommendation to the legislature. The committee's back-up reasoning should be included in any recommendation proposals.

Lisa Rudd also mentioned that in her job presenting requests for Federal assistance has become quite difficult due to the Permanent Fund Dividend program. The case of giving people the money is being negatively viewed by other states and the Federal Government. She feels that to lock in Permanent Fund dividend to the Longevity annuity could be questioned, and that it may be more adviseable to support the annuity through the general fund.

Other Business

Some public testimony was given, and participation was mainly from senior citizens and those directly interested in senior citizen groups.

After public discussions, meeting adjourned.

Alaska State Legislature



OFFICE OF THE MINORITY

POUCH V
JUNEAU, ALASKA 99811

House of Representatives

MEMORANDUM

September 29, 1984

TO: All Members *Flood*
House Minority Caucus

FROM: Denise Zachary, A.A. *DZ*

RE: Alaska Longevity Bonus

In a recent speech given by Governor Sheffield, he predicted that the annuity program would replace the longevity bonus program. This replacement program for the longevity bonus program was pushed by Halford last session and Hammond prior to that.

I have attached draft legislation, a sectional analysis, and annuity value charts for your information.

The Task Force on ALB has held meetings once a month during the interim, the next one being October 12th at 9:30 AM in Anchorage. Ron Larson is the minority member on the special committee.

As you know, the Task Force must have draft legislation, costs of alternate programs, opinions from ALB recipients, and sources of funding for the alternative programs and report their findings to the Legislature and Governor by February 1, 1985.

A contract has been given to Kidder Peabody, one of the largest investment firms in the United States and considered an expert on annuity programs, to analyze options and suggest a legally acceptable program for Alaska. The cost of the contract to the state is \$24,000. Mr. Peabody will give his presentation to the Task Force at the scheduled November meeting.

I have also attached a newspaper clipping from the Anchorage Daily News and a impact paper from the Office of the Governor. One year ALB recipients are having their bonus payments counted as income effecting their public assistance benefits. This enactment by the federal government was pushed by our Sen. Stevens at the urging of Reps. Adams and Hayes. 25 year resident recipients were "grandfathered" in so Medicaid benefits are not effected. 36 nursing home residents and approximately 500 senior Alaskans will have to make a choice: monthly bonus checks OR Old Age Assistance and Medicaid.

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing an annuity program; amending the
7 longevity bonus program and the permanent fund divi-
8 dend distribution program; and providing for an
9 effective date."

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

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

12 Sec. 37.13.147. ANNUITY ACCOUNT. (a) The annuity account is
13 established as a separate account in the Alaska permanent fund.
14 Notwithstanding the provisions of AS 37.13.145, an amount equal to the
15 permanent fund dividend, as determined under AS 43.23.025, multiplied
16 by the number of persons electing to receive an annuity share under
17 AS 43.23.005, shall be annually credited to the annuity account.

18 (b) Money in the annuity account shall be invested in invest-
19 ments authorized under AS 37.13.120. The annuity account shall be
20 credited with earnings at an interest rate equal to the average rate
21 of interest earned on the Alaska permanent fund.

22 (c) The legislature may annually appropriate an amount suffi-
23 cient to pay monthly annuity payments for the subsequent fiscal year
24 under AS 43.23.120 from the annuity account to the annuity fund
25 (AS 43.23.110).

26 * Sec. 2. AS 43.23.005 is amended by adding a new subsection to read:

27 (d) A person who is eligible to receive a permanent fund divi-
28 dend under this section may elect to receive an annuity share in lieu
29 of a cash dividend.

(i) The permanent fund dividend application form shall be prepared to allow an applicant to elect to receive an annuity share in lieu of a cash dividend.

* Sec. 4. 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;

(2) adopt regulations under the Administrative Procedure Act (AS 44.62) that establish procedures and time limits for claiming a permanent fund dividend; 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 that 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 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;

(5) maintain records of annuity shares for individuals for the purpose of determining annuity payment amounts under AS 43.23.120;

and

(6) adopt regulations that, to the extent allowable under

2 23.120 so that an annuity benefit is not taxable to an individual
3 until it is actually received by that individual.

4 * Sec. 5. AS 43.23 is amended by adding new sections to read:

5 ARTICLE 2. ANNUITY PROGRAM.

6 Sec. 43.23.110. ANNUITY FUND. (a) The annuity fund is estab
7 lished as a separate fund in the state treasury. The annuity fund
8 shall be administered by the commissioner and shall be invested by the
9 commissioner in the same manner as provided in AS 37.10.070.

10 (b) The annuity fund consists of appropriations made to the
11 annuity fund by the legislature.

12 (c) Money in the annuity fund shall be used to pay annuities to
13 eligible individuals under AS 43.23.120.

14 Sec. 43.23.120. PAYMENT OF ANNUITIES. (a) An individual who
15 holds one or more annuity shares may receive an annuity upon reaching
16 the age of 65.

17 (b) An annuity under this section is a monthly payment during
18 the life of the annuitant. The amount of the monthly payment shall be
19 determined by the department using a straight life annuity with
20 defined contribution plan.

21 (c) An individual must be a resident of the state to be eligible
22 to receive an annuity.

23 (d) An annuity share may not be assigned, sold, or otherwise
24 transferred from one individual to another. An annuity share held by
25 an individual is cancelled upon the death of that individual and does
26 not pass to the individual's estate. The right to receive an annuity
27 under AS 43.23.120 terminates upon the death of the person who is
28 eligible for the annuity.

29 (e) An individual does not receive a vested property right in a

2 provisions of this section the state is not obligated to provi
3 annuity payments for annuity shares granted under AS 43.23.005.

4 * Sec. 6. AS 47.45.010(a) is amended to read:

5 (a) A person who is 65 years of age or over, who resides in tl
6 state for at least one year immediately preceding application for
7 longevity bonus under this chapter may apply to the commissioner c
8 administration for qualification to receive a monthly bonus [OF \$250]

9 * Sec 7. AS 47.45 is amended by adding a new section to read:

10 Sec. 47.45.015. AMOUNT OF BONUS. The monthly longevity bonus i
11 equal to -\$250, increased by three percent each year beginning i
12 fiscal year 1987, minus the maximum possible annuity under the annuit
13 program (AS 43.23.110 - 43.23.120), as determined by the commissione
14 of administration.

15 * Sec. 8. Section 11, ch. 38, SLA 1984 is amended to read:

16 Sec. 11. Sections 7 - 9 of this [THIS] Act [AND AS 47.45] ar
17 repealed June 30, 1985.

18 * Sec. 9. This Act applies only to permanent fund dividends for year
19 beginning after December 31, 1985.

20 * Sec. 10. This Act takes effect January 1, 1986.

SECTION 1

Establishes the Annuity Account as a separate account within the Alaska Permanent Fund. An amount, equal to the permanent fund dividend multiplied by the number of persons electing to receive an annuity share, shall be annually credited to the Annuity Account. The legislature may annually appropriate the money from the Annuity Account to the Annuity Fund to pay monthly annuity payments.

SECTION 2

A person who is eligible to receive a permanent fund dividend may elect to receive an annuity share in lieu of a cash dividend.

SECTION 3

The permanent fund application shall be prepared to allow an applicant to elect to receive an annuity share.

SECTION 4

Adds duties to the Department of Revenue to maintain records of annuity shares for individuals and adopt regulations (to the extent allowable) to structure the annuity program so that annuity benefits are not taxable to people until they actually receive the annuity money.

SECTION 5

Establishes the Annuity Fund. Money in the Annuity Fund is appropriated by the Legislature to pay annuities. An individual who holds one or more annuity shares may receive an annuity upon reaching the age of 65. The annuity will be paid monthly using a straight life annuity with a defined contribution plan. An individual must be a resident of the state and the annuity is cancelled upon the death of the individual receiving the annuity.

SECTION 6

Deletes the dollar amount in the Longevity Bonus program.

SECTION 7

Makes the Longevity Bonus payment \$250 plus 3% annum minus the maximum possible annuity.

SECTION 8

Repealers of Longevity Bonus Program.

