

12159

HOUSE

JUDICIARY

through litigation or otherwise.¹⁹

The effect on Alaska Legal Services of these new restrictions was two-fold. First, the obvious result was having to turn away numerous individuals who previously could have been assisted by Alaska Legal Services, but now could not. Second, was the additional financial impact particularly felt by Alaska Legal Services due to the restriction on the collection of attorney fees in cases where Alaska Legal Services was the prevailing party. Alaska is one of the few states where the prevailing party in a lawsuit is awarded their costs and attorney fees. Alaska Legal Services traditionally relied heavily on this Civil Rule as a source of funding.

The impact on low-income Alaskans cannot be overstated. There are fewer attorneys than ever to serve a low-income population of over 66,000. In 1980, there was one Alaska Legal Services attorney per 1,233 persons living at or below the poverty line. By June 1996, that number was reduced to one Alaska Legal Services attorney per 3,700 persons living in poverty. Moreover, since the 1980's Alaska Legal Services has fewer offices in rural areas, which has forced a major shift in its service delivery. There are large groups of people who are no longer eligible to receive Alaska Legal Services assistance and no other organization in place that can fill the gap to meet these needs.

¹⁹ There are several other restrictions impacting LSC funding recipients. The ones listed focus on the kinds of clients and cases that can be accepted by an LSC funded program.

IV. Sub-Committee Findings and Task Force Approved Recommendations

A. Non-Alaska Legal Services Eligible Subcommittee²⁰ - Income and Legislation

Introduction: This subcommittee focused on the needs of persons whose income is above the federal poverty level, but who cannot afford to hire private attorneys to handle their legal needs. This includes two subcategories: the near poor (income from 125% of the federal poverty standard to \$27,000) and the moderate-income population (those with income between \$27,000 and \$45,000). The focus of this subcommittee was additionally on those who are not eligible for assistance from Alaska Legal Services by virtue of federal legislation (prohibition on Legal Services programs handling class actions, abortion rights cases, prisoner's rights cases, cases involving administrative rule-making etc).

Findings:

- There is extensive anecdotal evidence that a substantial portion of Alaska's population cannot afford legal services. It is difficult to accurately define this population due to the lack of income data, the wide variance in cost of living and availability of lawyers among Alaska communities, and the questionable usefulness of extrapolation from data from other states.
- There is enough information available from the latest census survey (completed in 1989), combined with information from California about the legal needs of the poor in that state, to permit some reasonable assumptions to be made. The household income data from 1989 illustrates the enormity of the problem of access to civil justice in Alaska. Of 190,000 Alaska households, 51,000 had incomes ranging from \$15,000 to \$35,000. This represents 27% of Alaska's population. Given the low but steady rate of inflation over the last nine years, this population group arguably includes both the near-poor and the moderate-income designations used in California and other states.
- Further complicating the issue of access to civil justice is the fact that another 28,000 households that are likely eligible for legal assistance from Alaska Legal Services, by virtue of their income being below the federal poverty guidelines, have seen the availability of such services decline dramatically with the cutbacks in that agency's mandate and budget. In sum, for nearly

²⁰ A separate subcommittee was created to address the needs of immigrants who are also not eligible for assistance from Alaska Legal Services due to recent federal legislation prohibiting Alaska Legal Services from providing assistance to them. A second separate set of findings and recommendations therefore have been prepared for the immigrant population.

80,000 Alaska households, or 42% of Alaska's families, reasonable access to legal services is at best problematic and is likely to be non-existent.

- California used a sophisticated analysis that concluded that that state's near-poor, a population of over two million, experienced approximately 0.9 legal incidents per year and generated over 800,000 unmet legal needs per year. In short, the total of unmet legal needs is approximately 40% of the total number of persons in the near poor population. Through conservative extrapolation, it is clear that each near-poor household is likely to experience at least several unmet legal needs over a five-year period.

Recommendation:

It is recommended that the Alaska Bar Association develop an Alaska "Modest Means Program" to provide low- and moderate-income Alaskans access to legal representation by attorneys who have agreed to charge a reduced hourly rate for their services. The program would impose no restrictions on the type of cases in which the volunteer lawyers would provide services, thereby offering assistance to those who would not be represented by Alaska Legal Services due to the nature of their case. Obviously, however, if there were no lawyers in a given location who have the skills to provide representation in a particular specialty, the Bar Association would not be able to make the referral.

This program would be similar to the Oregon State Bar Modest Means Program. Like the Oregon model, the Alaska Bar Association would administer this program. The Bar Association would be responsible for screening clients and referring them to members of the lawyer volunteer panel. Again, like Oregon, Alaska's screening criteria would be 200% of the federal poverty guidelines which would be approximately \$2,000 monthly for a single person, or \$4,200 for a family of four. These caps could be adjusted periodically depending on the numbers of applicants and available lawyers during specific time periods.

Private attorneys who participate in Oregon's Modest Means Program have agreed to charge reduced fees for legal work performed on behalf of clients referred through the program. In Oregon that rate is \$40.00 per hour, and in Orange County, California, \$80.00 per hour. It is recommended that Alaska should adopt a fee of \$50.00 or \$60.00 per hour with the lawyer able to charge an initial consultation fee of \$50.00. Whether or not the initial attorney is retained would be up to the potential client and that attorney after the first visit. Retainers could be charged, but they would be expected to be commensurate with the hourly rate. Case costs would be borne by the client.

The costs of such a program would be significant. The Bar Association (or some other entity) would have to process written application from applicants and make eligibility decisions. The process would then involve locating an attorney willing to take that type of case and making the referrals to the client.

As noted above, the most recent income data noted above indicated that 27% of Alaska's population had incomes ranging from \$15,000 to \$35,000. If one assumes that the percentage that could be labeled modest means is still approximately correct, then about one quarter of Alaska's families would be eligible for this program. Given the huge numbers, it is recommended that a pilot program be created in Anchorage in order to test the program and make necessary changes before going statewide.

Issues still to be discussed include the appropriateness of the Alaska Bar Association as the entity responsible for screening and referral, eligibility criteria for clients, whether to rely upon an initial fee from the client and/or the lawyer in order to defray costs of the program, and whether a pilot program is appropriate.

B. Non-Alaska Legal Services Subcommittee - Immigrants

Introduction: This subcommittee focused on that portion of Alaska's population that is not eligible for assistance from Alaska Legal Services due to their citizenship status. Currently, federal law prohibits Alaska Legal Services from providing services to anyone who is not a United States citizen or permanent lawful alien, except in very specific circumstances.

Findings:

- Large immigrant communities reside in Anchorage, Fairbanks, Delta Junction, Kodiak and Juneau. Many of these immigrants fled from political persecution in their country of origin. Approximately 500 Russian refugees reside in Delta Junction. Forty-five percent of the population in Kodiak is foreign born, including approximately 1000 people from El Salvador.
- There are two private law firms experienced in immigration law in Alaska. Both are located in Anchorage.
- Catholic Social Services is the only agency in Alaska that provides no cost or low cost legal assistance to immigrants. Currently three attorneys work with the program, although only one provides direct case representation in immigration legal proceedings. The program receives an average of six hundred phone calls each month for legal assistance.
- The Pro Bono Program at Alaska Legal Services has tried to provide pro bono legal assistance to immigrants by arranging pro bono immigration clinics in Anchorage, Kodiak and Juneau. The Immigration Clinic in Anchorage has been very successful and well attended. The clinic in Kodiak, however, was terminated due to the attorneys' lack of immigration expertise.

- On average, one-third of the immigrants attending deportation hearings are not represented by counsel. Catholic Social Services represents approximately one-third of the immigrants who are placed in deportation proceedings. The private bar represents the remaining one-third.
- Congress has enacted three significant legislative acts relating to immigrants since September 1996, which has made legal assistance to immigrants critical. In Alaska, the greatest need for legal assistance is for the following issues: 1) naturalization of the elderly, disabled and low-income immigrants who lost their eligibility to receive food stamps and are barred for five years from receiving public assistance if they arrived in the United States after 8/22/96; 2) political asylum for the hundreds of individuals who fled El Salvador and reside on Kodiak Island who are eligible for a one-time interview with an asylum officer to gain legal residency in the United States; and 3) political asylum for the individuals who are not from El Salvador.

Recommendations:

1. Creation of a Pro Bono Program for political asylum applicants. To facilitate the creation of such a program it is recommended that:

a. The Alaska Bar Association send a letter to attorneys who pass the Alaska Bar Exam each calendar year to inform them of the Pro Bono Asylum Project and determine if they are willing to provide pro bono services to immigrants seeking asylum.

b. The Alaska Bar Association sponsor an annual Political Asylum continuing legal education program which will be free to attorneys and translators willing to provide pro bono representation and services to immigrants seeking asylum.

c. A coordinator be hired to coordinate the pro bono program and to mentor pro bono attorneys. More experienced immigration practitioners should also be asked to serve as volunteers and mentors. The recommendation is that such a coordinator be placed at Catholic Social Services.

2. Creation of a Naturalization Project to work with the elderly and disabled immigrants. It is recommended that the coordinator of such a program also be placed at Catholic Social Services. Possible sources of funding for such a program include Commission on Aging and the Mental Health Authority Lands Trust.

C. Alaska Legal Services Subcommittee

Introduction: This subcommittee focused on the current status of Alaska Legal Services, with a particular emphasis on ideas for developing new service methods and funding sources to support the organization.

Findings:

- Low-income Alaskans have a great unmet need for access to the civil justice system. The only way to meet this need is by having more attorneys and support staff at Alaska Legal Services and therefore ultimately by increasing the funding for Alaska Legal Services.
- By creating this Task Force, the Alaska Supreme Court has recognized that judicial support of a system for providing equal access to justice for the poor and those of moderate means is warranted. This judicial support violates no canon of judicial ethics. Rather, it is an acknowledgment that the absence of legal advice and representation is detrimental to the general public.
- Promotion and protection of equal access to justice is the responsibility of all three branches of government, the organized bar, and the community.
- Federal, state, and local governments share the blame in failing to adequately fund programs that would assure all persons equal access to justice. Unfortunately, the private bar and donors have not been able to fill the gap.
- Alaska Legal Services, now in its 33rd year, is the only organization established and qualified to provide a fairly comprehensive range of civil legal services (subject to federal restrictions) to poor people statewide. Alaska Legal Services has gone from a high of 98 staff persons in 14 office locations, to a reduced staff of 37 with eight office locations, one of which is staffed only half time by a paralegal.
- The dramatic decrease in state and federal funding of Alaska Legal Services caused by Congressional and state legislative action has forced the closure of Alaska Legal Services' offices primarily in rural Alaska. These closures have denied essential services to the people in these areas who often lack local assistance for even the simplest of matters (for example: completing public benefits applications, small claims court forms, or responding to court papers). Urban residents in contrast have such assistance. Compounding the problem in rural areas is the fact that with the opening and closing of several rural Alaska Legal Services' offices in the past few years, many rural residents are no longer aware that Alaska Legal Services still exists and is available to help them with a legal problem.
- The lack of Alaska Legal Services staff throughout the state has resulted in increasing numbers of individuals becoming pro se litigants. Often they do

not adequately understand the laws that govern their case, nor the procedures to follow, and are unable to successfully present their case. Their cases are often dismissed for technical reasons. Moreover, pro se litigants cause other problems, including major delays, which affect the entire court system.

- Alaska Legal Services has taken a number of steps to address the decline in funding including reducing overhead, staff, hours of various individual staff members, and benefits. At the same time, Alaska Legal Services continues to upgrade technologically to improve intake and client-handling procedures. Until only very recently, Alaska Legal Services was operating with a 10 year old telephone system and also only recently obtained modern, networked computers. The lack of newer technology limits the existing staff's efficiency and ability to serve a larger number of potential clients requesting assistance daily. The existing staff, committed to the cause of equal justice, cannot be asked to make further sacrifices, and cannot alone bear the burden of providing equal access to justice. An adequate number of attorneys must be available to effectively meet client needs.
- The new federal regulation that prevents legal services programs from collecting attorneys fees from the losing party in litigation (P.L. 104-134, sec. 504, 42 U.S.C. 2996e(d)(6)) has a particularly strong negative effect on Alaska Legal Services because of Alaska's Civil Rule 82, which provides for such fee awards. Alaska Legal Services had traditionally relied on this source of money as a significant supplement to dwindling government funding.
- The State of California created a Task Force similar to Alaska's to study the problem of equal access to justice. Its report, "And Justice for All -- Fulfilling the Promise of Access to Civil Justice in California" (1996) has been of significant help to this subcommittee. The California report's "Summary of Findings, Recommendations, and Options Regarding Funding" (pages xxiv, xxv, xxvi) presents many points applicable here. See, especially, Findings 1,2,3,4,5,6,9,11,12. (Attached as Appendix C).

Recommendations:

1. Secure significant increased funding for Alaska Legal Services through traditional state and federal funding sources.
 - a. Get vocal support for adequate levels of funding for Alaska Legal Services from effective lobbying groups, such as the League of Women Voters.
 - b. Build a political constituency, and persuade Congress and the state Legislature to appropriate an adequate amount of money to maintain a system for providing Alaska Legal Services with adequate funding.

2. Secure additional funding for Alaska Legal Services from other sources.

a. Establish an Alaska Legal Services Foundation (ALSF) and an endowment fund.

b. Encourage attorneys to explain to their clients the need for funding equal access to justice and to work with their clients in including Alaska Legal Services or the ALSF in their charitable estate planning. Promote the idea of non-attorneys (as well as attorneys) making gifts to Alaska Legal Services or ALSF.

c. In addition to the traditional legislative appropriation, explore the "designated program receipts" approach to state funding (such as by means of a filing fee surcharge, as in Hawaii and some other states), so as not to violate the "dedicated fund" prohibition of art. IX, sec. 7, of the Alaska Constitution. Work with the Department of Law, the Department of Revenue, and the Court System in exploring this approach.

d. Work with Alaska's Congressional delegation to remove the federal statutory prohibition preventing the collection of attorney fees from the losing party in litigation, at least in Alaska where Civil Rule 82 provides for such fee awards.

3. Increase rural staff so local Alaska Legal Services offices can provide assistance and representation to rural Alaskans. Reopen rural Alaska Legal Services offices with attorneys on staff, focusing first on those communities with a superior court.

