

S B

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Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: SB466

Sponsor: HESS

Date referred to committee: 3/19/86

Synopsis completed:

Fiscal note:

Further referrals:

CONTACTS:

✓ Royce 2300 (Revenue)

✓ Pat Shanrock, ABC Bd 227-8638

✓ Jerry Reinwand 586-8966

~~Jerry Sticker 2534 2194~~

STATE OF ALASKA  
THE LEGISLATURE

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

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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

*A/ESS 4-1-86 1:35 pm*

COMMITTEE REPORT  
SENATE

FURTHER:

FINANCE

3/19/86

Date 4-1-86

Mr. President

The Committee on HESS considered SB 466

extending the termination date of the Alcoholic Beverage Control Board; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for \_\_\_\_\_
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_

\_\_\_\_\_

*Joe Jacobson*

\_\_\_\_\_

*William Pennington*

\_\_\_\_\_

*Edmund P. Vies*

\_\_\_\_\_

*Carl F. Truitt*

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

*George F. ...*

Chairman

Chairman recommendation \_\_\_\_\_

2  
2

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No: SB 466  
Title: Extending the Termination Date of the ABC Board

Sponsor: (S) HESS Committee  
Requestor: \_\_\_\_\_  
Date of Request: March 28, 1986

FISCAL DETAIL

Agency Affected: Revenue  
BRU: \_\_\_\_\_

Components: Alcoholic Beverage Control Board

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
<b>OPERATING</b>						
PERSONAL SERVICES	-	540.7	540.7	540.7	540.7	540.7
TRAVEL	-	51.9	51.9	51.9	51.9	51.9
CONTRACTUAL	-	79.7	79.7	71.7	71.7	71.7
SUPPLIES	-	7.6	7.6	7.6	7.6	7.6
EQUIPMENT	-	10.1	10.1	10.1	10.1	10.1
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	690.0	690.0	690.0	690.0	690.0
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	690.0	690.0	690.0	690.0	690.0
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<b>TOTAL</b>	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	11	11	11	11	11
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page if necessary

Prepared By: Patrick L. Sharrock  
Division: Alcoholic Beverage Control Board  
Approved by Commissioner: *Patrick L. Sharrock*  
Agency: Department of Revenue

Phone: 277-8638  
Date: March 28, 1986  
Date: March 28, 1986

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
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- Impacted Agency(ies)

# Alaska State Legislature

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## Senate Committee on Health, Education and Social Services

### M E M O R A N D U M

TO: Members, Senate Committee on Health, Education and Social Services

FROM: Committee Staff

RE: Committee Meeting, April 1, 1986

DATE: March 28, 1986

---

On Tuesday, April 1, 1986 from 1:30-3:30 p.m. in the Beltz Room, the Senate Committee on Health, Education and Social Services will hear the following bills:

SB 466 Extending the termination date of the Alcoholic Beverage Control Board

SB 466 would extend the Alcoholic Beverage Control (ABC) Board four years, as recommended in the August 1985 sunset audit. A copy of the audit recommendations and the Board's response is attached.

The ABC Board was established in 1959 to control the manufacture, barter, possession, and sale of alcoholic beverages in order to protect the public's health, safety, and welfare. The Board is under the Department of Revenue and employs an executive director who issues, renews, and revokes licenses. As of June 30, 1985, 1,679 licenses had been issued.

HB 485 Relating to the powers and duties of guardians

HB 485 would amend AS 13.26.150(e) to specify that guardians may accept a medical decision to withhold life-saving medical procedures from their wards when those procedures would serve only to prolong the dying process. Guardians could not be held civilly liable for adhering to the provisions of the statute.

file SB ~~000~~  
466

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL BOARD

August 21, 1985

Audit Control Number

04-1223-86-R

Commissioner, Department  
of Revenue

Mary A. Nordale

Deputy Commissioners,  
Department of Revenue

Bruce M. Botelho  
Milton B. Barker

Members of the  
Alcoholic Beverage Control Board

Chairman  
Member  
Member  
Member  
Member

William K. Smith  
E. L. Holloway  
Jane C. Perkins  
James McNamee  
Jack Griffin

