

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3327

SB

84

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
 APR 23 2007
 SENATE FINANCE COMMITTEE

DATE: 3/28/07

FURTHER:

DATE TURNED
 IN TO OFFICE: 4/23/07

Finance Committee considered

SENATE BILL NO. 84

SB 84 TESTING & PACKAGING OF CIGARETTES

"An Act relating to the burning capability of cigarettes being sold or offered for sale, or possessed for sale; relating to compliance certifications by tobacco product manufacturers, a directory of tobacco product manufacturers, the affixing of stamps to cigarette packages, and cigarette tax stamps; and providing for an effective date."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS SB 84 (JUD)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:

Same Title

New Title

HOUSE BILL:

Same Title

Technical Title Change

New Title w/ SCR # _____

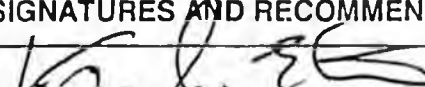
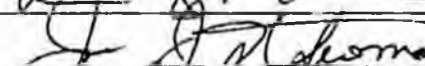
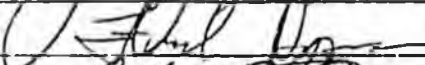


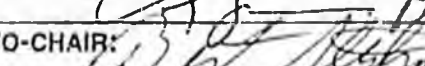

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department:	Date	Fiscal	Indet.	Zero	FN#
Revenue	3/19/07	41,600			3
DPS	3/19/07			✓	4

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	ELTON	✓			
	THOMAS	✓			
	DYSON	✓			
	HUGGINS	✓			
	OLSON	✓			
CO-CHAIR: 	HOFFMAN	✓			
CO-CHAIR: 	STEDMAN	✓			

FISCAL NOTE

REPORTED OUT
APR 23 2007
 SENATE FINANCE COMMITTEE

STATE OF ALASKA
 2007 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSSB 84(JUD)
 (S) Publish Date: 3/28/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue 04
 Title Testing & Packaging of Cigarettes RDU Taxation and Treasury
 Component Taxation and Treasury
 Sponsor Senator Olson
 Requester Senate Judiciary Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	31.4	31.4	31.4	31.4	31.4	31.4
Travel						
Contractual	2.2	4.4	4.4	4.4	4.4	4.4
Supplies						
Equipment	8.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	41.6	35.8	35.8	35.8	35.8	35.8

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	41.6	35.8	35.8	35.8	35.8	35.8
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	41.6	35.8	35.8	35.8	35.8	35.8

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

POSITIONS

Full-time	1					
Part-time		1	1	1	1	1
Temporary						

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

This bill will give the Department of Revenue authority to seize and destroy cigarettes sold in the state that do not meet new fire safety requirements. It would also require the Department of Revenue to develop and maintain a directory of cigarettes that meet fire safe standards and educate cigarette distributors and retailers about the new law.

Prepared by: Johanna Bales Phone (907) 269-6628
 Division Tax Date/Time 3/19/2007 1:15 p.m.
 Approved by: Jerry Burnett Date 3/19/2007
 Agency Dept. of Revenue

FISCAL NOTE # 3

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. CSSB 84(JUD)

ANALYSIS CONTINUATION

Program Summary: Currently, DOR maintains a directory of cigarettes approved for sale in the state. Cigarettes on this directory are compliant with the nationwide tobacco Master Settlement Agreement (MSA) and escrow statutes under AS 45.53. As such, it is legal to sell these cigarettes in Alaska and place a cigarette tax stamp on the cigarettes as proof that the cigarette tax was paid. Cigarette distributors and retailers rely on this list to ensure that cigarettes they stamp are approved for sale in Alaska. SB 84 would impose another restriction, outside the MSA, on what brands of cigarettes can be legally stamped and sold in Alaska. DOR would be required to maintain a separate directory and conduct an education campaign to ensure that cigarette distributors and retailers are aware that the cigarettes must be on both directories before they can be stamped and sold in the state.

