

**ALASKA LEGISLATURE**

**1387**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996**

**HB**

**373**

**HFIN**

**FILE**

(11)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: February 29, 1996

FURTHER REFERRALS:

Date of Committee Action: \_\_\_\_\_

The FINANCE Committee considered:

HB 373

HOUSE BILL NO. 373

EDUC FOR FAMILY OF DECEASED MILITARY

"An Act relating to educational benefits for family members of deceased members of the armed services."

recommends it be replaced  
with the following committee substitute \_\_\_\_\_

the same title  
 a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal note(s) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
Died in committee				

CHAIR'S SIGNATURE \_\_\_\_\_

Moved 3/14/96

9-LS1365VA.1 ✓

Ford

3/4/96

AMENDMENT 1

OFFERED IN THE HOUSE

BY REPRESENTATIVE MARTIN

TO: HB 373

1 Page 1, line 2, after "services":

2 Insert "; and providing for an effective date"

3 Page 3, after line 8:

4 Insert new bill sections to read:

5 "\* Sec. 3. This Act is retroactive to September 1, 1995.

6 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c)."

REPRESENTATIVE  
**TERRY MARTIN**  
CHAIRMAN  
BUDGET & AUDIT COMMITTEE  
MEMBER  
HOUSE FINANCE COMMITTEE

# Alaska State Legislature



MAY 15 - JAN 15 258-8169  
716 W. 4TH, SUITE 650  
ANCHORAGE, AK 99504

JAN 15 - MAY 15 465-3783  
STATE CAPITOL  
JUNEAU, AK 99801-1182

HOME 333-6990  
355 DONNA DRIVE, #11  
ANCHORAGE, AK 99504

## SPONSOR STATEMENT HB373

### Educational benefits for family members of deceased members of the Armed Forces

On September 22, 1995 the United States Air Force AWACS Yukla 27 crashed at Elmendorf Air Force Base, killing all 24 crew members. The tragedy spurred an overview of current statutes addressing tuition and dorm waivers for the victims' family members in state supported educational institutions.

This legislation is directed towards surviving dependents of all Alaska military residents enlisted in branches of the Armed Services, including the Alaska National Guard and the Alaska Naval Militia, that were killed in the line of duty. Specifically, HB373 adds a new subsection to the existing provision by entitling the spouse or dependent child of a victim to a waiver of room charges through student housing and to a stipend of \$200 per month for each month of enrollment.

In light of the dedication and great risk faced by members of the military, this small "benefit" is most appropriate in assisting victims' families when a horrible event like that of the Yukla 27 disaster arises.



STATE OF ALASKA  
1996 LEGISLATIVE SESSION

FISCAL NOTE

No. 1  
Version: HB 373  
(H) Publish Date: 2/29/96

Revision Date: February 28, 1996  
Title: An Act relating to educational benefits for family members of deceased members of the armed services  
Sponsor: Representatives Martin, Barnes, Mulder  
Requestor:

Department Affected: University of Alaska  
BRU: All  
Component: All

COMPONENT SERIAL NO.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	13.6	13.6	13.6	13.6	13.6	13.6
TOTAL OPERATING	13.6	13.6	13.6	13.6	13.6	13.6

CAPITAL						
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REVENUE FD SOURCE						
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FUNDING: (Thousands of Dollars)						
1002 FEDERAL FUNDS						
1003 GF MATCH						
1004 GENERAL FUND	13.6	13.6	13.6	13.6	13.6	13.6
1006 GF/MHTIA						
OTHER						
TOTAL FUNDING	13.6	13.6	13.6	13.6	13.6	13.6

POSITIONS:						
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)  
This bill provides a \$200/month stipend and waives tuition, dorm and other fees for qualifying persons while enrolled at the University of Alaska. The estimated cost of these provisions for one full-time student per year is approximately \$6,800 in FY96 dollars. Based on our history of persons receiving benefits under the existing legislation, we have included a fiscal note to fully cover two students/year. In the event of a catastrophic loss that significantly increases the number of persons qualifying for and ultimately utilizing these benefits, the university will seek supplemental funding from the legislature.

Prepared by: Heather J. Edman  
Division: Statewide Budget Office

Phone: 463-3086  
Date: 2-28-96

Approved by: Marvlon Burton, Director  
Agency: Statewide Budget Office

Date: 2-28-96

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

COMMITTEE COPY

<p><b>Section</b>                  310. Military courts for the Alaska militia                  320. General court-martial                  322. Special court-martial                  324. Summary court-martial</p>	<p><b>Section</b>                  326. Appeal from court-martial convictions                  330. Expenses of military courts                  340. Miscellaneous provisions                  350. Short title</p>
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**Sec. 26.05.010. Alaska militia established.** (a) The militia of the state consists of all able-bodied citizens of the United States and all other able-bodied persons who have declared their intention to become citizens of the United States, who reside in the state, who are at least 17 years of age, and who are eligible for military service under the laws of the United States or this state.

(b) The militia is divided into two classes:

(1) the organized militia, consisting of the Alaska National Guard, the Alaska Naval Militia, and the Alaska State Militia, and

(2) the unorganized militia, consisting of all qualified persons available for service but not serving in the organized militia.

(c) The adjutant general may, by regulation, prescribe the maximum age for eligibility in the militia. (§ 2 ch 150 SLA 1955; am § 1 ch 44 SLA 1968; am § 1 ch 141 SLA 1972; am § 1 ch 5 SLA 1987)

*Collateral references.* — 53 Am. Jur. 2d, Military, and Civil Defense, § 1 et seq.; 54 Am. Jur. 2d, Military, and Civil Defense, § 149 et seq.

57 C.J.S., Militia, § 1 et seq.  
 Members of militia as entitled to benefit

of war legislation in nature of moratory statute. 137 ALR 1400; 147 ALR 1311.

Validity and construction of state statutes requiring employers to compensate employees for absences occasioned by military service. 8 ALR4th 704.

**Sec. 26.05.020. Exemption from military service.** The following are exempt from militia service: persons exempt by the laws of the United States, judges of the courts of the state, and members and officers of the state legislature. (§ 3 ch 150 SLA 1955)

**Sec. 26.05.030. Composition of organized militia.** (a) The Alaska National Guard consists of

(1) members of the militia who have voluntarily enlisted and who, upon original enlistment, are organized, armed, equipped, and federally recognized according to the laws of the United States; and

(2) commissioned officers and warrant officers who are citizens of the United States, having the qualifications prescribed by federal law and regulations, and who are appointed and commissioned or warranted by the governor.

(b) Former members of the regular Army, Navy or Marine Corps under 64 years of age may enlist in the Alaska Militia

(c) The Alaska Naval Militia consists of units authorized by the governor, organized, equipped, trained, and administered as prescribed by state and federal law and regulation, and manned by personnel who are

(1) members of the United States Naval Reserve or the United States Marine Corps Reserve and

(2) enlisted, appointed, commissioned, or warranted under the laws and regulations of the United States.

(d) The Alaska State Militia consists of units authorized by the governor, and manned by volunteer personnel qualifying under state law and regulation. All State Militia personnel shall be

(1) appointed, commissioned, or warranted, and assigned by the governor or the adjutant general as the governor's designee;

(2) subject to serve on state active duty at the call and by order of the governor.

(e) *[Repealed, § 102 ch 127 SLA 1974.]* (§ 4 ch 150 SLA 1955; am § 2 ch 44 SLA 1968; am § 13 ch 141 SLA 1972; am § 102 ch 127 SLA 1974)

*Sec. 26.05.040. Ratification and confirmation of existing military forces. [Repealed, § 38 ch 30 SLA 1992.]*

**Sec. 26.05.050. Authority for organization.** The governor as commander in chief may organize units in communities so requesting and specifically provide for organization of at least two scout battalions in the western and northwestern coastal areas and northern Arctic regions of the state, in accordance with special authority of the United States Department of Defense. (§ 6 ch 150 SLA 1955)

**Sec. 26.05.060. Control of Alaska National Guard and Alaska Naval Militia.** The governor as ex officio commander of the militia of the state has command of the Alaska National Guard and the Alaska Naval Militia while they are not in active federal service. The governor may adopt necessary regulations for them not inconsistent with 48 U.S.C. 473 — 479. Except as otherwise prescribed by those sections, the Alaska National Guard and the Alaska Naval Militia and their members are subject to all federal laws and regulations relating to the National Guard and Naval Militia of the several states and territories and of the United States. (§ 7 ch 150 SLA 1955; am § 1 ch 34 SLA 1973)

**Editor's notes.** — With regard to 48 U.S.C. 473 — 479, cited in this section, page 11732 of the 1970 edition of the United States Code contains the following: "Sections 21 — 488f of this title, applicable to the Territory of Alaska, are omitted from this title since the scope of this title limits it to general and permanent laws applicable to Territories and In-

sular Possessions, and Alaska was admitted into the Union as a State on January 3, 1959. See the notes following the heading of this chapter.

"Many of the provisions encompassed by former sections 21 — 488f of this title were enacted by the Legislature of the State of Alaska on February 19, 1963, as part of the Alaska Statutes."

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 UNIVERSITY OF ALASKA
 

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TO: Tom Anderson, Legislative Aide  
Office of Representative Terry Martin

FROM: Wendy Redman, Vice President  
UA University Relations *W. Redman*

DATE: February 19, 1996

RE: UAA Athletic Scholarships

As we discussed last week, UAA has a variety of athletic scholarships; some include tuition and fees, and others include room, board and books. The typical "full-ride" athletic scholarship would look like this:

TYPICAL YEARLY "FULL-RIDE" ATHLETIC SCHOLARSHIP

Tuition <sup>1</sup>	\$ 1,992.0
Fees	\$ 160.0
Room/Board <sup>2</sup>	\$ 6,310.0
Books <sup>3</sup>	\$ 400.0
TOTAL	\$ 8,862.0

<sup>1</sup> Tuition is calculated at FY97 rates

<sup>2</sup> Room/Board is calculated at \$2,800 Fall Semester and \$3510 Spring Semester

<sup>3</sup> Book stipend of \$200/semester is provided

The difference in the average annual numbers included on the fiscal note and as outlined above are the result of different assumptions. The fiscal note assumes a 15 credit student, where the athletic scholarships assumes a 12 credit student. The athletic scholarship provides for board and books, while the fiscal note provides for a \$200/month stipend for all costs other than tuition and room charges.

2/27/96

(7)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: January 8, 1996

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/27/96

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 373

HOUSE BILL NO. 373

EDUC FOR FAMILY OF DECEASED MILITARY

"An Act relating to educational benefits for family members of deceased members of the armed services."

recommends it be replaced with the following committee substitute \_\_\_\_\_ [ ] the same title [ ] a new title

[ ] additional referral to \_\_\_\_\_ Committee

[ ] attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

[x] fiscal note(s) University

[ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i> G. Davis	✓			
<i>[Signature]</i> RoLeberg	✓			
<i>[Signature]</i> Bunde			✓	
<i>[Signature]</i> Toohy	✓			
<i>[Signature]</i> Vezev			✓	
<i>[Signature]</i> Robinson	✓			
<i>[Signature]</i> Brice			✓	
	(4)		(3)	

CHAIR'S SIGNATURE

*[Signature: Car Bunde]*

**HB**

**379**

**SFIN**

**FILE**

# FISCAL NOTE

No. 5

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

Bill Version: HB 379 (Jud)

(H) Publish Date: 1-22-96

Revision Date: _____	Dept. Affected: <u>Department of Law</u>
Title: <u>"...authorizing...alternate dispute resolution centers</u>	BRU: <u>Civil Division</u>
<u>...disputes between juvenile offenders and their victims."</u>	Component: <u>General Legal Services</u>
Sponsor: <u>Representative Porter</u>	COMPONENT SERIAL NO. <u>2087</u>
Requester: <u>Representative Porter</u>	

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 GF March						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

POSITIONS	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

This bill amends AS 47.10 to authorize municipalities or nonprofit corporations organized exclusively for the resolution of disputes between minors who are alleged to have committed offenses and the victim of these offenses, to establish and operate alternative dispute resolution centers. The bill also provides that disposition of a juvenile court matter may include use of the services of an alternate dispute resolution center. Use of a center would be voluntary for both juvenile offenders and victims. The bill will not have a fiscal impact for the Department of Law, because alternate dispute resolution centers would be operated by municipalities and nonprofit organizations, and because of the voluntary nature of the bill's dispute resolution process. The bill should have a positive impact on the state's overburdened juvenile justice system.