4. Coordinate with other service providers, particularly in rural areas where there already may be a network of providers or staff willing and able to establish an alliance with Alaska Legal Services. For example:

a. Adult Basic Education (ABE): this organization has an office in Nome and staff throughout a number of villages that, among other things, provides people with assistance in completing government and court forms. The ABE village staff has access to a telephone, fax, and computers, and the agency has already expressed an interest and willingness to coordinate services with Alaska Legal Services.

b. Alaska Network on Domestic Violence and Sexual Assault: Alaska Legal Services should work with the statewide DV network and its Legal Advocacy Project (LAP) in the "mentoring" program, to provide training to private attorneys and to develop a desk manual, including simplified forms. Alaska Legal Services and the LAP should also continue to coordinate efforts to secure additional funding for attorneys to provide legal representation for victims of domestic violence/sexual assault and to increase the pool of existing pro bono attorneys for these cases.

c. Local paralegals: Short of opening (or re-opening) rural offices, Alaska Legal Services should hire or contract with paralegals in rural Alaska who can be trained to do intake and screen clients for representation. The paralegals could conduct intake on a regular basis in their home community and make regular village trips for intake interviews. A local person regularly providing this service would become a visible and recognized link between Alaska Legal Services and the community, increasing access to the civil justice system.

5. Petition the Alaska Supreme Court for a rule change to permit Alaska Legal Services paralegals (under the supervision of an Alaska Legal Services attorney) to appear in court and before administrative agencies on behalf of clients in certain proceedings.

6. Coordinate a request to the American Bar Association regarding law student externships outside a school's geographical areas to permit law students to come to Alaska (a state with no law school) and work with Alaska Legal Services for their externships.

7. Consider developing a more coordinated initial entry into the court system by the creation of a "Citizens Advice Bureau" (CAB) or a similar organization. The CAB is an organization in the United Kingdom that provides "free, confidential, independent and impartial advice on every subject." CABs perform a "gateway" function with respect to legal services. See National Association of Citizens Advice Bureau, <http://www.nacab.org.uk>.

In Alaska, such an organization could:

a. assist people in solving individual problems that are now handled by Alaska Legal Services (such as benefits),

b. help people who are turned away by the ombudsman's office because their problems lack broader implications, or those who are turned away by both Alaska Legal Services and the ombudsman's offices because of lack of staff to handle the problem,

c. screen legal problems and send cases to lawyer referral, the pro bono program, Alaska Legal Services, private counsel, domestic violence programs etc., and

d. deal with some of the advocacy issues now left untended due to cuts in the consumer protection and ombudsman budgets and to federal limitations on the use of Alaska Legal Services money.

D. Pro Bono Services Subcommittee

Introduction: This subcommittee focused on encouraging members of the Alaska Bar Association to donate attorney services to persons who cannot afford to hire attorneys to represent them.

Findings:

- The Alaska Pro Bono Program (APBP) is currently the only fully staffed direct delivery model in Alaska. The APBP is part of Alaska Legal Services and closes more than 1200 cases each year. Of these, 30% are direct referrals to attorneys, and 70% are advice-only services provided through a variety of clinics. Under the operating procedures of the APBP, only cases accepted by an office of Alaska Legal Services may be referred to a volunteer attorney through the auspices of the APBP. When intake at Alaska Legal Services offices is reduced, the number of cases referred to the APBP is likewise reduced.
- About 960 Alaska attorneys participate in the program. These attorneys represent 43% of the active, in-state members of the Alaska Bar Association, but 59% of the "available" bar members (it does not include judges, legislators, Alaska Legal Services staff, lawclerks, Public Defenders, District Attorneys and others who might be prohibited from participating in the APBP by statute). At any one time, about 300 of these volunteers are available to accept a referral. However, the ability to refer a case is dependent on the volunteer's stated willingness to accept a case in a particular area of law. If, for example, a person needs assistance with a housing case, and none of the available attorneys have expressed a willingness to accept a housing referral, then it is unlikely that the person will receive help.
- Although several new pro bono programs have recently been started, they are of limited and/or local scope -- handling a select type of case or serving a local population. They do not offer their volunteers cost reimbursement or malpractice coverage, nor do they ensure that an alternate attorney can be found if the volunteer attorney must withdraw.
- The current structure of the APBP does not allow it to accept cases on behalf of people where Alaska Legal Services either has a conflict of interest, or where Alaska Legal Services is prohibited from accepting cases due to restrictions placed on Alaska Legal Services funding by Congress.
- By recent estimates, the number of identified instances where a person was denied assistance at an office of Alaska Legal Services (and by extension to the APBP), by reason of conflict of interest ranged around 400 per year. Some of these situations may involve persons who would be eligible for an

attorney appointed through the "Flores"²¹ appointment process. Others are forced to seek volunteer or low-fee legal assistance on their own, or do without. There are no available statistics to adequately determine the number of people who never seek assistance through Alaska Legal Services because they are already aware of a conflict of interest.

- On October 22, 1998, the Alaska Bar Association adopted a resolution to serve as an ethical consideration which "Recognizes and supports the professional obligation of all attorneys to devote a reasonable amount of time to pro bono and other public service activities that serve those in need or improve the law, the legal system, or the legal profession." A proposal to adopt the American Bar Association's model Rule 6.1²² was introduced to the Alaska Bar Association at the annual business meeting in 1996. That proposal was referred for further consideration to the Alaska Rules of Professional Conduct Committee and is still pending.
- Most people seeking pro bono legal representation in a civil legal case must qualify for free legal assistance through Alaska Legal Services. With few exceptions, Alaska Legal Services may only represent people whose income falls at or below 125% of the published Federal Poverty Income Guidelines. While it is estimated that tens of thousands of Alaskans meet this needs-based test, it is also abundantly clear that many more thousands (the working poor) may not meet this extremely severe eligibility criteria, yet may require legal assistance which they cannot afford.
- The inability of people to afford legal representation has resulted in ever-increasing numbers of pro se litigants in state and federal courts, and has placed an increasing pressure on the bar to render public service by providing pro bono legal assistance.
- Some public-sector attorneys are prohibited by statute from performing "outside practice of law" and are therefore not able to represent individuals through the auspices of a pro bono program. However, many of these attorneys are not so restricted and their ability to provide legal assistance to the poor on their own time is limited only by the latitude given them by their supervisors.

Recommendations:

1. Law clerks should be allowed to participate as volunteers through the Alaska Pro Bono Program.

²¹ A "Flores" appointment refers to the right to a free court appointed attorney in a custody proceeding where the other party is represented by Alaska Legal Services, and the applicant would be financially eligible for the same service but for the fact that Alaska Legal Services is representing the opposing party.

²² A copy of the American Bar Association's model Rule 6.1 is attached at Appendix D.

2. Judges should find ways to encourage pro bono activities by being considerate of scheduling difficulties for pro bono attorneys, providing assistance in recruiting pro bono volunteers, and participating in programs and training.
3. The Alaska Bar Association should adopt the American Bar Association Model Rule 6.1.
4. The Alaska Bar Association should provide free or low-cost continuing legal education programs to pro bono attorneys in the areas of poverty law, provided that the attorney would then be obligated to take a pro bono case. (This has already been implemented).
5. The Alaska Bar Association should create a low-fee or moderate means panel of attorneys willing to assist those people who are over-income for assistance through the APBP, but still unable to retain an attorney.
6. The Alaska Bar Association should especially encourage public-sector attorneys to provide pro bono and public service assistance.
7. Alaska Legal Services in cooperation with the APBP should re-examine its internal definition of conflicts to allow for greater flexibility and more referrals to pro bono volunteers. The APBP should reconfigure its internal procedures to increase the referrals of "conflict cases."
8. Alaska Legal Services should broaden its internal case-intake procedures to allow for a greater number of and more varied referrals through the APBP.
9. The APBP should develop a mentoring program.
10. The APBP should discontinue the practice of automatically accepting a case back from a volunteer at mid-point.
11. Law firms should be encouraged to participate more fully in the APBP.
12. The APBP should broaden its referral procedures to allow for more varied referrals.
13. The APBP should coordinate with other existing pro bono projects and programs to insure that better and non-overlapping services are provided.
14. The APBP should adopt administrative procedures that would allow for attorneys to assist other pro bono attorneys by doing discrete tasks such as research.

15. The Alaska Bar Foundation should continue to fully fund the Alaska Pro Bono Program.

16. The Alaska Bar Foundation should continue to seek new ways of increasing IOLTA revenues.

E. Alternate Dispute Resolution Subcommittee

Introduction: This subcommittee focused on ways in which alternative dispute resolution (ADR) methods, such as mediation and arbitration, can address civil justice needs.

Findings:

- There exists a lack of statewide coordination of various groups', businesses' and individuals' efforts to increase ADR alternatives in Alaska. There is a need then to focus this energy and these efforts.
- There are currently no state or professional standards, guidelines or requirements in Alaska for the certification or regulation of mediators. There are several reasons for this:
 - Disputes in Alaska involve a variety of people, cultures, languages and backgrounds that make it difficult, if not impossible, to create a set or sets of requirements for defining a qualified mediator.
 - Similarly, the skills and talents of a successful mediator do not necessarily depend on traditional or objective predictors of competency. Formal education and testing do not, alone, adequately determine the competency of a good mediator. A person's reputation within a community, their background and culture, their familiarity with the context of a dispute, their language skills and their talents in facilitating a discussion are additional skills that are not easily certified.
 - Dispute resolution/conflict management processes come in many different forms that are mistakenly lumped together under the umbrella of mediation. Such processes include judicial and non-judicial settlement conferences, early neutral evaluations, and facilitative and evaluative mediations. These distinctions complicate the question of qualifications and certifications for those involved in providing these processes.
- There is little, if any, dialogue and education among and between the professionals who provide and those who can benefit from ADR processes.

- Although ADR processes seem like a perfect match for rural communities in Alaska, three problems exist in providing viable access to these communities:
 - lack of long-term stable ADR presence;
 - lack of adequate and reliable training for those interested in providing ADR; and
 - lack of funding.

- There are specific issues relating to the use of ADR in domestic relations cases due to:
 - the increasing complexity of domestic relations law;
 - the need to effectively recognize and handle large power imbalances, particularly in cases where physical and/or emotional abuse has occurred; and
 - the perceived division between lawyers and ADR providers about the risks and benefits of ADR in domestic relations cases.

Recommendations:

1. Appoint a standing statewide steering committee to evaluate and coordinate statewide ADR needs and make periodic recommendations to the Judicial Council for adoption.

a. The committee should include representatives from each of the entities most likely to be impacted by the committee's recommendations, including members representing ADSA, the Alaska Bar Association, the court system, tribal governments, the legislature, the business community, the educational community, the family law and ADR sections of the Alaska Bar and other stakeholder groups.

b. The initial scope of the committee's work should include discussion and the formulation of recommendations that address the issues and recommendations outlined in this report.

c. The Judicial Council should undertake an effort to seek technical assistance and expertise for the organization and structure of this committee.

2. The court system and/or the executive branch should undertake efforts to establish a statewide ADR Coordinator to serve as a resource for communities, groups and people in Alaska to use for establishing, accessing, or strengthening ADR alternatives.

3. Recommend against a comprehensive certification/evaluation program in favor of approaching the issues of qualifications in small, incremental steps, learning and reassessing as the field grows and changes.

4. Focus on a qualification program that is based as much as possible on criteria that accurately predicts successful performance and ethical practice. (For specific examples of this please refer to the Report to the Alaska Legislature: Alternative Dispute Resolution in the Alaska Court System, at 44, 17 December, 1997).
5. Avoid credentialing criteria that create roadblocks to training, learning and practicing mediation skills, instead focusing on developing a credentialing system that enables and encourages dialogue and learning about ADR opportunities and alternatives.
6. Evaluate existing professional certification programs and recommend specific programs for the State to formally recognize.
7. Consideration of a mandatory occupational state licensing or registration program for mediators to provide basic oversight and accountability as a way of addressing the concern of consumer protection.
8. Presentation on updates on ADR trends and progress at annual statewide judicial conference.
9. Encourage the court administration to research and apply for ADR training grants.
10. New admittees to the Alaska Bar should be required to take a mandatory CLE on ADR similar to the current new admittee mandatory ethics CLE requirement.
11. Every annual statewide Alaska Bar Convention should offer an ADR component.
12. Mediation and ADR processes should be explicitly excluded from the Alaska Bar rule defining the practice of law.
13. Support an ADR homepage/internet site for Alaska.
14. The court system should examine the feasibility of training magistrates to provide ADR/mediation training and resources.
15. Encourage rural communities and native corporations to explore joint ventures for establishing community based ADR. Joint ventures could be made up of representatives from the court system, native corporations, local businesses, school districts and municipalities.

16. Support and establish funding for providing effective access for trained and qualified urban mediators to go to rural communities to provide local ADR services by:

- a. funding an ADR staff member in a community;
- b. subsidizing a mediator's time and travel, on a sliding scale, based on participant's ability to pay;
- c. videoconferencing alternatives;
- d. establishing a network of willing mediators; and
- e. encouraging pro bono ADR services by the Bar and ADSA members.

17. Encourage the court system to establish in rural court libraries a pool of resources (videos, training booklets) on ADR for lay people to use.

18. Encourage a paradigm wherein lawyers refer clients to ADR and then review and advise the clients regarding the parties' written agreement.

19. Work with and through the Alaska Bar Association and the Alaska Network on Domestic Violence and Sexual Assault to provide training for mediators on domestic violence and on how to effectively screen out inappropriate cases involving domestic violence.

20. Increase education and training for ADR providers, attorney advocates, and the judiciary on the effectiveness of ADR in domestic relations cases.

21. Increase education and training for ADR providers, attorney advocates and the judiciary for screening, recognizing, and handling cases in which there has been domestic abuse.

22. Explore and pursue outside funding, resources and assistance for ADR training in domestic relations cases.

23. Obtain funding (through legislature or increased filing fees) to provide for a statewide ADR/mediation referral and education center.

F. Community Legal Support and Education Subcommittee

Introduction: This subcommittee focused on evaluating how public support of and education about the legal system and programs attendant on that legal system could improve access to justice.