Positions: DOR expects that it will need 1 additional part-time position, a Tax Technician II, to perform the additional functions required by this bill. DOR expects the total cost of this additional position to be \$31,400 each year. In the first year of implementation, DOR expects that a full-time position will be utilized to develop the directory and educate tobacco businesses, but that position will only be needed for the second half of the fiscal year. In FY 2009 and all subsequent years, DOR expects that it will need a part-time position to maintain the directory.

Other Operating Expenditures: (1) Contractual - Contractual costs include leasing office space and providing phone service for 1 additional employee each year. DOR expects the total contractual costs to be \$4,400 each year. (2) Equipment - DOR expects equipment expense of \$8,000 per FTE in the first year for a computer, telephone, cubicle parts, software, and other one-time purchases of office equipment needed to perform the duties of the position.

REPORTED OUT
APR 23 2007
 SENATE FINANCE COMMITTEE

FISCAL NOTE

STATE OF ALASKA
 2007 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSSB 84(JUD)
 (S) Publish Date: 3/28/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title "An Act relating to the burning capability of RDU Fire Prevention
cigarettes . . ." Component Fire Prevention Operations
 Sponsor Senator Olson
 Requester Senate Judiciary Committee Component No. 494

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (new fund)	83.3	83.3	83.3	83.3	83.3	83.3
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FUND SOURCE (Thousands of Dollars)

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

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill establishes a new chapter on cigarette fire safety. No cigarette may be sold in Alaska unless it meets specific fire safety standards. The new program will be administered by the State Fire Marshal, and funded by a fee of \$250 for each cigarette submitted for certification. Implementation and enforcement of the chapter is to be paid by the new Fire Prevention and Public Safety Fund funded with appropriations made from the certification fees.

A previous fiscal note based the revenue projection from this bill on the number of cigarette manufacturers and brands taxed by the state on February 26, 2007. However, it has since been determined that each individual style of a particular brand will be certified individually, i.e., light vs. ultra light, 100 vs. regular, etc. The Department of Revenue estimates this definition will result in 800 to

Prepared by: Rusty Balanger, Acting State Fire Marshal Phone 907-269-5905
 Division: Division of Fire Prevention Date/Time 3/19/07 3:27 PM
 Approved by: Walt Monagan, Commissioner Date 3/19/2007
 Agency: Department of Public Safety

FISCAL NOTE # 4

STATE OF ALASKA
2007 LEGISLATIVE SESSION

BILL NO. CSSB 84(JUD)

ANALYSIS CONTINUATION

1,000 separate brands requiring certification, for a total estimate of \$250,000 in revenue spread over each 3-year period.

The Division of Fire Prevention does not anticipate additional costs from passage of this bill. The new duties will be handled by existing staff during the normal course of business.

ALASKA STATE SENATE

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SPONSOR STATEMENT

CSSB 84 (L&C)

"Testing and Packaging of Cigarettes"

SB 84 mandates that only self-extinguishing cigarettes can be sold in Alaska, and establishes the testing and certification requirements to assure that only self-extinguishing cigarettes are sold in Alaska. Although no cigarette could ever be called safe, so called self-extinguishing or "fire safe" cigarettes are reduced ignition propensity cigarettes. These are cigarettes that are designed to be less likely than a conventional cigarette to ignite soft furnishings such as a couch or mattress. The bill also provides for the marking of cigarette packaging in an approved and easily identifiable manner to indicate they are fire safe.

Cigarettes are the leading cause of home fire fatalities in Alaska and the United States. The most common material first ignited in home fires are mattresses and bedding, upholstered furniture, and floor coverings. A typical scenario for fires is when a lit cigarette is forgotten or dropped by a smoker. The cigarette fire can smolder for hours before it flares up into a full blaze.

One fourth of victims of smoking-material fire fatalities are *not* the smoker whose cigarette started the fire; over one third of these are children. The risk of dying in a residential structure fire caused by smoking rises with age: 38 percent of fatal smoking-material-fire victims are age 65 or older.