SECTION 9

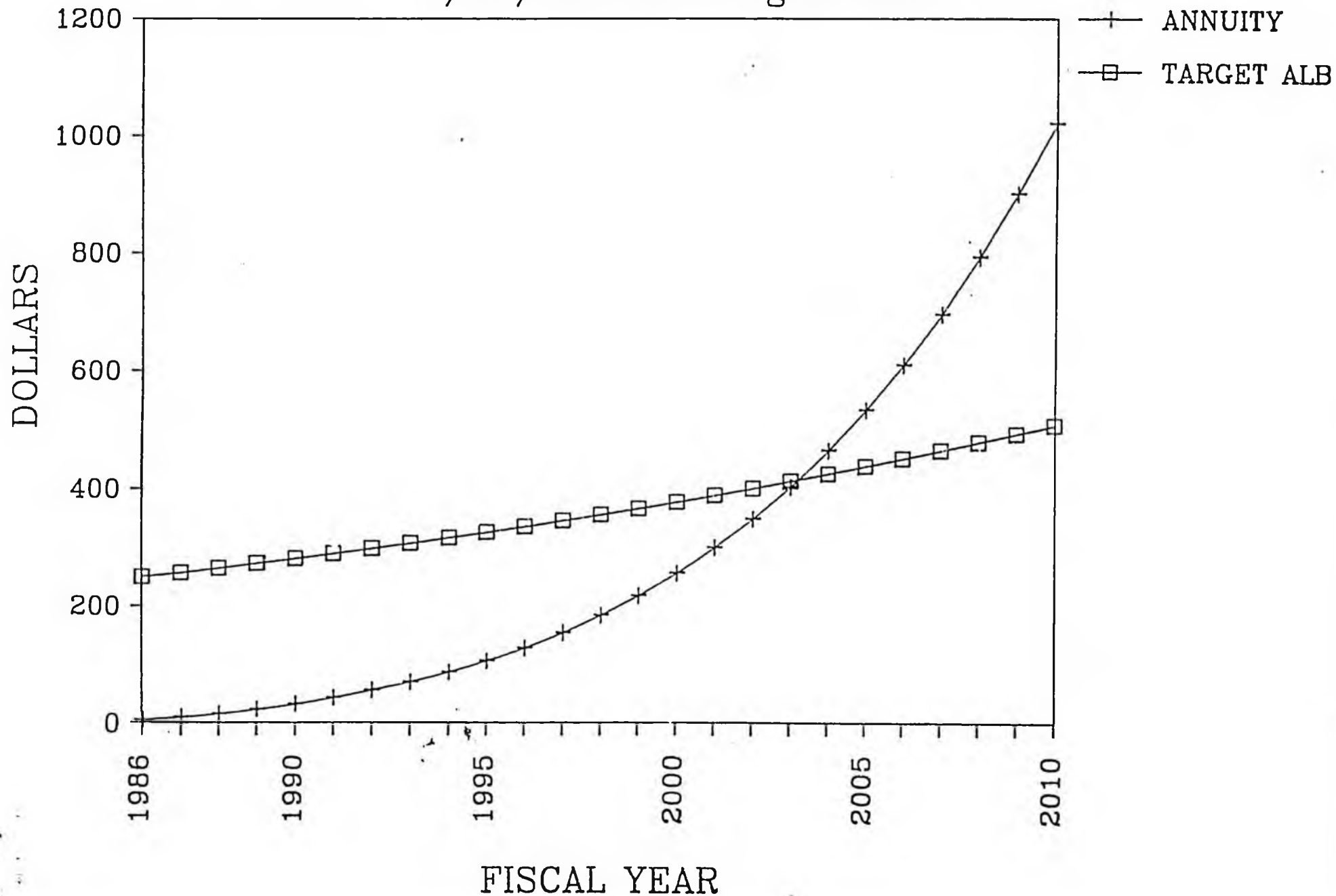
Applies to Permanent Fund dividends for years beginning after December 31, 1985.

SECTION 10

This act takes effect January 1, 1986.

