

LEG. FINANCE - BILLS 1983 - 1984 1889

HB 323 cont. - HB 325

1889

year durational residency requirement under the student loan program. The state has argued that the two year requirement is reasonable in light of the transience of student populations, the generous loan amounts under the Alaska program and the fact that there is no requirement that the loan funds be used at an Alaska institution. The plaintiff in that case has conceded that a one year requirement would be reasonable. Assuming the Alaska Supreme Court continues in its present trend in durational residency cases, a one year durational residency requirement for the loan programs would more than likely be upheld.^{6/} A two year requirement might be upheld, but it carries a much higher risk of being struck down than would a one year requirement. The Committee may want to defer proposing any amendments to the two year residency requirement for student loans until the pending litigation is resolved. The Committee may also want to defer action on the other loan programs until after the Alaska Supreme Court renders its decision on the one year residency requirement for participation in the Kenai land disposal lottery (Gilman v. Martin). That decision may provide some indication as to how our court would rule on a one year residency requirement for state loans.

^{6/} The one loan program for which a one year residency requirement would most likely not be upheld is the AHFC program for home mortgages -- at least as long as there continues to be a requirement that the loans will be made only for owner-occupied dwellings. As has been noted earlier in this memorandum, with rare exceptions, durational residency requirements may be used only as a way of measuring whether a person has the intent to remain in the state and make his or her home there. Purchasing a dwelling under a loan program requiring owner occupancy as a condition of the loan is such a strong indication that a person's claimed residential intent actually exists, that a court would most likely find that there was no valid state purpose in imposing an additional one year residency requirement.

I would, however, recommend that the sliding scale preference for accepting student loan applications that is based on years of residency be repealed, even though it has apparently never been applied. This provision is so similar to the dividend plan struck down in Zobel v. Williams that it is virtually certain to be struck down on the same constitutional grounds. On the other hand, the provisions of AS 14.40.763(j), providing for graduated forgiveness of portions of student loans based on continued residence in Alaska after graduation seem to be based on an entirely different rationale. Those provisions are not based on past residency, but seek to affect future behavior. Providing graduated loan forgiveness seems closely tied to the purpose of encouraging students to return to or remain in Alaska after they have received their educations. I believe that that provision would most likely be upheld if it were to be challenged, and that there is no need to repeal it because of constitutional vulnerability.

C. Land Disposal Programs

As mentioned above, the Alaska Supreme Court now has under consideration a case in which the Kenai land disposal program has been challenged. (Gilman v. Martin.) The Kenai ordinances governing its program are almost identical to the state's land lottery provisions in AS 38.05.057 and AS 38.05.058. Thus, the decision in Gilman will almost

certainly answer any constitutional questions that might be raised concerning the state's program. I agree with the assessment of the constitutional problems with these statutes contained in the Department of Law's chart. I believe that a one year residency requirement to participate in either the land lottery or the homesite entry program would probably be upheld. I have serious doubts about the constitutionality of the provision under which discounts of the purchase price are granted based on years of residency in the state. The committee may, however, wish to defer proposing amendments to this provision until after the decision in Gilman is rendered, since the residency based discounts are also at issue in that case.

D. Special Old Age Programs

I also agree with the assessment made by the Department of Law as to the durational residency requirements contained in the programs providing benefits or preferences to older residents of the state. With respect to the one year residency requirement for the senior citizen special assessment exemption under AS 29.63.065(d)(1), I have doubts about whether that requirement would be upheld, for the same reasons I outlined concerning a one year residency requirement for AHFC loans in footnote 6, above. A one year requirement for the senior citizen exemption from the fishing license requirement would probably be upheld; a 30 year requirement is clearly unconstitutional.

I also agree that the residency requirements for the longevity bonus are almost certainly unconstitutional. There are arguments that could be made in defense of the Pioneers' Home residency provisions, but it is far from certain that those requirements would be upheld. (The arguments in support of the Pioneers' Home residency requirements are contained in the November 26, 1982 opinion by Wilson Condon, a copy of which is among the Committee's files.) However, any recommendation as to how the residency requirements for these two programs might be amended to meet constitutional requirements necessarily has tremendous fiscal implications. The residency questions in these two programs are so intertwined with the structure and operation of the programs, that they cannot be dealt with separately, but can be addressed only as part of a total structural and operational review of those programs. That kind of review is, as I understand it, beyond the scope of the work that the Committee has asked me to perform.

SAB:yw

MEMORANDUM

State of Alaska

TO: Bob Maynard
Assistant Attorney General

DATE: May 10, 1983

FILE NO:


FROM: Peter B. Froehlich
Assistant Attorney General

TELEPHONE NO: 465-3600

SUBJECT: HB 323 (Residence
Requirements)

I have reviewed the House State Affairs Committee residence requirements bill, HB 323 and it appears to be an overall sound bill which addresses many of the most vulnerable residence requirements in current statutes. The new bona fide resident definition in § 1 of the bill is a very effective and efficient approach.

However, I do have a few suggestions for a style change, some additions to the bill, and one deletion, in order to make the bill even better and more comprehensive. First, the style change. In § 2 of the bill, AS 08.04.110 concerning requirements for a CPA certificate, is repealed and reenacted to delete paragraph 2, a residence requirement. The same result can be accomplished while more clearly preserving the history of the section by simply repealing paragraph 2.

My suggestions for additions are as follows:

1) Add a section amending AS 08.04.260 to delete reference to the requirements that an applicant for a CPA certificate be a resident and have a place of business or be employed in the state.

2) Add two sections amending AS 08.42.050 and 110(4) to delete the words "resident" and "in this state" from those mortuary science license statutes.

3) Add to § 13 of the bill two repeals:

(A) AS 08.24.110(1), a one year residence requirement for collection agency operators, licenses; and

(B) AS 08.54.240(3), a definition of "resident" for guide licensing purposes which includes a one year

Bob Maynard

May 10, 1983

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aspect.

4) Add a section amending AS 26.10.080 concerning the veterans' burial allowance, deleting at least the five year residence requirement in (d)(1)(B), if not also the one year residence requirements in both (d)(1)(A) and (B). This section should take the same approach as § 10 of the bill which deals with veterans' loans under AS 26.15.130, but not § 8 of the bill which deals with AHFC loans to veterans under AS 18.56.101.

5) Add further changes to § 8 of the bill amending AS 18.56.101 concerning AHFC loans to veterans to also delete the several one year residence requirements. This section should preferably take the same approach used in HB 302 to ensure uniformity and compliance with our July 14, 1983 formal opinion.

I also have one suggestion for a deletion from the bill. That is § 9 of the bill which amends AS 21.27.090(a)(2) to eliminate the one year residence requirement for a resident real estate agent or broker's license. This is unnecessary because nonresidents are allowed licenses but merely required to pay a higher fee under AS 21.06.250(a)(7).

Finally, sections could also be added to the bill to lower some of the longest residence requirements for appointment to various boards and commissions.

Please let me know if I can provide further information or elaboration on my suggestions.

PBF:eja

cc: Honorable Mitchell F. Abood, Chair
House State Affairs Committee
Alaska State Legislature

Arthur H. Peterson
Assistant Attorney General and
Legislation Attorney

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4963

Alaska State Legislature



Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs

SECTIONAL ANALYSIS OF: *HB 323*

"An Act relating to residency and residency requirements; and providing for an effective date."

Section 1 amends AS 01.10 by adding a new section defining bona fide residency in the State of Alaska. A person establishes residency in the State by being physically present in Alaska with the intent to remain in Alaska indefinitely and to make a home in the State. Under (b)(1) in the section, a person must maintain a principal place of abode in the state for at least 30 days or for a longer period if a longer period is required by law or regulation.

Section 2 repeals and reenacts AS 08.04.110, relating to the personal requirements of certified public accountants. The present residency requirement has been deleted to correct a constitutional problem.

Section 3 amends AS 08.08.207 (a), by removing the requirement that an individual be a resident of Alaska in order to be a law clerk.

Section 4 amends AS 08.88.171, for receiving a real estate broker's license; an associate broker's license, or a real estate salesman's license. The one-year residency requirement has been deleted to correct a constitutional problem.

Section 5 amends AS 09.55.130, deleting the one-year residency requirement for the annulment of a marriage. Under current law, if a person was not married in Alaska, that marriage could only be annulled if the plaintiff had been a resident for at least one year prior to the commencement of an action. The one-year requirement is probably unconstitutional.

Section 6 amends AS 16.05.400(b), by deleting the 30-year consecutive residency requirement to a one-year requirement for a hunting, fishing or trapping license exemption for persons 60 years of age. The 30-year requirement is clearly unconstitutional.

Section 7 amends AS 16.35.130, by deleting the one-year residency requirement in the section dealing with the non-payment of bounty on certain animals. Presently, in order for bounty to be paid, an individual was required to maintain a place of abode inside the game management unit or in part of the game management unit for one year preceeding the time the animal was taken and the bounty paid, or, no bounty would be paid to a person who had not continually maintained his legal residence in Alaska. The one-year residency requirement has been replaced by simple residence (30 days) in order to correct a constitutional problem.