The most common technology used by cigarette manufacturers for reduced cigarette ignition propensity (RCIP) is to make the paper thicker in places to slow down a burning cigarette. If such a cigarette is left unattended, when the burn reaches one of the thicker places, or "speed bumps", the burning will self-extinguish. Self-extinguishing cigarettes meet established fire safety performance standards.

Legislation similar to SB 84 has been enacted in New York, Massachusetts, Vermont, New Hampshire, California, and Illinois. A fire safe cigarette mandate has also been approved for all of Canada. This legislation is supported by the Alaska Fire Chiefs Association, the Alaska Firefighters Association, and Department of Public Safety, Division of Fire Prevention.

SB 84 will save lives, as well as reduce injuries and damage to property in Alaska. I urge you to give favorable consideration to this bill.

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SECTIONAL ANALYSIS
CSSB 84 (JUD), "Testing and Packaging of Cigarettes"

Section 1 establishes a new Chapter 74 for cigarette fire safety.

Subsection 18.74.010 prohibits the sale of any cigarette that does not have fire extinguishing characteristics determined by:

- (1) testing to an approved performance standard under 18.74.030 or 040,
- (2) marking and identification under 18.74.130, and
- (3) a certification by the manufacturer to the state fire marshal that each cigarette offered for sale complies with the requirements of this chapter.

Subsection 18.74.030 establishes the test methods based on the National Institute of Standards & Technology (NIST) performance standards by which cigarettes are determined to have acceptable fire extinguishing characteristics. The state fire marshal may select a variation of the standards if he finds that the results better assure the diminished burning capabilities of the cigarettes.

Subsection 18.74.040 allows the state fire marshal to accept alternative test methods and performance standards under certain conditions and findings.

Subsection 18.74.050 requires testing by laboratories that meet the accreditation and other requirements for acceptability in determining quality assurance and repeatability of test results regarding fire extinguishing characteristics.

Subsection 18.74.060 allows testing of cigarettes for other purposes, provided that said testing is consistent with this chapter.

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Subsection 18.74.065 allows the state fire marshal to perform testing; and requires the state fire marshal or a contractor of the fire marshal to follow this chapter if they should perform a test to determine a cigarette's compliance with this chapter.

Subsection 18.74.070 requires manufacturers keep all cigarette test results for a period of three years.

Subsection 18.74.080 requires a manufacturer to certify to the state fire marshal that each type of cigarette listed satisfies the performance standards of this chapter. Any subsequent change to the cigarette type that may alter its fire extinguishing performance must be re-tested. There is an annual certification fee of \$250 paid to the fire marshal for each type of cigarette. The fire marshal may adjust this fee.

Subsection 18.74.090 lists the information required in the certification about the nature of the cigarette and its test results.

Subsection 18.74.100 lists the banding requirements for cigarettes that use lowered permeability bands to achieve the performance standards of the chapter.

Subsection 18.74.110 allows the attorney general and the Department of Revenue access to the certification information in order to enforce provisions of the chapter.

Subsection 18.74.120 requires approval of the manufacturer's packaging and marking of fire extinguishing cigarettes by the fire marshal prior to certification, and requires the fire marshal to act within 10 business days. Certain state officials are permitted to inspect the packaging markings of cigarettes being sold by wholesalers, agents, and retailers in the state.

Subsection 18.74.130 specifies the cigarette package marking requirements to indicate compliance with this chapter.

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Subsection 18.74.150 requires copies of a manufacturer's certification under 18.74.080 to be provided to every wholesaler, agent, and retailer who sells the cigarette.

Subsection 18.74.160 lists civil penalties for sales of cigarettes in the state that are in violation of this chapter by a manufacturer, wholesaler, agent, or retailer.

Subsection 18.74.180 directs that certification fees and civil penalties received shall be deposited in a separate account in the general fund. The legislature may appropriate from this account to the fire prevention and public safety fund established under subsection 18.74.210.

Subsection 18.74.190 requires the fire marshal, the Department of Revenue, or a law enforcement agency to seize cigarettes that are sold or offered for sale that are in violation of this chapter. Conditions for disposal of seized cigarettes are detailed.