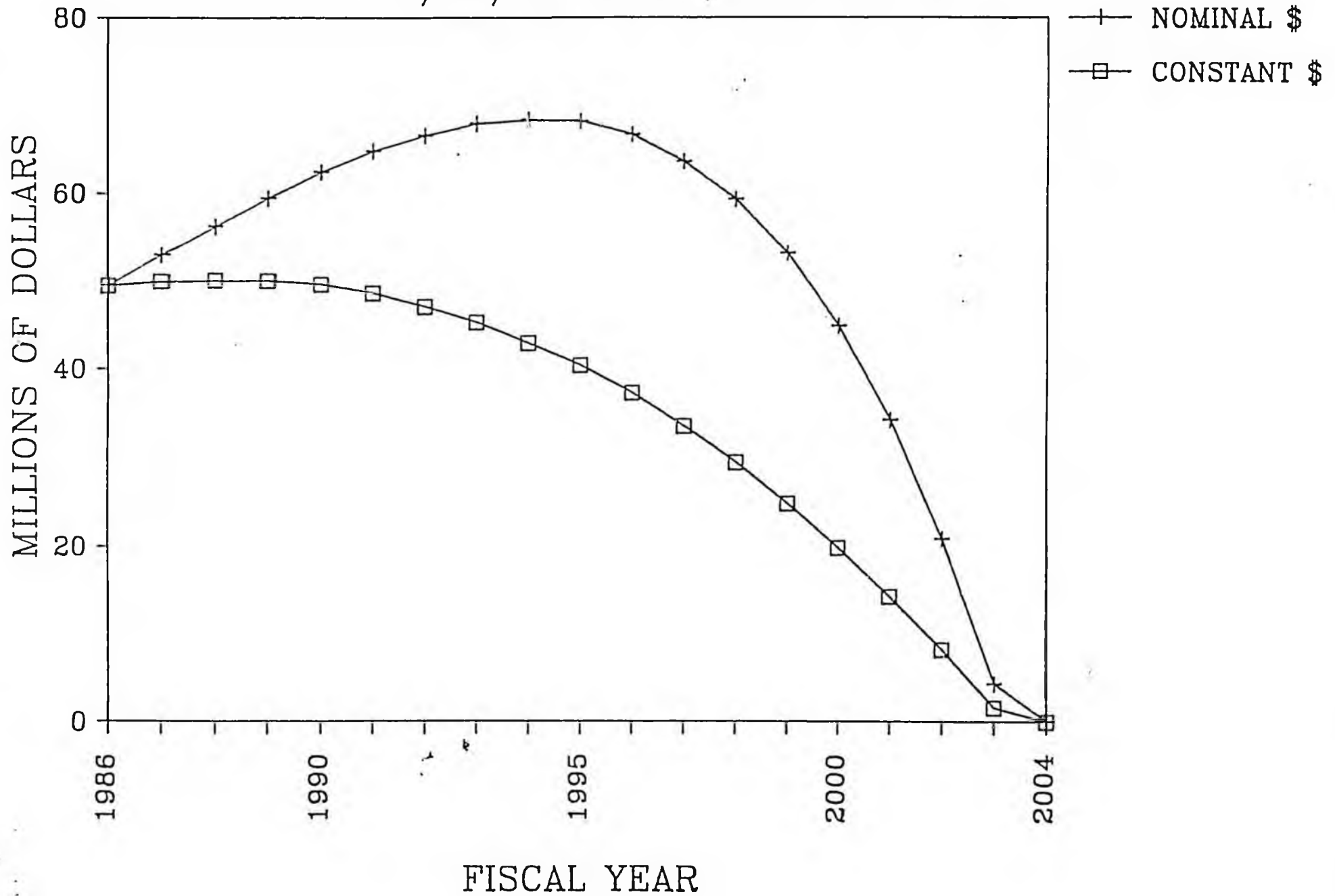
PROJECTED MONTHLY ANNUITY & TARGET ALB

7/24/84 Draft Legislation



PROJECTED ALB APPROPRIATIONS

7/24/84 DRAFT LEGISLATION



LONGEVITY BONUS AND ANNUITY VALUES UNDER DRAFT LEGISLATION DATED 7/24/84

FISCAL YEAR	PROJECTED DIVIDEND DISTRIBUTION (millions)	PROJECTED ALASKA POPULATION (thousands)	PROJECTED DIVIDEND PAYMENT	ANNUITY ACC'T BEFORE ACTUARIAL GAIN	ANNUITY ACC'T AFTER ACTUARIAL GAIN	MONTHLY ANNUITY PAYMENT	CURRENT ALB PAYM'T PLUS 3% ESCALATION	MONTHLY ALB PAYM'T FROM GENERAL FUND	MONTHLY ANNUITY, 1986 DOLLARS
1986	240.6	518	464.48	464.48	464.48	4.37	250.00	245.63	4.37
1987	266.2	521	510.94	1019.16	1030.14	9.70	257.50	247.80	9.14
1988	288.7	524	550.95	1673.32	1702.44	16.03	265.23	249.20	14.22
1989	315.7	528	597.92	2436.73	2500.91	23.55	273.18	249.63	19.67
1990	352.9	538	655.95	3333.68	3451.47	32.50	281.38	248.88	25.57
1991	393.4	550	715.27	4378.66	4573.34	43.06	289.82	246.76	31.90
1992	437.2	559	782.11	5593.82	5888.32	55.44	298.51	243.07	38.68
1993	484.1	567	853.79	7000.85	7422.78	69.89	307.47	237.58	45.92
1994	534.1	572	933.74	8626.98	9209.53	86.72	316.69	229.97	53.66
1995	586.6	573	1023.73	10503.93	11286.83	106.27	326.19	219.92	61.93
1996	641.9	586	1095.39	12638.18	13668.72	128.70	335.98	207.28	70.63
1997	700.5	592	1183.28	15071.38	16400.10	154.42	346.06	191.64	79.81
1998	762.5	596	1279.36	17841.32	19526.93	183.86	356.44	172.58	89.49
1999	827.3	600	1378.83	20984.68	23095.41	217.46	367.13	149.67	99.68
2000	894.7	604	1481.29	24541.38	27156.21	255.70	378.15	122.45	110.39
2001	963.7	613	1572.10	28540.65	31750.63	298.96	389.49	90.53	121.55
2002	1034.7	621	1666.18	33029.54	36931.44	347.74	401.18	53.44	133.15
2003	1107.7	629	1761.05	38057.24	42760.72	402.63	413.21	10.58	145.19
2004	1182.7	637	1856.67	43677.82	49306.99	464.27	425.61	.00	157.66
2005	1259.7	644	1956.06	49953.66	56648.67	533.39	438.38	.00	170.59
2006	1338.7	652	2053.22	56947.35	64866.10	610.77	451.53	.00	183.96
2007	1419.7	661	2147.81	64727.32	74046.60	697.21	465.07	.00	197.77
2008	1502.7	670	2242.84	73371.75	84290.27	793.66	479.03	.00	212.01
2009	1587.7	680	2334.85	82963.15	95703.91	901.13	493.40	.00	226.70
2010	1674.7	691	2423.59	93591.89	108404.89	1020.72	508.20	.00	241.84
2011	1763.7	700	2518.24	105366.47	122531.49	1153.74	523.44	.00	257.43
2012	1854.7	710	2612.73	118400.06	138221.89	1301.48	539.15	.00	273.49
2013	1947.7	719	2707.03	132816.98	155635.23	1465.44	555.32	.00	290.01
2014	2042.7	729	2801.08	148753.81	174946.00	1647.27	571.98	.00	307.01
2015	2139.7	739	2894.83	166368.55	196349.45	1848.80	589.14	.00	324.50
2016	2238.7	749	2988.24	185802.04	220055.39	2072.01	606.82	.00	342.50

ASSUMPTIONS:

- Calculations here assume that no potential annuitants leave Alaska.
- Annuity is assumed to be purchased for participant at age 65.
- Actuarial gain calculated using abridged 1980 life table for total population, Ak. Dept. of Labor, 1983.
- Geometric interpolation was used to produce single year life data.
- Life expectancy for an age 65 individual assumed at 16.71 years as per (3), above.
- Annual discount rate assumed at 9 percent.
- Annual inflation rate assumed at 6 percent.
- Permanent Fund Corporation data used for dividends through 2000, OMB estimates thereafter.
- Permanent Fund dividends based on "50%" state revenue forecast.
- Population projection from University of Alaska MAP econometric model base case output.
- Over-65 population projections by OMB.

Division of Strategic Planning, OMB, 9/4/84.

PROJECTED OVER-65 POPULATION	CURRENT DOLLAR STATE EXPENDITURE (millions)	CONSTANT 1986 \$ STATE EXPENDITURE (millions)
16744	49.35	49.35
17768	52.83	49.84
18769	56.13	49.95
19828	59.40	49.87
20913	62.46	49.47
21908	64.87	48.48
22849	66.65	46.98
23851	68.03	45.24
24799	68.44	42.94
25891	68.33	40.44
26863	66.82	37.31
27692	63.68	33.55
28657	59.35	29.49
29556	53.08	24.89
30511	44.83	19.83
31459	34.18	14.26
32440	20.80	8.19
33448	4.25	1.58
	.00	.00

CALCULATION OF ACTUARIAL GAIN (page 1)

ANNUITANT'S AGE IN 1986	NUMBER SURVIVING FROM INITIAL 100,000 --1--	PROJECTED DIVIDEND PAYMENT --2--	-----ANNUAL ADDITIONS TO COHORT ACCOUNT VALUES					
			AGE 65	AGE 64	AGE 63	AGE 62	AGE 61	AGE 60
35	93876	464.48	34873065.64	35472895.38	36083042.41	36703684.21	37335001.27	37977177.22
36	93657	510.94		38361412.67	39021243.28	39692423.22	40375147.71	41069615.32
37	93439	550.95			41365641.22	42077145.68	42800888.29	43537079.54
38	93222	597.92				44891583.33	45663735.32	46449168.60
39	93005	655.95					49248572.49	50095666.31
40	92788	715.27						53702676.36
41	92450	782.11						
42	92112	853.79						
43	91776	933.74						
44	91442	1023.73						
45	91108	1095.39						
46	90747	1183.28						
47	90388	1279.36						
48	90030	1378.83						
49	89674	1481.29						
50	89319	1572.10						
51	88934	1666.18						
52	88554	1761.05						
53	87428	1856.67						
54	86806	1956.06						
55	86189	2053.22						
56	85285	2147.81						
57	84391	2242.84						
58	83505	2334.85						
59	82630	2423.59						
60	81763	2518.24						
61	80380	2612.73						
62	79021	2707.03						
63	77685	2801.08						
64	76371	2894.83						
65	75080	2988.24						
VALUE OF COHORT ACC'T @ 65			34873065.64	77342616.38	127819419.51	187768463.79	259136650.97	343366300.60
VALUE OF SURVIVING INDIVIDUAL'S ACC'T @ 65			464.48	1030.14	1702.44	2500.91	3451.47	4573.34
MONTHLY ANNUITY			4.37	9.70	16.03	23.55	32.50	43.06

AGE 59	AGE 58	AGE 57	AGE 56	AGE 55	AGE 54	AGE 53	AGE 52	AGE 51	AGE 50
38379709.75	38786508.85	39197619.75	39613088.15	40032960.23	40319590.00	40608271.99	40899020.89	41191851.52	41486778.76
41776020.02	42218825.81	42666316.96	43118551.22	43575578.85	44037450.67	44352751.97	44670310.77	44990143.24	45312265.66
44285933.55	45047668.13	45525143.10	46007678.99	46495329.44	46988148.65	47486191.41	47826185.15	48168613.20	48513492.97
47248111.63	48060796.78	48887460.42	49405634.61	49929301.89	50458518.09	50993344.44	51533839.58	51902813.85	52274429.92
50957330.46	51833815.56	52725376.53	53632272.68	54200738.68	54775230.05	55355810.64	55942544.99	56535498.33	56940283.70
54626382.43	55565976.59	56521732.12	57493927.00	58482844.00	59102722.80	59729171.90	60362260.94	61002060.29	61648641.09
58720887.30	59730908.47	60758302.38	61803367.85	62866408.84	63947734.53	64625537.49	65310524.71	66002772.33	66702357.31
	64102694.89	65205285.15	66326840.39	67467686.79	68628156.18	69808586.07	70548510.11	71296276.86	72051969.43
		70105293.71	71311130.91	72537708.97	73785384.63	75054520.78	76345486.54	77154697.33	77972485.22
			76862003.49	78184058.63	79528853.61	80896779.56	82288234.35	83703622.69	84590824.77
				82242068.26	83656662.52	85095588.33	86559264.20	88048115.84	89562576.28
					88840439.19	90368527.89	91922900.29	93504008.47	95112312.30
						96054530.20	97706707.96	99387295.72	101096794.29
							103522806.67	105303437.57	107114695.98
								111215357.62	113128303.26
									116033598.69
442095177.90	557301965.25	691451485.28	847414903.20	1026247686.7	1231319590.3	1466081599.1	1734003100.7	2038888309.8	2383837205.3
5888.32	7422.78	9209.53	11286.83	13668.72	16400.10	19526.93	23095.41	27156.21	31750.63
55.44	69.89	86.72	106.27	128.70	154.42	183.86	217.46	255.70	298.96