Section 8 amends AS 18.56.101 (1)(B), dealing with the eligibility for the one-percent veteran's interest rates, by deleting the five-year residency requirement and substituting a one-year requirement. The present law requires a person who was not a resident of Alaska at the time of entry into the service, to be a resident of Alaska for one year at the time of the date of application for a loan and also requires the applicant to have been a resident of Alaska for five years. There were constitutional problems with those requirements.

Section 9 amends AS 21.27.090 (a)(2), dealing with the qualifications for insurance agent and broker licenses, by deleting the one-year residency requirement and substituting simple residence (30 days). Presently, an individual must reside continuously in Alaska for one year immediately prior to the issuance of an agent or broker's license. There is no change in fee differential.

Section 10 amends AS 26.15.130 (a), dealing with the eligibility for veteran's loans, by deleting the five-year residency requirement and inserting a one-year requirement. To receive a loan under current law if a veteran was not a bona fide resident of the State or Territory of Alaska at the time of entry into the service, the veteran was required to have been a resident of the State or territory for five years. There was a constitutional problem with that requirement.

Section 11 amends AS 38.08.030 (a)(2), dealing with applications for the homesite entry, by deleting the three-year residency requirement and the 20-year requirement, and substituting a one-year requirement. Under current law an individual must submit proof that he/she has been a resident of Alaska for three years immediately preceding the date of application, or, that the person has been an Alaskan resident for a total of 20 years. There were constitutional problems with those requirements.

Section 12 amends AS 44.81.210 (a)(20), dealing with limited entry permit loans (CFAB), by deleting the five-year residency requirement and substituting a two-year requirement. Under current law, a person

must be a resident of Alaska for a continuous period of five years immediately preceding the date of application for the loan and who has had a crew member or commercial fishing license under AS 16.05.480 or a permit under AS 16.43.010 - 380, for any one of the past five years. That person must also have actively participated in the fishery during that period. There are constitutional problems with these requirements.

Section 13 repeals the following laws:

AS 08.54.110(2), relating to the qualifications for obtaining a registered guide license.

Action Taken:

" (2) is a resident of the state and maintains a permanent place of abode in the state," is repealed in order to correct a constitutional problem.

AS 08.54.140(2), relating to the qualifications for obtaining an assistant guide license.

Action Taken:

" (2) is a resident of the state;" is repealed in order to correct a constitutional problem.

AS 08.54.142 (a)(1), relating to the qualifications for obtaining a transporter license.

Action Taken:

"(1) is a resident of the state;" is repealed in order to correct a constitutional problem.

AS 14.54.142 (a)(1), relating to the qualifications for obtaining a registered guide license.

Action Taken:

The granting of loans based on accumulated points as determined by the length of residency in Alaska is repealed in order to correct a constitutional problem.

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AS 18.55.470 (4), relating to low-cost housing preference.

Action Taken:

In the definitions section: "(4) 'resident' means a person who has lived in the state continuously for any one year;" is repealed. The one-year requirement is probably unconstitutional. Simple residence (30 days) will apply in this section.

AS 21.27.220 (1), relating to the qualifications for issuing an insurance solicitor license.

Action Taken:

" (1) is a bona fide resident of Alaska and has been a continuous resident for at least one year immediately before issuance of a license;" is repealed in order to correct a constitutional problem.

AS 29.63.065.(d)(1), relating to the senior citizen special assessment exemption.

Action Taken:

" (1) 'resident' means a person who for 12 consecutive months has maintained his permanent place of abode in the state;" is repealed in order to correct a constitutional problem. Simple residence (30 days) will apply in this section.

AS 38.08.040 (b), relating to the issuance of homesite entry permits.

Action Taken:

" (b) If the number of applicants qualified for homesite entry exceeds the number of available homesites offered, or if several applicants apply and qualify for the same homesite, priority in award of an entry permit shall be accorded to that applicant showing proof of the longest residency in the state." is repealed in order to correct a constitutional problem.

AS 39.25.155 (g), relating to the vocational substitution program.

Action Taken:

" (9) In this section 'resident' means a person who has been domiciled in Alaska for at least one year immediately before filing his application." is repealed. The one-year requirement is probably unconstitutional. Simple residence (30 days) will apply in this section.

AS 38.05.058, the land purchase price discount program.

Action Taken :

The land purchase price discount program, which is the discount on the purchase price of land at the rate of five per cent of the purchase price for each full year that an individual is a resident of Alaska is repealed. The residency-based program is probably unconstitutional.

AS 43.26.095, (b)(3), relating to industrial tax credits.

Action Taken:

" 'resident,' at the end of the first year of tax credit, means a person who has been domiciled in Alaska for at least one year immediately before the granting of the tax credit to the business; 'resident,' at the end of the second and third year of tax credit, means a person who has been domiciled in Alaska for at least one year either immediately before the granting of the tax credit to the business." is repealed. The residency requirement is probably unconstitutional. Simple residence (30 days) will now apply in this section.

Section ____ . If the two-year residency requirement for scholarship loans provided by AS 14.43.125 is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, the Commission on Postsecondary Education shall adopt regulations to impose the most stringent residency requirement allowable under the Constitution of the State of Alaska and the United States Constitution on scholarship loan applicants.

Introduced: 4/5/83
Referred: State Affairs
and Judiciary

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 HOUSE BILL NO. 323
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to residency and residency require-
7 ments; and providing for an effective date."

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

9 * Section 1. AS 01.10 is amended by adding a new section to read:

10 Sec. 01.10.055. RESIDENCY. (a) A person establishes residency
11 in the state by being physically present in the state with the intent
12 to remain in the state indefinitely and to make a home in the state.

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

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

18 (2) by providing other proof of intent as may be required
19 by law or regulation, that may include proof that the person is not
20 claiming residency outside the state or obtaining benefits under a
21 claim of residency outside the state.

22 (c) A person who establishes residency in the state remains a
23 resident during an absence from the state unless during the absence
24 the person establishes or claims residency in another state, territory
25 or country, or performs other acts or is absent under circumstances
26 that are inconsistent with the intent required under (a) of this
27 section to remain a resident of this state.

28 * Sec. 2. AS 08.04.110 is repealed and reenacted to read:

29 Sec. 08.04.110. PERSONAL REQUIREMENTS. An applicant for the

1 certified public accountant certificate shall be at least 19 years of
2 age and of good moral character.

3 * Sec. 3. AS 08.08.207(a) is amended to read:

4 (a) Every person who desires subsequently to qualify as a gen-
5 eral applicant for admission to the Alaska Bar without having been
6 graduated from an approved law school shall register as a law clerk as
7 provided by this section. The person [MUST BE A BONA FIDE RESIDENT OF
8 THE STATE AND] shall present satisfactory proof that the person has
9 been granted a bachelor's degree (other than bachelor of laws) by a
10 college or university offering the degree on the basis of a four-year
11 course of study and has successfully completed the first year of
12 studies at a law school.

13 * Sec. 4. AS 08.88.171 is amended to read:

14 Sec. 08.88.171. ENTITLEMENT TO LICENSE. (a) A person is enti-
15 tled to a real estate broker license [IF THE PERSON IS A RESIDENT OF
16 THE STATE,] if the person passes the real estate brokers examination,
17 if the person applies for a license within six months after the person
18 has taken the real estate brokers examination, if the person has had
19 at least 24 months of active and continuous experience as a licensed
20 real estate salesman, if the person is not under indictment for, or
21 seven years have elapsed since the person has completed a sentence
22 imposed upon conviction of, forgery, theft, extortion, conspiracy to
23 defraud creditors, or any other felony involving moral turpitude, and
24 if the person is an owner of a real estate business or employed as a
25 real estate broker by a corporation or a partnership, and if that
26 corporation or partnership does not have an existing licensed broker.
27 Unless the broker fails to pay the biennial renewal fee or unless the
28 broker's license is suspended or revoked under AS 08.88.071(a)(3), the
29 real estate broker's license continues in effect so long as the broker

1 is an owner of a real estate business, or the broker is employed as a
2 real estate broker by a corporation or a partnership. If the broker
3 stops being an owner of a real estate business, or stops being em-
4 ployed as a real estate broker by a corporation or partnership, the
5 broker's license is suspended from the time the broker stops until

6 (1) the broker again becomes an owner of a real estate
7 business or is again employed as a real estate broker by a corporation
8 or a partnership; or

9 (2) the broker is employed by a licensed real estate broker
10 as an associate real estate broker, in which case the real estate
11 broker license is returned to the commission, and the commission
12 issues the broker an associate real estate broker license.

13 (b) A person is entitled to an associate real estate broker
14 license [IF THE PERSON IS A RESIDENT OF THE STATE,] if the person
15 passes the real estate brokers examination, if the person applies for
16 a license within six months after the person has taken the examina-
17 tion, if the person has had at least 24 months of active and continu-
18 ous experience as a licensed real estate salesman, if the person is
19 not under indictment for, or five years have elapsed since the person
20 has completed a sentence imposed upon conviction of, forgery, theft,
21 extortion, conspiracy to defraud creditors, or any other felony in-
22 volving moral turpitude, and if the person is employed by a licensed
23 real estate broker as an associate real estate broker. Unless the
24 associate broker fails to pay the biennial renewal fee or unless the
25 associate broker's license is suspended or revoked under AS 08.88.-
26 071(a)(3), the associate real estate broker's license continues in
27 effect so long as the associate broker is employed by a licensed real
28 estate broker as an associate broker. If the associate broker stops
29 being employed by a licensed real estate broker, the associate

1 broker's license is suspended from the time the associate broker stops
2 until

3 (1) the associate broker again is employed by a real estate
4 broker as an associate broker; or

5 (2) the associate broker becomes an owner of a real estate
6 business, in which case the associate broker's associate real estate
7 broker license is returned to the commission, and the commission
8 issues the associate broker a real estate broker license.