# STATE OF ALASKA

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811

August 21, 1985

Members of the Legislative Budget  
and Audit Committee:

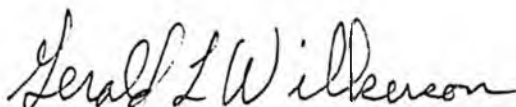
In accordance with the provisions of Title 24 of the Alaska  
Statutes, the attached report is submitted for your review.

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL BOARD

August 21, 1985

Audit Control Number

04-1223-86-R



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

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## PURPOSE OF THE REPORT

In accordance with the provisions of Alaska Statutes 24.20.271(1) and 44.60.050 (sunset legislation) an examination of the Alcoholic Beverage Control (ABC) Board was conducted to determine if the Board has been operating in an efficient and effective manner and if the Board should be reestablished.

As required by legislative intent, this report should be considered during the legislative oversight function in determining if the ABC Board should be reestablished. Per the 1984 amendment to AS 44.66.010(A)(1), the Board is scheduled to terminate on June 30, 1986.

The policy and audit approach utilized by the Division of Legislative Audit for Performance Reports can best be described as "audit by exception."

This methodology focuses audit effort on areas of an auditee's operations that have been identified by a preliminary survey as having a high degree of probability for needing improvements.

Therefore, by design, finite audit resources are used to identify where and how improvement can be made and little time is devoted to reviewing well run operations or programs. Consequently, this report highlights those areas needing improvement and does not emphasize those operations and programs that are properly functioning.

## ORGANIZATION AND FUNCTION

The Alcoholic Beverage Control Board (hereinafter referred to as the ABC Board or the Board) was established in 1959 by Title 4 of the Alaska Statutes as a regulatory, quasi-judicial agency. The Board is vested with the powers, duties, and responsibilities for the control of alcoholic beverages, including the power to propose and adopt regulations and to hear appeals.

Members are appointed for three-year terms by the Governor and serve at his pleasure subject to confirmation by the Legislature. Membership is limited by statute to five persons (two liquor industry representatives and three non-industry representatives). A director, also appointed by the Governor, serves as executive officer and is responsible for enforcement of Title 4 liquor laws and regulations developed by the Board. Although he is not a member of the Board, the director may cast a tie-breaking vote. Under the direction of the Board, the director may issue, renew, transfer, revoke or suspend licenses or permits.

Title 4 prescribes the type of licenses, fees, and specific activities allowed under each license classification (see schedule of license types and fees in Appendix C). Fees are payable at the time of application. To renew an already existing liquor license, the application must be filed and the corresponding fees paid on or before February 28.

The availability of licenses throughout the State is determined by the population within designated areas. Effective June 6, 1985, one license may be issued for every 3,000 in population or fraction thereof. As of June 30, 1985, a total of 1,679 licenses had been issued (see Appendix B).

The staff of the ABC Board is divided into three major functions: administration, licensing, and enforcement. A brief description of the services provided by those functions follows.

Administration. The director of the ABC Board provides all administrative support needed by the Board including overseeing all staff functions, preparing budget documents, directing the preparation and implementation of administrative and public hearings, and directing special enforcement investigations.

Licensing. The licensing staff currently consists of three full-time employees responsible for issuing and receiving application forms, maintaining records and files for all licenses, collecting fees, issuing all licenses and permits authorized by the Board, and answering inquiries from the general public on routine licensing matters.

Enforcement. The ABC Board currently employs six investigators - four operating from the Anchorage central office, one operating from the Fairbanks field office, and one operating from the Juneau field office. Services provided include:

- (1) surveillance and inspections of licensed premises,
- (2) investigations to obtain information to be used in criminal and civil proceedings and investigations into suspected licensing violations,
- (3) public appearances relating to ABC laws and regulations, and
- (4) assisting the licensing staff in handling inquiries from the general public.