AGE 49	AGE 48	AGE 47	AGE 46	AGE 45	AGE 44	AGE 43	AGE 42	AGE 41	AGE 40
41651653.57	41817183.62	41983371.51	42150219.85	42317731.27	42472657.60	42628151.11	42784213.90	42940848.03	43098055.60
45636694.43	45818061.64	46000149.63	46182961.27	46366499.42	46550766.99	46721190.57	46892238.07	47063911.79	47236214.00
48860842.03	49210678.05	49406248.82	49602596.81	49799725.12	49997636.85	50196335.11	50380105.22	50564548.10	50749666.24
52648706.71	53025663.25	53405318.75	53617559.66	53830644.05	54044575.27	54259356.68	54474991.67	54674426.04	54874590.55
57347967.27	57758569.79	58172112.16	58588615.43	58821455.55	59055221.02	59289915.50	59525542.70	59762106.32	59980896.96
62090035.77	62534590.76	62982328.70	63433272.37	63887444.73	64141343.21	64396250.72	64652171.28	64909108.90	65167067.64
67409357.42	67891997.93	68378094.07	68867670.58	69360752.39	69857364.58	70134988.44	70413715.62	70693550.50	70974497.49
72815671.83	73587468.96	74114343.78	74644990.95	75179437.47	75717710.54	76259837.57	76562905.83	76867178.54	77172660.47
78798941.10	79634156.86	80478225.35	81054436.92	81634774.07	82219266.35	82807943.50	83400835.49	83732283.17	84065048.08
85487430.61	86393539.86	87309253.26	88234672.60	88866419.12	89502688.86	90143514.18	90788927.71	91438962.30	91802354.73
90511879.33	91471244.36	92440778.01	93420588.06	94410783.45	95086749.96	95767556.30	96453237.09	97143827.26	97839361.95
96748279.56	97773746.23	98810082.16	99857402.56	100915823.84	101985463.68	102715663.73	103451091.90	104191785.62	104937782.59
102835696.87	104604509.23	105713246.65	106833735.94	107966101.67	109110469.71	110266967.28	111056461.61	111851608.59	112652448.70
108957108.72	110831211.64	112737549.83	113932492.01	115140099.78	116360507.37	117593850.47	118840266.17	119691143.98	120548113.94
115074152.29	117053470.64	119066834.01	121114827.98	122398563.67	123695906.10	125006999.49	126331989.58	127671023.68	128585128.34
120063820.63	122128963.14	124229626.88	126366422.81	128539972.43	129902409.66	131279287.81	132670759.94	134076980.73	135498106.53
125097062.80	127248778.96	129437505.43	131663878.82	133928546.66	136232167.63	137676136.96	139135411.38	140610153.14	142100526.16
	132219580.29	134493806.40	136807150.05	139160284.07	141553892.88	143988672.66	145514855.71	147057215.28	148615922.83
		139398926.22	141796639.76	144235594.87	146716500.91	149240079.47	151807064.52	153416117.27	155042224.90
			146860677.02	149386735.46	151956243.05	154569947.12	157228607.88	159932998.60	161628180.79
				154155822.09	156807359.74	159504504.84	162248041.83	165038768.69	167877497.09
					161257301.06	164030986.80	166852380.98	169722304.18	172641591.14
						168392113.43	171288520.61	174234747.08	177231649.73
							175300758.82	178315997.28	181383098.97
								181963062.23	185092894.79
									189069123.85
2772812453.0	3210475136.5	3701968928.2	4253182402.2	4870146887.7	5559419027.3	6328513169.0	7185449757.7	8139038873.3	9199664072.9
36931.44	42760.72	49306.99	56648.67	64866.10	74046.60	84290.27	95703.91	108404.89	122531.49
347.74	402.63	464.27	533.39	610.77	697.21	793.66	901.13	1020.72	1153.74

AGE 39	AGE 38	AGE 37	AGE 36	AGE 35
43198655.44	43299490.10	43400560.13	43501866.08	43603408.49
47409147.02	47519809.85	47630730.99	47741911.03	47853350.60
50935462.10	51121938.17	51241267.42	51360875.21	51480762.20
55075487.87	55277120.68	55479491.67	55608992.36	55738795.33
60200488.60	60420884.17	60642086.61	60864098.88	61006168.37
65405645.98	6545097.77	65885426.20	66126634.47	66368725.82
71256561.00	71517433.14	71779260.34	72042046.10	72305793.92
77479356.43	77787271.25	78072052.50	78357876.33	78644746.57
84399135.45	84734550.53	85071298.09	85382746.86	85695335.34
92167191.34	92533477.87	92901220.07	93270423.73	93611889.21
98228190.54	98618564.41	99010489.67	99403972.51	99799019.11
105689120.78	106109145.52	106530839.50	106954209.36	107379261.76
113459022.70	114271371.64	114725503.56	115181440.27	115639188.94
121411219.68	122280505.11	123156014.50	123645455.35	124136841.31
129505777.84	130433019.06	131366899.17	132307465.73	132833275.85
136468251.88	137445343.33	138429430.59	139420563.77	140418793.31
143606696.14	144634897.73	145670461.09	146713438.92	147763884.31
150191151.63	151783076.79	152869820.00	153964344.12	155066704.86
156685568.18	158346329.78	160024694.35	161170446.26	162324401.57
163341330.77	165072638.98	166822297.90	168590502.02	169797583.78
169656885.61	171455134.46	173272443.53	175109014.86	176965052.61
175611090.92	177472450.34	179353538.91	181254565.76	183175742.21
180280100.24	183380985.22	185324700.29	187289017.43	189274155.01
184502955.94	187676475.63	190904581.03	192928041.15	194972948.59
188276561.64	191514988.75	194809118.01	198159907.53	200260269.23
192321183.32	195629179.43	198994074.31	202416846.63	205898491.92
196163973.01	199538066.54	202970195.73	206461358.83	210012571.23
	203243807.11	206739676.42	210295675.99	213912840.08
		210304965.17	213922289.03	217601832.22
			217343924.25	221082320.84
				224357295.90
10377699332.	11685093362.	13135005197.	14741916814.	16521758564.
130221.89	155635.23	174946.79	196349.45	220055.39
1301.48	1465.44	1647.27	1848.80	2072.01

Elderly poor may lose longevity pay

By SHEILA TOOMEY 9/15
Daily News reporter

About 414 elderly Alaskans now receiving welfare will have to choose between their \$250 longevity bonus and welfare benefits when a new state regulation goes into effect.

The welfare benefits include medical coverage.

The federal government may even take away the choice; they may have to take the longevity bonus instead of welfare, even if it means losing Medicaid coverage.

In addition, a spokesman for the state Department of Health and Social Services

says that another 36 elderly Alaskans currently in nursing homes could find themselves pushed out of their nursing homes when Medicaid benefits are cut off.

The new regulations require that the state longevity bonus be counted as income when considering eligibility for welfare and medical benefits — but only for people added to the bonus program as a result of a recent Alaska Supreme Court decision.

In late October or early November, state welfare officials will begin counting the

See Back Page, ELDERLY

Elderly may lose state bonu

Continued from Page A-1

\$250 as added income for old-age benefits recipients who get the bonus but have not been in Alaska for 25 years, said Gordon Landes, state public assistance program officer.