9 (c) A person is entitled to a real estate salesman license [IF
10 THE PERSON IS A RESIDENT OF THE STATE,] if the person passes the real
11 estate salesman examination, if the person applies for a license
12 within six months after the person has taken the examination, if the
13 person is at least 19 years old, if the person is not under indictment
14 for forgery, theft, extortion, conspiracy to defraud creditors, or any
15 other felony involving moral turpitude, or, if convicted of such an
16 offense, the person has completed the sentence imposed upon conviction,
17 and if the person is employed by a real estate broker. Unless
18 the salesman fails to pay the biennial renewal fee or unless the real
19 estate salesman's license is suspended or revoked under AS 08.88.-
20 071(a)(3), a real estate salesman's license continues in effect so
21 long as the salesman is employed as a salesman by a licensed real
22 estate broker. If the salesman stops being employed as a real estate
23 salesman, the real estate salesman's license is suspended from the
24 time the salesman stops until the salesman [HE] again is employed as a
25 salesman by a licensed real estate broker.

26 (d) A licensee shall promptly inform the commission of a change
27 in business association that affects the status of the licensee's
28 license under this section.

29 * Sec. 5. AS 09.55.130 is amended to read:

1 Sec. 09.55.130. RESIDENCE REQUIREMENTS FOR ACTION TO DECLARE
2 MARRIAGE VOID. When a marriage has been solemnized [IN THE STATE] and
3 the plaintiff is a resident of the state, an action to declare the
4 marriage void may be brought at any time. [IF THE MARRIAGE HAS NOT
5 BEEN SOLEMNIZED IN THE STATE, THE ACTION MAY BE MAINTAINED ONLY WHEN
6 THE PLAINTIFF HAS BEEN A RESIDENT FOR AT LEAST ONE YEAR BEFORE THE
7 COMMENCEMENT OF AN ACTION.]

8 * Sec. 6. AS 16.05.400(b) is amended to read:

9 (b) A sport fishing, hunting or trapping license is not required
10 of a resident who is 60 years of age or more and has been a resident
11 for one year [30 CONSECUTIVE YEARS] or more. The commissioner of
12 revenue shall issue a permanent identification card without charge to
13 persons who qualify by age and residence and who complete the forms
14 required by the commissioner for implementation of this subsection. A
15 person who is issued a permanent identification card under this sub-
16 section shall have it in [HIS] possession while sport fishing, hunting
17 or trapping.

18 * Sec. 7. AS 16.35.130 is amended to read:

19 Sec. 16.35.130. BOUNTY NOT TO BE PAID. No bounty may be paid
20 under AS 16.35.050 - 16.35.120 to a person who does not maintain [FOR
21 THE IMMEDIATELY PRECEDING YEAR HAS NOT MAINTAINED] a permanent place
22 of abode inside the game management unit or part of the game manage-
23 ment unit in which the animal was taken and a bounty is paid, or to a
24 person who does not maintain [HAS NOT CONTINUALLY MAINTAINED HIS]
25 legal residence in the state, or to a salaried employee of a federal
26 or state agency which is engaged in fish or game protection, manage-
27 ment, research activity, or to any person whose bounty claim results
28 from a trophy hunt as publicly declared by the Department of Fish and
29 Game.

1 * Sec. 8. AS 18.56.101(1)(B) is amended to read:

2 (B) who, not being a bona fide resident of the terri-
3 tory or state at the time of entry into the service, has been a
4 resident of the territory or state for at least one year at the
5 time of the loan application [AND HAS BEEN A RESIDENT OF THE
6 TERRITORY OR STATE FOR AT LEAST FIVE YEARS]; and

7 * Sec. 9. AS 21.27.090(a)(2) is amended to read:

8 (2) if for a resident agent's or broker's license: be a
9 bona fide resident [FOR A PERIOD OF NOT LESS THAN ONE YEAR OF CON-
10 TINUOUS RESIDENCY, IMMEDIATELY] before issuance of license, and ac-
11 tually residing in Alaska; or if a corporation, be other than an
12 insurer and maintain a lawfully established place of business in this
13 state, except as provided in AS 21.27.270;

14 * Sec. 10. AS 26.15.130(a) is amended to read:

15 (a) Qualifications for loans under AS 26.15.010 - 26.15.160 are:

16 (1) persons who served in the armed forces of the United
17 States for 90 days or more, or whose service was for less than 90 days
18 because of injury or disability incurred in the line of duty, between
19 April 6, 1917, and November 11, 1918, and beginning September 16,
20 1940, to November 7, 1975, or in a combat zone during any period of
21 armed conflict, who were separated from the armed forces with a dis-
22 charge other than dishonorable, and

23 (A) who, at the time of induction into the service,
24 were residents of the territory or state, who had been residents
25 for not less than one year immediately before their induction,
26 and who returned to the territory or state after discharge as
27 residents with the intention of remaining in the territory or
28 state; or

29 (B) who, not being bona fide residents of the

1 territory or state before their entry into the service, have been
2 residents of the territory or state for one [FIVE] or more years;

3 (2) persons who were dependent on a member of the armed
4 forces or a veteran of World War II at the time of the member's or
5 veteran's death, if

6 (A) the member or veteran was a resident of the terri-
7 tory or state for one year before induction into the service; and

8 (B) the member or veteran [HE] served in the armed
9 forces for at least 90 days between September 16, 1940, and July
10 25, 1947, but no benefits for loans accrue to dependents of an
11 enlistee or re-enlistee for time served after November 1, 1945,
12 regardless of whether the enlistment or reenlistment was before
13 or after November 1, 1945; and

14 (C) the member or veteran [HE] died before the offi-
15 cial date of the termination of that war; and

16 (D) the member's or veteran's [HIS] discharge was not
17 dishonorable;

18 (3) persons who have served in the Alaska Army National
19 Guard or the Alaska Air National Guard or the Alaska Naval Militia for
20 not less than six years and who have not received a discharge other
21 than honorable.

22 * Sec. 11. AS 38.08.030(a)(2) is amended to read:

23 (2) submit proof acceptable to the commissioner that the
24 applicant [HE] is a resident of the state at the time of application,
25 and that the applicant [HE] has been a resident of the state for not
26 less than one year [THREE YEARS] immediately preceding the date the
27 [HIS] application was submitted [, OR THAT HE HAS BEEN A RESIDENT FOR
28 20 YEARS CUMULATIVELY];

29 * Sec. 12. AS 44.81.210(a)(20) is amended to read:

1 (20) make loans to individual commercial fishermen for
2 limited entry permits; a loan under this paragraph may be made only to
3 an individual commercial fisherman who has been a state resident for a
4 continuous period of two [FIVE] years immediately preceding the date
5 of application for the loan and who has had a crewmember or commercial
6 fishing license under AS 16.05.480 or a permit under AS 16.43 for any
7 one of the past five years, and who has actively participated in the
8 fishery during that period; loans made under this paragraph are sub-
9 ject to the provisions of AS 44.81.230;

10 * Sec. 13. The following laws are repealed: AS 08.54.110(2), 08.54.-
11 140(2), 08.54.142(a)(1); AS 14.43.130; AS 18.55.470(4); AS 21.27.220(1);
12 AS 29.63.065(d)(1); AS 38.05.058; AS 38.08.040(b); AS 39.25.155(g); AS 43.-
13 26.095(b)(3).

14 * Sec. 14. This Act takes effect immediately in accordance with AS 01.-
15 10.070(c).

Offered: 4/20/83
Referred: Judiciary and Finance

Original sponsor: State Affairs Committee

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 323 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to residency and residency require-
7 ments; and providing for an effective date."

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

9 * Section 1. AS 01.10 is amended by adding a new section to read:

10 Sec. 01.10.055. RESIDENCY. (a) A person establishes residency
11 in the state by being physically present in the state with the intent
12 to remain in the state indefinitely and to make a home in the state.

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

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

18 (2) by providing other proof of intent as may be required
19 by law or regulation, that may include proof that the person is not
20 claiming residency outside the state or obtaining benefits under a
21 claim of residency outside the state.

22 (c) A person who establishes residency in the state remains a
23 resident during an absence from the state unless during the absence
24 the person establishes or claims residency in another state, territory
25 or country, or performs other acts or is absent under circumstances
26 that are inconsistent with the intent required under (a) of this
27 section to remain a resident of this state.

28 * Sec. 2. AS 08.04.110 is repealed and reenacted to read:

29 Sec. 08.04.110. PERSONAL REQUIREMENTS. An applicant for the

1 certified public accountant certificate shall be at least 19 years of
2 age and of good moral character.