*Richard I. Peques*

Prepared by: Richard I. Peques, Director  
 Division: Administrative Services Division  
 Approved by Commissioner: Bruce M. Botelho, Attorney General  
 Agency: Department of Law

Phone: 465-3672  
 Date: 1/16/96  
 Date: 1/16/95

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FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

No. 4  
Bill Version: C SHB 379 (Jud)  
(H) Publish Date: 1-22-96

Revision Date: \_\_\_\_\_  
Title: Establish Alternate Dispute Resolution  
Centers for Juvenile Offenders  
Sponsor: Representative Porter  
Requestor: House (JUD)

Dept. Affected: Health and Social Services  
BRU: Family and Youth Services  
Component: DFYS Central Office  
COMPONENT SERIAL NO. 259  
See also (SN#): \_\_\_\_\_

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY96) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal impact on the Division of Family & Youth Services.

Prepared by: L. Diane Worley  
Division: Family & Youth Services  
Approved by Commissioner: Karen Petquet, Commissioner  
Agency: Department of Health & Social Services

Phone: \_\_\_\_\_  
Date: 01/16/96  
Date: 1/11/96

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FISCAL NOTE

No. 3

Version: CS HB 379 (Jud)

(H) Publish Date: 1-22-96

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: "An Act authorizing establishment of alternative dispute resolution centers..."  
Sponsor: Rep. Porter  
Requestor: (H) Judiciary

Department Affected: Administration  
BRU: Office of Public Advocacy  
Component: Office of Public Advocacy  
COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact on the Office of Public Advocacy.

Prepared by: Brant McGee, Public Advocate  
Division: Office of Public Advocacy

Phone: 274-1684  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
Agency: Administration

Date: 1/17/96

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FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

No. 2  
Bill Version: CSHB 379(Jud)  
(H) Publish Date: 1-22-96

Revision Date: \_\_\_\_\_  
Title: "An Act authorizing establishment of alternative  
dispute resolution centers..."  
Sponsor: Rep. Porter  
Requestor: (H) Jud

Dept. Affected: Administration  
BRU: Public Defender Agency  
Component: Public Defender Agency  
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ( )	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Public Defender Agency.

Prepared by: John Salemi, Director  
Division: Public Defender Agency

Phone: 269-264-4400  
Date: \_\_\_\_\_

Approved by Commissioner: (Mark Boyer)  
Agency: Department of Administration

Date: 1/17/96

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# FISCAL NOTE

No. 1  
 Bill Version: (SHB 379) (Jud)  
 Publish Date: 1-22-96

STATE OF ALASKA  
 1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: An Act authorizing establishment of BRU: Trial Courts  
community dispute resolution centers ... juvenile offender Component: \_\_\_\_\_  
 Sponsor: Rep. Porter  
 Requestor: House Judiciary COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ None

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact

Prepared by: C. S. Christensen III, Staff Counsel  
 Agency: Alaska Court System

Approved by: Arthur H. Snowden, II, Administrative Director  
 Agency: Alaska Court System

Phone: 264-8228  
 Date: 01/16/96  
 Date: 01/16/96

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COMMITTEE COPY

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 2/13/96

FURTHER: Finance

DATE TURNED INTO OFFICE: 5-3-95

The Judiciary Committee considered CS FOR HOUSE BILL NO. 379(JUD)

Authorizing establishment of community dispute resolution centers to foster the resolution of disputes between juvenile offenders and their victims.

and recommends:

be replaced with S CS CS HB 379 (JUD)

adopt previous CS \_\_\_\_\_ (\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to the \_\_\_\_\_ Committee

**Senate Bill:**  
 same title  
 new title  
**House Bill:**  
 same title  
 technical title  
 new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Linda Green</i>	<input checked="" type="checkbox"/>	<i>see index</i>	<input checked="" type="checkbox"/>		
<i>Mike Miller</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>John T. ...</i>	<input checked="" type="checkbox"/>	CHAIR:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
<i>Crim - Court Dis</i>	<i>1/16/96</i>	<input checked="" type="checkbox"/>	
<i>Health Soc. Serv.</i>	<i>1/16/96</i>	<input checked="" type="checkbox"/>	
<i>Pub. Advocacy</i>	<i>1/17/96</i>	<input checked="" type="checkbox"/>	
<i>Pub. Defender</i>	<i>1/17/96</i>	<input checked="" type="checkbox"/>	
<i>Jural Counts</i>	<i>1/16/96</i>	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

**HB**

**382**

**HFIN**

**FILE**

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: January 30, 1996

FURTHER REFERRALS:

Date of Committee Action: 2/6/96

The FINANCE Committee considered:

HB 382

HOUSE BILL NO. 382

EXTEND BOARD OF DISPENSING OPTICIANS

"An Act extending the termination date of the Board of Dispensing Opticians; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 382 (STA) [ ] the same title [X] a new title

[ ] additional referral to \_\_\_\_\_ Committee [ ] attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal note(s) \_\_\_\_\_

[X] fiscal note(s) DCED \_\_\_\_\_

[ ] zero fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Richard J. Foster</i>	Foster	X			
<i>Mark P. Kelly</i>	Hanley	X			
<i>Edm. Mulder</i>	Mulder	X			
<i>Terry Martin</i>	Martin	X			
<i>Sean R. Parnell</i>	Parnell	X			
<i>Vic Kohring</i>	Kohring	X			
<i>Ben S. Gussendorf</i>	Gussendorf	X			
<i>Mike Davarre</i>	Davarre	✓			
<i>Tony Brown</i>	Brown	✓			
<i>Gene Therriault</i>	Therriault	X			

CHAIR'S SIGNATURE *Mark P. Kelly* *Richard J. Foster*

# FISCAL NOTE

No. 1

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Bill Version: HB 382

(H) Publish Date: 1/16/96

Revision Date: \_\_\_\_\_  
 Title: An Act extending the termination date of the  
 Board of Dispensing Opticians: \_\_\_\_\_  
 Sponsor: Representative James  
 Requestor: Representative James

Department: Commerce and Economic Development  
 BRU: Occupational Licensing  
 Component: Operations

COMPONENT SERIAL NO. 1844

Expenditures/Revenues	(Thousands of Dollars)					
	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES	7.3	7.3	7.3	7.3	7.3	7.3
TRAVEL	1.0	1.0	1.0	1.0	1.0	1.0
CONTRACTUAL	1.4	1.4	1.4	1.4	1.4	1.4
SUPPLIES	0.1	0.1	0.1	0.1	0.1	0.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>9.8</b>	<b>9.8</b>	<b>9.8</b>	<b>9.8</b>	<b>9.8</b>	<b>9.8</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES</b>	<b>48.3</b>	<b>5.3</b>	<b>48.3</b>	<b>5.3</b>	<b>48.3</b>	<b>5.3</b>

FUND SOURCE	(Thousands of Dollars)					
*002 Federal Receipts						
*003 GF Match						
*004 General Fund						
*005 GF/Program Receipts						
*006 GF/MHTIA						
Other: *091 Designated PR	9.8	9.8	9.8	9.8	9.8	9.8
<b>TOTAL</b>	<b>9.8</b>	<b>9.8</b>	<b>9.8</b>	<b>9.8</b>	<b>9.8</b>	<b>9.8</b>

Estimate of any current year (FY 96) cost: \$ 14.4

POSITIONS	
FULL-TIME	
PART-TIME	
TEMPORARY	

**ANALYSIS:** (Attach a separate page if necessary)

HB 382 extends the Board of Dispensing Opticians to June 30, 2000. The costs identified above are included in the FY 97 operating budget and therefore, new funds are not required. Costs shown represent only Direct expenses of the board based on FY 95 activity. Administrative Indirect expenses are also assessed annually per capita by the number of current licensees. FY 95 program costs (direct and administrative indirect) totalled \$14.4. Fees were adjusted in May 1995 to cover full costs of the program over a two-year period and will be reviewed again prior to the next renewal.

Prepared by: Jennifer Strickler, Administrative Officer  
 Division: Occupational Licensing  
 Approved by Commissioner: William L. Hensley  
 Agency: Commerce and Economic Development

Phone: 465-2144  
 Date: January 10, 1996  
 Date: 1-11-96

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STATE OF ALASKA

TONY KNOWLES, GOVERNOR

**DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

P.O. BOX 110608  
JUNEAU, ALASKA 99811-0806  
PHONE: (907) 465-2534  
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DATE: January 24, 1996  
TO: Walt Wilcox, Aide  
Representative Jeannette James  
FROM: Catherine A. Reardon, Director  
Division of Occupational Licensing  
Department of Commerce and  
Economic Development  
SUBJECT: Sunset Extension Bills

JAN 24 1996  
Rep. Jeannette James

I spoke with Randy Welker, the Legislative Auditor, to clarify a few points in his January 17 memo and sunset audits. I hope this information assists your effort to incorporate all audit recommendations into the bills.

On page 1 of his memo, Mr. Welker recommends clarifying Alaska Statute (AS) 08.71.145 regarding licensure of opticians by credential. Mr. Welker explained to me that he suggests amending that statute to specifically mention all the requirements in Regulation 12 AAC 30.100. Page 8 of the optician audit discusses this suggested language.

On page 2 of his memo, Mr. Welker recommends amending AS 08.20.140 to codify the current practice of requiring all chiropractic applicants to take the state exam. Repeal of the AS 08.20.140 and AS 08.20.120(b) will achieve Mr. Welker's goal, because all applicants would then have to satisfy the requirements of AS 08.20.12(a).

On page 2 of his memo, Mr. Welker recommends that the Legislature amend the optician statute to clarify whether employees of optometrists who provide optician services must be licensed opticians. This is a subject of substantial controversy between optometrists and opticians. The Division of Occupational Licensing believes that the current law requires optometrists' employees to be licensed opticians; however, directly addressing the issue in statute would certainly resolve the ongoing dispute.

Finally, Mr. Welker's memo recommends amending the law to give the Division of Occupational Licensing authority to impose civil fines for unlicensed activity. Mr. Welker explained that he is recommending this authority be granted for all division licensing programs, not just the optician program. The creation of a new section in AS 08.01 modeled after AS 08.48.295 (architects, engineers and land surveyors) would achieve this goal. Licensing boards should impose the fines in programs which have boards. The division should impose fines in programs it directly administers.

CAR/cw1840.ol  
012496a

§ 08.71.110

§ 08.71.120

BUSINESS AND PROFESSIONS

§ 08.71.160

**Sec. 08.71.120. Fees.** The department shall set fees under AS 08.01.065 for examination, initial license, and license renewal. (§ 1 ch 45 SLA 1973; am § 5 ch 56 SLA 1980; am § 42 ch 37 SLA 1985)

**Sec. 08.71.130. Renewal of license.** (a) [Repealed, § 49 ch 94 SLA 1987.]

(b) [Repealed, § 49 ch 94 SLA 1987.]

(c) If the license remains lapsed for more than one year, the board may require the applicant to be examined under AS 08.71.090.

(d) Before a license may be renewed the licensee shall submit to the board evidence of continuing competence in optical dispensing as prescribed by regulations of the board. (§ 1 ch 45 SLA 1973; am § 6 ch 56 SLA 1980; am § 43 ch 37 SLA 1985; am § 3 ch 145 SLA 1986; am § 49 ch 94 SLA 1987; am § 3 ch 51 SLA 1988)

**Cross references.** — For license duration and further provisions relating to renewal, see AS 08.01.100.

(b), concerning license renewal and lapsing and reinstatement of licenses.

**Effect of amendments.** — The 1987 amendment repealed subsections (a) and

The 1988 amendment, effective May 26, 1988, deleted "of 30 hours" following "evidence" in subsection (d).