About 414 elderly people now get checks of less than \$250 and will have their checks stopped unless they give up the bonus, Landes said.

Some of those people could remain eligible for Medicaid benefits if their income totals less than \$942 a month, he said.

The federal government already has begun counting the bonus as income in its disability and old age programs, Landes said.

Until this year, Alaskans 65 or older who had been in the state for 25 years could collect a \$250 monthly longevity bonus in recognition of pioneer residency. Because of an exemption in federal law, the bonus was not counted as income when the elderly applied for federal or state benefits.

Earlier this year, the Alaska Supreme Court threw out the residence requirement attached to the bonus program. Now anyone 65 or older who has been in Alaska for one year can collect the \$250 a month.

But, in a recently enacted law, the U.S. Congress refused to change the income exemption to conform to the new bonus program, said Landes. As far as federal officials are concerned, anyone collecting the longevity bonus after living in Alaska less than 25 years must have the \$250 deducted from welfare benefits.

He said his department would prefer not to count the bonus as income, but a state law requires them to use the

same income formulas as federal government.

Social Security officials in Alaska have referred the issue back to a council in Washington, D.C., said Chuck Digan, Social Security Administration manager for the state.

If the council reverses policy, it also would have to decide if those who lost benefits would be paid retroactively for that loss, Brodigan said.

Anchorage Rep. Don Carlson said Thursday the state is jumping the gun by pushing an emergency regulation into effect instead of going through the usual process including public hearings.

Clockson, D-Anchorage, a member of a special longevity bonus commission, said he will ask Gov. Bill Sheffield to stop the deductions until alternatives can be examined more fully.

"When we approved the longevity bonus thing, we did not intend to give different benefits to 25-year residents than to shorter-term residents," Clockson said. "The department is doing it wrong."

Clockson said the department is getting pressure from the federal government. "I'm not sure the federal government has the power to tell them to violate their law."

Waiting in the wings, according to Landes, is a proposed federal regulation that could spread the fallout of the new income rules to even more older Alaskans.

Presently, people who collect the longevity bonus makes them ineligible for Medicaid, may simply choose not to apply for the bonus. Under the new regulation, Landes said, they will have to apply for the bonus even if receiving it pushes their income over the maximum, killing their eligibility for needed medical benefits.

8/7/84
Gov's office

LONGEVITY BONUS IMPACT PAPER
Effect of New Rules on
Old Age Assistance & Medicaid

There are currently 2,609 Old Age Assistance recipients. At least half of these people are now receiving Longevity Bonus under the old 25- year residency rules. The rest are now eligible for the Longevity Bonus under the new rules or soon will be.

Only the new, 1-year Longevity Bonus recipients are at risk to see a reduction in their federal cash and medical benefits. We're estimating approximately 1305 people in this category.

The federal Social Security Administration is already trying to identify 1-year Longevity Bonus recipients who also receive Supplemental Security Income (SSI) payments in order to reduce or cut their benefits. Some SSI clients will lose \$230 to \$250 of their monthly spendable income, while others will lose their Medicaid benefits as well.

The population at greatest financial risk are persons in Alaska nursing homes. We estimate 39 people will lose eligibility for nursing home coverage if they are required by federal officials to apply for the Longevity Bonus.

The population at second greatest risk are the approximately 550 Old Age Assistance recipients whose income with the Longevity Bonus will make them ineligible for both Old Age Assistance and Medicaid.

The Department of Health and Social Services has sent a strong appeal to the Social Security Administration voicing our opinion that these persons should not have to apply for the Longevity Bonus if it will hurt them financially. If federal officials agree with us, each Alaskan could at least then have a choice between the Longevity Bonus and eligibility for the other programs (i.e. Medicaid, Old Age Assistance, and SSI). However, this means that the individual would still be affected financially.

We have examined the other federal public assistance programs administered by the Department to determine the impact of the Longevity Bonus and have identified two that are significantly affected. The Longevity Bonus must be counted as income for Food Stamps and Low Income Home Energy Assistance. Based upon current caseloads, we estimate that 2,600 Foods Stamp households and 300 Energy Assistance households may receive reduced benefits or lose benefits entirely, due to the Longevity Bonus payments they receive. Both programs are 100% federally funded.

"LAUNDRY LIST" COMPARISON FOR DISCUSSION PURPOSES

JAY HAMMOND

Comparison of HB 700 Concept - "Annuity Pool" funded by 1/3 of money to be distributed from Permanent Fund earnings and the "true annuity" concept weighted on a scale of 1-10, the higher the number, the more favorable the value.

1. IRS TAXATION QUESTION

True annuity probably more vulnerable since annuity shares secured through relinquished dividends have a known value and will be ultimately received by the annuitant. On the other hand, under the annuity pool approach, annuity shares fluctuate in value.

True Annuity:

Annuity Pool:

2. SUPPLEMENTAL SOCIAL SECURITY QUESTIONS:

Neither approach appears to better meet this question, HAVE

True Annuity: 5

Annuity Pool:

3. IMPACT OF FEDERAL/STATE ASSISTANCE PROGRAM:

Neither appears to have advantage, hence:

True Annuity:

Annuity Pool:

4. LIMIT OF PAYMENT TO RESIDENTS ONLY:

Both do so. However, since the pool approach uses money from the Permanent Fund earnings to augment the value of annuity shares far above the value of the relinquished dividends and their earnings, it would appear that a better case could be made to confine annuity payments to state residents. Under the true annuity, the annuitant's relinquished dividends and their earnings constitute the entire annuity. No state money augments the annuity. However, the Longevity Bonus portion (State funded) could presumably be denied to non-residents.

True Annuity:

Annuity Pool:

5. SIZE OF ANNUITY:

True Annuity in early years limits the total an annuitant can receive from both the declining Longevity Bonus and expanding annuity to no more than \$250 per month, plus 3% inflation. After the Bonus fades out, the annuity would be a product of the value of the relinquished dividends, their earnings and their number. This is likely to be less than \$250 per month.

Annuity Pool: The latest revision proposes that the maximum annuity be no more than \$250 per month, plus 3% per annum, plus the value of that years' Permanent Fund dividend, hence the annuity pool would provide an annuity somewhat larger than the true annuity plus declining Bonus approach.

7. COMPARITIVE ACCOMMODATION OF ALL WHO WOULD HAVE RECEIVED LONGEVITY BONUS

UNDER ORIGINAL PROGRAM:

True Annuity. Everyone who elected to relinquish all dividend shares until the year 2010 (the year the Bonus "stair steps" out) would receive the equivalency of the old Bonus. Everyone, therefore, who was eligible under the old program (persons here prior to 1959) would be accomodated fully. Of course, persons who failed to relinquish all dividends would receive less.

Annuity Pool. Same

True Annuity:

Annuity Pool:

8. IS NEED A FACTOR?

Neither the true annuity or pool approach embodies need. Save to extent that both recognize the greater "need" of all older persons who choose to remain in Alaska to spend more money to meet Alaska's federally recognized exceptional cost of living.

True Annuity:

Annuity Pool:

9. COMPARITIVE DIFFICULTY OF ADMINISTRATION:

True Annuity would appear to have some additional administrative burden since not only would annuity accounts have to be set up for all prospective annuitants but a declining Longevity Bonus account as well.

True Annuity:

Annuity Pool:

10. COMPARITIVE COSTS FOR THE GENERAL FUND:

Since the true annuity requires an annual appropriation from the general fund for the declining Longevity Bonus Program until the year 2010, its total costs to the State would be about \$ million more than the annuity pool approach. However, even though under true annuity all persons age 65 and older could receive the equivalency of the full Longevity Bonus, the stair stepping decline of the Longevity Bonus appropriations modify this substantially, compared to the cost of an ongoing Longevity Bonus Program open to everyone.

(Please run a tally if total general fund obligation until 2010 for the declining Longevity Bonus under the true annuity approach. How does this compare in cost to merely continuing the Longevity Bonus, but opening it to all hands? Compared to the original Bonus Program's prospective costs? Compared to the least costly stair stepping by age proposed in HB 65F?

True Annuity:

Annuity Pool:

11. LEGALITY:

The true annuity approach would appear less legally vulnerable than does the pool approach.