3 * Sec. 3. AS 08.08.207(a) is amended to read:

4 (a) Every person who desires subsequently to qualify as a gen-
5 eral applicant for admission to the Alaska Bar without having been
6 graduated from an approved law school shall register as a law clerk as
7 provided by this section. The person [MUST BE A BONA FIDE RESIDENT OF
8 THE STATE AND] shall present satisfactory proof that the person has
9 been granted a bachelor's degree (other than bachelor of laws) by a
10 college or university offering the degree on the basis of a four-year
11 course of study and has successfully completed the first year of
12 studies at a law school.

13 * Sec. 4. AS 08.88.171 is amended to read:

14 Sec. 08.88.171. ENTITLEMENT TO LICENSE. (a) A person is enti-
15 tled to a real estate broker license [IF THE PERSON IS A RESIDENT OF
16 THE STATE,] if the person passes the real estate brokers examination,
17 if the person applies for a license within six months after the person
18 has taken the real estate brokers examination, if the person has had
19 at least 24 months of active and continuous experience as a licensed
20 real estate salesman, if the person is not under indictment for, or
21 seven years have elapsed since the person has completed a sentence
22 imposed upon conviction of, forgery, theft, extortion, conspiracy to
23 defraud creditors, or any other felony involving moral turpitude, and
24 if the person is an owner of a real estate business or employed as a
25 real estate broker by a corporation or a partnership, and if that
26 corporation or partnership does not have an existing licensed broker.
27 Unless the broker fails to pay the biennial renewal fee or unless the
28 broker's license is suspended or revoked under AS 08.88.071(a)(3), the
29 real estate broker's license continues in effect so long as the broker

1 is an owner of a real estate business, or the broker is employed as a
2 real estate broker by a corporation or a partnership. If the broker
3 stops being an owner of a real estate business, or stops being em-
4 ployed as a real estate broker by a corporation or partnership, the
5 broker's license is suspended from the time the broker stops until

6 (i) the broker again becomes an owner of a real estate
7 business or is again employed as a real estate broker by a corporation
8 or a partnership; or

9 (2) the broker is employed by a licensed real estate broker
10 as an associate real estate broker, in which case the real estate
11 broker license is returned to the commission, and the commission
12 issues the broker an associate real estate broker license.

13 (b) A person is entitled to an associate real estate broker
14 license [IF THE PERSON IS A RESIDENT OF THE STATE,] if the person
15 passes the real estate brokers examination, if the person applies for
16 a license within six months after the person has taken the examina-
17 tion, if the person has had at least 24 months of active and continu-
18 ous experience as a licensed real estate salesman, if the person is
19 not under indictment for, or five years have elapsed since the person
20 has completed a sentence imposed upon conviction of, forgery, theft,
21 extortion, conspiracy to defraud creditors, or any other felony in-
22 volving moral turpitude, and if the person is employed by a licensed
23 real estate broker as an associate real estate broker. Unless the
24 associate broker fails to pay the biennial renewal fee or unless the
25 associate broker's license is suspended or revoked under AS 08.88.-
26 071(a)(3), the associate real estate broker's license continues in
27 effect so long as the associate broker is employed by a licensed real
28 estate broker as an associate broker. If the associate broker stops
29 being employed by a licensed real estate broker, the associate

1 broker's license is suspended from the time the associate broker stops
2 until

3 (1) the associate broker again is employed by a real estate
4 broker as an associate broker; or

5 (2) the associate broker becomes an owner of a real estate
6 business, in which case the associate broker's associate real estate
7 broker license is returned to the commission, and the commission
8 issues the associate broker a real estate broker license.

9 (c) A person is entitled to a real estate salesman license [IF
10 THE PERSON IS A RESIDENT OF THE STATE,] if the person passes the real
11 estate salesman examination, if the person applies for a license
12 within six months after the person has taken the examination, if the
13 person is at least 19 years old, if the person is not under indictment
14 for forgery, theft, extortion, conspiracy to defraud creditors, or any
15 other felony involving moral turpitude, or, if convicted of such an
16 offense, the person has completed the sentence imposed upon convic-
17 tion, and if the person is employed by a real estate broker. Unless
18 the salesman fails to pay the biennial renewal fee or unless the real
19 estate salesman's license is suspended or revoked under AS 08.88.-
20 071(a)(3), a real estate salesman's license continues in effect so
21 long as the salesman is employed as a salesman by a licensed real
22 estate broker. If the salesman stops being employed as a real estate
23 salesman, the real estate salesman's license is suspended from the
24 time the salesman stops until the salesman [HE] again is employed as a
25 salesman by a licensed real estate broker.

26 (d) A licensee shall promptly inform the commission of a change
27 in business association that affects the status of the licensee's
28 license under this section.

29 * Sec. 5. AS 09.55.130 is amended to read:

1 Sec. 09.55.130. RESIDENCE REQUIREMENTS FOR ACTION TO DECLARE
2 MARRIAGE VOID. When a marriage has been solemnized [IN THE STATE] and
3 the plaintiff is a resident of the state, an action to declare the
4 marriage void may be brought at any time. [IF THE MARRIAGE HAS NOT
5 BEEN SOLEMNIZED IN THE STATE, THE ACTION MAY BE MAINTAINED ONLY WHEN
6 THE PLAINTIFF HAS BEEN A RESIDENT FOR AT LEAST ONE YEAR BEFORE THE
7 COMMENCEMENT OF AN ACTION.]

8 * Sec. 6. AS 16.05.400(b) is amended to read:

9 (b) A sport fishing, hunting or trapping license is not required
10 of a resident who is 60 years of age or more and has been a resident
11 for one year [30 CONSECUTIVE YEARS] or more. The commissioner of
12 revenue shall issue a permanent identification card without charge to
13 persons who qualify by age and residence and who complete the forms
14 required by the commissioner for implementation of this subsection. A
15 person who is issued a permanent identification card under this sub-
16 section shall have it in [HIS] possession while sport fishing, hunting
17 or trapping.

18 * Sec. 7. AS 16.35.130 is amended to read:

19 Sec. 16.35.130. BOUNTY NOT TO BE PAID. No bounty may be paid
20 under AS 16.35.050 - 16.35.120 to a person who does not maintain [FOR
21 THE IMMEDIATELY PRECEDING YEAR HAS NOT MAINTAINED] a permanent place
22 of abode inside the game management unit or part of the game manage-
23 ment unit in which the animal was taken and a bounty is paid, or to a
24 person who does not maintain [HAS NOT CONTINUALLY MAINTAINED HIS]
25 legal residence in the state, or to a salaried employee of a federal
26 or state agency which is engaged in fish or game protection, manage-
27 ment, research activity, or to any person whose bounty claim results
28 from a trophy hunt as publicly declared by the Department of Fish and
29 Game.

1 * Sec. 8. AS 18.56.101(1)(B) is amended to read:

2 (B) who, not being a bona fide resident of the terri-
3 tory or state at the time of entry into the service, has been a
4 resident of the territory or state for at least one year at the
5 time of the loan application [AND HAS BEEN A RESIDENT OF THE
6 TERRITORY OR STATE FOR AT LEAST FIVE YEARS]; and

7 * Sec. 9. AS 21.27.090(a)(2) is amended to read:

8 (2) if for a resident agent's or broker's license: be a
9 bona fide resident [FOR A PERIOD OF NOT LESS THAN ONE YEAR OF CON-
10 TINUCUS RESIDENCY, IMMEDIATELY] before issuance of license, and ac-
11 tually residing in Alaska; or if a corporation, be other than an
12 insurer and maintain a lawfully established place of business in this
13 state, except as provided in AS 21.27.270;

14 * Sec. 10. AS 26.15.130(a) is amended to read:

15 (a) Qualifications for loans under AS 26.15.010 - 26.15.160 are:

16 (1) persons who served in the armed forces of the United
17 States for 90 days or more, or whose service was for less than 90 days
18 because of injury or disability incurred in the line of duty, between
19 April 6, 1917, and November 11, 1918, and beginning September 16,
20 1940, to November 7, 1975, or in a combat zone during any period of
21 armed conflict, who were separated from the armed forces with a dis-
22 charge other than dishonorable, and

23 (A) who, at the time of induction into the service,
24 were residents of the territory or state, who had been residents
25 for not less than one year immediately before their induction,
26 and who returned to the territory or state after discharge as
27 residents with the intention of remaining in the territory or
28 state; or

29 (B) who, not being bona fide residents of the

1 territory or state before their entry into the service, have been
2 residents of the territory or state for one [FIVE] or more years;

3 (2) persons who were dependent on a member of the armed
4 forces or a veteran of World War II at the time of the member's or
5 veteran's death, if

6 (A) the member or veteran was a resident of the terri-
7 tory or state for one year before induction into the service; and

8 (B) the member or veteran [HE] served in the armed
9 forces for at least 90 days between September 16, 1940, and July
10 25, 1947, but no benefits for loans accrue to dependents of an
11 enlistee or re-enlistee for time served after November 1, 1945,
12 regardless of whether the enlistment or reenlistment was before
13 or after November 1, 1945; and

14 (C) the member or veteran [HE] died before the offi-
15 cial date of the termination of that war; and

16 (D) the member's or veteran's [HIS] discharge was not
17 dishonorable;

18 (3) persons who have served in the Alaska Army National
19 Guard or the Alaska Air National Guard or the Alaska Naval Militia for
20 not less than six years and who have not received a discharge other
21 than honorable.