Findings:²³

- For entirely legitimate reasons of funding, staffing, case control, and others, Alaska Legal Services' ability to match needy clients with lawyers willing to perform the services is constrained. Additionally, for similar reasons, the intake processes of Alaska Legal Services and other organizations generally are designed to function well for the organization, but are not customer oriented. Additional referrals to Alaska Legal Services and others resulting from heightened public awareness might not produce greater access to civil justice due to intake bottlenecks.
- The referral and intake problem is exacerbated by the multiplicity of programs that in theory are available to serve low-income clients or others with special needs. (Alaska Legal Services, pro se clinics, APBP, Alaska Bar Association Lawyer Referral Service, Alaska Native Justice Center, Catholic Social Services Immigration Program, Disability Law Center and private attorneys volunteering outside the formal APBP). Each of these service providers has different schedules, different locations and different rules for case intake, handling and referral. As a result, some clients can go or be sent from place to place without effectively being served.
- The problems some indigent clients bring are, in the final analysis, not really legal problems, or not problems best resolved by the justice system. They nevertheless consume valuable intake time of Alaska Legal Services and volunteer or reduced fee lawyers. Other problems may be legal in nature but could, with a reasonable level of education and support be handled by the individual pro se.
- The number of cases that could be assigned to volunteer lawyers could be substantially increased if more support and education were available to those volunteers. For example, even though family law, child custody, and social security benefits are among the areas most in need of free legal services, many lawyers will not volunteer to handle them because they feel they lack the specialized knowledge necessary to be effective. There are experienced lawyers at Alaska Legal Services, Office of Public Advocacy and in the private bar who are willing to provide informal guidance, prior research, briefs, and forms to volunteer lawyers, but there is currently no effective centralized mechanism to access this information.

²³ This subcommittee has made several simple recommendations, however, these are tempered by the following paradox: Even if the Task Force successfully increases public awareness of programs that provide access to civil justice for those who cannot otherwise afford it, at this time, those programs could not handle the increased workload that the increased access would generate. (See Pro Bono Services Subcommittee findings re: the provision of free legal services being dependent of the intake process at Alaska Legal Services for services provided both by Alaska Legal Services and the APBP).

- Rural access to legal services programs, and to information about them, is severely constrained by budget, communications capability, and other well-known factors. The Alaska Native Justice Center has a radio program that occasionally addresses legal issues, but legal education outreach to Bush Alaska remains very limited.
- It is obvious that public support of the need for access to civil justice, and of the social value of free legal services, has waned. It is also more difficult for the general public than for lawyers to accept the notion that increasing the amount of legal services for anyone (perhaps particularly the indigent) is a valuable public good. Yet meaningful political support to provide necessary funding (or to stem opposition) depends on adequate public support. The traditional method of speeches or articles written by members of the bar will be inadequate to build sustained public support. This needs to be done professionally and thoroughly, by means of a marketing strategy designed to work in the real world.
- The establishment of an innovative low-income legal access program for small businesses would help demonstrate to the business community the need for, and the benefits of, low-income legal access programs generally. Support in the business community would in turn help engender necessary political support for a broader range of low cost legal access services.

Recommendations:

1. A customer-oriented "One-Stop Shopping" intake and referral service for low-income clients with potential legal problems should be established. The use of paralegals and paralegal students could greatly enhance the services such a center could provide, and it would therefore be appropriate to attempt a coordinated externship program with the University of Alaska's Justice Center. Moreover, it is recommended that such a center be started as a pilot project under the auspices of the University. The program could be offered at an appropriate off-campus location in Anchorage and also at University sites in Fairbanks, Juneau and perhaps other locations. If successful, the program could be transferred to the Alaska Bar Association for continued operations.

The "One Stop Shopping" service would be charged with providing staff who:

- a. understand the program rules and guidelines for existing free or low-cost legal services providers;
- b. perform sufficient intake to determine if the case is truly legal in nature and merits resolution by the legal system; whether the case could be resolved on a pro se basis; if a lawyer is required, provide a referral to the appropriate program and advocate for acceptance of the case by the program;

- c. maintain and publicize an accurate schedule of pro se clinics provided by Alaska Legal Services and other organizations;
- d. maintain a library of forms and legal self-help literature in as many languages and formats as possible; and
- e. maintain and publicize an 800 number, e-mail access, and fax access for its services;
- f. perform its mission in a customer-oriented fashion.

Such a program could reduce burdens on existing organizations if properly supported by them by:

- a. administering the lawyer referral service currently managed by the Alaska Bar Association;
- b. administering intake for various legal services programs, thus freeing up program resources; and
- c. matching clients with volunteer lawyers who are not handling cases through the formal Pro Bono program.

It is estimated that the costs of such a program would run approximately \$200,000 per year. This cost could be mitigated by folding in the current Bar referral program, reducing intake costs of Alaska Legal Services and other programs (which might reduce costs or free up time for services in such programs), and by in-kind donations. Funding for forms, library, and pro se education may be available through grants and through the Court System. Initial inquiries regarding federal funding for such a pilot project have received a positive response so far.

2. Time efficient, user-friendly pro bono continuing legal education programs to train volunteer lawyers in specific subjects need to be implemented and strongly supported by the Alaska Bar Association. These could be offered tuition free, as these lawyers would be committing volunteer time to handling cases as well as to attending the programs. The proposed "One Stop Shopping" service could serve as a resource for materials and mentors for volunteer lawyers.

3. The Court System should implement a Community Education and Communication plan in cooperation with appropriate organizational agencies.

4. The University of Alaska Anchorage (UAA), UAA Small Business Development Center (UAASBDC), and the Alaska Bar Association should establish a small business low income legal access program called "Legal Line". This program would:

- a. Provide preliminary (up to one hour per every eight week period or other acceptable time range) telephone assessment on legal problems for small businesses that fall outside the areas served by Alaska Legal Services,

the Alaska Native Justice Center, and other agencies. For those needing further assessment as determined by the Legal Line, a list of attorneys willing to be referred would be provided. These attorneys would provide services at a discounted rate.

b. The clients of such a program would be small businesses or individuals that would pay for the program on a yearly sliding scale fee based on income. A program menu could be developed to give more services for a higher yearly fee. This could be promoted through Chamber of Commerce type organizations.

c. An attorney who is on staff through the UAASBDC and the Justice Center would provide oversight. Assistance would come from students who are in the paralegal program.

d. Statewide reach could be provided through the UAASBDC, UA Juneau, and UA Fairbanks.

Costs for such a program would be approximately \$150,000 with funding provided through client fees and grants from the Justice Department and Department of Commerce.

5. The University of Alaska Anchorage should develop a legal clinic at the UAA Justice Center to address the needs of clients that Alaska Legal Services cannot represent because of personnel limitations. The Justice Center could offer a part-time clinic supervised by an attorney in which Paralegal Certificate students would learn substantive legal work through the internship program. The Justice Center would modify the existing internship program slightly to allow students to do the second semester as an advanced legal placement in lieu of a law elective.

Such a program would require hiring additional personnel at the Justice Center, as well as arranging alternative office space, preferably in a more central and easier location (with better parking, for example). Another possibility might be to have the clinic travel to different locations such as Covenant House and Brother Francis Shelter. One half-time attorney and one paralegal/secretary could supervise and train the interns, who would conduct client interviews, conduct case investigations, assist with pro se paper filing, perform legal research and writing, draft pleadings and discovery requests for the attorney's review and other tasks as necessary.

This program could be mutually beneficial for the Justice Center and currently unserved clients. For example, it could be offered during after work and weekend hours. Many students are already employed and cannot afford placement in regular work hours, and many clients are at work when lawyers are available. The after hours aspect of the clinic would address both needs. Such a clinic would also augment the Justice Center's academic program by offering a superior internship experience for Paralegal Certificate students. The Justice Center has indicated a willingness to pursue such a program, and has prepared

preliminary outlines of a program structure and responsibilities for a supervising attorney.

The cost of such a program would be approximately \$100,000 per year.

G. Pro Se Litigants Subcommittee

Introduction: This subcommittee focused on the needs of persons who represent themselves in legal matters.

Findings:

- Pro se litigants face a number of hurdles when attempting to represent themselves in court including: a lack of knowledge and education about the legal issues involved, an inability to properly draft motions and follow court procedures as set forth in the Rules of Court, and failure to serve papers on the opposing party. Furthermore, pro se litigants make inappropriate telephone calls and have inappropriate contact with the court and judges' chambers, and take up extensive use of court time due to their lack of knowledge and their noncompliance with the basic court rules.
- Alaska Legal Services conducted a one-week informal survey of calls requesting assistance and found there were 163 Anchorage calls, and 52 rural calls. Of the 215 potential clients, 42 were interviewed and either given advice on how to handle their case or were accepted for representation; 88 were referred to Alaska Legal Services educational clinics, 70 were referred to the Lawyer Referral Service, and 15 were referred to other social services agencies. Of the 215 calls, about 100 were family related matters and 44 were landlord/tenant matters.
- Approximately 30% of the calls to the Alaska Native Justice Center are related to family law, child custody and child support issues.
- There is a lack of effective access to the court system for unrepresented litigants in family law matters. Even access to information about family law issues is limited with clinics sponsored by the Alaska Pro Bono Program existing as the main source of information for many litigants.
- Many victims of domestic violence remain in the home where the violence is occurring due to lack of resources, representation and understanding of family law.
- Individuals residing in rural areas lack access to the courts generally, but especially with regard to domestic violence issues.

- The United States District Court staffs an attorney position and created a handbook to assist pro se litigants in federal court. It appears that having an attorney and a handbook for these pro se litigants has been considerably helpful to the federal court in screening cases, setting out procedures in pro se cases, and managing them.

Recommendations:

1. Creation of a Pro Se Litigants Handbook for state courts.
2. Creation of statewide step-by-step packets with sample forms for various proceedings (e.g. will packets, probate forms, Petition for Protective Order/Domestic Violence, Power of Attorney, Divorce, Custody and Child Support Modification Packets). The packets can be available for distribution in various appropriate locations such as hospitals, medical facilities, libraries, funeral homes, churches, school campuses, Alaska Legal Services, Alaska Native Justice Center, and other non-profit organizations, and would be periodically updated as necessary.
3. Creation and presentation of educational courses for medical personnel on the process and procedures for filing domestic violence petitions.
4. Creation and presentation of educational and informational television ads with different weekly topics in the rural areas on RATNET and other statewide networks.
5. Offer Alaska Pro Bono Program's clinics twice monthly, with an evening class scheduled for those working during the day. Additionally, the APBP clinics should be available statewide on video or audiotapes for a minimal cost at local video stores, public libraries, tribal council offices, or local grocery stores.
6. Creation of simple "Request" and "Complaint" forms for Pro Se litigants requesting civil relief in the state courts.
7. Extend the Alaska Court System's business hours to allow for after hours filing, hearings and research.
8. Review and develop shorter time frames for child support modification and dissolution hearings.
9. Implement uniform statewide procedures and rules to allow parties to file domestic violence petitions by facsimile.

10. Expand the Alaska Court System's website to include: a) general legal education and information and, b) commonly used court forms that may be downloaded and printed.

11. Create and educate a statewide network of magistrates, village councils, social workers etc. to assist in disseminating information to Pro Se litigants.

12. Create a 1 or 2 year statewide Program Developer position for the Alaska Court System. The Program Developer will educate the court staff on the needs of Pro Se litigants and assist in implementing changes to meet these needs. The person filling this position will also act as a liaison between the Implementation Task Force (responsible for implementing the recommendations agreed upon by this Task Force), and Court staff. Additionally, the Program Developer will research the feasibility of creating a state Pro Se Management position and a state Pro Se Litigants' Attorney position.

13. Re-examine the process for creating court forms with the goal of creating forms that are in simple English and easy to use.

H. Fundraising and Public Relations Recommendations

Introduction: This subcommittee was put together by Alaska Legal Services' development director and served only as an adjunct committee to the Access to Civil Justice Task Force. The subcommittee examined ways that Alaska Legal Services could broaden its fundraising and public relations efforts with the view that any recommendation proposed by this subcommittee would be specifically geared towards Alaska Legal Services.

Recommendations:

1. Develop locally driven, annual Private Bar Campaigns in each of the Judicial Districts to serve as the primary fundraising vehicles within the bar. Recruit the most influential and well-respected leaders from the legal community to lead peer-to-peer and firm-to-firm solicitations similar to Capital Campaigns held in other philanthropic areas.

2. Create a comprehensive statewide, public education program to build a much stronger cadre of constituents who understand the importance of legal services for the poor and are willing to be vocal about its funding. Possible public education options include:

- a. Speakers Bureau
- b. Agency newsletter
- c. Public forums

- d. Public service announcements
- e. Poster Campaign
- f. Editorial support in newspapers

3. Pursue new ways to reaffirm the state of Alaska's responsibility for funding legal services including the following:

a. Establish a subcommittee within each Private Bar Campaign Leadership Committee whose primary task is to educate state legislators on the importance of legal services. Emphasize how the profession has responded as a whole and how increased appropriation would complement these efforts. These subcommittees would be responsible for developing a "lobbying" plan.

b. Create stronger collaborative efforts with the Court System, the Alaska Bar Association, and local bar associations to increase state funding.

4. Continue to maintain and build upon successful efforts of receiving monies in local municipalities and boroughs.

5. Increase the number of grant applications submitted to private, corporate, and national foundations. Continue to research those foundations that are increasingly giving funds to legal services.

6. Increase the number of grants submitted that are collaboratively written with other social service agencies that work on the same issues as Alaska Legal Services.

7. Establish a designated fund/endowment with a local community foundation that will professionally manage the funds and disburse fund proceeds to Alaska Legal Services after a minimum balance is established.

8. Establish a "Planned Giving Committee" to prepare Alaska Legal Services to accept funds from wills and bequests, charitable trusts and annuities, life insurance policies, as well as real estate, securities, and other non-traditional giving vehicles.

9. Create a "Major Gifts Committee" to identify and solicit large individual gifts for Alaska Legal Services.

10. Develop an annual Alaska Legal Services special event to broaden community awareness and gain additional monies for Alaska Legal Services.

11. Bring together leaders from within the Alaska Native Community to combine efforts and implement an annual fundraising campaign specifically in support of legal services work with this constituency.

Appendix A - Task Force Members

Chair - Justice Dana Fabe

<u>Member</u>	<u>Representing</u>
Senator Al Adams	State Senate
Lynn Allingham	IOLTA Commission
Danny Bolden	Alaska Legal Services Eligible Clients
Magistrate Harry Branson	Federal Courts
Robin Bronen	Non-Alaska Legal Services Eligible Clients
David Bundy	Alaska Bar Association
David Call	Fairbanks Attorneys
Michele Christensen	Alaska Native Justice Center
Stephanie Cole	Alaska Court System
Joan Connors	Municipality of Anchorage Ombudsman
Jim Decker	Corporate Attorneys
Jane Demmert	Alaska Commission on Aging
Dawn Dillard	Alaska Legal Services - Rural clients
Susanne DiPietro	Alaska Judicial Council
Nancy Gordon	Governor's Appointee
Carol Heyman	Business Community
Robert Hickerson	Alaska Legal Services
Rep. Reggie Joule	Alaska State House
Mark Kroloff	Corporate Attorneys
Brant McGee	Public Sector Attorneys
Allison Mendel	Private Attorneys
Jim Minnery	Alaska Legal Services Fundraising
Art Peterson	Alaska Legal Services Board of Directors
Judge John Reese	State Trial Courts
Lisa Rieger	University of Alaska Justice Center
Mark Rindner	Pro Bono Services
Kari Robinson	Alaska Network on Domestic Violence and Sexual Assault
Marcia Rom	Alaska Legal Services - Urban clients
Diane Smith	Federal Pro Se clients
Bryan Timbers	Second Judicial District Attorneys
Jim Valcarce	Bethel Attorneys
Diane Vallentine	Alaska Bar Association
Maria-Elena Walsh	Pro Bono Program
Donna Willard	American Bar Association
Lach Zemp	First Judicial District Attorneys

Also: members of the Alaska Pro Bono Services Committee and the Alaska Board of Governors not previously named, presiding judges not previously named, other task force subcommittee members not previously named, and serving as volunteer staff: Deborah O'Regan, Nancy Shaw.