## REPORT CONCLUSION

### Policy Issues

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

### Report Conclusions

Title 4 of the Alaska Statutes established the ABC Board to control the manufacture, barter, possession, and sale of alcoholic beverages in the State in order to protect the public's health, safety, and welfare. We believe that there is a demonstrated need for this control to continue to exist. In order to operate in a more efficient and effective manner, the following recommendations should be implemented.

1. The ABC Board should document the mitigating circumstances and reasons for not pursuing a suspension or revocation of a license.
2. Alaska Statute 04.11.510(c) should be amended to exclude Board participation in informal conferences.
3. The ABC Board should cease the current practice of terminating a license without cause and seek legal advice for clarification of its authority.
4. The ABC Board should improve documentation of its enforcement efforts.
5. The ABC Board should promulgate regulations for the creation of restaurant designation permits and the establishment of fees.
6. The ABC Board should strengthen controls over liquor license stock.

## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The ABC Board should document the mitigating circumstances and reasons for not pursuing a suspension or revocation of a license.

Alaska Statute 04.11.370 provides for the suspension or revocation of a license if one or more of the eleven items listed in the provisions exists. Some of the major items listed include: misrepresentation of a material fact on an application; failure of a licensee to correct defects which constitute violations of Title 4; use of the licensed premises as a resort for illegal possessors or users of narcotics, prostitutes, or pimps; and violation by a licensee of Title 4 or a regulation or ordinance adopted under Title 4.

As prosecutor in the adjudication process, the ABC Board's Director is responsible for filing an accusation against a licensee when the facts show that a violation applicable to AS 04.11.370 has occurred. An accusation is a written statement of charges setting out the acts or omissions with which the licensee is charged and specifies the statute which the licensee is alleged to have violated.

Supporting the accusation is evidence gathered by the ABC Board's investigative staff. Investigative activity includes premise inspections, undercover observations, inquiries of licensee's staff and customers, and a review of local police reports.

Once an accusation has been filed by the Director, the ABC Board members have the responsibility of hearing the case and imposing the penalty upon a determination of the licensee's guilt.

Our review of cases requiring Board action showed that most cases resulted in dismissal of the accusation after an informal conference was held with the licensee. In some cases, the dismissal included a stipulation prohibiting any reoccurrences.

It is the ABC Board's position that it is within their discretion to adopt stipulations with remedial actions rather than to impose suspensions and revocations. Although we recognize that stipulations are within the Board's discretion, the files seldom document the mitigating circumstances or provide an explanation of why the Board chose to dismiss the accusation. In all cases, the files should clearly document the reasons for the Board's actions.

## Recommendation No. 2

The Legislature should consider amending Alaska Statute 04.11.510(c) to exclude Board participation in informal conferences.

If an accusation is filed by the Director, the licensee is given the option of requesting an informal conference. Per AS 04.11.510(c), the informal conference may be held with the Director or the Board. If not satisfied with the results of the conference, the licensee may request a formal hearing. The ABC Board may delegate full authority to preside over the case to a hearing officer, or it may hear the case with the hearing officer. If the case is heard by the hearing officer, the officer is required to submit a proposed decision to the Board. The Board has the option of adopting the proposed decision or rendering a different one. If the case is heard by the Board and a hearing officer, the Board renders its final decision upon completion of the hearing.

When hearing a case, the Board should be unbiased and impartial. Evidence presented by the Director (the prosecutor) and the licensee (the defendant) should be weighed equally. Only evidence and testimony presented during the hearing may be considered in reaching a final decision. The Board's participation in informal conferences, prior to a formal hearing, may have a negative effect on their independence. No guidelines have been established to address what type of evidence can be submitted or what rules of law should be adhered to in the conferences.