22 * Sec. 11. AS 38.08.030(a)(2) is amended to read:

23 (2) submit proof acceptable to the commissicner that the
24 applicant [HE] is a resident of the state at the time of application,
25 and that the applicant [HE] has been a resident of the state for not
26 less than one year [THREE YEARS] immediately preceding the date the
27 [HIS] application was submitted [, OR THAT HE HAS BEEN A RESIDENT FOR
28 20 YEARS CUMULATIVELY];

29 * Sec. 12. The following laws are repealed: AS 08.54.110(2),

1 08.54.140(2), 08.54.142(a)(1); AS 14.43.130; AS 18.55.470(4); AS 21.27.-
2 220(1); AS 29.63.065(d)(1); AS 38.05.058; AS 38.08.040(b); AS 39.25.155(g);
3 AS 43.26.095(b)(3).

4 * Sec. 13. This Act takes effect immediately in accordance with AS 01.-
5 10.070(c).

Offered: 5/14/83
Referred: Finance

Original sponsor: State Affairs Committee

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS. FOR HOUSE BILL NO. 323, (Judiciary).

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to residency and residency require-
7 ments; and providing for an effective date."

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

9 * Section 1. AS 01.10 is amended by adding a new section to read:

10 Sec. 01.10.055. RESIDENCY. (a) A person establishes residency
11 in the state by being physically present in the state with the intent
12 to remain in the state indefinitely and to make a home in the state.

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

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

18 (2) by providing other proof of intent as may be required
19 by law or regulation, that may include proof that the person is not
20 claiming residency outside the state or obtaining benefits under a
21 claim of residency outside the state.

22 (c) A person who establishes residency in the state remains a
23 resident during an absence from the state unless during the absence
24 the person establishes or claims residency in another state, territory
25 or country, or performs other acts, or is absent under circumstances
26 that are inconsistent with the intent required under (a) of this
27 section to remain a resident of this state.

28 * Sec. 2. AS 08.04.110 is repealed and reenacted to read:

29 Sec. 08.04.110. PERSONAL REQUIREMENTS. An applicant for the

1 certified public accountant certificate shall be at least 19 years of
2 age and of good moral character.

3 * Sec. 3. AS 08.04.260 is amended to read:

4 Sec. 08.04.260. TEMPORARY CERTIFICATE AS CERTIFIED PUBLIC
5 ACCOUNTANT. If an applicant for a certificate as a certified public
6 accountant meets all the requirements for a certificate and the appli-
7 cant's application is pending or if an applicant meets all the require-
8 ments for a certificate except [THE RESIDENCE REQUIREMENT, OR] the
9 requirement that the applicant have a place of business in the state
10 or be an employee regularly employed in this state, the board may
11 issue a temporary certificate as a certified public accountant. The
12 certificate is effective until the board notifies the applicant that
13 the applicant's application has been granted or rejected. A temporary
14 certificate is effective for a period not exceeding six months. No
15 fee may be charged for the issuance of a temporary certificate.

16 * Sec. 4. AS 08.08.207(a) is amended to read:

17 (a) Every person who desires subsequently to qualify as a gen-
18 eral applicant for admission to the Alaska Bar without having been
19 graduated from an approved law school shall register as a law clerk as
20 provided by this section. The person [MUST BE A BONA FIDE RESIDENT OF
21 THE STATE AND] shall present satisfactory proof that the person has
22 been granted a bachelor's degree (other than bachelor of laws) by a
23 college or university offering the degree on the basis of a four-year
24 course of study and has successfully completed the first year of
25 studies at a law school.

26 * Sec. 5. AS 08.42.050(a)(4) is amended to read:

27 (4) have completed at least one year of apprenticeship as a
28 [RESIDENT] trainee under a licensed embalmer.

29 * Sec. 6. AS 08.42.110(4) is amended to read:

1 (4) "[RESIDENT] trainee" means a person who has met the
2 qualifications set out in AS 08.42.050(a)(1) and (2) and is engaged
3 in learning the practice of embalming under the direction and control
4 of a person properly licensed to practice embalming, or a person who
5 has met the qualifications set out in AS 08.42.050(b)(1) and (2) and
6 is engaged in learning the practice of funeral directing under the
7 direction and control of a person properly licensed to practice
8 funeral directing.

9 * Sec. 7. AS 08.88.171 is amended to read:

10 Sec. 08.88.171. ENTITLEMENT TO LICENSE. (a) A person is enti-
11 tled to a real estate broker license [IF THE PERSON IS A RESIDENT OF
12 THE STATE,] if the person passes the real estate brokers examination,
13 if the person applies for a license within six months after the person
14 has taken the real estate brokers examination, if the person has had
15 at least 24 months of active and continuous experience as a licensed
16 real estate salesman, if the person is not under indictment for, or
17 seven years have elapsed since the person has completed a sentence
18 imposed upon conviction of, forgery, theft, extortion, conspiracy to
19 defraud creditors, or any other felony involving moral turpitude, and
20 if the person is an owner of a real estate business or employed as a
21 real estate broker by a corporation or a partnership, and if that
22 corporation or partnership does not have an existing licensed broker.
23 Unless the broker fails to pay the biennial renewal fee or unless the
24 broker's license is suspended or revoked under AS 08.88.071(a)(3), the
25 real estate broker's license continues in effect so long as the broker
26 is an owner of a real estate business, or the broker is employed as a
27 real estate broker by a corporation or a partnership. If the broker
28 stops being an owner of a real estate business, or stops being em-
29 ployed as a real estate broker by a corporation or partnership, the

1 broker's license is suspended from the time the broker stops until

2 (1) the broker again becomes an owner of a real estate
3 business or is again employed as a real estate broker by a corporation
4 or a partnership; or

5 (2) the broker is employed by a licensed real estate broker
6 as an associate real estate broker, in which case the real estate
7 broker license is returned to the commission, and the commission
8 issues the broker an associate real estate broker license.

9 (b) A person is entitled to an associate real estate broker
10 license [IF THE PERSON IS A RESIDENT OF THE STATE,] if the person
11 passes the real estate brokers examination, if the person applies for
12 a license within six months after the person has taken the examina-
13 tion, if the person has had at least 24 months of active and continu-
14 ous experience as a licensed real estate salesman, if the person is
15 not under indictment for, or five years have elapsed since the person
16 has completed a sentence imposed upon conviction of, forgery, theft,
17 extortion, conspiracy to defraud creditors, or any other felony in-
18 volving moral turpitude, and if the person is employed by a licensed
19 real estate broker as an associate real estate broker. Unless the
20 associate broker fails to pay the biennial renewal fee or unless the
21 associate broker's license is suspended or revoked under AS 08.88.-
22 071(a)(3), the associate real estate broker's license continues in
23 effect so long as the associate broker is employed by a licensed real
24 estate broker as an associate broker. If the associate broker stops
25 being employed by a licensed real estate broker, the associate brok-
26 er's license is suspended from the time the associate broker stops
27 until

28 (1) the associate broker again is employed by a real estate
29 broker as an associate broker; or

1 (2) the associate broker becomes an owner of a real estate
2 business, in which case the associate broker's associate real estate
3 broker license is returned to the commission, and the commission
4 issues the associate broker a real estate broker license.

5 (c) A person is entitled to a real estate salesman license [IF
6 THE PERSON IS A RESIDENT OF THE STATE,] if the person passes the real
7 estate salesman examination, if the person applies for a license
8 within six months after the person has taken the examination, if the
9 person is at least 19 years old, if the person is not under indictment
10 for forgery, theft, extortion, conspiracy to defraud creditors, or any
11 other felony involving moral turpitude, or, if convicted of such an
12 offense, the person has completed the sentence imposed upon convic-
13 tion, and if the person is employed by a real estate broker. Unless
14 the salesman fails to pay the biennial renewal fee or unless the real
15 estate salesman's license is suspended or revoked under AS 08.88.-
16 071(a)(3), a real estate salesman's license continues in effect so
17 long as the salesman is employed as a salesman by a licensed real
18 estate broker. If the salesman stops being employed as a real estate
19 salesman, the real estate salesman's license is suspended from the
20 time the salesman stops until the salesman [HE] again is employed as a
21 salesman by a licensed real estate broker.

22 (d) A licensee shall promptly inform the commission of a change
23 in business association that affects the status of the licensee's
24 license under this section.

25 * Sec. 8. AS 09.55.130 is amended to read:

26 Sec. 09.55.130. RESIDENCE REQUIREMENTS FOR ACTION TO DECLARE
27 MARRIAGE VOID. When a marriage has been solemnized [IN THE STATE] and
28 the plaintiff is a resident of the state, an action to declare the
29 marriage void may be brought at any time. [IF THE MARRIAGE HAS NOT

1 BEEN SOLEMNIZED IN THE STATE, THE ACTION MAY BE MAINTAINED ONLY WHEN
2 THE PLAINTIFF HAS BEEN A RESIDENT FOR AT LEAST ONE YEAR BEFORE THE
3 COMMENCEMENT OF AN ACTION.]