Under the latter, persons who acquired larger numbers of annuity shares by

virtue of their relinquishing annual dividends would, at age 65, receive larger annuities. Since acquisitions of annuity shares is now confined to residents only, Zobelists might make the argument that since only current residents could accumulate shares, the value of an annuity is based on comparative terms of residency. Could this perhaps be offset by permitting anyone, residents or non-residents, to purchase annuity shares at a price equal to the set year's Permanent Fund dividend? Ideally, cost of living annuities should be paid only to those who physically reside in any "area in which cost of living exceeds the national average by more than 20%, as determined by the federal government and reflected in its pay scale to federal employees." This should remove the residency since no one would be denied the opportunity to ultimately receive the maximum bonus. However, legal council believes it would not.

Of course, with the true annuity, some persons would receive greater combined annuities plus declining Longevity Bonus payments. However, since in any given year, no one gets more Longevity Bonus than anyone else, it would appear to be less vulnerable than the pool approach which provides varigated amounts of money in excess of the value of one's relinquished dividends. In either case, permitting both residents and non-residents to purchase one annuity share each year at a value equal to that year's dividend should be considered.

True Annuity:

Annuity Pool:

12. UNFUNDED LIABILITY QUESTION:

The annuity pool approach poses no unfunded liability problem whatsoever since the amount of the annuity relates to a portion of the earnings of the Permanent Fund and varies in accordance.

The true annuity is somewhat more vulnerable if a multitude of age 65+ folk come to the State and increased the general fund's obligation to fund the declining Longevity Bonus Program. Of course, in the year 2010 when the Bonus has "stair stepped" out, there would no longer be any possible unfunded liability.

True Annuity:

Annuity Pool:

13. IMPACT ON DIVIDEND PROGRAM:

The true annuity would in no way reduce the Dividend value to those who opted to receive them rather than annuity shares. Dividends would be precisely the same as they would be under the existing program.

On the other hand, since 1/3 of the money now going out in dividends would be used for the annuity pool, dividends for those who chose to receive them could be less. However, they also could be larger. Consider, if more than 1/3 of Alaskan residents elected to receive annuity shares rather than dividends, the fewer than 2/3 of Alaskan residents would divide 2/3 of the dividend dollars available for distribution. Accordingly, each would receive a larger dividend than under the status quo.

Once the much larger value of an annuity compared to a dividend is

recognized by the public along with the hoped for tax shelter aspects of dividend relinquishment is understood, it is likely large numbers will opt to relinquish dividends on behalf of annuity shares.

Even if such should not occur, since an annuity pool equal to 1/3 the distributed money is more than sufficient to provide all prospective annuitants with the equivalency of the Longevity Bonus inflated 3% annually, plus an amount equal to the dividend, there will be money remaining in the annuity pool which could flow into next year's dividend pool for distribution. Added to this could as well be the dividends relinquished by all those who opted instead for annuity shares.

Accordingly, even if fewer than 1/3 of Alaska's residents relinquished dividends the dividend paid could, after the first year, be significantly greater.

Example: Assurance 180 million is available for distribution

180 million for
Distribution

60 million for
Annuity Pool

120 million for
Dividend Pool

- A. If all 180 were used for dividends, as under existing program, and 500,000 Alaskans applied for some the dividend would be \$360.
- B. If the annuity pool of \$120,000 were distributed among 500,000, the dividend would be 1/3 less or \$240.

- C. Assume there are 15,000 eligible annuitants, each holding one annuity share the first year. Sixty million in the annuity pool divided by 15,000 shares could provide an annuity of \$4,000 per annum. However, since the annuity is limited to about \$3,400 (Longevity Bonus inflated by 3% plus equivalency of the Permanent fund Dividend) there would be \$600 x 15,000 or \$9 million remaining in this account.
- D. In addition to the \$9 million left over in the annuity pool, would be the relinquished dividends of all opting for an annuity share. While speculative, certainly the 15,000 eligible annuitants plus many more can be expected to relinquish their dividends. For example, Alaskans above the age of 45 would receive much greater benefits from relinquished dividends, as would those who might recognize tax shelter benefits by such relinquishment. If 1/3 of 500,000 Alaskans did so, the \$120 million in the dividend pool divided by the remaining 333,333 who opt for dividends would yield the same \$360 dividend as under the existing program.
- E. If you add the \$9 million surplus in C above plus the \$240 dividends delinquished by 166,666 Alaskans (almost another \$40 million to the following year's dividend pool of say \$120 million, the total for distribution would be almost \$170 million and the 333,333 dividend recipients could receive about \$510 instead of \$360 were the existing program (or true annuity) in effect.

Values, therefore, are hard to assign to the two approaches.

True Annuity:

Pool:

14. IMPACT ON PERMANENT FUND:

Since both programs key off earnings of the Permanent Fund, both would seemingly increase public awareness and concern for maintaining integrity of the fund. Either program would likely expand public support for increased contributions to the fund. Moreover, each would serve to provide another first line of defense against casual invasion of the fund for political purposes. Once the public received the fund as in part "pension fund," every prospective annuitant would militantly defend against such invasion. This feature of course will not appeal to those opposed to expanding contributions to the fund or maintaining its "non-political" management.

The annuity pool is totally dependent upon the Permanent Fund. The true annuity, on the other hand, at least initially, is funded primarily by general fund monies and is thus less dependent upon the Permanent Fund. Hence, the values ascribed.

True Annuity:

Annuity Pool:

15. What, if any, is comparative "magnet effect" of drawing elderly to Alaska?

Would appear the same for each.

"LAUNDRY LIST" OF PROBLEMS AND CONSIDERATIONS AGAINST WHICH PROPOSALS TO RESOLVE THE LONGEVITY BONUS ISSUE SHOULD BE MEASURED

Prepared by Governor Jay S. Hammond, Chair, State Special Committee on the Alaska Longevity Bonus Program

1. IRS taxation questions
2. Supplemental Security Income (SSI) questions
3. Impact of federal/state assistance programs
4. Limitation of payment (bonus or annuity) to residents, only
5. In any annuity, should there be a limit on number of shares accumulated
6. If not, should there be a limit on the size of the annuity
7. Can a phase out of the bonus be accomplished without affecting those who would have received the longevity bonus under the original program
8. How well is the original legislative intent accomplished
9. Should need be a requirement
10. Could need be a requirement for only those who would not have received the original program?
11. Comparative difficulty of administration
12. Legality
13. Comparative costs
14. Unfunded liability question
15. Impact on dividend program
16. Impact on permanent fund
17. Impact on general fund
18. What is the "magnet effect" (attracting influx of older persons who otherwise would not come to Alaska)
19. Should health insurance be an annuity option
20. What is the most acceptable annuity approach and
21. What is the most acceptable needs based approach
22. What is the most acceptable means of phasing out the program (stairstepping, etc.)
23. Relationship, if any, to the pioneer home issue

Any proposed additions to the above laundry list should be sent to Vice Chair Senator Bill Ray's office in Juneau for dissemination to all Committee members.

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 99801
PHONE: (907) 465-3600

January 24, 1984

The Honorable Mike Szymanski
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Szymanski,

You have asked that we review your proposed bill to establish an Alaska Historical Perspective Commission to provide state contracts to senior citizens in lieu of longevity bonus payments. Contracts would be entered into with eligible residents who must be age 65 or older, a present resident for at least a year, have resided in the territory for 10 years prior to statehood, have been 21 years old prior to statehood, and have resided in the state at least 10 years after statehood. Contractees would be paid \$3,000 per year for filling out a form evaluating state government, and performing other duties up to 100 hours that the commission might require.

Before discussing the constitutionality of the draft bill, I would like to point out some effects, legal and practical, that the legislation might have. First, payments under the contract would not be exempt from consideration as income under the federal social security rules. The existing program has a special exemption, and amendment of the present act (to, for example, a one year requirement) would not destroy the exemption. ^{1/} But the draft bill does not amend the present act and would therefore not come within the exemption. There is another exemption for state funded programs for which eligibility

^{1/} 42 USC 1382a(b)(2)(B) exempts "monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in such State by such individual."

is measured by income, but since there is no income requirement in the draft bill, it would not qualify under that exemption. Thus, income from the contracts would be considered by the state in its adult public assistance program and present recipients of adult public assistance and the longevity bonus would see their income diminished by \$250 per month under the draft bill.