**Sec. 08.71.140. Display of license.** A licensed dispensing optician shall conspicuously display a personal license issued under this chapter in any place that the licensed dispensing optician transacts business. (§ 1 ch 45 SLA 1973)

**Sec. 08.71.145. Licensure by credentials.** A person with a valid license as a dispensing optician from another state, territory, district, or possession of the United States shall be issued a license without examination for those professional areas in which the person is licensed upon payment of any fee and documentation that the board may require by regulation. (§ 7 ch 56 SLA 1980)

*repealed in HB 382 (STR)*  
**Sec. 08.71.150. Issuance of license by reciprocity.** An applicant who has been licensed and has been practicing as a dispensing optician in a state, territory, district or possession of the United States which has requirements for licensing and gives reciprocal rights equivalent to those of this state, and who otherwise meets the requirements of AS 08.71.110, shall be licensed by the board without examination. (§ 1 ch 45 SLA 1973)

**Sec. 08.71.160. Dispensing optician's apprentice.** (a) A person may be employed by or serve under a licensed dispensing optician as an apprentice. An apprentice shall register with the department before beginning employment or service as an apprentice, shall be designated as such in the records of the board, and shall be in training and under the direct supervision of a licensed physician, optometrist, or

D

1/30/96

HOUSE COMMITTEE REPORT

(7) Date RETURNED to Committee: January 24, 1996

FURTHER REFERRALS:

Finance

Date of Committee Action: 1-30-96

The STATE AFFAIRS Committee considered:

HB 382

HOUSE BILL NO. 382

EXTEND BOARD OF DISPENSING OPTICIANS

"An Act extending the termination date of the Board of Dispensing Opticians; and providing for an effective date."

recommends it be replaced with the following committee substitute CSAB 382(S+A) [ ] the same title [X] a new title

[ ] additional referral to \_\_\_\_\_ Committee [ ] attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

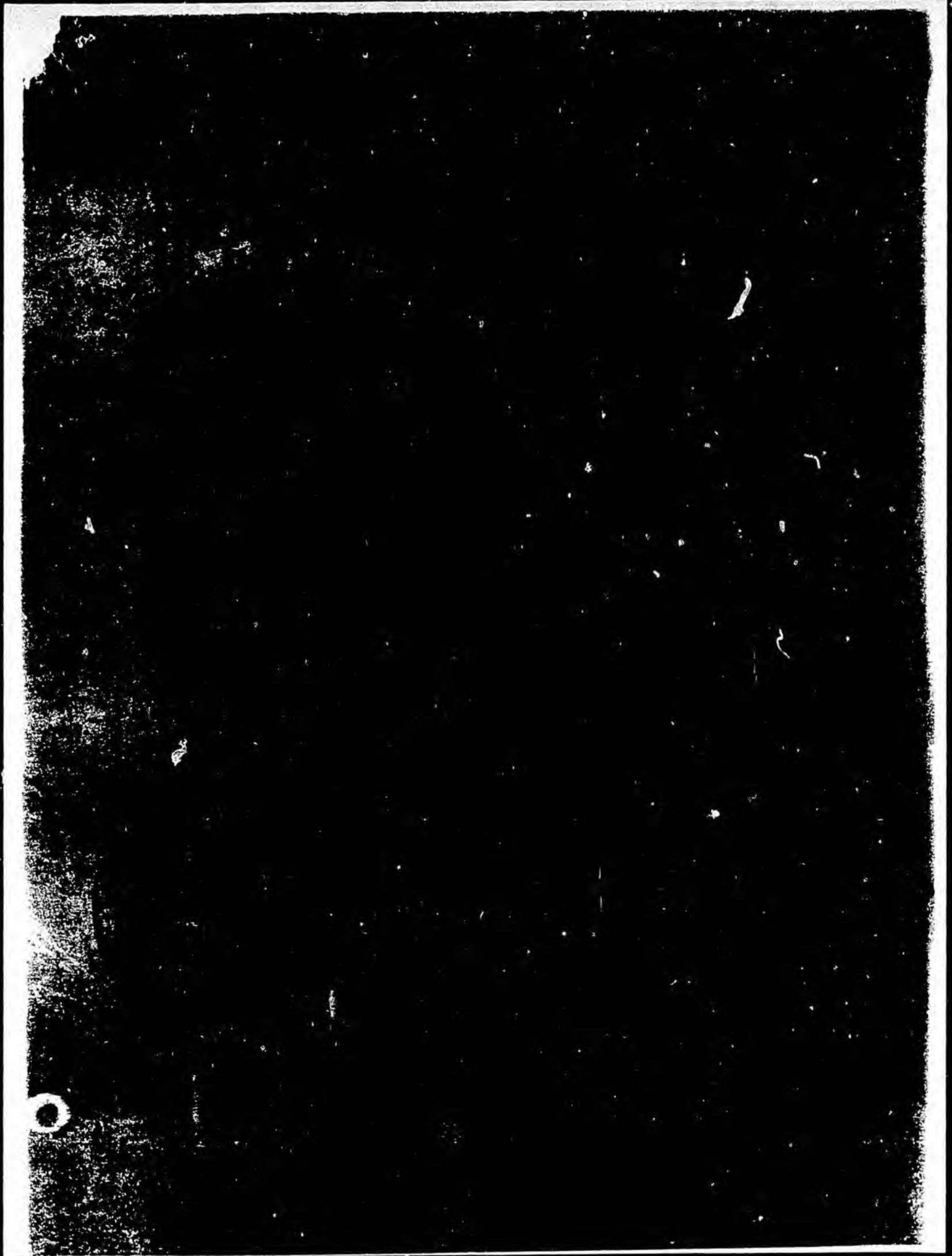
ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date) [ ] fiscal note(s) [X] fiscal note(s) CED 1/16/96

[ ] zero fiscal note(s) [ ] zero fiscal note(s)

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
Jeannette James	JAMES	✓			
Brian Porter	Porter	✓			
James Green	Green	✓			
John Twan	TWAN	✓			
Caren Robinson	ROBINSON	✓			
Ed Willis	WILLIS	✓			
Sid Ogan	Ogan			✓	
		(6)		(1)	

CHAIR'S SIGNATURE Jeannette James

THE FOLLOWING<sup>2</sup><sub>1</sub> PAGES MAY  
NOT FILM LEGIBLY BECAUSE OF  
THE POOR QUALITY OF THE ORIGINAL



LEGISLATIVE BUDGET AND APPROPRIATIONS

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DIVISION OF

LEGISLATIVE BUDGET AND APPROPRIATIONS  
OFFICE OF THE COMPTROLLER GENERAL  
STATE OF TEXAS  
AUSTIN, TEXAS

# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P. O. Box 113300  
Juneau, AK 99811-3300  
(907) 465-3830  
FAX (907) 465-2347

September 29, 1995

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.

### DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT BOARD OF DISPENSING OPTICIANS

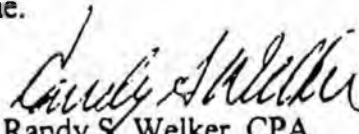
September 29, 1995

Audit Control Number  
08-1435-96

This audit was conducted under the requirements of AS 44.66.050 and the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently, under AS 08.03.010(c)(8), the Board of Dispensing Opticians is scheduled to terminate on June 30, 1996. The board would be allowed one year in which to conclude its affairs.

In our opinion, the Board of Dispensing Opticians should be reestablished. The regulation and licensing of qualified dispensing opticians is of benefit in protecting the public's health, safety, and welfare. We recommend that the legislature extend the Board of Dispensing Opticians until June 30, 2000.

The audit was conducted in accordance with generally accepted government auditing standards using criteria set out in AS 44.66.050(c). Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section on page one.

  
Randy S. Welker, CPA  
Legislative Auditor

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## OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Dispensing Opticians. As required by AS 44.66.050(a), the legislative committee of reference shall consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 44.66.010(11) states that the board will terminate on June 30, 1996, and will have one year from that date to conclude its affairs.

### Objectives

Our specific audit objectives were:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the interest of the public. In assessing the operations and performance of the board, we utilized the criteria set out in AS 44.66.050(c). Criteria set out in this statute relates to the determination of a demonstrated public need for the board.

### Scope and Methodology

The major areas of our review were licensing, examination, investigations, and board proceedings. We reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Tests of files and documentation of licensees.
3. Minutes of board meetings and division correspondence files.
4. Attorney general's opinions applicable to professional boards.

In addition we conducted interviews with Division of Occupational Licensing staff, and with selected licensed dispensing opticians, including the current chair of the board.

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## ORGANIZATION AND FUNCTION

The Board of Dispensing Opticians was established under the provisions of Title 8, Chapter 71 of Alaska Statutes. The board consists of five members appointed by the governor and subject to legislative confirmation. Four members must be dispensing opticians and one a public member. Board members serve staggered terms of four years.

The board regulates the practice of opticianry. The board sets the minimum standards to practice in Alaska by:

1. Examining and issuing licenses to qualified applicants.
2. Establishing, amending, or eliminating regulations controlling the standards of professional opticianry practice.
3. Revoking, annulling, or suspending licenses in accordance with the Administrative Procedures Act when a person has violated dispensing opticians' statutes or regulations.

**Board of Dispensing Opticians**  
(As of June 30, 1995)

Alicia Musser - Chairperson  
Patricia Hedges-Gajdos  
Cynde Oleck

*note - two seats, including the public member seat are vacant*

From a commercial perspective, the licensed dispensing optician is, compared to other professional groups, somewhat uniquely situated. The optician provides services that also can be provided by two other licensed professionals — optometrists and ophthalmologists (the latter being a licensed physician specializing in care of the eyes). State law specifies that the rights, privileges, and obligations of dispensing opticians are designed not to "*limit or restrict a licensed physician or optometrist from the practices enumerated*" in the dispensing optician statutes. Additionally, statute provides that "*each licensed physician and optometrist has all the rights and privileges which may accrue under [statute] to a dispensing optician licensed [under state law].*"

Opticians provide services to the public that also can be provided by individuals associated and supervised by optometrists and ophthalmologists. Some opticians work independently while others are employed by, or in some other way affiliated with, optometrists and ophthalmologists. As discussed further in this report, these unique commercial relationships and circumstances have contributed to allegations of widespread unlicensed activity along with confusion as to the extent that unlicensed individuals are required to be supervised by licensed professionals.

### Division of Occupational Licensing

The Division of Occupational Licensing (OccLic), Department of Commerce and Economic Development provides administrative and investigative assistance to the Board of Dispensing Opticians. This assistance is funded by licensing and application fees as appropriated by the legislature. Administrative assistance includes budgetary services and functions such as: collection of fees, maintaining files, receiving and issuing application forms, and publishing notice of examinations and meetings. On its own initiative, or in response to a complaint, OccLic may conduct an investigation if it appears a person has engaged in or is about to engage in a practice over which OccLic has authority. OccLic can issue an order that a person stop the practice, bring an action on Superior Court to enjoin the act, examine the books and records of an individual, and issue subpoenas for the attendance of witnesses and records.

## REPORT CONCLUSIONS

In our opinion, the Board of Dispensing Opticians should be reestablished. The regulation and licensing of qualified professionals is of benefit to the protection of the public's health, safety, and welfare. The board provides this service by establishing minimum educational and experience requirements that provide reasonable assurance that persons licensed are qualified to practice. Also, assurance that those licensed act in a competent manner is provided by investigation of complaints and revocation or suspension of licenses when appropriate.

Although we determined the Board of Dispensing Opticians has demonstrated that it serves a public purpose, we do have concerns regarding certain aspects of its administrative operations. We discuss our concerns more extensively in both the Findings and Recommendations, and Analysis of Public Need sections of this report.

Alaska Statute 08.03.010(c)(11) requires that the Board of Dispensing Opticians be terminated on June 30, 1996. Under AS 08.03.020 the board has a one-year period to administratively conclude its affairs. We recommend that legislation extend the termination date for the board to June 30, 2000.

In making this recommendation we have departed from the trend began last year in our sunset review reports. In those reports we recommended longer extension periods for occupational licensing regulatory boards. This change reflected our view that the administration of most licensing boards was such that limited benefit would be provided by more frequent sunset reviews. We recommended, and the legislature adopted, ten year extensions for the various occupational licensing boards that were due to sunset on June 30, 1995.

In this instance, we recommend that the legislature return to a more limited, four year sunset review cycle. Our recommendation reflects concerns that we have regarding certain aspects of the board's performance. These concerns are discussed further in two sections of this report — Findings and Recommendations and Analysis of Public Need. As discussed in the Findings and Recommendation section, we suggest the legislature consider making certain changes to the statutes governing the Board of Dispensing Opticians. If the suggested changes are made, a review of operations conducted in preparation of a 2000 sunset date would provide an opportunity to assess the impact of any adopted statutory and administrative changes.