Appendix B - Task Force Steering Committee Members

Sen. Al Adams	State Senate
Danny Bolden	Alaska Legal Services Eligible Clients
Magistrate Harry Branson	Federal Courts
Robin Bronen	Non-Alaska Legal Services Eligible Clients
David Bundy	Alaska Ear Association
David Call	Fairbanks Attorneys
Michele Christensen	Alaska Native Justice Center
Stephanie Cole	Court System
Dawn Dillard	Alaska Legal Services - Rural Clients
Susanne DiPietro	Alaska Judicial Council
Nancy Gordon	Governor's Appointee
Carol Heyman	Business Community
Robert Hickerson	Alaska Legal Services
Mark Kroloff	Corporate Attorneys
Brant McGee	Public Sector Attorneys
Art Peterson	Alaska Legal Services Board of Directors
Lisa Rieger	University of Alaska Justice Center
Mark Rindner	Pro Bono Services
Marcia Rom	Alaska Legal Services - Urban Clients
Bryan Timbers	Second Judicial District Attorneys
Jim Valcarce	Bethel Attorneys
Maria-Elena Walsh	Pro Bono Program
Lach Zemp	First Judicial District Attorneys

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

December 28, 2006

SUBJECT: Comments on draft bill creating civil legal services fund
(Work Order No. 25-LS0349\A)

TO: Representative Jay Ramras
Attn: Jane Pierson

FROM: Dennis C. Bailey 
Legislative Counsel

This memorandum accompanies a copy of the final version of the bill you requested for pre-filing. In sec. 1, I changed (81) to (82) because AS 37.05.146(c) was renumbered in 2006.

Although the bill is in final form, please note the following issues that you may want to address either in a new final version, a sponsor substitute, or during the committee process.

The phrase in the draft bill to "less the costs of collection, if any, incurred by the state" was apparently added to the House Judiciary Committee Substitute during the 2005 session. *See* CSHB 175(JUD), *see also* House Judiciary Committee Minutes, March 4, 2005. Under my reading of the minutes, when the committee adopted this phrase, it contemplated a situation where a punitive damages judgment was in place and the plaintiff had collected its judgment, but the state would be required to incur collection costs to enforce its share of the punitive damages judgment. The costs of collection would be deducted from the state's 50 percent share of the punitive damages before the amount is deposited in the fund created by the bill.

Including the phrase in AS 37.05.590 creates a potential conflict with AS 09.17.020(j), which does not have a reference to a deduction for collection costs. One might argue that the state's costs of collection are implied under AS 09.17.020(j), i.e., the state receives the net amount of the state's share of the punitive damages award without a specific reduction from the award for attorneys' fees and costs, and costs of collection. Conversely, one might argue that the costs are intended to be deducted by AS 37.05.590 but not by AS 09.17.020(j), since the cost deduction is mentioned in one but not the other.

It would be preferable to make the references consistent either by amending AS 09.17.020(j) to add similar language for collection of costs, or, in keeping with the limitation of the content of the bill draft, by deleting the reference from the draft bill so

Representative Jay Ramras
December 28, 2006
Page 2

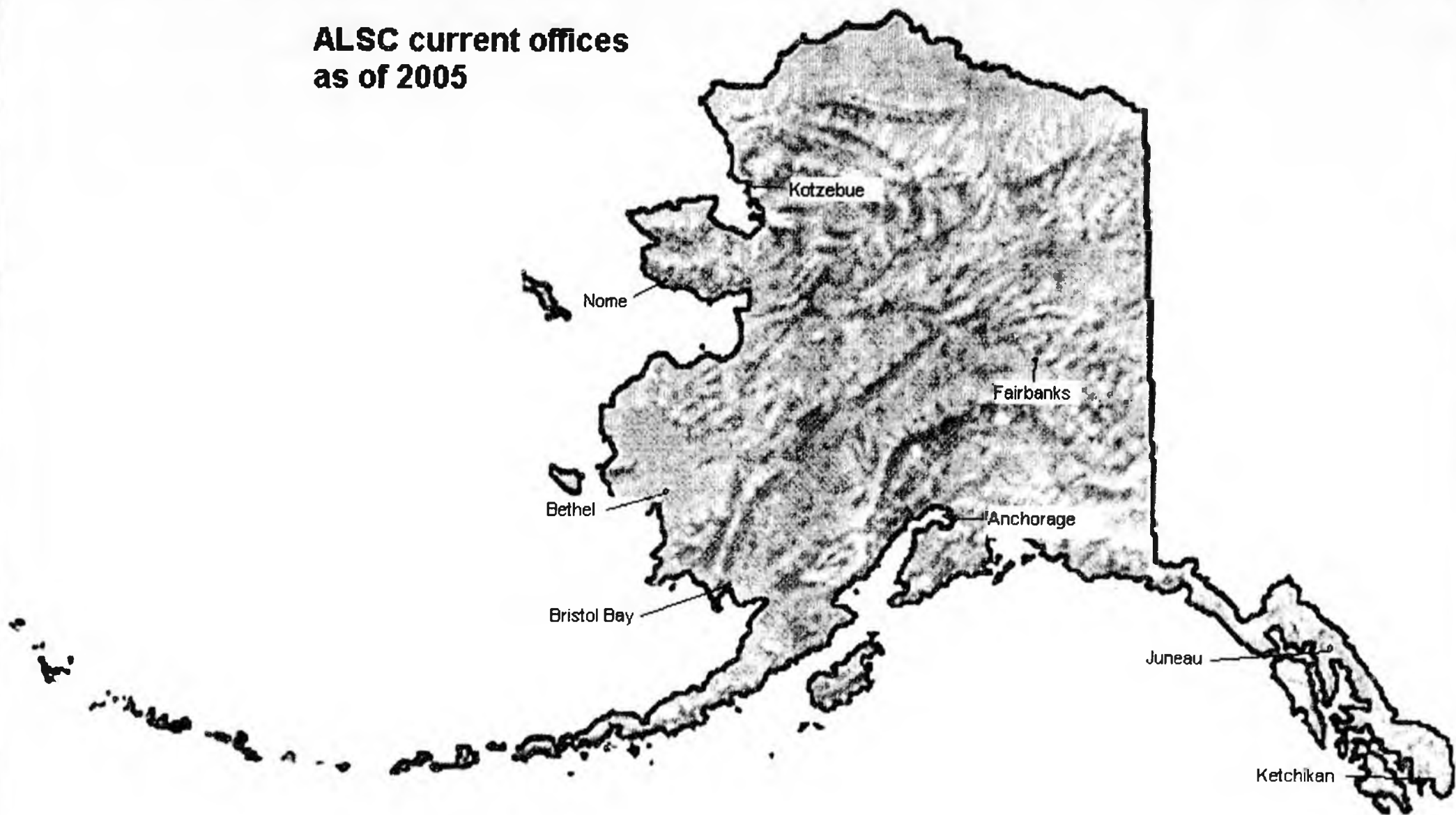
the fund would receive whatever amount AS 09.17.020(j) allows without a specific reference to deductions for the cost of collection.

If I may be of further assistance, please advise.

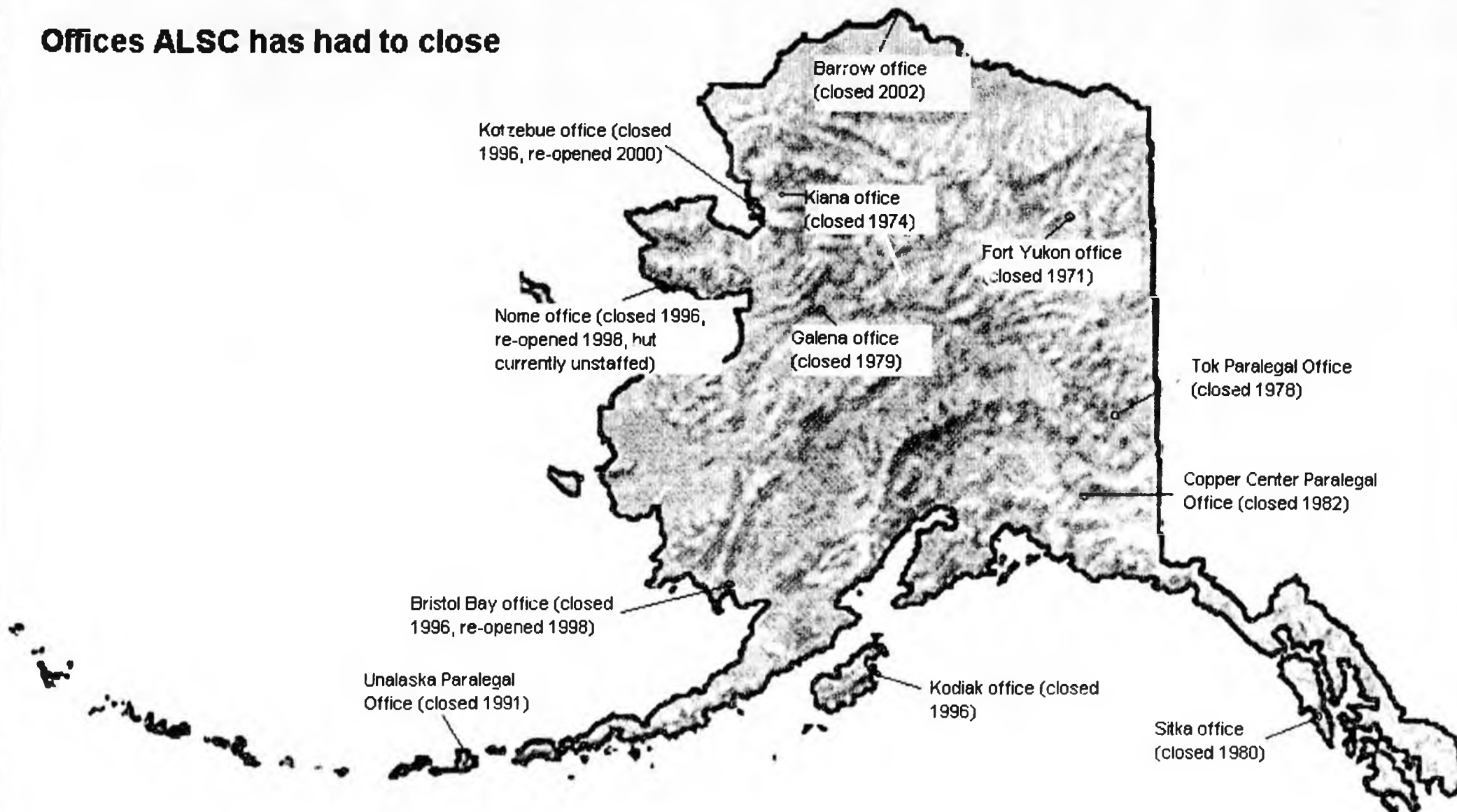
DCB:ljw
06-405.ljw

Enclosure

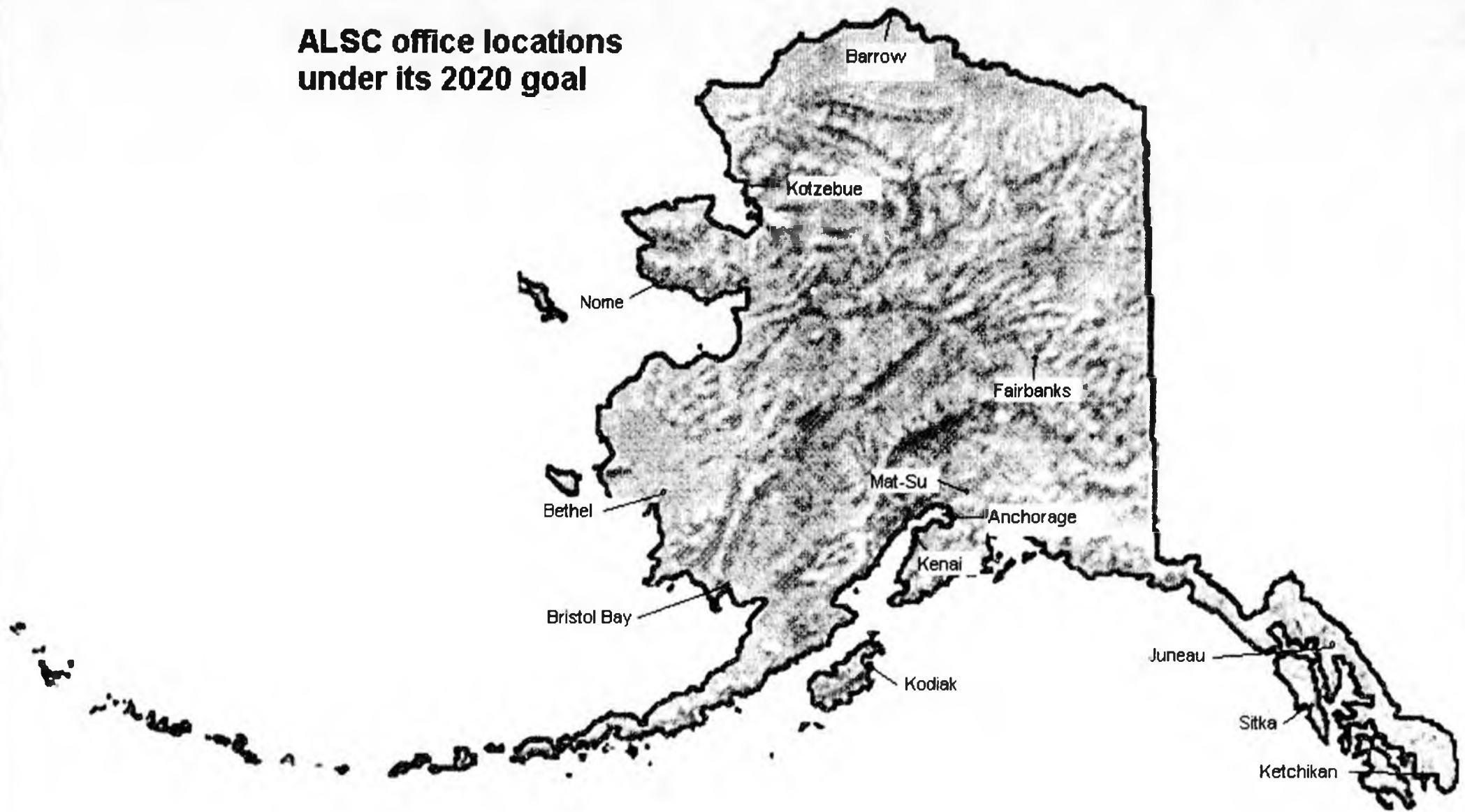
**ALSC current offices
as of 2005**



Offices ALSC has had to close



**ALSC office locations
under its 2020 goal**



HB

79



HOUSE JUDICIARY COMMITTEE

STATE CAPITOL, ROOM 120
(907) 465-4990

COMMITTEE MEMBERS

Rep. Jay Ramras
Chairman
Room, 118
(907) 465-3004

Rep. Nancy Dahlstrom
Vice-Chairman
Room 409
(907) 465-3783

Rep. John Coghill
Room 214
(907) 465-3719

Rep. Bob Lynn
Room 104
(907) 465-4931

Rep. Ralph Samuels
Room 204
(907) 465-2095

Rep. Max Gruenberg
Room 110
(907) 465-4940

Rep. Lindsey Holmes
Room 405
(907) 465-4919

MEMORANDUM

Date: April 17, 2007

To: Representative Kevin Meyer
Co-Chairman House Finance Committee

From: Representative Jay Ramras
Chairman House Judiciary Committee

Re: Referral File HB79

Please accept this memo as the referral file for HB79. Attached are the following documents:

- CSHB79(JUD) 25-LS0359\L
- Amendment #1 offered in HJUD
- Fiscal Notes
 - HSS – Longevity Bonus Grants
 - HSS – Management
 - HSS – Hold Harmless
- CSHB79(STA) 25-LS0359\K
- Sponsor Statement
- House Judiciary Committee Report
- Sectional Analysis
- HB79 (25-LS0359\A
- Legal opinions
- Background
- Support
- Applicable Statutes

ADOPTED

25-LS0359\K.1
Cook
4/16/07

AMENDMENT #1

OFFERED IN THE HOUSE
TO: CSHB 79(STA)

BY REPRESENTATIVE LYNN

- 1 Page 1, line 14, through page 2, line 1:
- 2 Delete all material and insert:
- 3 "(3) is a resident under AS 01.10.055 on the day the reapplication form is
- 4 signed and dated by the applicant."

**Fiscal Notes
For House Bill 79**

Longevity Bonus Reapplications

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB079CS(STA)-DHSS-DPA1-04-
 Bill Version: CS HB 79 (STA)
 () Publish Date: _____

Revision Date/Time (Note if correction): April 13, 2007
 Title LONGEVITY BONUS REAPPLICATIONS

Dept. Affected: Health & Social Services
 RDU Alaska Longevity Bonus Programs
 Component Longevity Bonus Grants

Sponsor LYNN
 Requester HOUSE (JUD)

Component No. 26

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	29,430.3	27,566.8	24,656.5	22,061.6	19,563.4	17,156.7
Miscellaneous						
TOTAL OPERATING	29,430.3	27,566.8	24,656.5	22,061.6	19,563.4	17,156.7

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	29,430.3	27,566.8	24,656.5	22,061.6	19,563.4	17,156.7
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	29,430.3	27,566.8	24,656.5	22,061.6	19,563.4	17,156.7

Estimate of any current year (FY2007) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This proposed legislation reinstates the Alaska Longevity Bonus (ALB) payments for individuals who were qualified to receive them before January 1, 1997, and who received a payment in June 2003 when funding for the program ended. To qualify for the ALB, individuals must reapply for the program before January 1, 2008, and be a resident of the state under AS 01.10.055 on the day the reapplication is signed and dated.

Prepared by: Ellie Fitzjarrald, Director
 Division Public Assistance
 Approved by: Karleen Jackson, Commissioner
 Agency Department of Health and Social Services

Phone 465-5847
 Date/Time 04/13/2007
 Date 04/13/2007

**FISCAL NOTE
FN #**

**STATE OF ALASKA
2007 LEGISLATIVE SESSION**

ANALYSIS CONTINUATION

Analysis Assumptions

- * This fiscal note assumes legislation will be effective and ALB payments will begin with the benefit month July 2007.
- * Reapplication for the ALB will only be accepted if received before January 1, 2008.
- * 12,631 former ALB recipients may be eligible to qualify for the ALB in FY08: 95% or approximately 11,999 seniors will be eligible and 5% or 631 potential ALB recipients will not qualify for the ALB because they do not meet the program's residency requirements or will not apply.
- * The average ALB payment is \$212/month as the amount of the benefit ranged from \$100 to \$250 depending on time of previous entry into the program.
- * An ALB recipient may not accrue an ALB payment for more than two months before the date of application in accordance with AS 47.45.080.
- * The number of months a person may receive ALB payments in FY08 will vary depending on date of application, as shown in the chart below.
- * Program expenditures for FY09 through FY13 will decline each year as eligible seniors move away, enter nursing homes, or expire.

Benefit Amount Calculations FY08:

Percent of Appli-cants	Approx Number Appli-cants	Must apply by	May be paid retro-active to	Number months benefits FY08	Average Month Benefit Amount	Total FY08 Benefit Payments
70%	8,842	9/1/2007	7/1/2007	12	\$ 212	\$ 22,494.0
15%	1,895	10/1/2007	8/1/2007	11	\$ 212	\$ 4,419.0
5%	632	11/1/2007	9/1/2007	10	\$ 212	\$ 1,339.8
4%	505	12/1/2007	10/1/2007	9	\$ 212	\$ 963.5
1%	126	1/1/2008	11/1/2007	8	\$ 212	\$ 213.7
5%	-631	(will not meet residency criteria or will not apply)				\$ 0.0
Total	11,999	Average Benefit Amount= \$212.44 Rounded to \$212				\$ 29,430.3

FY09 through FY13:

	Approx Number Recipients	Total Benefit Payments
FY09	10,836	\$27,566.8
FY10	9,692	\$24,656.5
FY11	8,672	\$22,061.6
FY12	7,690	\$19,563.4
FY13	6,744	\$17,156.7

FISCAL NOTE
FN #

STATE OF ALASKA
2007 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

Note: We assume that if the SeniorCare program is reauthorized (or replaced), seniors will need to choose to receive payments from the Alaska Longevity Bonus or from the SeniorCare program. Seniors who choose to receive the Alaska Longevity Bonus will not qualify for SeniorCare or its replacement program. The cost for the Alaska Longevity Bonus will decrease by the number of seniors who choose to receive benefits from SeniorCare or its replacement program.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB079CS(STA)-DHSS-DPA2-04-
 Bill Version: CS HB 79 (STA)
 () Publish Date: _____

Revision Date/Time (Note if correction): April 13, 2007
 Title: LONGEVITY BONUS REAPPLICATIONS

Dept. Affected: Health & Social Services
 RDU: Alaska Longevity Bonus Programs
 Component: Alaska Longevity Programs Management

Sponsor: LYNN
 Requester: HOUSE (JUD)

Component No. 2672

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	240.0	240.0	240.0	240.0	240.0	240.0
Travel	7.5	7.5	7.5	7.5	7.5	7.5
Contractual	66.5	66.5	66.5	66.5	66.5	66.5
Supplies	36.0	36.0	36.0	36.0	36.0	36.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	350.0	350.0	350.0	350.0	350.0	350.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES (0)						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	350.0	350.0	350.0	350.0	350.0	350.0
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	350.0	350.0	350.0	350.0	350.0	350.0

Estimate of any current year (FY2007) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time	3	3	3	3	3	3
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This proposed legislation reinstates the Alaska Longevity Bonus (ALB) payments for individuals who were qualified to receive them before January 1, 1997, and who received a payment in June 2003 when funding for the program ended. To qualify for the ALB, individuals must reapply for the program before January 1, 2008, and be a resident of the state under AS 01.10.055 on the date the reapplication is signed.

Prepared by: Ellie Fitzjarrald, Director
 Division: Public Assistance
 Approved by: Karleen Jackson, Commissioner
 Agency: Department of Health and Social Services

Phone: 465-5847
 Date/Time: 04/13/2007
 Date: 04/13/2007

**FISCAL NOTE
FN #**

**STATE OF ALASKA
2007 LEGISLATIVE SESSION**

**ANALYSIS CONTINUATION
Administrative Costs for the Alaska Longevity Bonus Program**

This fiscal note represents the administrative costs for the Alaska Longevity Bonus program.

Assumptions:

- * In FY08, the Department estimates 12,631 former ALB recipients may be eligible to qualify for the ALB: 95% or approximately 11,999 will apply by January 1, 2008.
- * We estimate three positions are needed to manage the Alaska Longevity Bonus program: One Program Coordinator (Range 20); one Project Assistant (Range 16), and one Eligibility Technician (Range 13). These positions will be responsible for the overall administration of the program, including the initial and ongoing determination of eligibility.
- * In May 2007, DPA will begin notifying seniors about the new program and accepting applications. The first payments will be issued after July 2007.

Administrative Costs: \$350.0

- * Personal Services (3 positions): \$240.0
- * Travel (to support employee training, marketing, outreach): \$7.5
- * Contractual: \$66.5
- * Supplies: \$36.0

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB079CS(STA)-DHSS-DPA3-04-
 Bill Version: CS HB 79 (STA)
 () Publish Date: _____
 Dept. Affected: Health & Social Services
 RDU: Alaska Longevity Bonus Programs
 Component: Longevity Bonus Hold Harmless

Revision Date/Time (Note if correction): April 13, 2007
 Title: LONGEVITY BONUS REAPPLICATIONS

Sponsor: LYNN
 Requester: HOUSE (JUD)

Component No. 2858

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	1,509.6	1,639.4	1,475.4	1,320.5	1,310.2	1,153.0
Miscellaneous						
TOTAL OPERATING	1,509.6	1,639.4	1,475.4	1,320.5	1,310.2	1,153.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1,509.3	1,639.4	1,475.4	1,320.5	1,310.2	1,153.0
1037 GF/Mental Health						
Other(Specify Type do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOT/L	1,509.6	1,639.4	1,475.4	1,320.5	1,310.2	1,153.0

Estimate of any current year (FY2007) cost:

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This proposed legislation reinstates the Alaska Longevity Bonus (ALB) payments for individuals who were qualified to receive them before January 1, 1997, and who received a payment in June 2003 when funding for the program ended. To qualify for the ALB, individuals must reapply for the program before January 1, 2008, and be a resident of the state under AS 01.10.055 on the day the reapplication is signed and dated.

Prepared by: Ellie Fitzjarrald, Director
 Division: Public Assistance
 Approved by: Karleen Jackson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-5847
 Date/Time 04/13/2007
 Date 04/13/2007

FISCAL NOTE
FN #

STATE OF ALASKA
2007 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

Hold Harmless

Alaska Longevity Bonus (ALB) Hold Harmless expenditures were determined by matching former ALB recipients against existing Adult Public Assistance recipients who also receive federal SSI benefits. This hold harmless amount is equal to the amount of SSI benefits that would be lost when the ALB payments are counted as income for the federal program.

Federal law governing the administration of Supplemental Security Income (SSI) program requires the Alaska Longevity Bonus be counted as income when determining federal SSI benefits. Under AS 47.45.122, the ALB Hold Harmless replaces the SSI benefits that are denied. As the number of ALB/SSI recipients decrease, the benefits paid will also decrease, as does the Hold Harmless.

Alaska State Legislature

Chairman
State Affairs Committee

Vice-Chairman
Economic Development, Trade & Tourism
Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees



A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

Sponsor Statement for HB 79

"An Act relating to reapplications for the Alaska longevity bonus program; and providing for an effective date."

Governor Sarah Palin has included funding for the Longevity bonus program in her FY 2008 budget request. Alaska senior citizens who qualified for the program before funding was eliminated four years ago could be receiving their monthly bonus payments again.

However, without passage of House Bill 79, there will be a problem for them under the current law. When the checks stopped arriving after June of 2003, recipients stopped filing the required monthly applications for payments, thereby unintentionally violating the "continuous eligibility procedures" of the program.

HB 79 changes the statute to create a new application to allow formerly eligible recipients to reapply for their monthly bonus payments if the program is funded again.

This bill also requires qualified applicants to reapply before Jan. 1, 2008. And it directs the Department of Health and Social Services to prepare reapplication forms and to check for evidence of eligibility for a longevity bonus.

Under HB 79, those who qualify will be able to reapply for the same monthly bonus payments that they were getting before the program stopped being funded four years ago.

Alaska State Legislature

Chairman
State Affairs Committee

Vice-Chairman
Economic Development, Trade & Tourism
Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees



A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

Sectional Analysis for CSHB 79(STA): Longevity Bonus Reapplications

"An Act relating to reapplications for the Alaska longevity bonus program; and providing for an effective date."

- Section 1(a)** Allows qualified applicants who received a monthly longevity bonus payment in June of 2003 to reapply to the state for monthly payments, and not be disqualified for failing to follow the requirements of the "continuous eligibility procedures" under AS 47.45.020 and AS 47.45.010(a).
- Section 1(b)** Requires a qualified applicant to file a reapplication before January 1, 2008. Directs the Department of Health and Social Services to prepare a reapplication form and to check for evidence of eligibility for a longevity bonus.
- Section 1(c)** Allows the person who reapplies and meets the requirements of (a) of this section to reapply for monthly bonus payments that were for the same amount they were getting under the program before the payments were stopped after June of 2003.
- Section 2** Sets an effective date of July 1, 2007.

**Legal Opinions
For House Bill 79**

Longevity Bonus Reapplications

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 8, 2007

SUBJECT: Re. statement of the longevity bonus program (HB 79)

TO: All members of the House State Affairs Committee, and
All members of the House Judiciary Committee

FROM: Tamara Brandt Cook
Director *TBC*

Enclosed is a copy of the Orders in the case Maggard v. Sipe, Superior Court, Third Judicial District, Case No. 3AN-94-03935 CI, June 6, 1996, and July 9, 1996, upholding the statute that established the "stair step" phase out of the longevity bonus program. This is being sent to you at the request of Representative Max Gruenberg.