For the most part, informal conferences are held by the Board without counsel to advise them on matters of law. As noted in Recommendation No. 1, Board action to resolve most cases resulted from informal conferences. If a hearing is requested by the disgruntled licensee after an informal conference, the Board runs the risk of having developed a biased opinion prior to the hearing.

To ensure the Board's independence, informal conferences held on pending cases should be limited to the Director. Any stipulations made by the Director and the licensee should be submitted to the Board for review. Board review of the stipulations should include an evaluation of the fairness of the resolution and an analysis of whether the terms are in compliance with statutory requirements. Final Board action should be documented by a motion and vote of the Board at an open meeting.

In addition, all informal conferences should be recorded to document the matters discussed. A brief summary of the discussion and agreements made should be transcribed and maintained in the licensee's file.

Recommendation No. 3

The ABC Board should cease the current practice of terminating a license without cause and seek legal advice for clarification of its authority.

The ABC Board has established an informal policy of requiring a licensee to surrender an existing license upon the issuance of a new license of a different type. For example, the holder of a restaurant/eating place license would be required to surrender that license upon the issuance of a beverage dispensary license for the same premise. The Board's authority to enforce this policy is questionable.

The ABC Board is governed by Title 4 of the Alaska Statutes. Per AS 04.11.070 the Board has the authority to issue, renew, transfer, suspend, or revoke a license. Alaska Statutes 04.11.360 and 04.11.370 list the conditions under which the Board can deny a transfer or revoke a license. The conditions listed primarily address violations by the licensee, actions which are contrary to statute, and actions which are not in the best interest of the public.

Our review of the licenses surrendered per the Board's informal policy showed that none of the conditions listed in AS 04.11.360 and AS 04.11.370 existed. In addition, we found that the Board was inconsistent in its application of the policy. The requirement to surrender a license was only imposed if the existing license was originally issued to the holder by the ABC Board. If the existing license was acquired through a transfer (purchase) then, the licensee was allowed to retain the license or transfer it. In the former case, the licensee was deprived of the privilege to transfer the license whereas in the latter case he was not. Our review disclosed three cases in which the licensee was deprived of the transfer option.

Due to the passage of House Bill 34, the population limits for the issuance of licenses was increased from 1,500 to 3,000. As a result, the license quota for the issuance of new licenses has been capped for most areas in the State. The ownership and transferability of a license is more valuable now than ever before. We noted in our review that one of the three licenses was surrendered in November 1984 under protest. The licensees feel their rights of ownership should not be denied. Although the ABC Board has taken no action on the protest to date, we strongly recommend that the Board obtain an Attorney General's opinion prior to taking action on the matter.

Recommendation No. 4

The ABC Board should improve documentation of its enforcement efforts.

This recommendation was made in our prior audit. Primarily, we had found that the ABC Board did not maintain adequate documentation of its enforcement actions from inception to final resolution. In addition, documentation of actions resulting from informal conferences held with the licensee was not adequate. Although the ABC Board staff has made some improvements (especially the Enforcement Section) our current review disclosed the following additional problems:

1. Documentation of the Director's review of investigative reports is not adequate.

The Director is required to review all investigative reports generated by the enforcement staff. However, our review showed that 26 of 46 reports did not have documentation of Director review.

2. Documentation of administrative decisions made by the Director is not adequate.

Not all violations noted by the ABC Board staff are prepared for prosecution. The Director is responsible for making the ultimate decision. Factors considered by the Director include; type of violation, evidence gathered by enforcement staff, prior violations, and the intent of the licensee. Therefore, a violation by one licensee may result in the filing of an accusation whereas a violation by another licensee may not. Our review showed that no documentation is maintained by the Director to show cause for not pursuing a case. As a result, in our review of 35 cases, we found nine cases which were not pursued by the Director although the violation and evidence gathered by the enforcement staff appeared to warrant further action. For example, an investigative report was prepared noting over 140 instances of violence on a licensee's premises over approximately a three year period. The investigators recommended an accusation be filed to suspend or revoke the license. An accusation was not filed and the file did not contain an explanation of why the case was not pursued. Documentation of administrative decisions would ensure proper review and fair treatment of cases.