Essentially, in this instance we believe there is a prospective benefit to reevaluating the operations of the Board of Dispensing Opticians through the sunset review process. Accordingly, we recommend the legislature extend the board to 2000, consider the recommended statutory changes, and set in a motion a process by which the impact of these actions can be evaluated after three years of implementation.

(Intentionally left blank)

## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The legislature should amend the statutes related to the licensing of opticians without examination.

Currently, under the statutes related to the Board of Dispensing Opticians, provision is made for individuals to be licensed without having to pass the State's practical examination. Provision is made through two different, although somewhat related, methods — reciprocity and credentials.

#### Reciprocity

Current statute permits an individual to be licensed as a dispensing optician if they have been practicing in another jurisdiction which has "*requirements for licensing and gives reciprocal rights equivalent*" to those of Alaska.<sup>1</sup> In practice, this provision has proven inapplicable, since Alaska has not entered into any reciprocal agreements with any other state. In the 1991 sunset report prepared by the Legislative Finance Division, it was recommended that this statute be repealed altogether since it was not effectively providing reciprocal licensure. During the audit period, the board issued no licenses through reciprocity.

Currently, the Department of Law (DOLaw) is analyzing this statute. DOLaw is informally advising that reciprocity may be allowed even in the absence of a formal agreement. As we understand it, the Department of Law points to the construction of the statute saying that reciprocal rights need only be equivalent and not necessarily memorialized in a formal agreement.

#### Credentials

Alaska law also permits an individual to be licensed without examination as an optician through a credentials process. State law (AS 08.71.145) provides that an individual with a valid license from another jurisdiction "*shall be issued a license without examination upon payment of fees and documentation that the board may require by regulation*" [emphasis added]. The board has issued several licenses over the past three years under this statutory provision.

---

<sup>1</sup>The full statutory reference, at AS 08.71.150 states that

*An applicant who has been licensed and has been practicing as a dispensing optician in a state, territory, district, or possession of the United States which has requirements for licensing and gives reciprocal rights equivalent to those of this state, and who otherwise meets the requirements of AS 08.71.110, shall be licensed by the board without examination.*

AS 08.71.110, referenced in the statute, sets out the specific qualifications that an individual must have to apply for taking the optician licensing examination.

In its FY 93 Annual Report, the board endorsed the recommendation made in a prior sunset review that the reciprocity statute be repealed. The board also proposed the deletion of the credentials exception to licensure without an examination set out in AS 08.71.145.<sup>2</sup>

In our view, the legislature provided for licensure by reciprocity and credentials as a means to allow qualified individuals fair and reasonable access to the profession. Accordingly, we typically adopt a skeptical perspective of board actions and practices that serve to undermine statutory intent.

In this instance, however, we agree with the recommendation of the board and affirm the prior sunset review's recommendation regarding licensure by reciprocity. The current statute is essentially irrelevant and serves to primarily provide legal support for applicants who have been rejected and are predisposed to legally challenging the board's decision.

Although we believe the statutory provision for licensure by credential should be amended and clarified, we do not believe it should be repealed. The legislature made provision for licensure without examination to prevent the board from unduly restricting entry into the profession. Accordingly, a credential statute, clarifying the conditions for licensure without examination, better serves this legitimate public policy goal.

We recommend that the legislature set out in more specific statutory language the conditions for licensure without examination. As is done elsewhere in statute, we suggest a provision permitting licensing by credential in those instances where the applicant can provide satisfactory documentation that they are licensed in another jurisdiction where requirements and standards are essentially equivalent to those of Alaska. Such language would reflect the current standard being utilized by the board. Under regulation 12 AAC 30.100, applicants can be licensed without examination if they can demonstrate they have:

- a) passed an equivalent practical examination.
- b) passed the national examination (or an examination equivalent to the national examination),<sup>3</sup> and,
- c) have received training equivalent to that of Alaska.

---

<sup>2</sup> The full statutory reference, at AS 08.71.145 states that

*A person with a valid license as a dispensing optician from another state, territory, district or possession of the United States shall be issued a license without examination for those professional areas in which the person is licensed upon payment of any fee and documentation the board may require by regulation.*

<sup>3</sup>The national examination is the National Opticianry Competency Examination and is administered by a private firm, Professional Testing Services.

According to the board's FY 93 Annual Report, only 14 of the 23 states that license opticians require that applicants successfully complete a practical examination. Under the equivalency requirement, applicants from these states would seem to be most likely, in the first instance, to qualify for licensure by credential. In the past, applicants licensed in Washington and Florida have been considered to meet Alaska's standards and accordingly, have been licensed by credential, without examination.

These circumstances indicate that such amending to the credential statute would not unduly jeopardize protection of the public. Likewise, clarification of the statute would serve to establish more clearly the intent of the legislature and better circumscribe the discretion of the board in providing for licensure without examination.

### Recommendation No. 2

The legislature should consider adopting statutory changes to provide for more efficient and cost-effective control over unlicensed activity.

The investigative unit of the Division of Occupational Licensing is the agency primarily responsible for the enforcement of professional licensing laws. The unit utilizes legal processes set out in statute in carrying out its investigative and enforcement duties.

### Unlicensed activity is a concern of the Board of Dispensing Opticians

As discussed in the Analysis of Public Need section, the incidence of what some eye care professionals view as unlicensed practice is of increasing concern. Opticians provide services to the public that also can be provided by individuals associated and supervised by optometrists and ophthalmologists. Some opticians work independently while others are employed by, or are in some other way affiliated with, optometrists and ophthalmologists. This unique commercial relationship has contributed to allegations of widespread unlicensed activity along with confusion as to the extent that unlicensed individuals are required to be supervised by licensed professionals.<sup>4</sup>

The Department of Law has advised the optometrists' licensing board that all individuals dispensing eyeglasses under its supervision should either be a licensed optician or a registered apprentice.<sup>5</sup> Given the conclusions of this legal analysis, we received reports and complaints

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<sup>4</sup>There are provisions in the statutes relating to both opticians and optometrists that acknowledge that services may be provided by non-licensed individuals under the supervision of the professional license holder. More specifically, optician statutes provide for what are termed registered apprentices and require applicants to serve an apprenticeship in order to sit for professional examination.

<sup>5</sup>In a July 1991 memorandum of advice from the Department of Law, the Division of Occupational Licensing was advised that individuals dispensing and fitting eyeglasses under the supervision of an optometrist still needed to be either a licensed optician or a registered apprentice. The attorney general has held this opinion even though statute specifies that the rights, privileges, and obligations granted to dispensing opticians are designed not to "limit or restrict a licensed physician or optometrist from the practices enumerated" in the dispensing optician statutes. Additionally, statute provides that "each licensed physician and optometrist has all the rights and privileges which may accrue under [statute] to a dispensing optician licensed [under state law]."

from dispensing opticians that there is extensive unlicensed activity. That is, numerous individuals are dispensing and fitting eyeglasses and contact lenses without a license — ostensibly under the supervision of licensed optometrists.<sup>6</sup>

#### Enforcement of unlicensed activity is low priority

In the context of risk to public health, unlicensed activity in the dispensing of eyeglasses poses a relatively minor threat. Although the threat of improperly fitted contact lenses is somewhat greater, the public health risk is still relatively small. Accordingly, local prosecuting attorneys assign the enforcement of optician licensing requirements a low priority. Likewise, given the many demands of various professions, the Division of Occupational Licensing's investigative unit is able to give limited attention to enforcement. However, the division may be able to more expediently shut down unlicensed practice through the use of civil penalties.

Under the current statute related to the licensing of architects, engineers, and land surveyors a civil penalty of up to a \$5,000 fine can be levied against an individual who engages in unregistered or unauthorized practice.<sup>7</sup> In discussions with the Division of Occupational Licensing's investigative unit, this provision has proven to be an effective means to closing down unlicensed activity. Although it has not been invoked, it has been proven to be an effective deterrent and appears to encourage timely compliance with cease-and-desist notices.<sup>8</sup> In our view, adopting legislation to give the unit this authority at its discretion would be a cost-effective way to address unlicensed activity in all professions in a comprehensive, efficient manner.

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<sup>6</sup>As a result, the value and necessity of obtaining an optician license in order to work is lessened. Individuals can continue to work under the supervision of optometrist, without obtaining the necessary license. This decreases the number of license holders, which has the effect of increasing license fees, which in turn lessens the incentive of individuals to maintain their license in good standing. From a commercial standpoint, due to lack of enforcement of licensing requirements, the dispensing optician license in many circumstances is meaningless.

<sup>7</sup>AS 08.48.295 provides for the following

*(a) In addition to any other provision of law, if a person practices or offers to practice architecture, engineering, or land surveying in the state without being registered or authorized to practice in accordance with the provisions of this chapter, the board may enter an order levying a civil penalty.*

*(b) A civil penalty levied under this section may not exceed \$5,000 for each offense. In levying a civil penalty, the board shall set the amount of the penalty imposed under this section after taking into account appropriate factors, including the seriousness of the violation, the economic benefit resulting from the violation, the history of violations, and other matters the board considers appropriate.*

<sup>8</sup>A cease-and-desist order is often the first remedy sought by the investigation unit of the Division of Occupational Licensing. Essentially, such an order is a legal document that charges an individual with a certain violation of statute and requires them to stop the activity in question.

Accordingly, we suggest the legislature consider amending the central licensing statutes at AS 08.01.075(a)(8) to specify that civil fines may be imposed for violation of either general licensing statutes and regulations, in addition to violation of the statutes or regulations related to any given professional licensing board.

Recommendation No. 3

The board should improve the objectivity and consistency of the practical examination.

The board requires applicants for licensure to pass a national written examination and a practical examination to demonstrate sufficient ability to dispense optical products. The current practical examination is very subjective.

Five times in the past four years the scores given applicants for the practical examination have been challenged. In two of these instances, test scores were changed when re-graded, and in one of these cases the applicant went from a failing to a passing score.

The board acknowledges that the consistency and scoring procedures for the examination must be improved. The board has started work on developing an examination manual which should make the examination process more objective, more consistent, and less vulnerable to challenge. Unfortunately, the public board member, who was the most active individual in developing these changes, resigned in January 1995. It is our understanding that drafting of the manual has been set aside since that time.

We encourage the board to continue making the examination manual a priority, and recommend that the board assign the effort to a subcommittee of the board for further development.

(Intentionally left blank)

## A ANALYSIS OF PUBLIC NEED

### Limited Analysis

The following analyses of the board activities relate to the public need factors defined in the "sunset" law, Alaska Statute 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

#### *The extent to which the board, commission, or program has operated in the public interest.*

Although there has been some inconsistencies and defects in the administration of the State's practical examination, the board has served the public by examining and licensing qualified applicants. The board has also proposed changes to statutes and regulations in order to enhance the quality of opticianry care in Alaska.

The board has enforced the laws for ongoing license holders in a uniform and consistent manner. It has held regular meetings and examinations throughout the audit period in accordance with statutory requirements.

#### *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 personnel matters.*

Two board seats have been vacant since January of 1995. This causes a strain on the ability of others on the board to effectively fulfill the duties of the board. As of the date of this report, two seats remain unfilled — including the public member seat.

Due to budget constraints the board has been forced to cut back to one annual face-to-face meeting. While teleconference meetings have been held, most substantive administrative action and the state practical examination must be administered during the two-day annual face-to-face meeting. This has made it difficult for the board to complete all its tasks.

The nature of the opticianry industry also impedes the operation of the board. The industry is in a state of flux. Traditional optician shops are facing increased competition from chain store operations which often offer less expensive, allegedly lower quality eyeglasses. As discussed in Recommendation No. 2, these stores are often accused of using unlicensed, unsupervised employees. Investigation of unlicensed dispensing of eyeglasses is a low priority for the Division of Occupational Licensing's investigative unit due to the low level of health risk it represents to the public.

Consistent with statute, Occupational Licensing has increased the biannual licensing fees from \$230 to \$385.<sup>9</sup> There has been a substantial decline in the number of licensed opticians during the most current license renewal period. Informed observers we spoke with have speculated that many license holders may have come to see that the license is not worth it in view of the increase in fees. As discussed in the Organization and Function section, the structure of the vision care profession is such that an individual does not necessarily have to be licensed as an optician to legally dispense optical products.