4 * Sec. 9. AS 16.05.400(b) is amended to read:

5 (b) A sport fishing, hunting or trapping license is not required
6 of a resident who is 60 years of age or more and has been a resident
7 for one year [30 CONSECUTIVE YEARS] or more. The commissioner of
8 revenue shall issue a permanent identification card without charge to
9 persons who qualify by age and residence and who complete the forms
10 required by the commissioner for implementation of this subsection. A
11 person who is issued a permanent identification card under this sub-
12 section shall have it in [HIS] possession while sport fishing, hunting
13 or trapping.

14 * Sec. 10. AS 16.35.130 is amended to read:

15 Sec. 16.35.130. BOUNTY NOT TO BE PAID. No bounty may be paid
16 under AS 16.35.050 - 16.35.120 to a person who does not maintain [FOR
17 THE IMMEDIATELY PRECEDING YEAR HAS NOT MAINTAINED] a permanent place
18 of abode inside the game management unit or part of the game manage-
19 ment unit in which the animal was taken and a bounty is paid, or to a
20 person who does not maintain [HAS NOT CONTINUALLY MAINTAINED HIS]
21 legal residence in the state, or to a salaried employee of a federal
22 or state agency which is engaged in fish or game protection, manage-
23 ment, research activity, or to any person whose bounty claim results
24 from a trophy hunt as publicly declared by the Department of Fish and
25 Game.

26 * Sec. 11. AS 18.56.101 is amended to read:

27 Sec. 18.56.101. ELIGIBILITY FOR VETERANS' INTEREST RATES. The
28 following persons are eligible veterans for the purposes of AS 18.56.-
29 098(g) and (h):

1 (1) a person who served in the armed forces of the United
2 States for 90 days or more, or whose service was for less than 90 days
3 because of injury or disability incurred in the line of duty, after
4 April 6, 1917,

5 [(A) WHO AT THE TIME OF INDUCTION INTO THE SERVICE WAS
6 A RESIDENT OF THE TERRITORY OR STATE, WHO HAS BEEN A RESIDENT FOR
7 NOT LESS THAN ONE YEAR IMMEDIATELY BEFORE HIS INDUCTION, AND WHO
8 RETURNED TO THE TERRITORY OR STATE WITHIN ONE YEAR AFTER DIS-
9 CHARGE AS A RESIDENT WITH THE INTENTION OF REMAINING IN THE
10 TERRITORY OR STATE; OR

11 (B) WHO, NOT BEING A BONA FIDE RESIDENT OF THE TERRI-
12 TORY OR STATE AT THE TIME OF ENTRY INTO THE SERVICE, HAS BEEN A
13 RESIDENT OF THE TERRITORY OR STATE FOR AT LEAST ONE YEAR AT THE
14 TIME OF THE LOAN APPLICATION AND HAS BEEN A RESIDENT TO THE
15 TERRITORY OR STATE FOR AT LEAST FIVE YEARS; AND

16 (C)] whose discharge was under honorable conditions;

17 (2) the widow or widower of a member of the armed forces or
18 an eligible veteran if

19 [(A) THE MEMBER OR VETERAN WAS A RESIDENT OF THE TERRI-
20 TORY OR STATE FOR ONE YEAR BEFORE INDUCTION INTO THE SERVICE;

21 (B)] the member or veteran served in the armed forces
22 for at least 90 days after April 6, 1917 [;] and

23 [(C)] the veteran's [HIS] discharge was under honorable
24 conditions;

25 (3) a person who has served for not less than five years in
26 the Alaska Army National Guard, the Alaska Air National Guard, [OR]
27 the Alaska Naval Militia, or [WHO HAS SERVED IN] a reserve unit of the
28 United States armed forces [IN ALASKA] if the reserve unit required,
29 as a minimum, one weekend each month of duty and 15 consecutive days

1 of active duty training each year [FOR NOT LESS THAN FIVE YEARS] and
2 whose discharge was under honorable conditions.

3 * Sec. 12. AS 21.27.090(a)(2) is amended to read:

4 (2) if for a resident agent's or broker's license: be a
5 bona fide resident [FOR A PERIOD OF NOT LESS THAN ONE YEAR OF CON-
6 TINUOUS RESIDENCY, IMMEDIATELY] before issuance of license, and ac-
7 tually residing in Alaska; or if a corporation, be other than an
8 insurer and maintain a lawfully established place of business in this
9 state, except as provided in AS 21.27.270;

10 * Sec. 13. AS 26.10.080(d)(1)(B) is amended to read:

11 (d) In this section "veteran" means

12 (1) a person who is serving or has served in a branch of
13 the armed services of the United States.

14 (B) who, not being a bona fide resident of the terri-
15 tory or state at the time of entry into the service, had been a
16 resident of the territory or state for at least one year at the
17 time of death [AND HAD BEEN A RESIDENT OF THE TERRITORY OR STATE
18 FOR AT LEAST FIVE YEARS]; and

19 * Sec. 14. AS 26.15.130(a) is amended to read:

20 (a) Qualifications for loans under AS 26.15.010 - 26.15.160 are:

21 (1) persons who served in the armed forces of the United
22 States for 90 days or more, or whose service was for less than 90 days
23 because of injury or disability incurred in the line of duty, between
24 April 6, 1917, and November 11, 1918, and beginning September 16,
25 1940, to November 7, 1975, or in a combat zone during any period of
26 armed conflict, who were separated from the armed forces with a dis-
27 charge other than dishonorable, and

28 (A) who, at the time of induction into the service,
29 were residents of the territory or state, who had been residents

1 for not less than one year immediately before their induction,
2 and who returned to the territory or state after discharge as
3 residents with the intention of remaining in the territory or
4 state; or

5 (B) who, not being bona fide residents of the terri-
6 tory or state before their entry into the service, have been
7 residents of the territory or state for one [FIVE] or more years;

8 (2) persons who were dependent on a member of the armed
9 forces or a veteran of World War II at the time of the member's or
10 veteran's death, if

11 (A) the member or veteran was a resident of the terri-
12 tory or state for one year before induction into the service; and

13 (B) the member or veteran [HE] served in the armed
14 forces for at least 90 days between September 16, 1940, and July
15 25, 1947, but no benefits for loans accrue to dependents of an
16 enlistee or re-enlistee for time served after November 1, 1945,
17 regardless of whether the enlistment or reenlistment was before
18 or after November 1, 1945; and

19 (C) the member or veteran [HE] died before the offi-
20 cial date of the termination of that war; and

21 (D) the member's or veteran's [HIS] discharge was not
22 dishonorable;

23 (3) persons who have served in the Alaska Army National
24 Guard or the Alaska Air National Guard or the Alaska Naval Militia for
25 not less than six years and who have not received a discharge other
26 than honorable.

27 * Sec. 15. AS 38.08.030(a)(2) is amended to read:

28 (2) submit proof acceptable to the commissioner that the
29 applicant [HE] is a resident of the state at the time of application,

1 and that the applicant [HE] has been a resident of the state for not
2 less than one year [THREE YEARS] immediately preceding the date the
3 [HIS] application was submitted [, OR THAT HE HAS BEEN A RESIDENT FOR
4 20 YEARS CUMULATIVELY];

5 * Sec. 16. AS 44.81.210(a)(20) is amended to read:

6 (20) make loans to individual commercial fishermen for
7 limited entry permits; a loan under this paragraph may be made only to
8 an individual commercial fisherman who has been a state resident for a
9 continuous period of two [FIVE] years immediately preceding the date
10 of application for the loan and who has had a crewmember or commercial
11 fishing license under AS 16.05.480 or a permit under AS 16.43 for the
12 year immediately preceding the date of application and any other two
13 [ANY ONE] of the past five years, and who has actively participated in
14 the fishery during that period; loans made under this paragraph are
15 subject to the provisions of AS 44.81.230;

16 * Sec. 17. The following laws are repealed: AS 08.24.110(1); AS 08.-
17 54.110(1), 08.54.110(2), 08.54.140(2), 08.54.142(a)(1), 08.54.240(3)(B);
18 AS 14.43.130; AS 18.55.470(4); AS 21.27.220(1); AS 29.63.065(d)(1); AS 38.-
19 05.058; AS 38.08.040(b); AS 39.25.155(g); AS 43.26.095(b)(3).

20 * Sec. 18. This Act takes effect immediately in accordance with AS 01.-
21 10.070(c).

Introduced: 4/5/83
Referred: Finance

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

HOUSE BILL NO. 325

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act extending the termination date of the Alcoholic Beverage Control Board; and providing for an effective date."

7

8

9

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

10

* Section 1. AS 44.66.010(a)(1) is amended to read:

11

(1) Alcoholic Beverage Control Board (AS 04.06.010) --

12

June 30, 1987 [1983];

13

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-

14

10.070(c).

I. REQUEST

Bill/Resolution No: HB 325
 Title: Extend ABC Board
 Sponsor: Adams
 Requestor: House Finance

II. FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: Public Protec
 BRU, Program of Subprogram(s) Affected: Alcoholic Beverage Control Board

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
TOTAL OPERATING	-0-	-0-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Maura R. [Signature]
 Division: Commissioner's Office
 Approved by Commissioner: Joseph K. Dondos [Signature]
 Department: Revenue

Phone: 465-2300
 Date: 3/30/83
 Date: 3/30/85

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

IV. Analysis:

The fiscal impact of this bill is reflected in the Governor's FY 84 Executive Budget showing continued funding for the Alcoholic Beverage Control Board. Please see attached.