3. The administrative filing system needs improvement.

An administrative file is established if violations noted by the Enforcement Section require prosecution by the Director. The file contains documentation of actions arising from the Director and/or Board review.

If another action involving the same licensee arises, then a separate file is created. No system has been established to record a historical summary of administrative actions and penalties imposed by the Board per each licensee. Thus, vital information which could be utilized by the Director and the Board in the decision making process is not readily available. In addition, a historical summary could also be utilized by the enforcement staff when conducting routine inspections to identify potential problem areas and ensure compliance to requirements stipulated by the Board.

We encourage the ABC Board to continue its efforts in implementing procedures to resolve the problems noted in our prior audit.

Additionally, we recommend that the ABC Board develop procedures to resolve the problems noted above.

Recommendation No. 5

The ABC Board should promulgate regulations for the creation of restaurant designation permits and the establishment of fees.

Alaska Statute 04.16.049 requires Board designation of a premise as a restaurant in order to allow access by a minor for dining or employment purposes. Approval of the governing body having jurisdiction over the premise is also required, if access of a minor is allowed for employment purposes.

In an effort to comply with the above requirement, the ABC Board required the licensee to submit an application indicating the type of designation requested. Upon receipt of the application a notification is sent to the governing body requesting their review and approval. The governing body is given 30 days to respond. Once reviewed and approved by the Board a notification is sent to the applicant and a permit is issued. The licensee is required to post the designation permit next to the liquor license. The permit is valid for one calendar year. A licensee must reapply for the permit annually.

Due to the process stated above, the ABC Board has created a new class of permits called restaurant designation permits. However, no regulations have been developed to formally establish the classification. In addition, no application fees or permit fees have been assessed to cover the expenses associated with the processing and issuance of the permits. According to the ABC Board staff, processing of the permits is very time consuming. Approximately 250 applications per year were processed in 1983 and 1984. Over 300 applications have been processed since January 1985.

Alaska Statute 04.06.100 gives the Board the authority to adopt regulations relating to the creation of permits and the establishment of fees. We recommend that the ABC Board take the necessary actions to exercise this authority.

Recommendation No. 6

The ABC Board should strengthen controls over liquor license stock.

A control log is maintained by the ABC Board to monitor the issuance of licenses. However, we found that license documents utilized in the renewal of active licenses are recorded by group sequence. No record is maintained to identify to which licensee each license document was issued.

In addition, the control log does not denote which license documents have been voided because of Board denial or revocation of the license.

A good system of internal controls would enable one to determine the status and location of a license at any given point in time.

The ABC Board should review the control over the issuance of licenses and develop procedures to resolve deficiencies.

## ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analysis indicates both positive and negative attainments of the ABC Board and how its activities relate to the public need factors defined by AS 44.66.050. This analysis is not intended to be comprehensive in nature.

I. The extent of which the board, commission, or program has operated in the public interest.

Public protection gained through licensing to control the manufacture, possession, and sale of alcoholic beverages has been adequately provided by the ABC Board. However, operational efficiency and effectiveness should be improved. See Recommendations 1-6 of this report.

II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personal matter.

The 1980 revisions to Title 4 have, for the most part, been beneficial to the operation of the ABC Board. However, as noted in Recommendation No. 2, certain provisions should be amended for the elimination of potentially conflicting elements.

The Board is also restricted in meeting its statutory responsibilities in protecting the public health, safety, and welfare by the size of the enforcement staff which consists of one agent in Juneau; one in Fairbanks; and four, including a supervisory agent, in Anchorage. Including the supervisory agent, there are only six agents with inspection and enforcement responsibilities for 1,679 licensed premises.

The amendments to Title 4 by chapter 93, SLA 1985 will also have an effect on the ABC Board's operation. Population limits for the issuance of licenses were increased thereby resulting in a restructuring of license availability throughout the State. Additional filing requirements were also imposed on the Board. Due to the recent passage of the legislation, the overall impact of the changes could not be determined at this time.