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

The board has recommended the repeal of AS 08.71.150, which provides for licensure by reciprocity. This was also recommended in the 1984 and 1991 sunset reports. It has been the board's contention that the statute was unnecessary since no other state offered reciprocity to Alaskan license holders. Licensure without examination can be achieved through what is termed licensure by credential. For further discussion of the issues involved in licensure by reciprocity and credentials, see Recommendation No. 1. As reflected by our analysis presented in that recommendation, we do not necessarily agree with all aspects of the board's position — however, we do feel this issue should be clarified in statute.

*The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effective of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it provides.*

All but one meeting was advertised in three Alaskan newspapers, with adequate notice for interested individuals to attend or to make written comment. One meeting was not advertised in the Juneau or Fairbanks papers. Two meetings, including this one were rescheduled. Therefore, cancellation notices were required to be published.

At each meeting, the public was encouraged to submit either oral or written testimony before the board.

---

<sup>9</sup>AS 08.01.065(c) requires that the Department of Commerce and Economic Development establish licensing fees so

*. . . the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation. . . . "regulatory costs" means costs of the department that are attributable to regulation of an occupation plus*

*(1) all expenses of the board that regulates the occupation if the board regulates one occupation; . . .*

In order to comply with the requirements of the statute, the Division of Occupational Licensing raised the license fees for Dispensing Opticians more than two-thirds from \$230 to \$385 for the 1995 renewal.

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

Public notices of proposed regulations are published in major newspapers. As noted above, meetings were adequately advertised, and time was set aside for public testimony.

*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 to the Ombudsman have been processed or resolved.*

Overall, the investigation of complaints against licensees received by the Division of Occupational Licensing is effective. While timeliness is an issue, given the circumstances surrounding the cases that have remained open for an extended period, progress is reasonable. Complaints are prioritized appropriately and handled accordingly.

The licensing board appears willing to take effective licensing enforcement action, and to operate in a fair and objective manner. In only one instance was a case heard by a hearing officer. In that case, the hearing officer's proposed decision was upheld. While the board's willingness to enforce licensure laws is not in question, the efficiency with which it acts is in doubt. In two cases, licenses to dispense contact lenses were erroneously issued by the board. One applicant voluntarily returned the license, but another is resisting the rescission.

It is noteworthy that of the fourteen investigative cases opened from FY 92 through FY 95, only four involved allegations of misconduct by a licensed optician. Three of those four cases were closed with findings of no violation, or compliance. One case is still opened. More than 70% of investigative cases involved licensing application problems, unlicensed practice, or challenges to licensing examination scores. The remaining investigations involved applicant's complaints regarding examinations, allegedly unlicensed practice, and concerns involving applicant information.

The two complaints reported to the ombudsman were of a limited scope. The first involved an allegedly improper prescription and the refusal of the optician to correct the error. The ombudsman's investigator directed the complainant to file a formal complaint with the board.

The second complaint dealt with the refusal of the Division of Occupational Licensing to allow an applicant to sit for the examination because the application was received after the deadline. The ombudsman found that the deadline was set by statute and was due to national examination standards. However, the complainant was advised to appeal to the Board of Dispensing Opticians. Neither of these complaints is cause for concern as to the efficiency with which the board fulfills its mission.

***The extent to which a board or commission that regulate entry into an occupation or profession has presented qualified applicants to serve the public.***

Applicants to the board of dispensing opticians are licensed according to statute. Of the ten licenses tested, two minor errors were detected. Additionally, as discussed above, it was brought to our attention that two licenses for the dispensing of contact lenses were issued in error.

The written examination process adequately and fairly tests an applicants' basic knowledge. However, the state practical examination is highly subjective and subject to challenge. This raises concerns regarding the efficiency with which the board presents qualified applicants to serve the public. See Recommendation No. 3 for further discussion.

Fewer than half the states nationwide regulate opticians. Of the 23 states that do, only 14 require any type of practical examination. There is little if any apparent standardization among the practical tests given in different states. Given these facts, it also appears that Alaska is one of the most difficult states in the nation in which to obtain a license. This may be cause for concern about barriers to entry into the opticianry market. For further discussion, see Recommendation No. 1.

***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 complaints regarding the Division of Occupational Licensing were received by the ombudsman. We did not find any evidence that the board was not complying with state personnel practices, including affirmative action in qualifying applicants. In no instances has the board denied an applicant a license based on personal attributes.

***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.***

The board needs to meet more than once a year to be effective. At the present, the board has one two-day meeting annually. One day is needed to conduct the state practical examination. Not enough time is left to administer other board business effectively.

Vacant board seats must be filled in a more timely manner to ensure that the board functions properly. Currently, two seats have been vacant for more than six months. This leaves only three members to fulfill all board obligations. Low examiner/examinee ratios have been cited as one cause for problems with the state practical examination. A complete board, coupled with an additional meeting/examination would alleviate this problem.

The state practical examination must be more standardized. Lack of standardization has led to inconsistency in examination scoring. This is partially due to the low examiner/examinee ratios and partially due to the hurried manner in which board members are forced to grade examinations. The board had begun work on a testing manual, but the member most involved in the drafting of the manual resigned and the project has fallen by the wayside. More standardization is essential to reduce the number of challenges currently received to test scores and to better allow the board and occupational licensing to defend the scores that are given. See Recommendation No. 3 of the Findings and Recommendations section of this report.

Statutory changes are necessary to allow better enforcement against unlicensed activities. Unlicensed practice is common in the opticianry industry. Due to the nature of the service, and the demands on occupational licensing's investigators, prosecution of such matters is a low priority. Unlicensed practice is a class B misdemeanor in Alaska. Therefore, the penalty for unlicensed practice, as well as the risk of prosecution is low. Increasing the penalty for such practice would help deter. For further discussion see Recommendation No. 2.

(Intentionally left blank)

DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

P.O. BOX 110806  
JUNEAU, ALASKA 99811-0806  
PHONE: (907) 465-2534  
FAX: (907) 465-2974  
TDD: (907) 465-5437

November 30, 1995

Mr. Randy S. Welker  
Legislative Auditor  
Budget and Audit Committee  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811

RECEIVED  
DEC 08 1995

LEGISLATIVE AUDIT

Dear Mr. Welker:

Reference the Board of Dispensing Opticians Preliminary Audit Report. Thank you for this opportunity to comment.

**Recommendation No. 1:**

The Legislature should amend the statutes related to the licensing of opticians without examination.

We concur that license by credentials (AS 08.71.145) and license by reciprocity (AS 08.71.150) provisions should be repealed or clarified by the Legislature. These provisions have caused much concern over the past year, and the board has been involved in litigation as a result of the confusion. Regulations which were enacted several years ago relating to license by credentials have now been determined by the Attorney General's office to be beyond the scope of statutory authority.

As noted in your report, less than half the states regulate opticians. Some of the states that do have a licensing scheme in place may not require training prior to examination. Some require only a written exam and no practical examination, and still others may require training only. Under the current interpretation of license by credential and reciprocity provisions, a process is now in place whereby Alaska residents have a much harder time qualifying for a license (i.e., Alaska residents are required to complete an apprenticeship as well as national written and state practical examinations prior to licensure). Placing a higher burden of proving competency on Alaska applicants while simply accepting another jurisdiction's determination of competency without regard for the licensing requirements of that jurisdiction does not appear to be in the best interest of the public. If an Alaska applicant fails the Alaska exam, or for whatever reason does not qualify for a license under other provisions of AS 08.71, they could simply apply and receive a license in a jurisdiction where the requirements are less stringent and then apply for Alaska license under AS 08.71.145 or 150. Providing this type of loophole in our licensing scheme is not in the best interest of the public being served or in providing for equal treatment of Alaska optician applicants.

**Recommendation No. 2:**

The Legislature should consider adopting statutory changes to provide for more efficient and cost-effective control over unlicensed activity.

We concur with your analysis and have attempted to correct this concern by proposing statutory revisions during past legislative sessions.

In our opinion, unlicensed activity will continue to rise unless legislative action is taken regarding unlicensed activity penalty provisions. Licensees share in the cost of administering and enforcing the licensing program. As fewer individuals comply with the licensing requirements, there are fewer practitioners to which the enforcement costs are spread. The license fees will continue to increase potentially leading even more individuals to fail to renew their license. There is no particular incentive to comply with the licensing requirements when coworkers and competing businesses are not being forced to cease business or comply with licensure. Lack of ability to fine individuals for unlicensed activity only aggravates the casualness some industry's practitioners may have regarding licensure.

**Recommendation No. 3:**

The board should improve the objectivity and consistency of the practical examination.

We concur with this recommendation. As noted, the board also shares concerns with the examination process and with the limited opportunity available during meetings; they are attempting to resolve areas of concern.

**Analysis of Public Need:**

We concur with your comments under the analysis of public need. One comment which should be discussed, however, is related to the board's need to meet more frequently to conduct business (currently the board meets only once a year for one day). The costs of administering the program, including travel and per diem costs for the board, are borne by the licensees. We continue to have an increase in license fees since there is a decline in practitioners who are complying with licensure. Although the board can easily justify additional board meeting time, they are at that same time attempting to operate in a cost-efficient manner and keep travel and per diem costs at a minimum. Teleconference meetings have been held in the past, however, it can be difficult to accomplish complex tasks such as rewrite of examinations via teleconference. We will continue to explore cost-effective avenues for the board to accomplish the mandates of its position.

Sincerely,

  
William Hensley  
Commissioner

WLH/BG/yd731.01  
110195a

cc: Catherine Reardon, Director  
Division of Occupational Licensing, DCED  
bcc: Barbara Gabier, Program Coordinator

**HB**

**382**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 3/8/96

FURTHER:

DATE TURNED INTO OFFICE: 4-26-96

The Finance Committee considered CS FOR HOUSE BILL NO. 382(STA)  
 Relating to the Board of Dispensing Opticians.

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical change
  - new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
<i>[Signature]</i>	✓	<i>[Signature]</i>	✓		
		<i>[Signature]</i>	✓		
Co-Chair: <i>[Signature]</i>	✓	Co-Chair: <i>[Signature]</i>	✓		
Co-Chair: <i>[Signature]</i>	✓	Co-Chair:			

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal


**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal

DCTED	1/11/96		9.8

48.9  
rev.