DEPARTMENT OF REVENUE

	FY 82 Actual	FY 83 Adjusted	FY 84 Governor's Operating Budget
TOTAL OPERATING BUDGET*	\$234,595.9*	\$253,302.7*	\$218,066.6*
PUBLIC PROTECTION CATEGORY			
Consumer Protection Program Area	\$ 539.1	\$ 632.5	\$ 669.0
Alcoholic Beverage Control Board	\$ 539.1	\$ 632.5	\$ 669.0
DEVELOPMENT CATEGORY			
Community Development Program Area	\$ 96,080.5	\$ 81,713.6	\$ 10,625.9
Shared Taxes	\$ 95,756.8	\$ 81,335.0	\$ 10,241.5**
Municipal Bond Bank Authority	323.7	378.6	384.4
Economic Development Program Area	\$ 2,276.2	\$ 3,441.0	\$ 3,158.6
Alaska Housing Finance Corporation	\$ 2,276.2	\$ 3,441.0	\$ 3,158.6
GENERAL GOVERNMENT CATEGORY			
Revenue Collection and Management Program Area	\$135,700.1	\$167,515.6	\$203,613.1
Revenue Audit	\$ 3,188.5	\$ 2,900.8	\$ 2,910.2
Petroleum Revenue	1,566.2	1,611.9	1,841.2
Enforcement	1,719.4	2,356.8	1,246.2
Treasury Management	1,660.4	2,317.2	2,165.8
Child Support Enforcement Agency	2,630.5	3,487.1	3,572.8
Public Service	214.2	2,466.1	1,621.9
Revenue Administration and Support	21,928.9	5,445.2	6,405.9
Permanent Fund Corporation	392.0	3,070.5	3,229.1
Debt Service	102,400.0	143,660.0	150,620.0
FUNDING			
Federal Funds	\$ 1,815.0	\$ 2,458.8	\$ 2,408.9
State General Funds	229,260.4	238,294.2	205,774.3
Interagency Receipts	0.0	2,596.3	0.0
Program Receipts	2,723.5	7,030.8	6,912.8
Other	797.0	2,922.6	2,970.6
TOTAL	\$234,595.9	\$253,302.7	\$218,066.6
PERMANENT FULL TIME POSITIONS	361.0	383.0	380.0

*Due to the change from program budgeting to agency budgeting, Debt Service is now shown in the Department of Revenue's operating budget. The operating budget totals for FY 82, FY 83, and FY 84 include Debt Service.

**For FY 84, Municipal Assistance will be funded by the Permanent Fund Dividend program.

DEPARTMENT OF REVENUE

Public Protection Category

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Consumer Protection Program Area

The goal of the Consumer Protection program area is to ensure that Alaskan consumers are provided with goods and services that comply with acceptable standards of quality, dependability and safety at equitable prices. This is accomplished through both educational and enforcement activities. Included within this program is the Alcoholic Beverage Control Board.

PROGRAM AREA MEASURES
Consumer Protection

	<u>FY 82 ACTUAL</u>	<u>FY 83 EXPECTED</u>	<u>FY 84 GOV REC</u>
Number of investigations conducted by enforcement agents based on complaints	1,803	2,300	2,000
Suspension of licenses	8	No Plan	No Plan
Notices of violations	103	125	100
Written investigative reports	71	100	100

AGENCY: DEPARTMENT OF REVENUE
PROGRAM: CONSUMER PROTECTION

CATEGORY: PUBLIC PROTECTION
BRU(S): ALCOHOLIC BEVERAGE CONTROL BOARD

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Alaska is a "licensing" state, whereby private enterprise is allowed to sell alcoholic beverages. The agency is charged with licensing all persons and businesses who distribute alcoholic beverages. Annual license fees collected from municipalities who provide enforcement of liquor laws are returned to those municipalities. The executive director is charged with enforcement of laws and regulations. Revenues generated from license fees for 1982 were \$1.5 million. A rewritten law, Title 4 of Alaska Statutes, governing alcoholic beverages became effective July 1, 1980.

104

PHONE CONTACT FOR MORE INFORMATION: Patrick Sharrock 277-8638

SERVICE MEASURES	FY 82		FY 83	FY 84	
	PLAN	ACTUAL	PLAN	CONTINUATION	TOTAL
<u>Enforcement</u>					
a. administrative accusation	15	9	15	10	10
b. criminal complaints	15	8	15	5	5
c. suspension of licenses	no plan	8	no plan	no plan	no plan
d. search warrants and seizure	no plan	2	no plan	no plan	no plan
e. written investigative reports	250	71	100	100	100
<u>Communication with Licensees</u>					
a. inspection of licensed premises	3,000	1,803	2,500	2,000	2,000
b. notices of violation	150	101	125	100	100
c. information letters and bulletins	6	17	5	5	5
<u>Public Contact</u>					
a. news releases	10	7	5	5	5
b. public hearings	no plan	2	no plan	no plan	no plan
c. local government and law enforcement contact	1,000	1,305	900	1,000	1,000
d. incoming telephone calls	20,000	17,983	19,000	19,000	19,000
e. board meetings	no plan	10	11	11	11

STATE OF ALASKA -- BUDGET UNIT SUMMARY

18:38

1/07/83

AGENCY: DEPARTMENT OF REVENUE
 CATEGORY: PUBLIC PROTECTION

PROGRAM: A.B.C. BOARD

COMPONENT DESCRIPTION	82 AUTH	82 FINAL	82 ACT	83 AUTH	83 SUPL	83 RP	GOVERNOR
A.B.C. BOARD	524.7	549.1	539.1	632.5			669.0
** TOTAL	524.7	549.1	539.1	632.5			669.0
** CHANGE VERSUS 83 AUTH							5.7%
OBJECT DESCRIPTION							
PERS. SERV.	414.6	439.0	441.3	461.5			487.8
TRAVEL	45.5	45.5	36.3	50.1			55.6
CONTRACTUAL	61.7	59.9	55.1	117.7			118.2
COMMODITIES	2.9	2.9	4.8	3.2			7.4
EQUIPMENT		1.8	1.6				
FUNDING SOURCE							
GENERAL FUND	524.7	549.1	539.1	632.5			669.0
** GENERAL FUND CHANGE VS. 83 AUTH							5.7%
POSITIONS							
FULL-TIME	12.0	12.9	12.0	12.0			12.0
STAFF MONTHS	144.0	144.0	144.0	144.0			144.0

The following individual is expected to testify on HB
325:

Pat Sharrock, Chair, Alcoholic Beverage Commission

DEPARTMENT OF REVENUE

	<u>FY 82 Actual</u>	<u>FY 83 Adjusted</u>	<u>FY 84 Governor's Operating Budget</u>
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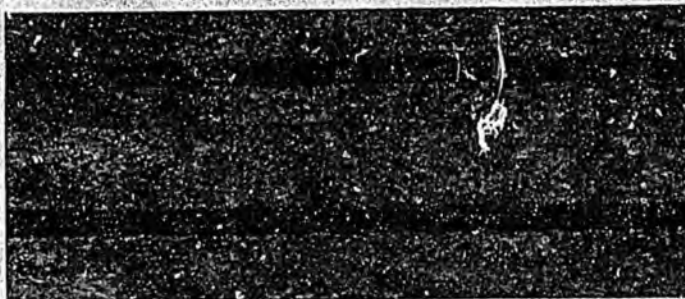
1/07/83

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FULL-TIME	12.0	12.0	12.0	12.0			12.0
STAFF MONTHS	144.0	144.0	144.0	144.0			144.0

STATE OF ALASKA



DIVISION OF LEGISLATIVE AUDIT
Juneau, Alaska

A REPORT ON THE
DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD

December 15, 1982

Audit Control Number

04-1071-83-R

Commissioner, Department
of Revenue

Robert D. Heath

Deputy Commissioners, Department
of Revenue:

Taxation
Treasury

Joseph K. Donohue
Vacant

Members of the
Alcoholic Beverage Control Board

Chairman
Member
Member
Member
Member

William Gordon
Donald J. House
William K. Smith
Joseph W. Berberich
Chuck J. Green

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

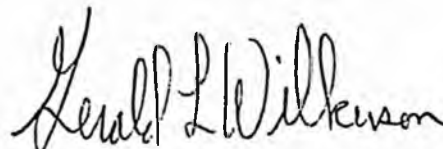
December 15, 1982

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 REPORT ON THE DEPARTMENT OF REVENUE ALCOHOLIC BEVERAGE CONTROL BOARD

December 15, 1982



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

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Department of Revenue	19

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 Board was conducted to determine whether there is a demonstrated need to continue liquor regulation in its present form. To determine that need we reviewed Board activities for Fiscal Year 1982 to see if the Board has been operating in an efficient and effective manner.

AS 44.66.010 specifies that the Alcoholic Beverage Control Board will terminate on June 30, 1983, but will continue until June 30 of the following year for the purpose of concluding its affairs. This report should be considered during the legislative oversight function in determining whether the Board should be allowed to terminate, be reestablished in its present form or be reestablished in a modified form.