III. The extent to which the board, commission, or agency has recommended statutory changes which are generally of benefit to the public interest.

The ABC Board was instrumental in promoting most of the changes adopted through chapter 93, SLA 1985. In addition, the ABC Board participated in the development of the 1980 revisions to the statutes.

- IV. The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

The ABC Board has met an average of eleven times during 1984 and 1985. During each year they have met at least once in each of the four judicial districts. Each meeting has been adequately advertised and open to all interested persons. Staff of the ABC Board are located in Anchorage, Juneau, and Fairbanks and are available to answer inquiries of the general public during all normal business hours. We believe this has provided an adequate forum for allowing public input on Board regulations and decisions.

- V. The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

As noted in IV above, the Board has provided an adequate forum for obtaining input from the public.

- VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

As noted in past reviews the number of formal hearings continue to be few in number. However, the ABC Board has the authority to hold its own hearings on protests which it exercises as a part of its regularly scheduled meetings. Hearings in this manner have been accomplished in a timely manner since the Board meets at least ten times each year.

- VII. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

Our review of licensing activity of the ABC Board to determine whether all statutory qualifications of licensees were being met revealed no material exceptions. The Board has therefore presented qualified applicants to serve the public.

VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity of interest.

No discrepancies were noted in this area during our review of the ABC Board.

IX. The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Please refer to I and II above and to the previous section, Findings and Recommendations.

APPENDIXES

APPENDIX A

STATE OF ALASKA  
DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL BOARD  
REVENUE COMPARED WITH EXPENDITURES  
Fiscal Years 1983, 1984 and 1985  
(UNAUDITED)  
(Note 1)

	<u>1983</u>	<u>1984</u>	<u>1985</u>
Revenue (See Schedule 1)	\$1,592,957	\$1,716,950	\$1,701,968
Expenditures	<u>(605,131)</u>	<u>(692,310)</u>	<u>(653,872)</u>
<u>Excess of Revenue</u> <u>Over Expenditures</u>	<u>\$ 987,826</u>	<u>\$1,024,640</u>	<u>\$1,048,096</u>

Schedule 1  
Revenue Collected

<u>Types of License</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>
Liquor License Application	\$ 86,950	\$ 100,000	\$ 101,850
Pub	400	800	-0-
Beverage Dispensary	799,050	852,825	852,275
Club	41,200	43,750	44,900
Common Carrier	30,500	43,350	36,675
Restaurant	73,550	89,650	91,850
Retail Store	341,500	368,150	373,300
Wholesale General	146,700	141,350	139,100
Wholesale Malt Beverage	27,900	27,300	12,300
Miscellaneous (Note 2)	<u>45,207</u>	<u>49,775</u>	<u>49,718</u>
<u>Total</u>	<u>\$1,592,957</u>	<u>\$1,716,950</u>	<u>\$1,701,968</u>

Note 1

This revenue/expenditure comparison was prepared from available records and discussions with ABC Board personnel. The records were not audited by us and, accordingly, we do not express an opinion on the ABC Board Revenue Compared with Expenditures nor the Schedule of Revenue Collected.

Note 2

Includes recreational-site licenses, caterer's special events, and conditional contractor's permits.

APPENDIX B

STATE OF ALASKA  
DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL BOARD  
NUMBER OF LICENSES BY TYPE  
Fiscal Years 1983, 1984, and 1985

<u>Types of License</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>
Pub	1	1	1
Beverage Dispensary	645	645	648
Club	65	71	72
Common Carrier	94	124	129
Restaurant	223	270	292
Retail Store	448	473	492
Wholesale General	16	18	20
Wholesale Malt Beverage	8	8	9
Recreational-Site	<u>13</u>	<u>16</u>	<u>16</u>
<u>Total Licenses</u>	<u>1513</u>	<u>1626</u>	<u>1679</u>