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

No. 1  
Bill Version: HB 382  
(H) Publish Date: 1/16/96

Revision Date: \_\_\_\_\_ Department: Commerce and Economic Development  
Title: An Act extending the termination date of the BRU: Occupational Licensing  
Board of Dispensing Opticians:.... Component: Operations  
Sponsor: Representative James  
Requestor: Representative James COMPONENT SERIAL NO. 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	7.3	7.3	7.3	7.3	7.3	7.3
TRAVEL	1.0	1.0	1.0	1.0	1.0	1.0
CONTRACTUAL	1.4	1.4	1.4	1.4	1.4	1.4
SUPPLIES	0.1	0.1	0.1	0.1	0.1	0.1
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>9.8</b>	<b>9.8</b>	<b>9.8</b>	<b>9.8</b>	<b>9.8</b>	<b>9.8</b>

CAPITAL EXPENDITURES						
CHANGE IN REVENUES	48.9	5.3	48.9	5.3	48.9	5.3

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR	9.8	9.8	9.8	9.8	9.8	9.8
<b>TOTAL</b>	<b>9.8</b>	<b>9.8</b>	<b>9.8</b>	<b>9.8</b>	<b>9.8</b>	<b>9.8</b>

Estimate of any current year (FY 96) cost: \$ 14.4

POSITIONS

FULL-TIME					
PART-TIME					
TEMPORARY					

**ANALYSIS:** (Attach a separate page if necessary)  
HB 382 extends the Board of Dispensing Opticians to June 30, 2000. The costs identified above are included in the FY 97 operating budget and therefore, new funds are not required. Costs shown represent only Direct expenses of the board based on FY 95 activity. Administrative Indirect expenses are also assessed annually per capita by the number of current licensees. FY 95 program costs (direct and administrative indirect) totalled \$14.4. Fees were adjusted in May 1995 to cover full costs of the program over a two-year period and will be reviewed again prior to the next renewal.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144  
Division: Occupational Licensing Date: January 10, 1996  
Approved by Commissioner: William L. Hensley Date: 1-11-96  
Agency: Commerce and Economic Development

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**COMMITTEE COPY**

SENATE FINANCE COMMITTEE

HB 382 BOARD OF DISPENSING OPTICIANS

PLEASE SIGN IN BELOW

NAME: Catherine Reardon

Co./DEPT./TITLE: Director Division PHONE: 465-2535

ADDRESS: DXFD OF OCCUPATIONS/LICENSING ZIP: \_\_\_\_\_

DO YOU WISH TO TESTIFY?  YES  NO  RESPOND TO QUESTIONS

NAME: \_\_\_\_\_

Co./DEPT./TITLE: \_\_\_\_\_ PHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ ZIP: \_\_\_\_\_

DO YOU WISH TO TESTIFY?  YES  NO  RESPOND TO QUESTIONS

NAME: \_\_\_\_\_

Co./DEPT./TITLE: \_\_\_\_\_ PHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ ZIP: \_\_\_\_\_

DO YOU WISH TO TESTIFY?  YES  NO  RESPOND TO QUESTIONS

NAME: \_\_\_\_\_

Co./DEPT./TITLE: \_\_\_\_\_ PHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ ZIP: \_\_\_\_\_

DO YOU WISH TO TESTIFY?  YES  NO  RESPOND TO QUESTIONS

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 2/19/96

FURTHER: Finance

DATE TURNED INTO OFFICE: 3/8/96

The Labor & Commerce Committee considered CS FOR HOUSE BILL NO. 382(STA)  
 Relating to the Board of Dispensing Opticians.

and recommends:

- prev. Fin*
- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
  - adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
  - attached amendment(s)
  - adopt Letter of Intent by \_\_\_\_\_ Committee
  - further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Mike Miller</i>	<input checked="" type="checkbox"/>				
<i>John Ferguson</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>Tom Kelly</i>		CHAIR:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
<i>DCED</i>	<i>1/10/96</i>		<i>17.8</i>

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

**HB**

**386**

**SFIN**

**FILE**

5-2-96  
DD  
moved  
Adopted

9-LS1203VO ✓  
Luckhaupt  
5/2/96

SENATE CS FOR CS FOR HOUSE BILL NO. 386( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES GRUSSENDORF, Finkelstein, B.Davis, Robinson, Davies

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to cruelty to animals and to the power of first and second  
2 class boroughs to prohibit cruelty to animals."

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

4 \* Section 1. AS 03.05.011(a) is amended to read:

5 (a) To carry out the requirements of this title, the commissioner of  
6 environmental conservation may issue orders, regulations, permits, quarantines, and  
7 embargoes relating to

8 (1) examination and inspection of premises containing products,  
9 articles, and commodities carrying pests;

10 (2) establishment of quarantines for eradication of pests;

11 (3) establishment of standards and labeling requirements pertaining to  
12 the sale of meat, fish, and poultry;

13 (4) tests and analyses that may be made and hearings that may be held  
14 to determine whether the commissioner will issue a stop order or quarantine;

- 1 (5) cooperation with federal and other state agencies;
- 2 (6) regulation of fur farming; for purposes of this paragraph, "fur
- 3 farming" means the raising of and caring for animals for the purpose of marketing
- 4 their fur, or animals themselves for breeding stock;
- 5 (7) examination and inspection of meat, fish, and poultry advertised for
- 6 sale or sold to the public;
- 7 (8) enforcement of quality assurance plans developed in cooperation
- 8 with appropriate industry representatives;
- 9 (9) establishment of standards and conditions for the operation and
- 10 siting of aquatic farms and related hatcheries, including
- 11 (A) restrictions on the use of chemicals; and
- 12 (B) requirements to protect the public from contaminated
- 13 aquatic farm products that pose a risk to health;
- 14 (10) monitoring aquatic farms and aquatic farm products to ensure
- 15 compliance with this chapter and with the requirements of the national shellfish
- 16 sanitation program manual of operations published by the Food and Drug
- 17 Administration;
- 18 (11) establishment and enforcement of standards to protect
- 19 commercial farm animals from cruel treatment by commercial farmers.

20 \* Sec. 2. AS 03.05.011 is amended by adding a new subsection to read:

21 (c) In this section,

22 (1) "commercial farm animal" means an animal used in the commercial

23 production of food and whose meat, meat by-products, or derivative food, including

24 milk, is capable of being sold for consumption as food by humans or animals; in this

25 paragraph, "animal" has the meaning given in AS 11.61.140;

26 (2) "commercial farmer" means a person who owns or raises

27 commercial farm animals for the purpose of selling those animals, or their derivative

28 food, including milk, for consumption as food by humans or animals.

29 \* Sec. 3. AS 11.61.140(a) is amended to read:

30 (a) A person commits the crime of cruelty to animals if the person

31 (1) knowingly [INTENTIONALLY] inflicts severe [AND

1 PROLONGED] physical pain or prolonged suffering on an animal;

2 (2) with criminal negligence, [RECKLESSLY] neglects an animal and,  
3 as a result of that neglect, causes the death of the animal or causes severe physical  
4 pain or prolonged suffering to the animal; or

5 (3) kills an animal by the use of a decompression chamber.

6 \* Sec. 4. AS 29.10.200 is amended by adding a new paragraph to read:

7 (54) AS 29.35.147 (regulation of cruelty to commercial farm animals  
8 by commercial farmers).

9 \* Sec. 5. AS 29.35 is amended by adding a new section to article 1 to read:

10 Sec. 29.35.147. REGULATION OF CRUELTY TO ANIMALS BY  
11 FARMERS. (a) A municipality may not regulate the cruelty to commercial farm  
12 animals by commercial farmers.

13 (b) This section applies to home rule and general law municipalities.

14 (c) In this section, "commercial farm animal" and "commercial farmer" have the  
15 meanings given in AS 03.05.011.

16 \* Sec. 6. AS 29.35.200(b) is amended to read:

17 (b) A first class borough may by ordinance exercise the following powers on an  
18 areawide basis:

19 (1) provide transportation systems;

20 (2) provide water pollution control;

21 (3) provide air pollution control in accordance with AS 46.14.400;

22 (4) license day care facilities;

23 (5) license, impound, prohibit cruelty to, and dispose of animals.

24 \* Sec. 7. AS 29.35.210(a)(3) is amended to read:

25 (3) license, impound, prohibit cruelty to, and dispose of animals;

26 \* Sec. 8. AS 29.35.210(b) is amended to read:

27 (b) A second class borough may by ordinance exercise the following powers on  
28 an areawide basis:

29 (1) provide transportation systems;

30 (2) license, impound, prohibit cruelty to, and dispose of animals;

31 (3) provide air pollution control under AS 46.14.400;

32 (4) provide water pollution control;

1

(5) license day care facilities.

# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO:** Draft "C" SCS CSHB 386(FIN)

Revision Date: May 2, 1996

Dept. Affected: Public Safety

Title: Cruelty to Animals

BRU: Alaska State Troopers

Component: Detachments

Sponsor: Representative Grussendorf

Requestor: S. Finance

COMPONENT SERIAL NO. 0799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 96) impact: \$ \_\_\_\_\_

**POSITIONS:**

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

**ANALYSIS: (Attach a separate page if necessary.)**

During 1995, the Alaska State Troopers investigated 20 cruelty to animal cases. This bill would change the mental states required in some of the sub-sections in the cruelty to animals statute. Those changes have the potential of increasing the number of cases the division would have to investigate, however that impact should be negligible.

Prepared By: Lt. Dan Lowden

Phone: 465-5505

Division: Alaska State Troopers

Date: May 2, 1996

Approved by Commissioner: *Ronald L. Otte*

Date: 5/2/96

Agency: Ronald L. Otte, Department of Public Safety

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO: SCS CS HB 386 (FIN)

Revision Date: 5/2/96  
Title: An Act relating to cruelty to animals and the provision of food and water to confined...  
Sponsor: Rep. Grussendorf  
Requestor: Senate Finance

Dept. Affected: Community & Regional Affairs  
BRU: \_\_\_\_\_  
Component: \_\_\_\_\_  
COMPONENT SERIAL NO. \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
-----------------------------	----------	----------	----------	----------	----------	----------

CHANGE IN REVENUES ( ) Revenue Code						
--	--	--	--	--	--	--

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1005 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimate of current year (FY 95) impact: \$ none

**POSITIONS:**

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

ANALYSIS: (Attach a separate page if necessary.)

This legislation would have no fiscal impact on the department

Prepared By: Remond Henderson *Remond Henderson* Phone: 465-4708  
Division: Director, Administrative Services Date: 5/2/96  
Approved by Commissioner: Mike Irwin *Mike Irwin* Date: 5/2/96  
Agency: Mike Irwin, Dept. of Community & Reg. Affairs

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# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO. SCSCSHB 386 (FIN)**

Revision Date: 5/2/96 Dept. Affected: Department of Law  
 Title: "...cruelty to animals and the power of first and second class boroughs to prohibit cruelty to animals." BRU: Criminal Division, Civil Division  
 Sponsor: Representative Grussendorf Component: Criminal Division, General Legal Services  
 Requester: Representative Grussendorf COMPONENT SERIAL NO. 2085, 2087

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS: (Attach a separate page if necessary)**

This bill amends Alaska laws relating to cruelty to animals in three ways. First, the bill amends AS 11.61.140 to lower the legal standard of conduct from one who acts intentionally to one who acts knowingly and inflicts severe physical or prolonged suffering on an animal. Similarly, the bill lowers the legal standard of conduct from one who acts recklessly to one who acts with criminal negligence and neglects an animal and, as a result of that neglect, causes the death of the animal or causes severe physical pain or prolonged suffering of the animal. These changes have the effect of making cruelty to animal cases easier to prove and, consequently, they will not have a fiscal impact.

Second, the bill amends AS 03.05 to add to the powers and duties of the Commissioner of Environmental Conservation to allow the commissioner to provide for the enforcement and enhancement of standards to protect commercial farm animals from cruel treatment by commercial farmers.

*Richard I. Peques*

Prepared by: Richard I. Peques, Director  
 Division: Administrative Services Division  
 Approved by Commissioner: Bruce M. Botelho, Attorney General  
 Agency: Department of Law

Phone: 465-3672  
 Date: 5/2/09  
 Date: 5/2/96

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FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SCSCSHB 386(FIN)

ANALYSIS CONTINUATION:

Third, the bill amends AS 29.35 to authorize the first and second class boroughs to enact ordinances prohibiting cruelty to animals. Providing this authority will allow local governments to deal with a problem that is primarily one of local concern. Local governments would not be permitted to regulate or enforce laws relating to the cruelty to or care of farm animals, under the bill.

Sec. 11.61.140. Cruelty to animals. (a) A person commits the crime of cruelty to animals if the person

(1) intentionally inflicts severe and prolonged physical pain or suffering on an animal;

(2) recklessly neglects an animal and, as a result of that neglect, causes the death of the animal or causes severe pain or suffering to the animal; or

(3) kills an animal by the use of a decompression chamber.

DEFENSE —→ (b) It is a defense to a prosecution under (a)(1) or (2) of this section that the conduct of the defendant

(1) conformed to accepted veterinary practice;

(2) was part of scientific research governed by accepted standards; or

(3) was necessarily incident to lawful hunting or trapping activities.

(c) In this section, "animal" means a vertebrate living creature not a human being, but does not include fish.

(d) Cruelty to animals is a class A misdemeanor. (§ 7 ch 166 SLA 1978; am § 1 ch 78 SLA 1980; am § 20 ch 59 SLA 1982)

Editor's notes. — The provisions of paragraphs (2) and (3) of subsection (a) as it existed prior to the 1980 amendment may now be found in AS 11.61.145.

Collateral references. — 4 Am. Jur. 2d, Animals, §§ 27-30.

3A C.J.S., Animals, §§ 99-112.  
Cruelty in trapping animals, 79 ALR 1308.

What constitutes statutory offense of cruelty, 82 ALR2d 794.

**Sec. 11.81.620. Effect of ignorance or mistake upon liability.****NOTES TO DECISIONS**

Applied in *Russell v. State*, 793 P.2d 1085 (Alaska Ct. App. 1990).