As you no doubt recognize, there will be some present recipients of the bonus who would not qualify for a contract under the draft bill: those who had not lived in the territory for ten years prior to statehood. There would also probably be some individuals who cannot now meet the 25 year continuous residency requirement who would meet the requirements of the draft bill.

The primary difficulty with the bill is that it appears to be an attempt to accomplish by indirect means what Judge Carpeneti has held may not be done directly; that is, to benefit some Alaskans over others on the basis of long residency in the state. The state would almost certainly be sued immediately if the bill were enacted, and a court would be likely to view the program in the light of the litigation over the existing program. The state's need for the services called for by the contracts appears to be tenuous, and the work required is so minimal as to make the establishment of a true contract questionable. The bill requires that the commission contract with eligible residents -- and eligibility is established solely on the basis of residency. It is likely that some individuals who meet the residency requirements of the bill would be too feeble, senile, incompetent or lacking in English language skills to perform even the minimum work required under the proposed contracts. Since those residents are nonetheless eligible, and must receive a contract, the program appears not to be an actual contract for services, but rather simply a grant. Even if those persons were excluded (and the program would then exclude some, such as elderly Native Alaskans who have no English skills and who have no other income) the compensation for the work is so disproportionate to the work performed (\$3000 for filling out one form) that true consideration, necessary for the formation of a contract, would likely be found lacking.

If the program were viewed by a court as not establishing true contracts, but rather simply granting benefits to those who meet the eligibility requirements, then, of course, it will be analyzed exactly as the present longevity bonus program has been analyzed. (The draft bill does remove one of the more troublesome examples of disproportionate impact by requiring territorial residents to have reached the age of

majority before statehood, but that change does not alter the long durational residency requirement.) There is little reason to believe that the draft program could survive if the existing program cannot.

If the 100 hour requirement were actually implemented and required for all recipients, then the consideration aspect would be less of a problem. However, as pointed out above, a great many potential applicants would then be ineligible, as they would be incapable of actually performing the work. If the incapable persons were excluded from the program, the question then would be whether the state can have, as sole criterion for an employment contract, a lengthy durational residency requirement. The answer is probably not.

Our state supreme court has held that it will no longer automatically require that all durational residency requirements pass "strict scrutiny," or be justified by a compelling state interest (Williams v. Zobel, 619 P.2d 422, 427 (Alaska 1980)). That court had previously struck both a preference for one year residents in public employment (State v. Wylie, 516 P.2d 142 (Alaska 1973)), and the one-year resident preference for oil related jobs (Hicklin v. Orbeck, 565 P.2d 159 (Alaska 1977)) under the equal protection clause of the federal constitution and the "strict scrutiny" standard. This approach must be reexamined under the Zobel relaxation of the test. 2/ Under the Alaska equal protection test, a classification must substantially further legitimate state purposes.

The apparent purpose of the draft bill is to tap the wealth of historical knowledge possessed by certain senior citizens, by requiring them to evaluate state agencies and programs. Those citizens are identified solely by durational residency requirements. Thus the bill uses a durational residency requirement as the sole criterion for identifying knowledgeable persons. A professor of anthropology or a PhD in political science who actively studied state and territorial

2/ There is a line of cases, culminating in White v. Massachusetts Council of Construction Employers, ___ U.S. ___, 75 L.Ed.2d 1 (1983) which hold that a state or city may, under the Commerce Clause prefer its residents over non-residents in public contracts. These cases do not address the question of preferring long-term residents over short-term residents; that question raises equal protection considerations.

The Honorable Mike Szymanski
Representative

January 24, 1984
Page 4

governments, but who does not meet the residency requirements, cannot qualify no matter how great a contribution that person might make to an evaluation of the efficiency of state agencies and programs. The materials forwarded with the draft bill explain that the suggested program will not merely compensate residents for past contributions, but will be provided in return for a current service to the state. However, there is no mechanism for determining which of the state's current residents are actually able to provide the service; the presumption is made that long term residency equals capability. A court could well conclude that the purpose of the bill is not to evaluate the efficiency of state programs, but rather to benefit a particular class of citizens defined by residency. If the court accepted the stated purpose, it could well find that the "fit" between the purpose and the means of accomplishing it (that is, identifying the class by residency requirements) was not substantial. In either case, the program will probably fare no better (or worse) than the existing program.

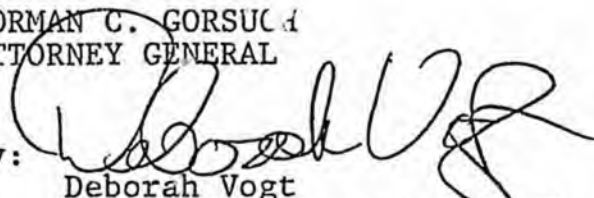
In sum, if the purpose of a bill which replaces the existing longevity bonus program is to find a clearly legal and valid method of benefitting senior citizens, the draft bill fails that purpose. The draft bill would almost certainly result in litigation, and has no significant legal advantages over the present program.

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

POSITION PAPER: LONGEVITY SERVICE PROGRAM

The Longevity Service Program is offered as a viable alternative to our current Longevity Bonus Program which was recently ruled unconstitutional by the courts. Although eligibility requirements of the new Longevity Service Program will be identical to those of the existing Longevity Bonus Program, the intent and the structure of the new program will be quite different.

The Longevity Bonus Program was founded on the premise that the contributions and sacrifices of the pioneers of our state should be recognized and rewarded. The program was designed to assist those senior Alaskans who were present at Statehood and who have elected to remain here during their retirement years. Although admirable in purpose, the program did not survive the court challenge of residency requirements.

The Longevity Service Program also recognizes the contributions of those who founded our great state. But in addition, it recognizes the potential for continuing service to Alaska by our most knowledgeable and valued residents. The financial compensation it will offer is not intended merely as reward for past service, as was the case with the Longevity Bonus, but will be provided in return for current service to the state.

Under the program, all qualified Seniors would enter into a contractual agreement with the state to provide efficiency evaluations of state agencies and programs. The performance evaluations would advise the Governor and the various departments on how to better serve the people of our state. They would also be utilized in planning and developing new programs.

The evaluations would be made on standardized forms to be provided on an annual or semi-annual basis. In return for their evaluations program participants would be compensated in monthly increments.

Few would disagree that the wealth of knowledge possessed by our most senior citizens is unique. They have witnessed and participated in the metamorphosis of Alaska from frontier territory to richest state in the union. They possess an unmatched historical perspective and are thus best able to evaluate the state's current performance and direction in providing public services.

The Longevity Service Program proposes to tap that wealth of unique knowledge. It is not proposed as an arbitrary reward to a select few for undefined services past, but as compensation to qualified individuals for specific and valuable service in the present. It would be a job relationship and like any job, there would be minimum qualification standards.

Representative Mike Szymanski

13-1713
Asper
1/12/84✓

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

IN THE HOUSE

BY SZYMANSKI

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act establishing the Historical Perspective Commission; relating to the purposes, powers and duties of the Historical Perspective Commission; and providing for an effective date."

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

* Section 1. AS 44.21 is amended by adding new sections to read:

ARTICLE 8. HISTORICAL PERSPECTIVE COMMISSION.

Sec. 44.21.410. HISTORICAL PERSPECTIVE COMMISSION. (a) The Historical Perspective Commission is established in the Department of Administration. The members of the commission include

(1) the commissioner of administration or the commissioner's designee; and

(2) six state residents who are eligible to contract with the state under AS 44.21.410 - 44.21.490; appointed by the governor.

(b) In making the appointments required by (a)(2) of this section the governor shall attempt to assure representation of low-income persons and minorities and representation from rural and urban areas of the state.

(c) Members appointed under (a)(2) of this section serve four-year terms and at the pleasure of the governor.

(d) A vacancy in the membership of persons appointed under (a)(2) of this section shall be filled by appointment by the governor. The person appointed shall serve for the unexpired portion of the term.

1 Sec. 44.21.420. MEETINGS. (a) The commission shall meet at the
2 call of the chairperson, at the request of a majority of the members,
3 or at a regularly scheduled time as determined by a majority of the
4 members. The commission shall meet at least four times each year.