APPENDIX C

STATE OF ALASKA  
DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL BOARD  
DESCRIPTION OF LICENSE TYPES AND FEES

<u>Source</u>	<u>Description</u>	<u>Annual Fee</u>
Application Fee	For each license application.	\$50
Beverage Dispensary	To sell or serve on the licensed premises alcoholic beverages for consumption on the licensed premises only.	\$1,250
Restaurant or Eating Place	To sell beer and wine for consumption only on the licensed premises.	\$300
Club	To sell alcoholic beverages for consumption only on the licensed premises.	\$600
Bottling Works	To operate a bottling works where beer and wine may be bottled and sold.	\$250
Brewery	To operate a brewery where beer is manufactured and bottled or barreled for sale.	\$500
Winery	To operate a winery where wine is manufactured and bottled or barreled for sale.	\$250
Package Store	To sell alcoholic beverages to a person in response to a verbal solicitation for purchase received from the person present on the licensed premises or in response to a written solicitation made by a person known to the license for a purchase to be received by the person making the solicitation.	\$750
Retail Stock	To sell the remaining stock of a package liquor store when the owner wishes to close or terminate business. Sale may only be to licensed persons.	\$100

APPENDIX C

STATE OF ALASKA  
DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL BOARD  
DESCRIPTION OF LICENSE TYPES AND FEES

<u>Source</u>	<u>Description</u>	<u>Annual Fee</u>
General Wholesale	To sell alcoholic beverages in the original package, and wine in bulk, in quantities of not less than five gallons to holders of licenses.	\$1,000 First \$100,000 of sales plus \$500 - 10,000 on additional sales
Wholesale Malt Beverage and Wine	To sell malt beverages and wine in the original packages in quantities of not less than five wine gallons to holders of licenses.	\$200 First \$20,000 of sales plus \$300 - 10,000 based on additional sales
Distillery	To operate a distillery where alcoholic beverages are distilled and bottled or barreled for sale.	\$500
Community Liquor	Authorizes a municipality to operate a beverage dispensary or a package store or both subject to the same conditions and fees applicable to beverage dispensary or package liquor store licenses.	\$1,250 Beverage Dispensary 750 Package Store
Common Carrier Dispensary	To sell alcoholic beverages for consumption aboard a vehicle, boat, aircraft, or railroad buffet car licensed by the State or federal agency for passenger travel.	\$350 Per vehicle, boat, aircraft or railroad car
Recreational Site	To sell beer and wine at a recreational site during and one hour before and after a recreational event which is not a school event, for consumption on designated areas at the site.	\$400
Pub	To sell beer and wine for consumption only at designated premises located on the campus of an accredited college or university.	\$400

APPENDIX C

STATE OF ALASKA  
DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL BOARD  
DESCRIPTION OF LICENSE TYPES AND FEES

<u>Source</u>	<u>Description</u>	<u>Annual Fee</u>
Caterer	Authorizes the holder of a beverage dispensary license to sell or dispense alcoholic beverages at conventions, picnics, social gatherings, sporting events or similar affairs held off the holder's licensed premises.	\$50
Special Events	To sell or dispense beer or wine for consumption at designated premises for a specific occasion and limited period of time. Only a nonprofit organization may acquire the permit.	\$50 Per day
Conditional Contractor	To sell beer or wine for consumption only on designated premises for one year from the date of issuance of the permit at construction sites which are located outside a city and inside the boundaries of a military or naval reservation.	\$600

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH S  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2300

December 30, 1985

RECEIVED  
DEC 30 1985

LEGISLATIVE  
AUDIT

Mr. Gerald L. Wilkerson  
Legislative Auditor  
Division of Legislative Audit  
Pouch W  
Juneau, AK 99811-3300

Dear Mr. Wilkerson:

This letter is in response to your preliminary audit report on the performance of the Alcoholic Beverage Control Board dated August 21, 1985.