TBC:ljw
07-063.ljw

Enclosure

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT

RECEIVED

JUN 10 1996

Attorney General's Office
Juneau

MURREL MAGGARD, an individual
on his own behalf; and
MURREL MAGGARD, for and on behalf
of all others similarly situated,

Plaintiffs,

vs.

CONNIE SIPE, Director, Division
of Senior Services, Alaska
Department of Administration,
State of Alaska; and Does 1
through 25,

Defendants.

FILED IN THE TRIAL COURTS
State of Alaska, Third District

JUN 06 1996

Clerk of the Trial Courts

By [Signature] Deputy

Case No. 3AN-94-03935 CI

ORDER

Murrel Maggard, for himself and as named plaintiff of the plaintiff class, challenges the constitutionality of the 1993 Amendment to the statutes governing Alaska's Longevity Bonus Program, A.S. 47.45, on the grounds that the amendment violates the Equal Protection clause of the Fourteenth Amendment to the U.S. Constitution and the Equal Rights clause of the Alaska Constitution, Art. I, Sec. 1.

The parties have filed cross motions for summary judgment. Having reviewed all of the motions, corresponding oppositions and replies, and supporting evidence, IT IS HEREBY ORDERED that Defendants' Motion for Summary Judgment is GRANTED, and Plaintiffs' Motion for Summary Judgment is DENIED.

A memorandum supporting this order will be issued at a later time.

Done at Anchorage, this 6th day of June, 1996.

I certify that on 6/6/96
a copy of the above was mailed to each
of the following at their addresses of
record:

[Signature]
Secretary/Deputy Clerk

[Signature]
Brian Shortell
Superior Court Judge

for at least one year could receive a monthly bonus from the state.

In 1993 the legislature decided to terminate the LBP. Rather than terminate the entire program immediately, however, the legislature chose to phase it out gradually, and "grandfathered in" current bonus recipients, and, at a reduced level, those future bonus recipients who would first become eligible and apply for the bonus by the end of 1996.

The 1993 Amendment completely grandfathered in anyone receiving a bonus at the end of 1993. This group of people would continue to receive \$250 every month for life (assuming eligibility). Persons first becoming eligible and applying for the bonus in 1994 would receive \$200 per month for life, instead of \$250. Those first eligible and applying in 1995 would receive \$150 per month for life, and those first eligible and applying in 1996 would receive \$100 per month for life. Those persons not eligible by the end of 1996, or those who may be eligible but who fail to apply by the end of 1996, are not eligible to receive benefits under the program. Thus, as of January 1, 1997, the LBP will continue to pay bonuses to those already in the program, but will not be open to any new participants.

The challenged amendment creates the following five classes of persons:

- (1) persons who receive \$250 per month;
- (2) persons who receive \$200 per month;
- (3) persons who receive \$150 per month;
- (4) persons who receive \$100 per month; and
- (5) persons who receive nothing.

DISCUSSION

A. Alaska Equal Protection Analysis.

Alaska has developed a "sliding scale" approach to equal protection questions. Alaska Pacific Assurance Co. v. Brown, 687 P.2d 264, 269 (Alaska 1984). As a preliminary determination, if federal constitutional questions are involved, such as fundamental rights or suspect categories, the federal "strict scrutiny" test is applied. State v. Erickson, 574 P.2d 1, 11 (Alaska 1978). This test requires a compelling state interest. Id. If no fundamental rights or suspect classes are at issue, a flexible, sliding-scale analysis is used. Alaska Pacific

Insurance Co., 687 P.2d at 269. This approach places "a greater or lesser burden on the state to justify a classification depending on the importance of the individual right involved." Id.

A three-step analysis is employed:

First, it must be determined . . . what weight should be afforded the constitutional interest impaired by the challenged enactment. The nature of this interest is the most important variable in fixing the appropriate level of review.

Second, an examination must be undertaken of the purposes served by a challenged statute. Depending on the level of review determined, the state may be required to show only that its objectives were legitimate, at the low end of the continuum, or at the high end of the scale, that the legislation was motivated by a compelling state interest.

Third, an evaluation of the state's interest in the particular means employed to further its goals must be undertaken. . . . At the low end of the sliding scale, we have held that a substantial relationship between means and ends is constitutionally adequate. At the higher end of the scale, the fit between the means and ends must be much closer. If the purposes can be accomplished by a less restrictive alternative, the classification will be invalidated.

Alaska Pacific Assurance Co., 687 P.2d at 269-70.

L. Nature of the Interest.

The first and most important step in the equal protection analysis is to determine the nature of the interest impaired by the challenged enactment. In the instant case, the interest at issue is the right to receive a longevity bonus of \$250. It would be difficult to say that the bonus is anything more than a government monetary benefit. The right to receive a bonus from the state is not an entitlement, it is not based on need and therefore could not be considered a basic necessity, and the right to receive it is not a fundamental right. It is best categorized as merely an economic interest. As such, it is entitled only to minimum protection under Alaska's equal protection analysis. State v. Anthony, 810 P.2d 155, 158 (Alaska 1991).

Maggard concedes that relatively little weight is afforded mere economic interests. He argues, however, that the amendment impacts a much greater interest, the constitutional right to travel, or migrate, and that the "impact of the statute on such a weighty interest should cause the court to insist that the fit between the classifications and the hardship suffered by the elderly be close." (Maggard's Memorandum of Points and Authorities in Support of Plaintiff's Motion

for Summary Judgment ["Maggard's Memo"] at 9-10.) Maggard suggests that the LBP amendment imposes durational residency requirements, which often trigger a higher level of scrutiny and, as a result, have often been found to be unconstitutional.

I find Maggard's argument unpersuasive for several reasons. First, the LBP amendment does not impose true durational residency requirements. A true durational residency requirement requires a person to be a resident for a specified number of years before he or she is eligible for whatever benefit or obligation is considered by the statute.

A good example of a true durational residency requirement is found in Williams v. Zobel, 619 P.2d 422 (Alaska 1980) ["Zobel I"], upon which Maggard heavily relies. In its simplest form, the challenged statute in Zobel I exempted from paying income tax anyone who had been an Alaskan resident for more than three years, while requiring newcomers to the state to pay income taxes for their first three years of residency. In Zobel I, the discrimination between taxpayers was based solely on years of residency; the statute had a true durational residency requirement.

In the instant case, the LBP amendment does not classify persons according to years of residency. Instead, it classifies them according to the year in which they (1) met all of the eligibility requirements (which includes both age and residency), and (2) applied for the bonus. This is not a durational residency requirement, and the effect is quite different. The distinction is illustrated by the state's following hypothetical: the LBP amendment will permanently disqualify from receiving the bonus a life-long Alaskan who is not 65 by the end of 1996 but will grant the bonus to someone who turned 65 and moved to the state in 1992.

Even focusing on just the residency factor, the LBP amendment still does not have a "durational" residency requirement, just a residency requirement. As the Court stated in Williams v. Zobel, 619 P.2d 448, 451 (Alaska 1980), *rev'd on other grounds*, 457 U.S. 55 (1982) ["Zobel II"],

A durational residency requirement, which draws a distinction between new and old residents based on the length of their residency, must be distinguished from

a residence requirement, which draws a distinction between residents and nonresidents.

The distinction is important because "a state has much more authority to draw distinctions between residents and nonresidents than between long- and short-term residents." Zobel II, 619 P.2d at 451 (citing Vlandis v. Kline, 412 U.S. 441, 452-53 (1973)).

Second, assuming arguendo that the challenged amendment imposes durational residency requirements, such requirements no longer automatically trigger "strict scrutiny" in Alaska, although they did at one time. In Zobel I, the Alaska Supreme Court expressly rejected a prior line of Alaska cases holding that durational residency provisions always trigger strict scrutiny, and instead utilized standard Alaska equal protection analysis. Zobel I, 619 P.2d at 426-27 ("We conclude now that durational residency requirements should be measured against the test discussed in Erickson.").

Within the framework of the equal protection analysis, the focus for analyzing durational residency requirements is clearly on whether, and to what extent, the operation of the requirement will have the effect of penalizing United States citizens for exercising their right to interstate migration. Zobel I, 619 P.2d at 431-32, and Zobel II, 619 P.2d at 457-58.

Using Zobel I and Zobel II as guides, it is clear that the amendment at issue does not penalize citizens for exercising their right to migrate. In Zobel I, the Court found that the tax statutes, which required new residents to pay income taxes for their first three years, penalized interstate migration. The Zobel II Court found that the PFD statutes did not penalize interstate migration. The Zobel II Court explained the different holdings as follows:

[The PFD statutes] cannot be said to "penalize" the right of interstate migration. In common sense terms, it is easy to see that the imposition of a tax primarily of new residents [referring to Zobel II], with older residents exempt, can be perceived as a penalty imposed on a person who chooses to exercise his or her right to move into Alaska. It is much more difficult to receive such a "penalty" here. The new resident does, in fact, receive financial gain for exercising his or her right to move into Alaska; and whatever "penalty" may accrue from the fact that this gain is not as large as that realized by a long-term resident we regard as de minimis.

Zobel II, 619 P.2d at 458.

The longevity bonus at issue in this case is more analogous to the PFD than to the tax statutes; the bonus is a grant of a benefit, such as the PFD, and not an imposition of tax. Accordingly, I find that the amendment does not impose a penalty on U.S. citizens for exercising their right to migrate. Because a penalty is not imposed, the amendment does not impinge on the right to travel.

In summary, therefore, I find that no federal constitutional issues are implicated by the amendment, that the amendment does not impinge on the right to travel, and that the nature of the right to receive a longevity bonus is merely an economic interest. As such, it is entitled only to minimum protection. Anthony, 810 P.2d at 158.

2. The State's Purpose.

Based on my finding that a person's interest in receiving a longevity bonus is reviewed at the low end of the scale, the state is required to show only that its objectives in enacting the LBP amendment were legitimate. Anthony, 810 P.2d at 158-59. It is not required to show that the purposes for which the amendment was enacted were carried out or effectively accomplished. Katmailand, Inc. v. Lake and Peninsula Borough, 904 P.2d 397, 401 (Alaska 1995).

Both parties agree that the state's overall purpose in changing the LBP program in 1993 was to save money; this is a legitimate state purpose. The parties offer different reasons, however, for the amendment's graduated grandfather provisions.

The state claims that its purpose in gradually phasing out the program while grandfathering in certain groups was to protect the interests of those who might have reasonably relied on receiving the bonus.

The purpose behind the grandfather provisions . . . is shown by Governor Hickel's letter to the legislature . . . [in which] [t]he governor explained that he was proposing a "phased elimination" of the LBP "because many Alaskans who will be reaching 65 in the next four years have counted on the bonus in planning for their retirement, and an abrupt termination of the program would not be fair."

State's Memorandum in Support of Defendant's Motion for Partial Summary Judgment and in Opposition to Plaintiff's Motion for Summary Judgment ["State's Memo"] at 9-10.

This is also a legitimate state purpose. "The protection of reasonable reliance interests is not only a legitimate governmental objective: it provides an exceedingly persuasive justification. . . ." Nordlinger v. Hahn, 505 U.S. 1, 13 (1992) (internal quotations omitted).

In order to effectively challenge the state's stated purpose, Maggard must present sufficient credible evidence disproving the factual basis for the state's justification. Katmailand, Inc., 904 P.2d at 401-02. This Maggard has failed to do. Maggard argues that the state's real purpose behind the grandfather provisions was simply to curry political favor in order to ensure successful passage of the amendment, but he presents no credible evidence supporting his position or contradicting the state's justification.

Therefore, I find legitimate the state's purpose of protecting the reliance interests of those receiving and expecting to receive longevity bonus payments.

3. Fair and Substantial Relationship.

The third and final step in Alaska's equal protection analysis is an evaluation of the state's interest in the particular means employed to further its goals. At the low end of the sliding scale, a fair and substantial relationship between means and ends is constitutionally adequate. Alaska Pacific Assurance Co., 687 P.2d at 269-70 (Alaska 1984). The fair and substantial standard is not a rigorous one. "Despite the language in Isakson v. Rickey, 550 P.2d 359, 362 (Alaska 1976), indicating that this court's lower level of scrutiny will be more rigorous and less deferential than the federal rational basis test, we have invalidated only two legislative enactments under the fair and substantial relationship test since Isakson." Anthony, 810 P.2d at 159.

The issue is whether a fair and substantial relationship exists between the state's goals (protecting the reasonable reliance interests of present and future recipients) and its chosen means (the grandfather clause). I conclude that the state's means bear a fair and substantial relationship to its goal. The state's goal in enacting the grandfather clause was to protect reliance interests. Naturally, the people with the greatest reliance interests were those receiving

the bonus at the time the amendment was enacted. They were appropriately grandfathered in completely, and will receive the same amount, \$250, for life. The people with the next greatest reliance interest were those expecting to receive the bonus beginning the next year, in 1994. Because these people had less of a reliance interest than those already receiving the bonus, they were grandfathered in at a lesser amount, \$200. This pattern continues consistently for those expecting to receive the bonus in 1995 and 1996. People who in 1993 were expecting to receive the bonus in 1997, four years into the future, had even less of a reliance interest than the other groups already mentioned, and it is reasonable to conclude that their reliance interests were insufficient to warrant protection.

By grandfathering in the full \$250 bonus for those already receiving it, the legislature fully protected the interests of those person who it could reasonably conclude most relied on it. . . . By grandfathering in a lesser bonus for those who would first become eligible and apply in 1994, 1995, and 1996, the legislature partially protected the interests of those persons who, it again could reasonably conclude, had a substantial but lesser reliance on the LBP. . . . Again, the key difference is the amount of time available to make the necessary adjustments.

State's Memo at 16-17.

I recognize that the fit between protecting reliance interests and the actual phases created by the state is not perfect. Maggard correctly points out that the amendment is both over- and under-inclusive and that the bonus goes to persons who have varying incomes, assets, and family ties. However, "[t]he fair and substantial relationship test does not require a perfect fit between a legislative classification and the government objective it is intended to further," Anthony, 810 P.2d at 159, it only requires that the fit be reasonable and not arbitrary. Keves v. Humana Hosp. Alaska, Inc., 750 P.2d 343, 357 (Alaska 1988). Such is the case here. As shown above, the classifications bear a reasonable and substantial relationship with the reliance interests the state sought to protect. The state adequately tailored the classifications to accomplish its purpose.

Therefore, I conclude that slowly phasing out the longevity bonus program by grandfathering in certain present and future recipients bears a fair and substantial relationship

to the goal of protecting the reliance interests of those who reasonably relied on receiving the bonus.