5 (b) A majority of the members of the commission constitutes a
6 quorum for conducting business and exercising the powers of the com-
7 mission.

8 (c) The commission shall elect one of its members as chair-
9 person, and may select other officers it considers necessary.

10 Sec. 44.21.430. COMPENSATION. Members of the commission receive
11 no compensation for their services, but are entitled to per diem and
12 travel allowances authorized by law for other boards and commissions
13 under AS 39.20.180.

14 Sec. 44.21.440. POWERS AND DUTIES. (a) The commission shall
15 contract with eligible state residents to prepare annual historical
16 perspective evaluations of state government under AS 44.21.450 and to
17 perform other duties that may be assigned by the commission. Con-
18 tracts shall be awarded, within the limits of appropriations made to
19 the commission, to eligible applicants in the order that applications
20 are received by the commission.

21 (b) The commission shall prepare an annual report on the opera-
22 tion and efficiency of state government from an historical perspec-
23 tive, based on the historical evaluations submitted by eligible state
24 residents. The report shall be prepared on or before July 1 of the
25 year following the year for which the historical evaluations have been
26 submitted. The report shall be submitted to the governor and the
27 legislature and shall be made available to the public.

28 Sec. 44.21.450. HISTORICAL PERSPECTIVE CONTRACTS. A contract
29 entered into between the commission and an eligible state resident

1 (1) shall be for a period of one calendar year;

2 (2) shall require the contracting state resident to prepare
3 an evaluation of state government, on a form provided by the commis-
4 sion, from that resident's historical perspective as a resident of
5 both the territory and State of Alaska;

6 (3) may require that other work be performed by the con-
7 tracting resident, not to exceed a total of 100 hours;

8 (4) shall provide for a contract payment to the eligible
9 state resident in the amount of \$3,000, payable in monthly
10 installments during the term of the contract.

11 Sec. 44.21.460. ELIGIBILITY. To be eligible to contract with
12 the commission under AS 44.21.410 - 44.21.490, a person must

13 (1) be a state resident for at least one year immediately
14 before entering the contract;

15 (2) have resided in the Territory of Alaska for at least 10
16 years before January 3, 1959;

17 (3) have reached the age of 21 before January 3, 1959;

18 (4) have resided in the state at least 10 years after
19 January 3, 1959; and

20 (5) be 65 years of age or older at the time the contract is
21 entered into.

22 Sec. 44.21.490. DEFINITIONS. In AS 44.21.410 - 44.21.490

23 (1) "commission" means the Historical Perspective Commis-
24 sion; and

25 (2) "state resident" means an individual who is physically
26 present in the state with the intent to remain in the state indefi-
27 nitely and to make a home in the state; a person demonstrates the
28 requisite intent only by maintaining a principal place of abode in the
29 state for the one year required by AS 44.21.460(1) and by providing

1 other proof of intent the commissioner may require by regulation,
2 including proof that the person is not claiming residency outside the
3 state or obtaining benefits under a claim of residency outside the
4 state.

5 * Sec. 2. Of the initial six members of the Historical Perspective
6 Commission appointed by the governor under AS 44.21.410(a)(2), two shall be
7 appointed to two-year terms, two to three-year terms, and two to four-year
8 terms.

9 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
10 10.070(c).
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29



Alaska State Legislature

House of Representatives

February 23, 1983

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Representative Joe Hayes
Representative Jack Fuller
Representative Joe Flood ✓

FROM: Mark K. Johnson *MKT*
Staff Counsel
Representative Flood

SUBJECT: Meeting with Senate staff and consultant on Longevity Bonus

Upon the invitation of the counsel to the Senate Judiciary Committee, John Gabrielli, I met this morning with him and Jon Tillinghast of Birch, Horton, Bittner & Monroe for the purpose of listening to a conference phone call with representatives of a major insurance company on alternatives to the longevity bonus program.

Primarily, my purpose was to gain some understanding of the Senate's efforts in the durational residency area. To date, the focus of those activities has been the longevity bonus program.

Although the identity of the insurance firm was not revealed to me, Tillinghast and Gabrielli requested information from them on three different proposals involving the longevity bonus and the permanent fund dividend program:

(a) The first was an annuity program based on using the permanent fund dividend as principal. Individuals would elect (or be required?) to place their permanent fund dividends into the annuity for a period of five years, when their account would become "vested", and then when reaching retirement age, the earnings would be paid out over time.

(b) The second was a program based upon taking a percentage of the permanent fund dividend and placing that amount into a fund that would be used to make monthly payments to eligible individuals of a certain age. This would be very much like the present national social security program.

(c) The third plan calls for using all or a portion of the permanent fund dividend to fund a group health insurance program for the elderly and for others that wish to participate.

Gabrielli indicated that the Senate was looking at roughly 7 other proposals for programs to amend or replace the longevity bonus. He also indicated that they have not, to any significant degree, addressed any of the other durational residency questions.

In the course of the conference call, Tillinghast indicated that his report will be submitted to the Senate on March 7.

Longevity bonus savior hired

by Bill White
Times Juneau Bureau

Juneau — Senate leaders have hired a former assistant attorney general to give them options for saving the state's longevity bonus payments to senior citizens.

Jon Tillinghast, who went into private law practice in December, has been contracted for \$35,000 to present the options by March 7, and to draft and oversee legislation to preserve the program.

Rodney Vest, a 67-year-old Anchorage man, filed suit last summer to challenge the \$30 million bonus program. Only those Alaskan seniors who have lived in the state at least 25 years may get the \$250-a-month bonus. Vest says the residency requirement is biased against newcomers and therefore is unconstitutional.

Tillinghast represented the state in talks to settle the lawsuit. That settlement calls for lawmakers to revamp the program so all seniors who have lived in Alaska at least a year are treated alike.

Sen. Bill Ray, D-Juneau, said Tillinghast will do the footwork on rewriting the bonus program before his work is submitted to a "nationally recognized" constitutional

lawyer for review.

The solution to the longevity bonus lawsuit might also apply to the pioneers' homes, which require 15 years Alaskan residency before a senior citizen can get a room in one, he said.

The bonus and pioneers' homes are just two of dozens of state programs jeopardized by a U.S. Supreme Court ruling last summer. That ruling said states may not run programs that discriminate against new residents.

Ray said other programs in jeopardy because of long residency requirements — like student loans, fishing loans and state land lotteries — would be handled separately.

He called the longevity bonus and pioneers' homes problems "gut" issues that must be addressed at once.

Ray said Tillinghast's salary of \$130 an hour is the going rate for lawyers. His contract calls for payments up to \$35,000. Ray estimated the total will come to about \$25,000.

Ray added that Tillinghast's hiring is a joint project between

the Senate and House. He expects each chamber to pick up half the cost.

But that's news to House Speaker Joe Hayes, R-Anchorage.

Hayes said he heard Ray, as chair of the Senate Judiciary Committee, was going to hire a lawyer to study residency issues. But he didn't know his funds would pay part of the costs.

On Friday, Hayes wrote Attorney General Norm Gorsuch for his opinion on what programs were most in jeopardy. He asked specifically about the bonuses, pioneer homes, guide licenses, student loans and land-disposal programs.

Gorsuch's predecessor, Wil Condon, said last November some programs likely can't be defended successfully. But Gorsuch differed with Condon on fishing loans, which carry a five-year residency requirement. He endorsed regulations that changed the requirement to one year's residency.

Rep. Joe Flood, R-Anchorage, is heading the House's efforts on residency.

Anchorage Times

2/12/83

Joe -

7-9 Thu. time tonight
House Finance room

ISSUES IN LONGEVITY BONUS LEGISLATION

Cliff -
I've marked most important parts

Background

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

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

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

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

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

Issues

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

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

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

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

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

The 1972 legislation creating the program suggested four purposes:

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

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

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

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

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

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

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

3. What are the options?

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

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

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

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

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

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

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

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

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

(h) end the program;

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

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

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

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

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

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

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

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

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

4. Population issues.

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

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

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

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

5. Impacts of alternatives.

(a) Impacts on future litigation.

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

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

(b) Impacts on recipients.

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

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

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

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

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