(Intentionally left blank)

ORGANIZATION AND FUNCTION

In 1933 the Territorial Legislature created the Board of Liquor Control with full power, authority, and control to prescribe (1) rules and regulations to govern the manufacture, barter, sale and possession of intoxicating liquors, (2) qualifications of those engaged in that business, and (3) license fees and excise taxes. The present Alcoholic Beverage Control Board (hereinafter referred to as the ABC Board or the Board) was established in 1959, and the same broad powers and duties conferred on the Board of Liquor Control were transferred to the new ABC Board at that time.

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, 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.

The ABC Board is a regulatory, quasi-judicial agency, 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. The Board may order the director to issue, renew, revoke, transfer, or suspend licenses and 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 and are not reduced or prorated in any way for periods less than the statutory calendar year. To renew an already existing liquor license, the application must be filed (and the corresponding fees paid) on or before February 28.

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, and 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 five investigators - three operating from the Anchorage central office, one operating from the Fairbanks field office, and one operating from the Juneau field office. One Anchorage Investigator position is vacant. 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.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Alcoholic Beverage Control Board should reevaluate its interpretation and application of the enforcement requirements of Title 4.

Alaska Statute 04.06.075 states that the director of the ABC Board shall enforce Title 4 and regulations adopted by the Board. Title 4 also provides that a person who violates a provision of the Title or adopted regulations is guilty, upon conviction, of a class A misdemeanor. To enable the Director and enforcement personnel to accomplish this task, Title 4 also provides for the exercise of peace officer powers, upon concurrence of the Commissioner of Public Safety.

Although these statutes clearly show that the ABC Board is mandated to enforce Title 4, it is ABC's opinion the primary responsibility for enforcement rests with State and local law enforcement agencies. As a result, few criminal complaints have resulted from ABC enforcement activities. During Fiscal Year 1982, only eight criminal complaints were filed, five of which were originated by ABC personnel.

The ABC Board utilizes a Notice of Violation to communicate to licensees that a violation allegedly occurred. However, Notices of Violation of and by themselves carry no penalty. Again, the ABC Board relies primarily on State and local law enforcement agencies to provide information to generate a Notice. Over 60 percent of the Notices issued during Fiscal Year 1982 were the result of work performed by local law enforcement agencies.

State and local law enforcement agencies are required to investigate and report violations of Title 4 to the ABC Board. However, this responsibility is only a small part of their total criminal enforcement responsibilities in the State of Alaska. As a matter of priority, these agencies cannot devote sufficient time to the enforcement of Title 4. Therefore, this responsibility must and does rest with the ABC Board.

It is our opinion that the ABC Board should reevaluate its interpretation of the enforcement responsibilities of Title 4 and, within staffing limitations, reconsider the direction of current ABC enforcement efforts.

Recommendation No. 2

The Office of the Governor should keep appointments to the Alcoholic Beverage Control Board current and staggered as required by AS 04.06.030.

During our review of appointments to the ABC Board we noted the following exceptions:

1. Past appointments to the Board have not been made in accordance with the provisions of AS 04.06.030(b) which requires the Governor to fill vacancies to unexpired terms within 30 days of the vacancies. Our review of appointments showed one position remained vacant for 92 days and another position was vacant for 152 days.
2. AS 04.06.030(a) requires appointments to be overlapping terms of 3 years. We found that the terms of two members will expire on January 31, 1984, and the terms of two other members will expire January 31, 1985.

We recommend the Office of the Governor appoint new members or reappoint current members to vacant ABC Board seats in a timely manner and in compliance with AS 04.06.030. We also recommend that the appointment terms be staggered as required by law.

We further recommend the Office of the Governor establish a talent pool for Board appointments. The concept of a talent pool is to have a list of persons available and desiring to serve as a Board member. Many sources exist in the State to establish such a pool. Liquor industry associations could be requested to provide a list of members who would like to serve as an industry representative on the Board.

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 alternatives 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 this control should continue to exist, however, it is our opinion, the ABC Board has not met its mandated enforcement responsibilities of Title 4 of the Alaska Statutes. We recommend the ABC Board reevaluate its interpretation and application of the enforcement requirements of Title 4.

(Intentionally left blank)

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 to which the board, commission or program has operated in the public interest.

Public protection gained through licensing to control liquor manufacture and traffic has been adequately provided by the ABC Board. However, the Board is also charged with enforcement of the alcoholic beverage control laws, rules, and regulations. As previously documented in this report, it is our opinion the ABC Board has not met its statutory responsibilities in protecting public health, safety, and welfare (see Recommendation No. 1).

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, those sections which deal with suspension and revocation of licenses and permits place severe restrictions upon the ability of ABC to suspend and revoke licenses for the illegal act of licensee employees.

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 three, including a supervisory agent in Anchorage. Including the supervisory agent, there are only five agents with inspection and enforcement responsibilities for 1,483 licensed premises. However, one other Anchorage Investigator position is vacant.

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

The last major revisions to Title 4 of the Alaska Statutes were the result of action by the 1980 session of the Legislature. The ABC Board participated in the process of developing those revisions.

- 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 ten times during 1980 and 1981. 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 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 or interest.

No discrepancies were noted during our review of the ABC Board affirmative action program.

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.

(Intentionally left blank)

APPENDIXES

APPENDIX A

STATE OF ALASKA
DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD
REVENUE COMPARED WITH EXPENDITURES
Fiscal Years 1980, 1981 and 1982
(UNAUDITED)
(Note 1)

	<u>1980</u>	<u>1981</u>	<u>1982</u>
Revenue (See Schedule 1)	\$1,028,982	\$1,494,489	\$1,548,393
Expenditures	<u>(483,121)</u>	<u>(556,589)</u>	<u>(562,178)</u>
<u>Excess of Revenue Over Expenditures</u>	<u>\$ 545,861</u>	<u>\$ 937,900</u>	<u>\$ 986,215</u>

Schedule 1
Revenue Collected

<u>Types of Licenses</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>
Liquor License Application	\$ 76,050	\$ 83,250	\$ 86,350
Pub	494	100	400
Beverage Dispensary	501,850	771,050	773,200
Club	24,650	39,500	39,300
Common Carrier	14,150	25,800	29,050
Restaurant	44,250	60,750	69,600
Roadhouse	3,250	-0-	-0-
Retail Store	248,350	330,700	335,400
Wholesale General	79,500	138,500	156,000
Wholesale Malt Beverage	15,300	13,200	21,600
Miscellaneous (Note 2)	<u>21,138</u>	<u>31,639</u>	<u>37,493</u>
<u>Total</u>	<u>\$1,028,982</u>	<u>\$1,494,489</u>	<u>\$1,548,393</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 1980, 1981 and 1982

<u>Types of License</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>
Pub	1	1	1
Beverage Dispensary	607	620	634
Club	61	63	65
Common Carrier	64	72	88
Restaurant	146	182	215
Roadhouse	20	-0-	-0-
Retail Store	431	438	445
Wholesale General	16	15	16
Wholesale Malt Beverage	6	7	7
Miscellaneous (Note 1)	<u>10</u>	<u>9</u>	<u>12</u>
<u>Total</u>	<u>1362</u>	<u>1407</u>	<u>1483</u>

Note 1

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

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 licensee for a purchase to be received by the person making the solicitation.	750

<u>Source</u>	<u>Description</u>	<u>Annual Fee</u>
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
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
Wolesale 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

<u>Source</u>	<u>Description</u>	<u>Annual Fee</u>
Pub	To sell beer and wine for consumption only at designated premises located on the campus of an accredited college or university.	\$ 400
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

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

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

March 2, 1983

RECEIVED
MAR 02 1983
LEGISLATIVE
AUDIT

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

Dear Mr. Wilkerson:

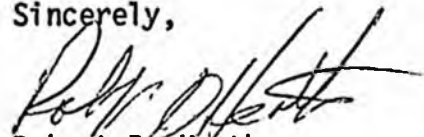
This letter is in response to your Recommendation No. 1 contained in your preliminary audit report of the Alcoholic Beverage Control Board dated December 15, 1982.

Without generating a lengthy dissertation about staff and budgetary limitations, utilization of present staff, and administrative/judicial due process, we generally believe your recommendation has merit. However, if we understand your perception of enforcement by the board to be criminally oriented, under present law heavy reliance on other state and local law authority is required, and no single agency could fill a void which the report implies exists.

The board at each and every monthly meeting evaluates its enforcement function through granting or denying license applications, sitting in informal conference, and reviewing hearing officer decisions. The board has scheduled "workshop" sessions during its two-day April meeting in Juneau and will review law and regulations in light of your opinion.

Thank you for the opportunity to respond.

Sincerely,



Robert D. Heath
Commissioner of Revenue

cc: Patrick L. Sharrock, Director
ABC Board

ABC Board Members

Introduced: 4/5/83
Referred: Finance

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

HOUSE BILL NO. 325

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act extending the termination date of the Alcoholic Beverage Control Board; and providing for an effective date."

7

8

9

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

10

* Section 1. AS 44.66.010(a)(1) is amended to read:

11

(1) Alcoholic Beverage Control Board (AS 04.06.010) --

12

June 30, 1987 [1983];

13

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-

14

10.070(c).