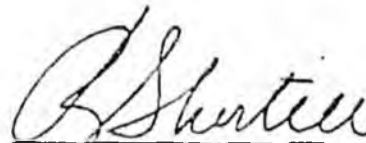
B. Federal Equal Protection Analysis.

I have already found that the amendment does not impinge on the right to travel, that no other fundamental rights are involved, and that no suspect classes are at issue. Furthermore, I have already found that an individual's interest in receiving a longevity bonus is entitled only to minimum protection. Therefore, given the fact that the federal equal protection clause is less protective of individual rights than Alaska's equal protection clause, and the federal equal protection analysis is less stringent, if the state's purpose and the relationship between means and ends satisfy the stricter Alaska standard, then they a fortiori meet the requirements of the less strict rational basis test. See Anthony, 810 P.2d at 162. Accordingly, the 1993 LBP amendment does not violate the equal protection clause of the United States Constitution.

CONCLUSION

In conclusion, I find that an individual's interest in a longevity bonus is entitled to minimum scrutiny, that the state's purpose in enacting the 1993 LBP Amendment, which was to protect the recipients' reasonable reliance interests, is legitimate, and that the amendment bears a fair and substantial relationship to this purpose. This memorandum accompanies my previous order of June 6, 1996, granting the state's motion for summary judgment.

Done at Anchorage, this 9 day of July, 1996.



Brian Shortell
Superior Court Judge

I certify that on 7/10/96
a copy of the above was mailed to each
of the following at their addresses of
record: Buchholdt / Gagnier

V. Herdman
Secretary/Deputy Clerk

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

September 22, 2006

SUBJECT: Longevity Bonus Program (Work Order 25-LS0071\A)

TO: Representative Bob Lynn
Attn: Nancy Manly

FROM: Tamara Brandt Cook
Director

Earlier this month I sent you a draft appropriation to fund the Longevity Bonus Program. Although the program has never been repealed, on reflection I expect that simply appropriating money to fund the program will not be sufficient.

The Longevity Bonus Program was not funded during fiscal year 2004, fiscal year 2005, fiscal year 2006, nor was it included in the budget for fiscal year 2007. Under AS 47.45.010(a) no person qualifies for a bonus unless the person applied before January 1, 1997. AS 47.45.020 sets up a system for continuous eligibility once the person applies and becomes eligible for the program. Continuous eligibility is based on monthly applications, or, in certain isolated rural areas, applications mailed every six months. Obviously, it is unlikely that eligible recipients have continued to mail the applications during the period that the Longevity Bonus Program was not funded for purposes of ensuring continuous eligibility or that those applications have been consistently processed. Consequently, it appears that it will be necessary to require a new application in order to insure that formerly eligible recipients have maintained residency status and continue to be eligible for the program. (AS 47.45.010(c); AS 47.45.070) This will require a statute change.

Also, be aware that reinstatement of the Longevity Bonus Program in a way that includes only the original recipients potentially muddies the legal status of the program. In 1993, the legislature decided to terminate the program by gradually phasing it out and "grandfathering in" current recipients, and, at a reduced level, future recipients who would first become eligible and apply for the bonus by the end of 1996. This legislation was challenged, but upheld by the Superior Court. (*Maggard v. Sipe*, Superior Court, Third Judicial District, Case No. 3AN-94-08935 CI, order dated June 6, 1996) Basically, the Superior Court held that because the Longevity Bonus Program provides merely an economic interest, it is entitled only to minimum scrutiny under an equal protection challenge, so that all the state needed to show was that its objectives in enacting the 1993 legislation were legitimate. The court found that the main objective was to terminate the program and save money, a legitimate state purpose. The court further found that the

Representative Bob Lynn
September 22, 2006
Page 2

purpose of gradually phasing out the program while grandfathering in recipients and those who soon would be recipients was to protect the interests of people who might have reasonably been relying on receiving the bonus. This also, the court found to be a legitimate state purpose. What saved the "grandfather" provision in the 1993 legislation from being held to unconstitutionally discriminate between newcomer seniors to the state and long time resident seniors was the fact that the state was protecting the reliance interest of people who, to some degree, were depending upon the bonus. The case was never appealed to the Supreme Court. Obviously, if the reinstated Longevity Bonus Program is challenged again on equal protection grounds, it will be harder to successfully argue that the state is validly protecting a reliance interest when the people who are eligible for the payments have, in fact, not received them for more than three years and, arguably, can no longer be reasonably relying on future receipt of those payments. This potential constitutional issue can be avoided if the Longevity Bonus Program is reopened for all seniors, but this would make the program much more expensive.

Please let me know if you would like a bill draft addressing any of these or other issues involved in reconstituting the Longevity Bonus Program.

TBC:med
06-482.med

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 5, 2007

SUBJECT: Senior Care Program (HB 79, Work Order No. 25-LS0359\A)

TO: Representative Bob Lynn
Chair of the House State Affairs Committee
Attn: Mike Sica

FROM: Tamara Brandt Cook
Director

How does receipt of longevity bonus payments affect eligibility for benefits under the senior care program?

The senior care program provides cash assistance benefits under AS 47.46.310 and prescription drug benefits under AS 47.46.320. Eligibility for these benefits depends upon household income. No statutory exemption is provided under the program that would remove income from certain sources from consideration for purposes of determining eligibility. The statutes that deal with the longevity bonus program do contain a "hold harmless" provision exempting bonus payments from income calculations for purposes of determining eligibility for some other benefit programs, but that statute does not apply to the senior care program. AS 47.45.122 provides:

Sec. 47.45.122. Eligibility for public assistance.

(a) An individual whose public assistance is denied or reduced solely because of the receipt of a bonus under AS 47.45.010 - 47.45.160 by the individual or by a member of the individual's household is eligible for assistance under the general relief assistance program in AS 47.25.120 - 47.25.300. Notwithstanding the limit in AS 47.25.130, the individual is entitled to receive the same amount as the individual would have received under other public assistance programs had the individual not received a longevity bonus.

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

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

Consequently, longevity bonus payments will be included in the calculation of household income for purposes of determining eligibility for benefits under the senior care program. The household incomes of some people could be increased as a result of receiving

Representative Bob Lynn
February 5, 2007
Page 2

longevity bonus payments beyond the maximums permitted for benefits under the senior care program. Those people will have to choose which program to apply for. On the other hand, permanent fund dividends are not counted for purposes of determining eligibility for the senior care program. (AS 43.23.075(a))

TBC:lmb
07-008.lmb

**Research, Background
For House Bill 79**

Longevity Bonus Reapplications

Longevity bonus history at a glance

- **1972:** Legislature passes original bonus plan to benefit Alaskans 65 and over, and who were in Alaska before statehood in 1959. Cost: \$2.5 million per year. Participants: 4,300.
- **1982:** U.S. Supreme Court rules in *Zobel v. Williams* that a state can't distribute benefits based on the length of each citizen's residency.
- **1984:** Program changes to benefit all seniors age 65 and older who had been in the state for a year. Cost jumps from \$24 million to \$49 million.
- **1993:** Program cost peaks at \$67 million. Legislature sunsets program.
- **1997:** Last seniors to participate in program become eligible by turning 65.
- **2002:** Program costs \$47.5 million, with about 18,000 beneficiaries.

Who gets it, and how much?

- About 12,000 seniors who were already on the program in 1994 receive \$250 per month.
- About 1,700 seniors who joined the program in 1995 receive \$200 per month.
- About 1,900 seniors who joined the program in 1996 receive \$150 per month.
- About 2,200 seniors who joined the program in 1997 receive \$100 per month.

Web posted Sunday, March 16, 2003

By MASHA HERBST
JUNEAU EMPIRE © 2003

Alaska Longevity Bonus Statistical Summary

Final Payment Issued August 2003

Active Participants Receiving Warrant:	17,412
Total Warrants Issued:	17,560
Total Cost of Warrants Issued:	\$3,843,651

Includes past warrants due to some participants.

Budget

	FY 2002	14 Pmts FY 2003
Authorized	\$51,158,600	\$55,852,800
Cost	50,958,000	55,275,500
Difference	\$200,600	\$577,300

History

Fiscal Year	Total Cost	Bonus Amount	# Recipients (FY end)
1973	\$2,532,300	\$100	4,753
1974	6,009,700	100	5,250
1975	6,265,300	100	5,463
1976	6,533,400	100	5,553
1977	8,666,900	125	6,228
1978	9,444,200	125	6,671
1979	12,195,500	150	7,207
1980	13,226,500	150	7,897
1981	19,420,600	200	8,527
1982	26,198,750	250	9,101
1983	27,504,500	250	9,731
1984	29,155,750	250	10,769
1985	43,096,750	250	15,135
1986	44,024,250	250	15,763
1987	46,943,250	250	16,834
1988	49,994,000	250	17,675
1989	53,348,500	250	18,439
1990	57,172,700	250	19,490
1991	60,069,500	250	20,298
1992	63,073,750	250	21,645
1993	66,607,500	250	22,741
1994	70,414,100	See (5)	23,850
1995	72,709,500	See (5)	24,959
1996	73,270,100	See (5)	26,083
1997	71,950,800	See (5)	26,427
1998	68,031,900	See (5)	24,610
1999	63,528,600	See (5)	23,039
2000	59,125,450	See (5)	21,467
2001	54,829,900	See (5)	20,238
2002	50,957,990	See (5)	18,741
2003	55,275,500	See (6)	18,741

See (1)

See (2)

See (3)

See (4)

Projected Cost if Program Continued

Fiscal Year	Total Cost	Average # Monthly Recipients
2004	44,777,917	17,252
2005	41,543,333	16,081
2006	38,344,167	14,917
2007	35,203,333	13,766
2008	32,130,417	12,631
2009	29,080,833	11,468
2010	26,115,000	10,324
2011	23,361,667	9,304
2012	20,743,333	8,322
2013	18,250,000	7,376
2014	15,914,583	6,484
2015	13,740,417	5,654
2016	11,734,167	4,883
2017	9,901,250	4,165
2018	8,251,250	3,510
2019	6,768,750	2,917
2020	5,457,083	2,390
2021	4,326,667	1,931
2022	3,342,917	1,524
2023	2,510,833	1,168
2024	1,832,917	876
2025	1,282,083	638
2026	848,750	447
2027	525,833	298
2028	288,333	176
2029	116,250	81
2030	36,250	28
2031	5,833	5

Note (1) 25 year residency requirement

Note (2) 1 year residency requirement, 5/1

Note (3) 2 year residency requirement, 1/1

Note (4) 1 year residency requirement, 6/11

Note (5) The Longevity Bonus Program is being phased out. New applicants in: 1994 received \$200 per month; 1995 received \$150 per month and 1996 received \$100 per month. No recipients were added to the program after December 31, 1996. All people on the program prior to 1997 continue to receive their monthly bonus as long as they maintain their eligibility.

Note (6) 14 Payments were issued in FY 2003. The May and June 2003 payments, issued in July and August 2003, were paid from an FY 2003 supplemental appropriation rather than an FY 2004 appropriation.

The Longevity Bonus Program was terminated and the final payment was issued August 1, 2003.

Note (7) Based on average the low payment estimate per the October 2002 forecast run of the McDowell Group model.

born and is thus influenced only by assumptions of migration or death.

Population Projections by Age

Middle series, 2005-2029



School age populations

Four age groups approximate the school age population. Ages 5-11 kindergarten and elementary school, ages 12-13 junior high, ages 14-17 high school, and ages 18-22 college and post-secondary education.

The historical uncertainty of fertility trends, compounded by migration, makes the future number of school-age children the most uncertain to project. (See Exhibit 14.) In 2000, there were about 76,000 children ages 5-11. Since 2000, this number has declined and in the mid level projection should bottom out in 2004 at 72,500. This age group should rise to 2000 levels again by 2009. The number should stabilize at 86,000 for the following decade.

Children ages 12-13 numbered about 22,100 in 2000 and peaked at 23,600 in 2003. (See Exhibit 15.) This age group is expected to decline until 2009 when it should bottom out at about 21,000, according to the mid level projection. It should return to 2003 levels by about 2019.

(continued on page 13)

Age	2005	2009	2014	2019	2024	2029
0-4	53,101	54,661	57,660	59,296	59,597	59,343
5-9	51,456	55,642	57,583	60,335	61,700	61,720
10	10,394	10,663	11,700	11,957	12,418	12,508
11	10,794	10,592	11,540	11,904	12,408	12,552
12	11,076	10,328	11,513	11,888	12,412	12,630
13	11,426	10,748	11,601	11,826	12,339	12,617
14	11,760	10,659	11,228	11,722	12,214	12,590
15	11,940	10,968	10,877	11,873	12,081	12,490
16	11,320	11,119	10,719	11,626	11,941	12,393
17	11,036	11,231	10,183	11,324	11,649	12,121
18	10,461	11,170	10,152	10,958	11,133	11,588
19	10,041	10,849	9,530	10,046	10,482	10,910
20-24	43,685	47,463	48,559	44,362	48,321	49,366
25-29	42,478	45,375	50,325	51,103	46,569	50,154
30-34	45,610	46,715	49,579	54,248	54,728	49,919
35-39	47,846	47,398	47,959	50,576	54,950	55,144
40-44	54,712	47,386	46,433	46,782	49,132	53,216
45-49	55,913	54,209	45,414	44,320	44,482	46,609
50-54	50,799	53,529	51,712	42,954	41,760	41,805
55-59	38,865	46,056	50,104	48,289	39,675	38,453
60-64	24,680	32,893	42,219	46,023	44,309	36,005
65-69	15,379	20,586	29,458	38,104	41,621	40,107
70-74	10,814	12,489	17,917	26,032	33,815	36,998
75-79	8,026	8,472	10,123	14,918	22,077	28,753
80-84	5,105	5,747	6,322	7,762	11,749	17,750
85-89	2,519	3,286	3,936	4,366	5,525	8,544
90-94	1,016	1,253	1,933	2,333	2,597	3,449
95+	352	514	724	1,243	1,768	2,170
16+	490,657	517,740	543,301	567,369	588,283	605,454
18+	468,301	495,390	522,399	544,419	564,693	580,940
65+	43,211	52,347	70,413	94,758	119,152	137,771
Total	662,604	692,001	727,003	758,170	783,452	801,904
Median Age	33.4	33.7	34.0	34.5	35.2	35.8
Males per 100 Females	105.5	104.5	103.3	102.0	100.8	99.5
Youth Dependency (<18/18-64)	45.7	44.4	45.3	47.5	49.1	49.9
Aged Dependency (65+/18-64)	10.2	11.8	15.6	21.1	26.7	31.1

Source: Alaska Department of Labor and Workforce Development, Research and Analysis Section

**News Articles
For House Bill 79**

Longevity Bonus Reapplications

Gov. Palin puts longevity bonus back in budget

by Natasha Rasheed
Saturday, Jan. 27, 2007

Anchorage, Alaska - Gov. Sarah Palin says money for the longevity bonus is back in the budget. The governor says she put \$33 million in the budget to reinstate the program. Palin says she will work with lawmakers to make sure the funding stays.