Quoted in *De Nardo v. State*, 819 P.2d 903 (Alaska Ct. App. 1991).

**Sec. 11.81.640. Application of AS 11.81.600 — 11.81.630.****NOTES TO DECISIONS**

Cited in *Cole v. State*, 828 P.2d 175 (Alaska Ct. App. 1992).

**Article 6. Definitions.****Section  
900. Definitions**

**Sec. 11.81.900. Definitions.** (a) For purposes of this title, unless the context requires otherwise,

(1) a person acts "intentionally" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;

(2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk;

(4) a person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

**SENATE CS FOR CS FOI HB 386**  
Work Draft

**"An act relating to cruelty to animals and to the power of first and second class boroughs to prohibit cruelty to animals."**

- HB 386 lowers the criminal standard by which a person can be prosecuted for acts of neglect or cruelty to animals.
- HB 386 gives 1st and 2nd class boroughs the authority to enact ordinances to prohibit cruelty to animals.
- HB 386 exempts commercial farm animals and commercial farmers from municipal regulation and gives the Commissioner of DEC the option to regulate commercial farm animals and commercial farmers.

**Section 1** amends AS 03.05.01 stating that the Commissioner of DEC may issue regulations to establish and enforce standards to protect commercial farm animals from cruel treatment by commercial farmers.

**Section 2** adds a new subsection to AS 03.05.011 defining commercial farm animal and commercial farmer.

**Section 3** amends AS 11.61.140 by lowering the state of mind the state must prove in prosecuting cases of neglect or cruelty to animals. It accomplishes this by changing the words "intentionally" to "knowingly inflicts severe physical pain or prolonged suffering on an animal."

It also lowers the criminal standard by changing "recklessly" to "with criminal negligence neglects an animal and, as a result of that neglect, causes the death of the animal or causes severe physical pain or prolonged suffering to the animal." Recklessness is indicated by an awareness and conscious disregard. Criminal negligence is indicated by a "failure to perceive a substantial and unjustifiable risk that the result will occur..."

**Sections 4 & 5** affect AS 29.35. by exempting commercial farm animals and commercial farmers from regulation by municipalities.

**Sections 6, 7 & 8** amend AS 29.35.200 and AS 29.35.210 to give 1st and 2nd class boroughs the option to adopt an ordinance to prohibit cruelty to animals.

4/16/96 FIN

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO: SCS CS HB 386 (CRA)

Revision Date: 4/15/96 Dept. Affected: Community & Regional Affairs  
 Title: An Act relating to cruelty to animals and the BRU: none  
power of first and second class boroughs to... Component: none  
 Sponsor: Rep. Grussendorf  
 Requestor: Senate CRA COMPONENT SERIAL NO. \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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CHANGE IN REVENUES ( )						
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GE Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimate of current year (FY 96) impact: \$ none

**POSITIONS:**

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

**ANALYSIS: (Attach a separate page if necessary.)**

This legislation would have no fiscal impact on the department

Prepared By: Remond Henderson *Remond Henderson* Phone: 465-4708  
 Division: Director, Administrative Services Date: 4/15/96  
 Approved by Commissioner: Mike Irwin *Mike Irwin* Date: 4/15/96  
 Agency: Mike Irwin, Dept. of Community & Reg. Affairs

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# FISCAL NOTE

No. 3

Bill Version: SC SCS HB 386 (CRA)

(S) Publish Date: 4/16/96

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Revision Date: 4/12/95 Dept. Affected: Department of Law  
 Title: "...cruelty to animals and the power of first and BRU: Criminal Division  
second class boroughs to prohibit cruelty to animals." Component: Criminal Division  
 Sponsor: Representative Grussendorf  
 Requester: Senate Community & Regional Affairs Committee COMPONENT SERIAL NO. 2085

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

POSITIONS	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

This bill amends Alaska laws relating to cruelty to animals in two ways. First, the bill amends AS 11.61.140 to lower the legal standard of conduct from one who acts intentionally to one who acts knowingly and inflicts severe physical or prolonged suffering on an animal. Similarly, the bill lowers the legal standard of conduct from one who acts recklessly to one who acts with criminal negligence and neglects an animal and, as a result of that neglect, causes the death of the animal or causes severe physical pain or prolonged suffering of the animal. These changes have the effect of making cruelty to animal cases easier to prove and, consequently, they will not have a fiscal impact. The bill also provides that conduct conforming to animal husbandry practice is an affirmative defense to a prosecution for cruelty to animals.

Second, the bill amends AS 29.35 to authorize the first and second class boroughs to enact ordinances prohibiting cruelty to animals. Providing this authority will allow local governments to deal with a problem that is primarily one of local concern. Local governments would not be permitted to regulate or enforce laws relating to the cruelty to or care of farm animals, under the bill.

Prepared by: Richard I. Peques, Director  
 Division: Administrative Services Division  
 Approved by Commissioner: Bruce M. Botelho, Attorney General  
 Agency: Department of Law

Phone: 465-3672  
 Date: 4/12/96  
 Date: 4/12/96

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# FISCAL NOTE

No. 4  
 Bill Version: SCSCSB386(CRA)  
 (S) Publish Date: 4/19/96

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

Revision Date: April 17, 1996 Dept. Affected: Public Safety  
 Title: Cruelty to Animals BRU: Alaska State Troopers  
 Component: Detachments  
 Sponsor: Representative Grussendorf  
 Requestor: S. Community and Regional Affairs COMPONENT SERIAL NO. 0799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
<b>OPERATING</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ( ) Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 96) impact: \$ \_\_\_\_\_

**POSITIONS:**

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

**ANALYSIS: (Attach a separate page if necessary.)**

During 1995, the Alaska State Troopers investigated 20 cruelty to animal cases. This bill would change the mental states required in some of the sub-sections in the cruelty to animals statute. Those changes have the potential of increasing the number of cases the division would have to investigate, however that impact should be negligible.

Prepared By: Lt. Dan Lowden Phone: 465-5505  
 Division: Alaska State Troopers Date: April 17, 1996  
 Approved by Commissioner: *Del Smith* Date: 4/18/96  
 Agency: Ronald L. Otte, Department of Public Safety

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CSHB 386 (JUD)

Revision Date:	<u>3/14/96</u>	Dept. Affected:	<u>Department of Law</u>
Title:	<u>"...cruelty to animals and the power of first and second class boroughs to prohibit cruelty to animals."</u>	BRU:	<u>Criminal Division</u>
Sponsor:	<u>Representative Grussendorf</u>	Component:	<u>Criminal Division</u>
Requester:	<u>Representative Grussendorf</u>	COMPONENT SERIAL NO.:	<u>2085</u>

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

This bill amends Alaska laws relating to cruelty to animals in two ways. First, the bill amends AS 11.61.140 to lower the legal standard of conduct from one who acts intentionally to one who acts knowingly and inflicts severe physical pain or prolonged suffering on an animal. Similarly, the bill lowers the legal standard of conduct from one who acts recklessly to one who acts with criminal negligence and neglects an animal and, as a result of that neglect, causes the death of the animal or causes severe physical pain or prolonged suffering of the animal. These changes have the effect of making cruelty to animal cases easier to prove and, consequently, they will not have a fiscal impact.

Second, the bill amends AS 29.35 to authorize first and second class boroughs to enact ordinances prohibiting cruelty to animals. Providing this authority will allow local governments to deal with a problem that is primarily one of local concern.

Prepared by:	<u>Richard I. Peques, Director</u>	Phone:	<u>465-3672</u>
Division:	<u>Administrative Services Division</u>	Date:	<u>3/14/96</u>
Approved by Commissioner:	<u>Bruce M. Botelho, Attorney General</u>	Date:	<u>3/14/96</u>
Agency:	<u>Department of Law</u>		

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO: CS HB 386 (JUD)

Revision Date: 3/14/96 Dept. Affected: Community & Regional Affairs  
 Title: An Act relating to cruelty to animals and the E:RU: none  
provision of food and water to confined... Component: none  
 Sponsor: Rep. Grussendorf  
 Requestor: House Judiciary COMPONENT SERIAL NO. \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CHANGE IN REVENUES ( )</b>						
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimate of current year (FY 95) impact: \$ none

**POSITIONS:**

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

**ANALYSIS: (Attach a separate page if necessary.)**

This legislation would have no fiscal impact on the department

Prepared By: Remond Henderson *Remond Henderson* Phone: 465-4708  
 Division: Director, Administrative Services Date: 3/14/96  
 Approved by Commissioner: Mike Irwin *Mike Irwin* Date: 3/14/96  
 Agency: Mike Irwin, Dept. of Community & Reg. Affairs

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# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO: CSHB 386(JUD)**

Revision Date: March 18, 1996 Dept. Affected: Public Safety  
 Title: Cruelty to Animals BRU: Alaska State Troopers  
 Component: Detachments  
 Sponsor: Representative Grussendorf  
 Requestor: H. Rules COMPONENT SERIAL NO. 0799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ( ) Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

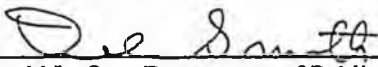
Estimate of current year (FY 96) impact: \$ \_\_\_\_\_

**POSITIONS:**

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

**ANALYSIS: (Attach a separate page if necessary.)**

During 1995, the Alaska State Troopers investigated 20 cruelty to animal cases. This bill would change the mental states required in some of the sub-sections in the cruelty to animals statute. Those changes have the potential of increasing the number of cases the division would have to investigate, however that impact should be negligible.

Prepared By: Lt. Dan Lowden Phone: 465-5505  
 Division: Alaska State Troopers Date: March 18, 1996  
 Approved by Commissioner:  Date: 3/18/96  
 Agency: Ronald L. Otte, Department of Public Safety

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# FISCAL NOTE

C o. 2

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO:** Bill Version: CSHB 386(RES)  
(H) Publish Date: 2/19/96

Revision Date: 2/13/96 Dept. Affected: Community & Regional Affairs  
 Title: An Act relating to cruelty to animals and the BRU: none  
provision of food and water to confined... Component: none  
 Sponsor: Rep. Grussendorf  
 Requestor: Rep. Grussendorf COMPONENT SERIAL NO. \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0 0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CHANGE IN REVENUES ( )</b>						
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimate of current year (FY 95) impact: \$ none

**POSITIONS:**

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

**ANALYSIS: (Attach a separate page if necessary.)**

This legislation would have no fiscal impact on the department

Prepared By: Remond Henderson *Remond Henderson* Phone: 465-4708  
 Division: Director, Administrative Services Date: 2/13/96  
 Approved by Commissioner: Mike Irwin *Mike Irwin* Date: 2/13/96  
 Agency: Mike Irwin, Dept. of Community & Reg. Affairs

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# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO.**          **No.** 1  
**Bill Version:** CSHB 386(RES)  
**(H) Publish Date:** 2/19/96

**Revision Date:** \_\_\_\_\_ **Dept. Affected:** Public Safety  
**Title:** Cruelty to Animals **BRU:** Alaska State Troopers  
**Sponsor:** Representative Grussendorf **Component:** Detachments  
**Requestor:** H. Resources **COMPONENT SERIAL NO.** 0799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	3.2	3.2	3.2	3.2	3.2	3.2
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>3.2</b>	<b>3.2</b>	<b>3.2</b>	<b>3.2</b>	<b>3.2</b>	<b>3.2</b>
<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CHANGE IN REVENUES ( )</b> Revenue Code	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	3.2	3.2	3.2	3.2	3.2	3.2
1005 GF/Program						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>3.2</b>	<b>3.2</b>	<b>3.2</b>	<b>3.2</b>	<b>3.2</b>	<b>3.2</b>

Estimate of current year (FY 96) impact: \$ \_\_\_\_\_

**POSITIONS:**

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

ANALYSIS: (Attach a separate page if necessary.)

See Attached.