Subsection 18.74.200 allows the state fire marshal or the attorney general to seek additional remedies for violations of this chapter through superior court action.

Subsection 18.74.210 establishes a fire prevention and public safety fund for the purpose of paying for the expenses of the state fire marshal in implementing and enforcing this chapter. Money appropriated to the fund may be expended without further appropriation.

Subsection 18.74.220 specifies the requirements for implementation of this chapter.

Subsection 18.74.230 requires the state fire marshal to report to the legislature every three years on the effectiveness of this chapter in reducing cigarette caused fires.

Subsection 18.74.240 is the fire marshal's authority to adopt regulations.

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Subsection 18.74.250 authorizes inspections by certain state officials of cigarettes being sold and examination of paper, invoices, and records of persons who possess, control, or occupies premises where cigarettes are being sold or stored.

Subsection 18.74.260 exempts cigarettes manufactured in Alaska for sale in another state or another country from the requirements of this chapter as long as reasonable steps are taken to exclude sales in Alaska.

Subsection 18.74.270 prohibits a municipality from enacting or enforcing an ordinance that is in conflict with the purpose and provisions of this chapter.

Subsection 18.74.280 confirms the supremacy of federal law over provisions of this chapter.

Subsection 18.74.290 provides definitions of terms used in this chapter.

Section 2 provides for the transition from currently allow cigarette sales to the mandated sale of fire safe cigarettes only in the 13 month transition period.

Section 3 provides a 13 month delayed effective date.

**COALITION
for FIRE-SAFE
CIGARETTES**

The time is now.

Coalition for Fire-Safe Cigarettes (CFSC)

Mission Statement:

The mission of the Coalition for Fire-Safe Cigarettes is to save lives, prevent injuries and devastation from cigarette-ignited fires by calling on cigarette manufacturers to immediately produce and market only cigarettes that adhere to an established cigarette fire safety performance standard, (based on ASTM E2187, Standard Test Method for Measuring the Ignition Strength of Cigarettes); and working to see that these standards for fire-safe cigarettes are required in every state in the country.

Who We Are:

The Coalition for Fire-Safe Cigarettes (CFSC) is a national group of fire service members, consumer and disabled rights advocates, medical and public health practitioners and others, coordinated by the National Fire Protection Association (NFPA), who are committed to saving lives and preventing injuries by reducing the threat of cigarette-ignited fires.

Background:

Cigarettes currently are the leading cause of home fire fatalities in the U. S. killing 700 to 900 people, smokers and non-smokers alike, per year. In addition, thousands of victims suffer burn and lung injuries, and property losses total millions of dollars each year.

Yet, there is a proven, practical, and effective way to eliminate the risk of cigarette-ignited fires. The use of cigarettes that have a reduced propensity to burn when left unattended will help to prevent tens of thousands of cigarette-ignited fires each year. The use of such "fire-safe" cigarettes has already been mandated in New York, California, Vermont, Illinois, New Hampshire, and Massachusetts (covering 25 percent of Americans) and in all of Canada.

Call to Action:

We applaud the successful actions of state legislatures to mandate that cigarettes sold in their states follow established guidelines for reduced ignition propensity, and we encourage all states to do so.

Therefore, we call on cigarette manufacturers to immediately begin producing and marketing only cigarettes that have a reduced propensity to burn when left unattended (*as established through testing to a performance standard based on ASTM E2187, Standard Test Method for Measuring the Ignition Strength of Cigarettes*).