We fully agree with your conclusion "...there is a demonstrated need for this control to continue to exist." Following are our comments about your specific recommendations.

### Recommendation No. 1

The ABC Board should document the mitigating circumstances and reasons for not pursuing a suspension or revocation of a license.

We agree. Since your remarks in your interim letter the board's staff has assured that concluding notes from informal conferences are reflected in all administrative proceeding files.

### Recommendation No. 2

The Legislature should consider amending Alaska Statute 04.11.510(c) to exclude Board participation in formal conferences.

The issues raised in this recommendation are substantive ones and touch on some of the most controversial topics in administrative adjudication. Thus, while we may disagree with specific conclusions you have reached, we recognize that your position finds support among many in administrative law.

As you have noted, AS 04.11.510 permits an accused licensee to request an informal conference before the director or the board. If the licensee is not satisfied with the results of the conference, he/she may request a formal hearing before the board. You correctly note that when reviewing a case, the board should be unbiased and impartial.

This concern is a problematical one. While the United States Supreme Court has authorized board involvement at both the informal conference and adjudicatory stages of a dispute (Withrow v. Larkin, 421 U.S. 35 (1975)), the Alaska administrative practice has been much more circumspect. The board was heavily queried on this matter. I am

Mr. Gerald L. Wilkerson  
December 30, 1985  
Page 2

satisfied that the board is provided only limited information about the dispute, that the information provided is solely for the purpose of providing sufficient facts to discuss the basis for settlement, and that the board fully understands that its decision on the merits of a case must be limited to evidence presented on the record at hearing. Except for rare unintentional oversights, informal conferences are recorded.

Because there is legal authority for the present practice and because the board strongly believes that its involvement at the informal conference level has reached expeditious and just results in the past, I am compelled to disagree with Recommendation No. 2.

Recommendation No. 3

The ABC Board should cease the current practice of terminating a license without cause and seek legal advice for clarification of its authority.

In an opinion dated September 27, 1985 from the board's assistant attorney general, the board finds its practice to be unwarranted. The matter will not be pursued.

Recommendation No. 4

The ABC Board should improve documentation of its enforcement efforts.

1. Documentation of the Director's review of investigative reports is not adequate.
2. Documentation of administrative decisions made by the director is not adequate.

Nos. 1 and 2. ~~We agree.~~ The director has instituted a more formalized review of investigative reports. The procedure includes a director's review sheet with provision for his signature rather than initials on investigative reports. The review sheet is intended to reflect a written record of the director's review of reports.

3. The administrative filing system needs improvement.

Filing of administrative/adjudicative recommended and completed actions will be supplemented with computerized summary information when computer programs are corrected or appropriate software obtained.

Recommendation No. 5

The ABC Board should promulgate regulations for the creation of restaurant designation permits and the establishment of fees.

~~We agree.~~ The board has drafted a proposal for designation permits and is preparing to provide public notice for public hearing on a regulation.

Mr. Gerald L. Wilkerson  
December 30, 1985  
Page 3

We agree. The board has drafted a proposal for designation permits and is preparing to provide public notice for public hearing on a regulation.

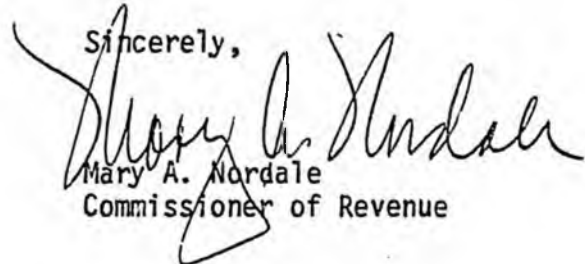
Recommendation No. 6

The ABC Board should strengthen controls over liquor license stock.

A license document control number file is established which also contains original licenses if they are voided or not used.

Thank you for your courtesy and the opportunity to respond. If we can provide any additional information, please do not hesitate to let us know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mary A. Nordale".

Mary A. Nordale  
Commissioner of Revenue