**Prepared By:** Lt. Dan Lowden **Phone:** 465-5505  
**Division:** Alaska State Troopers **Date:** February 12, 1996  
**Approved by Commissioner:** *Ronald L. Otte* **Date:** 2/13/96  
**Agency:** Ronald L. Otte, Department of Public Safety

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**COMMITTEE COPY**

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO: HB 386

Revision Date: February 2, 1996

Dept. Affected: Public Safety

## ANALYSIS CONTINUED:

During 1995, the Alaska State Troopers investigated 20 cruelty to animal cases and 831 animal related offenses. Of the 831 animal related offenses most were likely to have been "barking dog" type cases. For this fiscal note it was assumed that 83 (about ten percent of the 831) would be cases where someone would enter a premises to feed an animal under section 1 of this bill and troopers would then be called to investigate a burglary at the premises or persons would report a case of neglect under section 1 or 2 of this bill. It was further estimated that it would take an average of about one hour per incident to investigate the matter and determine that the incident was not in fact a burglary or a criminal matter.

To investigate these new offenses it will cost the division:

83  
x one hour (estimated average investigation time for offenses)  
x \$38 (average trooper cost per hour, straight time)  

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\$3,154 Total for investigating incidents.

Note: the average trooper cost per hour are averages, the actual cost are affected by seniority, shift differential, geographic differentials, etc.

APR 16 1996

# Alaska State Legislature

REPRESENTATIVE  
BEN GRUSSENDORF  
1221 HALIBUT POINT ROAD  
SITKA, ALASKA 99838  
(907) 747-8488

WHILE IN JUNEAU  
STATE CAPITOL  
JUNEAU, ALASKA 99801-1182  
(907) 465-3824



FINANCE COMMITTEE

DISTRICT 2  
KUPREANOF  
PETERSBURG  
SITKA  
WRANGELL

## House of Representatives

TO: Senator Frank and Senator Halford  
Senate Finance Committee

FROM: Representative Grussendorf

DATE: April 15, 1996

RE: SCSHB 386 (CRA) "An act relating to cruelty to animals and to the power of first and second class boroughs to prohibit cruelty to animals."

I would appreciate your consideration in scheduling a hearing for SCSHB 386 (CRA) in your committee. This bill was introduced in response to concerns regarding the difficulty of prosecuting cases which involve cruelty to animals. The bill also addresses the difficulty some boroughs are facing regarding their ability to enact ordinances to prohibit cruelty to animals.

There have been many acts of obvious neglect and cruelty across the state which courts have been unable to prosecute because the language in the statute is too difficult to prove. One district attorney has testified that the current language, which reads, "intentionally inflicts severe and prolonged physical pain or suffering on an animal," is "unprosecutable." He said, "a dead animal is your only evidence." HB 386 offers prosecutors a more workable statute.

HB 386 also gives first and second class boroughs the option to adopt an ordinance to prohibit cruelty to animals. As state law reads now, these entities may only license, impound, and dispose of animals. Without the authority to deal with neglect or abuse issues, borough cases are often turned over to state troopers who consider them a low priority. One animal control officer said, "unless the animal is dead or unable to get up, troopers won't even investigate." Without this legislation, boroughs need an expensive vote of the people to enact an ordinance to prohibit cruelty to animals. HB 386 does not mandate boroughs to enact animal cruelty ordinances, but merely gives them the option if they choose to do so.

The Senate Community and Regional Affairs committee added in Section 2 that it is a defense to a prosecution that the conduct of the defendant "conformed to accepted animal husbandry practice." Sections 3 and 4 were also added to exempt farmers and farm animals from municipal control over cruelty and care issues.

Thank you for your consideration in scheduling a hearing for this bill.

# Alaska State Legislature

REPRESENTATIVE  
**BEN GRUSSENDORF**  
1221 HALIBUT POINT ROAD  
SITKA, ALASKA 99835  
(907) 747-6488

FINANCE COMMITTEE

DISTRICT 2  
KLUK-REANOF  
PETERSBURG  
SITKA  
WRANGELL



WHILE IN JUNEAU  
STATE CAPITOL  
JUNEAU, ALASKA 99801-1182  
(907) 465-2824

## House of Representatives

### SPONSOR STATEMENT SCSHB 386 (CRA)

**"An act relating to cruelty to animals and to the power of first and second class boroughs to prohibit cruelty to animals."**

This bill was introduced in response to concerns expressed by constituents regarding the difficulty of prosecuting cases which involve cruelty to animals. The bill also addresses the difficulty some boroughs are facing regarding their ability to enact ordinances to prohibit cruelty to animals.

There have been many cases of obvious neglect and cruelty across the state which have been difficult to prove because of the current statutory language. One district attorney has testified that the language which reads, "intentionally inflicts severe and prolonged physical pain or suffering on an animal" is "unprosecutable." He said, "a dead animal is your only evidence." This bill offers prosecutors a more workable statute. The following descriptions explain the changes CSHB 386 would make:

- Changes "intentionally" to "knowingly" which lowers the state of mind the state must prove in prosecuting a case. This would help in cases of starving animals. An owner's actions may not have been intentional, but a reasonable person would "know" that a lack of food results in a starving animal.
- Changes "recklessly" to "with criminal negligence" which lowers the criminal standard. Recklessness is indicated by an awareness and conscious disregard. Criminal negligence is indicated by a "failure to perceive a substantial and unjustifiable risk that the result will occur..." 11.81.900
- Does not affect the existing statute which exempts farmers, hunters, and trappers who conduct accepted, lawful practices. 11.61.140

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**SCSIB 386 (CRA) continued**

- Does not affect the existing statute which designates cruelty to animals as a class A misdemeanor.
- Gives first and second class boroughs the option to adopt an ordinance to prohibit cruelty to animals. As state law reads now, these entities may only license, impound, and dispose of animals. Without the authority to deal with neglect or abuse issues, borough cases are often turned over to state troopers who consider them a low priority. One animal control officer said, "unless the animal is dead or unable to get up, troopers won't even investigate." The proposed changes do not mandate boroughs to enact animal cruelty ordinances, but merely gives them the option if they choose to do so.
- Adds a defense to a prosecution for those who conform to "accepted animal husbandry practice" (added in Senate CRA).
- Exempts farmers and farm animals from regulation of cruelty and care issues by municipalities (added in Senate CRA).

MEMORANDUM

To: **The Senate Finance Committee**  
Co-Chair Steve Frank  
Co-Chair Rick Halford  
Committee Members  
    Dave Donnely  
    Randy Phillips  
    Steve Rieger  
    Bert Sharp  
    Fred Zharoff

From: Sally Clampitt, Coordinator for the  
Anchorage & Mat Su Area  
Alaska Equine Rescue  
5540 East 98th Ave.  
Anchorage AK 99516  
Home phone - 346-1346  
Work phone - 561-4487  
Fax (days) - 562-4945

Date: Tuesday, April 17, 1996

Re: **Senate CS for CS for House Bill No. 386 (CRA)**  
**CRUELTY TO ANIMALS**

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Gentlemen:

I have been a horse owner for more than 20 years, have been active in numerous horse-related organizations and activities, taught riding lessons for 6 years, and have acquaintances and friends from just about all areas of horsemanship in Alaska. I also have been privileged to serve as an area coordinator for the past 3 years for the volunteer organization known as Alaska Equine Rescue, (AER) a statewide organization promoting the responsible and humane care of horses in Alaska.

I am writing to you now as a private citizen as well as an active member of AER.

I have reviewed the above-referenced piece of legislation, and have the following comments:

- (1) The proposed CS to CS for HB 386 in no way resembles the honest and sincere concerns for animals that were expressed in its originating predecessors (HB386 and SB238). It has been picked to death. Although Community and Regional Affairs may have tried to perfect the letter of the law, they in fact have de-railed the intent of the law (and obviously succumbed to the pressures of a small but highly vocal special interest group) and the bill no longer does what it was originally intended to do.
- (2) The proposed legislation seeks to broaden the powers of first and second class boroughs to include the power to prohibit cruelty to animals, but at the same time eliminates all farm animals from this newly-bestowed borough jurisdiction. Increasing local authority to enforce animal cruelty regulations is excellent and is a much-needed change. However, farm animals should not be excluded from borough jurisdiction.

Memo to Senate Finance Committee  
Opposing certain language in animal cruelty bill  
April 17, 1996  
Page 2

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(3) I am told that representatives from the farming industry are concerned that extremist animal control officers will try to interfere with their agricultural and farming business. If this is in fact a legitimate concern, the language in lines 13 and 14 on page 1, and in line 1 on page 2 should provide the farmers with the protection they need to continue traditional animal husbandry practices...

"It is a defense to a prosecution ... of this section that the conduct of the defendant ... conformed to accepted veterinary or animal husbandry practice."

This carefully thought out language seems to provide excellent assurance that radical animal rightists will not be able to interfere with traditionally accepted animal husbandry practices.

(4) **Lines 7 through 19 on page 2, then, which exclude farm animals from borough jurisdiction, should be eliminated in their entirety.** Is there a particular reason why farm animals should not be protected by local law? If animal husbandry rights are protected, farmers should have no more to fear from borough jurisdiction than any private citizen who owns large or farm-type animals. The burden remains the same - that is, people who own animals - ALL ANIMALS - should take care of them humanely and responsibly. *This is true even of farm animals and animals bound for slaughter.*

(5) I was also told that the reason the farmers don't want to be accountable to borough animal control is because they think animal control officers will not know anything about farming and will butt into their business. Do you think that the average state trooper knows any more about farming than an animal control officer? Certainly not! Clearly, a person trained as an animal control officer will know more about animals than a State Trooper.

(6) I was told that the farmers don't want to be accountable to local borough agencies because they already have guidelines established by the Department of Agriculture and they prefer to be accountable to that Dept. But if you'll check Title 3, I believe you will find that there are no Dept. of Agriculture guidelines about cruelty to farm animals.

(7) **Is there some particular reason why farm animals should not be protected by the same animal cruelty regulations as other animals (excluding traditional animal husbandry practices)?** Does the farming community have a special entitlement to treat animals in a less humane way than other people have? Do farm animals have less right to be treated humanely than other animals? This is not logical. And this is not what good government is about. Good government should not be excessive, but more importantly, it shouldn't play favorites the way your proposed CS to CS HB386 does.

**And what is a farm animal, anyhow? Is it a working animal? Is it an animal raised**

Memo to Senate Finance Committee  
Opposing certain language in animal cruelty bill  
April 17, 1996  
Page 3

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specifically for slaughter? Is it cattle, pigs, goats, horses and sheep? Or is it all animals except dogs, cats and parakeets, for example? *Do you really want to get into the muddy area of defining what a farm animal is?* Should this definition define specific species of animals? Or specific uses of animals? What if I own a horse as a pleasure/competitive animal, and then I have to sell it and it ends up in the hands of a "farmer" - here is the very same horse - one day it's protected by certain laws, and the next day it isn't. Does this make sense? Of course not.

Let's say there are two men. They live in the same borough, and one is a farmer and one isn't. They both own horses. This bill says that one man must abide by borough animal cruelty laws and be accountable to the local borough authorities, and the other man doesn't. *Does this make sense?* Of course not. I suggest to you that the farming community knows very well how difficult it is to get the State Troopers to enforce cruelty laws, particularly in remote areas. In fact, as everyone knows, the State Troopers would rather not enforce animal cruelty regulations, and will avoid it if given the opportunity.

*So, what we have here is a bill which in effect puts farm animals in a very vulnerable position - the State Troopers won't protect them, and borough animal control can't protect them.*

I hope you will agree that horses used in commercial operations, such as guide-outfitting and hunting, trail riding, etc., should not be construed under any circumstances to be part of a farm operation. Horses used in commercial operations MUST be protected under all levels of law from cruelty and abuse.

Also, any exclusions for farm animals at any level should clarify that horses are not farm animals. Also, a farmer who has dairy cattle and also has a string of horses that are used to go pack hunting seasonally, is not protected from enforcement of cruelty regulations with regard to his horses.

And I must return to my original point - *what was the original intent of new, or amended and improved animal cruelty legislation?* It was to do a better job of protecting animals in our State, and to make it easier for authorities to prosecute when appropriate. It was NEVER intended to dilute our civic and moral responsibilities as humane caretakers, or to hang our political hats on the farming industry's reluctance to be accountable at the local level.

I sincerely hope that you will not consider approving the exclusion of farm animals from borough jurisdiction as outlined in the proposed legislation. *Please considered all of the real ramifications which will inevitably result from excluding farm animals.*

And last but not least, I ask each of you to take a brief personal inventory - do you personally really want to be responsible for establishing a statewide legal infrastructure as bizarre as this? Do