COALITION
for **FIRE-SAFE**
CIGARETTES

The time is now.™

Cigarette Fire Facts

- Cigarettes are the leading cause of home fire fatalities in the United States, killing 700 to 900 people – smokers and non-smokers alike – per year.
- Smoking-material structure fires killed 760 people and injured 1,520 others in 2003.
- Property losses total hundreds of millions of dollars each year.
- There were 25,600 smoking-material structure fires in the United States in 2003.
- Fires caused by smoking materials have declined in recent years, thanks in part to more stringent standards for fire-resistive mattresses and upholstered furniture, public education, and a dramatic decrease in the number of cigarettes consumed per adult in the United States. But cigarettes are still the leading cause of residential fire deaths.
- The risk of dying in a residential structure fire caused by smoking materials rises with age. Two-fifths (38 percent) of fatal smoking-material-fire victims are age 65 or older.
- One-quarter of victims of smoking-material fire fatalities are not the smoker whose cigarette started the fire: 34 percent are children of the smokers; 25 percent are neighbors or friends; 14 percent are spouses or partners; and 13 percent are parents.
- Almost half (43 percent) of fatal home smoking-material fire victims were sleeping when injured; one-third (32 percent) were attempting to escape, to fight the fire, or to rescue others.

Fire-Safe Cigarettes – The Time Is Now!

- One in four Americans is now or soon will be covered by fire-safe cigarette mandates approved in New York, California, Vermont, Illinois, New Hampshire, and Massachusetts. A fire-safe cigarette mandate has also been approved for all of Canada.
- Research in New York State shows no decline in cigarette sales with the introduction of fire-safe cigarettes, but cigarette-fire fatalities were reported to have declined in the state by a third in 2004 when the law was in place for not quite half the year.
- NFPA research in the mid-1980s predicted that fire-safe cigarettes would eliminate three out of four cigarette fire deaths. Had manufacture of fire-safe cigarettes become universal then, approximately 15,000 lives could have been saved by now.

(Source: National Fire Protection Association, 10/05)

COALITION
for **FIRE-SAFE**
CIGARETTES

The time is now.™

Members as of February 1, 2007

American Association of Retired Persons	Massachusetts Call/Volunteer Firefighters Associations
American Burn Association	Massachusetts Coalition for Fire-Safe Cigarettes
American College of Emergency Physicians	Metropolitan Fire Chiefs
American Fire Sprinkler Association	National Association of Emergency Medical Technicians
American Health Care Association	National Association of Hispanic Firefighters
American Society of Testing and Materials International	National Association of State Fire Marshals
AMERIND Risk Management Corporation	National Center for Assisted Living
Asian American Hotel Owners Association	National Fallen Firefighters Foundation
Automatic Fire Alarm Association, Inc.	National Fire Protection Association
Boston Society of Vulcans	National Fire Sprinkler Association
Business and Institutional Furniture Manufacturer's Association	National Native American Fire Chiefs Association
Center for Campus Fire Safety	National Safety Council
Center for Social Gerontology, Inc.	National Volunteer Fire Council
Firemen's Association of the State of New York	Phoenix Society for Burn Survivors
Florida Association of Fire & Life Safety Educators	Polyurethane Foam Association
Harvard School of Public Health	Property Casualty Insurers Association of America
Home Safety Council	Public Citizen
Illinois Fire Inspectors Association	Safe Kids Worldwide
International Association of Arson Investigators	Trauma Foundation
International Association of Black Professional Fire Fighters	Uniform Fire Code Association
International Association of Fire Chiefs	Washington Fire Chiefs
International Association of Fire Fighters	Western Fire Chiefs Association
International Association of Hispanic Firefighters	
International Code Council	<i>Supporters/State Groups</i>
International Fire Marshals Association	Tobacco Free Kids

www.firesafecigarettes.org

COALITION for FIRE-SAFE CIGARETTES™

The time is now.

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What is a fire-safe cigarette?

A fire-safe cigarette has a reduced propensity to burn when left unattended. The most common fire-safe technology used by cigarette manufacturers is to wrap cigarettes with two or three thin bands of less-porous paper that act as "speed bumps" to slow down a burning cigarette. If a fire-safe cigarette is left unattended, the burning tobacco will reach one of these speed bumps and self-extinguish.

Fire-safe cigarettes meet an established cigarette fire safety performance standard (based on ASTM E2187, Standard Test Method for Measuring the Ignition Strength of Cigarettes).

Fire-safe cigarettes save lives
 The good news is that improved standards for cigarette-resistant materials in furniture and mattresses, and public education have all helped cut down the number of fires caused by smoking materials and have saved many lives. The bad news is that 700 to 900 people still die each year due to cigarette-ignited fires. And the fact remains: smoking materials are the #1 cause of fire deaths in the United States.