The program provided some senior citizens up to \$250 a month until it was vetoed by Gov. Frank Murkowski in 2003.

Approximately 13,000 Alaskans qualify for longevity bonus.



All content © Copyright 2000 - 2007 WorldNow and KTUU. All Rights Reserved.
For more information on this site, please read our [Privacy Policy](#) and [Terms of Service](#).

Longevity Bonus becoming election focal point

By Stefan Milkowski

Staff Writer

Published August 17, 2006

A controversial veto made by Gov. Frank Murkowski three years ago is coming back as a hot-button campaign issue.

Four of the five leading candidates for governor—Republicans Sarah Palin and John Binkley and Democrats Tony Knowles and Eric Croft—have said they would reinstate the state's Longevity Bonus Program, which gave financial assistance to certain Alaskan seniors.

Only Murkowski is standing behind his decision to cut the program's funding.

According to the departments of Law and Health and Social Services, bringing the program back would be fairly straightforward.

The program, which offered seniors monthly payments of up to \$250, ended when Murkowski chose not to fund it, but the law behind it still exists. According to Mark Morones, spokesman for the Department of Law, the bonus could probably be reinstated without a hitch if the governor and Legislature made an appropriation for it.

Janet Clarke of the Department of Health and Social Services, which administered the program, said the same.

Because the program was already being phased out, it would cost significantly less than it did when Murkowski vetoed funding for it in 2003.

The program offered monthly payments of \$250 to residents who had lived in Alaska at least a year, were at least 65 years old, and applied before 1994. Lesser payments were available to those who turned 65 in 1994, 1995, and 1996. No one was allowed to enter the program after 1996.

According to estimates from the Department of Health, the bonus would cost the state a little more than \$35 million in fiscal year 2007 and less each year until there were no more recipients. The program would have cost roughly \$45 million in fiscal year 2004.

The biggest challenge for a new governor could be convincing a Republican-controlled Legislature to reinstate the program.

House Majority Leader John Coghill, R-North Pole, who is backing Binkley, criticized Murkowski for dropping the program all at once but said he would not support an effort to reinstate it.

"It was the right thing to do," he said of Murkowski's ending the program, "He just did it the wrong way."

The hurdle of an unwilling Legislature hasn't stopped both Republican and Democratic candidates from criticizing the governor for his veto and vowing to bring the program back.

"It was a poor, misguided decision to lop our seniors off a program that was scheduled to phase out," Palin told the News-Miner last month, "I think it was a huge mistake."

Palin said she would reinstate the program and that the state could afford it.

According to the Department of Health, about 13,800 seniors would qualify for the bonus in 2007. Murkowski vetoed the funding when more than 17,000 qualified.

Knowles said he would reinstate the program as it was when he left the office of governor in 2002. He said the "vast majority" of the bonus funds went to people who are now over 75 and have no other way of supplementing an often "very meager" cash supply.

Croft and Binkley also said they would bring back the Longevity Bonus.

"It was a promise," said Croft.

Murkowski defended his veto in a July interview with the News-Miner. He said the program was unfair because it was not based on financial need and that a budget deficit forced him to cut state spending.

"I'm willing to take the heat," he said, "I can justify my actions because we had to make some cuts."

Ultimately, bringing back the Longevity Bonus could take more than a new governor.

Democratic lawmakers tried in 2004 and again in 2005 to restore funding to the program, but none of their proposals made it out of committee.

Rep. Les Gara of Anchorage, who led a push for funding in 2005, said the issue had become political, with Republican lawmakers backing the Republican governor.

Coghill mentioned a desire by lawmakers to cut the program over five years but acknowledged that lawmakers turned down multiple chances to reinstate it.

"The Legislature is probably culpable in some degree," he said.

Whether a new governor could bring lawmakers around is another question.

Coghill claimed the political will to bring the program back does not exist.

Binkley disputed the claim.

"I believe with the governor leading the way that it will happen," he said.

Staff writer Stefan Milkowski can be reached at smilkowski@newsminer.com or 459-7577.

<< Back



Apprehension, excitement and relief about longevity bonus



Anchorage senior citizens discuss the newly-reinstated longevity bonus. (Kris Riley/KTUU-TV)

by Natasha Rasheed
Friday, Dec. 15, 2006

Anchorage, Alaska - This morning, Gov. Sarah Palin announced that she plans to reinstate the longevity bonus for seniors. But with that announcement comes some apprehension and many seniors hope it isn't an empty promise.

Norma Erickson, who is 76 years old, knows a thing or two about the value of a dollar. For Erickson, \$150 is enough to pay for utilities, as well as a chance to buy presents for her grandchildren.



"It really helped me a lot and it took a long time before I got used to cutting here and cutting there and, you know, getting used to it," Erickson said.

In 2003, then-Gov. Frank Murkowski decided to end the longevity bonus program, which paid eligible seniors as much as \$250 a month.

Norma Erickson (above) said the bonus would help her and others living on a fixed income make ends meet. (Kris Riley/KTUU-TV)

"I just thought the suddenness of it -- I figured they could have done it by a year, kind of phased it out, so people could get used to it and plan otherwise," said Erickson.



Gov. Palin announced Friday that she intends to reinstate the longevity bonus for Alaska seniors. (Kris Riley/KTUU-TV)

But with a new administration comes a new plan. Palin says she plans to reinstate the longevity bonus, and at the Anchorage Senior Center, the news produced excitement for some.

"Wonderful! I was getting it for about five years and when it stopped it really hurt my budget," said Phillip McGuire, a senior citizen in Anchorage.

Others were apprehensive of Palin's offer.



Former Gov. Frank Murkowski (above) vetoed the seniors program in 2003. His popularity never recovered. (Kris Riley/KTUU-TV)

"I'm concerned about how the state is going to operate financially. I am not sure if she has taken that all into consideration or not. I'm sure it's popular with us senior citizens, but we have to think about how the state's going to make it down the road and our children," said Vincent Casey a senior citizen in Anchorage.

While some think it's a refreshing change for Alaska, officials estimate it would cost the state \$33.7 million to start making the payments again to the seniors who received it before. Finding the money will be up to the Legislature.

For Erickson, it would be a better quality of life and a change she hopes to see happen with the new administration. It is important to note that this is not yet a done deal.



Vincent Casey (above) was apprehensive about the program's reinstatement and worried about state's fiscal solvency. (Kris Riley/KTUU-TV)

The money must still be appropriated by the Legislature in order for seniors to get the checks.

At the time of the veto by Murkowski, the program was already being phased out with no new recipients and a bitter joke among seniors was that they were not dying fast enough.

In 2003, approximately 18,000 senior Alaskans got the monthly longevity bonus checks, or roughly half the senior population.

Today, Palin said that roughly 13,000 seniors would be eligible for the reinstated program, indicating that about 5,000 of the former recipients either moved or passed away.



All content © Copyright 2000 - 2007 WorldNow and KTUU. All Rights Reserved.
For more information on this site, please read our [Privacy Policy](#) and [Terms of Service](#).



April 16, 2007

The Honorable Jay Ramras, Chair
House Judiciary Committee
Alaska State Capitol, Room 118
Juneau, Alaska 99801-1182

RE: HB 79 (Lynn, Thomas, Guttenberg, Kerttula)--Support

Dear Chair Ramras:

On behalf of the members of AARP in Alaska, we encourage you and your colleagues on the House Judiciary Committee to support HB 79 co-authored by bipartisan sponsors led by your Committee colleague Representative Bob Lynn and Representatives Thomas, Guttenberg and Kerttula. Representatives Nelson and Kawasaki have also signed on as co-sponsors.

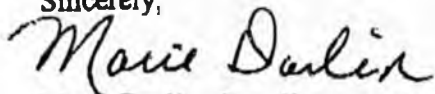
HB 79 will be the first step in setting application deadlines and continuous residency requirements for older Alaskans who wish to reapply for the Longevity Bonus.

AARP recommends an "AYE" vote on HB 79.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,



Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Vice-Chair Nancy Dahlstrom
Representative John Coghill
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes
Representative Bob Lynn
Representative Bill Thomas
Representative David Guttenberg
Representative Beth Kerttula

Emily Stancliff

From: dtinjun1@att.net
Sent: Saturday, April 14, 2007 1:31 PM
To: Rep. Jay Ramras
Subject: *****SPAM***** Hello

Hello, Jay: You don't know me, but I am aware of you. I like your attitude on things in Juneau, and hope you will continue to fight for us older Alaskans.

I would like to see the Longevity Bonus re-instated, as it was originally put in to keep older Alaskans in Alaska, and to sort of thank us for our contributions to the state. I am adamantly against the Senior Care bill getting alot of attention....What, really, have those with lower incomes contributed to the state?

Also, thanks for your efforts in getting the 90-day limit in....Now if we could only get it down to about 60 days, every other year... That would make me happy.... Too many days lead to too much delay in doing the state's business. Right? Good Luck the rest of the way... and have a great finish to this session....Regards, Ray Tinjum

HB

88



HOUSE JUDICIARY COMMITTEE

STATE CAPITOL, ROOM 120
(907) 465-4990

COMMITTEE MEMBERS

Rep. Jay Ramras
Chairman
Room, 118
(907) 465-3004

Rep. Nancy Dahlstrom
Vice-Chairman
Room 409
(907) 465-3783

Rep. John Coghill
Room 214
(907) 465-3719

Rep. Bob Lynn
Room 104
(907) 465-4931

Rep. Ralph Samuels
Room 204
(907) 465-2095

Rep. Max Gruenberg
Room 110
(907) 465-4940

Rep. Lindsey Holmes
Room 405
(907) 465-4919

MEMORANDUM

Date: March 1, 2007

To: Representative Kevin Meyer
Co-Chairman House Finance Committee
Representative Mike Chenault
Co-Chairman House Finance Committee

From: Representative Jay Ramras
Chairman House Judiciary Committee

Re: Judiciary Referral File CSHB88(JUD)

Attached please find the following documents:

- CSHB88(JUD) 25-LS0312L
- Judiciary Committee Report
- Sponsor Statement
- CSHB88(STA) 25-LS0312M
- HB88 25-LS0312A
- LAW – Zero Fiscal Note
- SUPPORT
- ARTICLE
- 13 AAC 04.260
- Legislative Research Report

Alaska State Legislature

House of Representatives



State Capitol
Juneau, AK 99801-1182

Official Business

Representative Carl Gatto

Representative Max Gruenberg

Sponsor Statement and Sectional Analysis

CSHB 88 () Version "K" – Televisions and Monitors in Motor Vehicles

Sponsor Statement

The purpose of the bill is to prevent operators of motor vehicles from watching television, video, and any other programming by making it a crime. Furthermore the bill makes it a crime to install a device capable of being viewed while the vehicle is in operation. This bill is similar, in most respects, to the version of HB 12 that passed the House last year. Version "K" contains two changes from the version of CSHB 88 (STA) that passed out of House State Affairs Committee.

Sectional Analysis

Section 1 amends AS 28.35 by adding a new section as follows:

Paragraph (a) sets forth the general rules that a person shall not drive a motor vehicle while watching a television, video monitor or some other type of video display. The elements of the crime of "driving with a screen operating" are enumerated: 1) a person is driving a motor vehicle, 2) the video display can be viewed by the driver while seated in a normal driving position, and 3) the video display is operating.

The crime covers equipment creating a visual display whether it is installed or is hand held. This is a change from the House State Affairs committee substitute that dealt with installed and hand held equipment slightly differently. In that version, installed devices only had to be operating in the driver's view while the motor vehicle is in motion, while for hand held devices, such as cellular telephones and personal data assistants, the driver had to be watching or reading from the visual display while driving to constitute a violation. With the change in paragraph (a), installed and hand held equipment are dealt with in the same manner.

Paragraph (b) prohibits installing or altering a video display in a motor vehicle that allows the images to be viewed by the driver while the vehicle is moving.

Paragraph (c) provides specific exemptions to the general rule including cell phones and personal data assistants that are used for verbal communication and equipment that is in the nature of aides to navigation, for operational safety, for dispatch information, such as is found in taxi cabs. An exemption for state and local highway construction and road repair authorities was added to the bill in the House State Affairs Committee.

Paragraph (d) makes it clear that the bill is not intended to cover equipment installed in an emergency vehicle. "Emergency vehicle" is defined as a police, fire or emergency medical service vehicle.

Paragraph (e) establishes an affirmative defense so long as proper equipment is installed.

Paragraph (f) prescribes the types of crimes that a person who is in violation of the law will face under various circumstances including injury and death of another.

A person who violates the law is guilty of a

- 1) class A misdemeanor;
- 2) class C felony if as a result of that violation another person suffers a physical injury;
- 3) class B felony if as a result of that violation another person suffers a serious physical injury;
- 4) class A felony if as a result of that violation another person suffers death.

Paragraph (g) prescribes the crime and punishment of a person who installs equipment in violation of the law.

Section 2 of the bill brings the definition of "physical injury" contained in Title 11 over to Title 28. Previously, the definition of "serious physical injury" in Title 11 was made applicable to Title 28.

Section 3 of the bill sets forth an effective date of September 1, 2007.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 88(STA)
 (H) Publish Date: 2/21/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title An Act relating to TV's and monitors in motor RDU Criminal
vehicles. Component Criminal Justice Litigation
 Sponsor Representative Gatto
 Requester House State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill prohibits a person from driving a motor vehicle with a TV type monitor installed that is visible to the driver, if the monitor is operating while the vehicle is being driven. It also prohibits installing such a monitor or altering a monitor that so that a monitor is visible to the driver while operating the vehicle. There are several exceptions, such as GPS or other equipment or safety displays. The penalty for the new crime of operating a vehicle while a monitor visible and playing depends on the harm caused. If no injury results from the offense, it is a class A misdemeanor. If, for example, a person sustains serious physical injury, the offense is a class B felony. The penalty for installation or alteration is a class A misdemeanor. The department does not anticipate any significant fiscal impact.

Prepared by: Robert Meiners, Acting Director Phone 465-5427
 Division Administrative Services Division Date/Time 2/6/07 7:20 AM
 Approved by: Robert Meiners for Talis Colberg, Attorney General Date 2/6/2007
 Agency Department of Law