There is no doubt that fire-safe cigarettes will save hundreds of lives each year. Deaths caused by cigarette fires have declined dramatically in New York State in the first few months that fire-safe cigarettes were mandated there in 2004. The use of cigarettes with a proven, reduced propensity to ignite other materials will save lives and offer the best opportunity to achieve the next big leap forward in fire protection.

Is it possible for a "fire-safe" cigarette to ignite furniture or bedding?

All cigarettes have the *potential* to ignite fires, but the use of "fire-safe" technology provides a tremendous reduction in those risks. A fire-safe cigarette cuts off the burning time before most cigarettes are able to ignite things like furniture or bedding material.

Isn't the real issue the need to educate people about using cigarettes in a responsible way?

Actually, the real issue is that cigarettes are the leading cause of home fire fatalities every year. Fires started by cigarettes kill smokers and non-smokers alike. Cigarette fires also burn and injure thousands of people, while causing millions of dollars in property losses. But, we have the opportunity to prevent those horrible situations through the use of fire-safe cigarettes.

With any fire problem, you can and should try to change the heat source (the cigarette), the items ignited (for example, mattress, couch), and the behavior that brings them together (that is, the smoker's behavior). And all of these strategies are being actively pursued. The reality is that without changing the cigarettes, there will still be hundreds of needless cigarette-fire deaths every year. That is why fire-safe cigarettes offer the best opportunity to achieve the next big leap forward in fire protection.

Wouldn't it be better if the U.S. had a federal standard with which each state had to comply?

All of us wish the tobacco companies would step up and do the right thing in this situation —

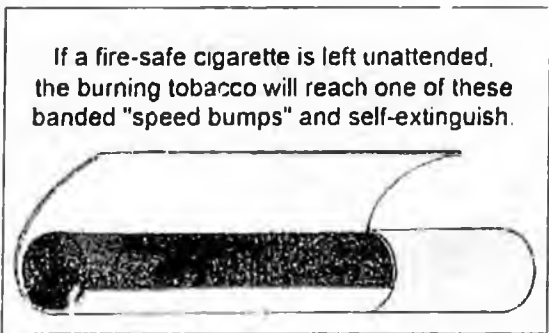
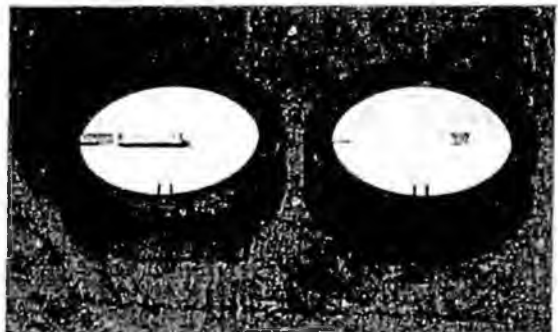


Illustration: John Roman



Cigarette regulations adopted in New York, California, and Vermont require that no more than 25 percent of 40 cigarettes tested burn their full length when placed on 10 layers of standard filter paper. The established cigarette fire safety performance standard is based on ASTM E2187, Standard Test Method for Measuring the Ignition Strength of Cigarettes. Photo: National Institute of Standards and Technology. See larger image.

replacing traditional cigarettes with fire-safe cigarettes. But, until that happens, strong legislation like this is the best way to prevent fires started by cigarettes. Currently, there is gridlock at the federal level, yet there is tremendous progress on the state level. Until a strong fire safety standard can be enacted by the U.S. Congress, we must pursue regulation at the state level. And to avoid a patchwork of standards, the best approach is to adopt the New York State standards, just as California and Vermont have already done.

What are other states doing?

New York State was the first to require that cigarettes sold and manufactured in the state be fire-safe. Vermont and California both adopted fire-safe legislation late last year. Additional states are considering fire-safe bills now, and many other states and jurisdictions are looking into it. In Canada, fire-safe cigarettes are mandated nationwide using the New York state standard.

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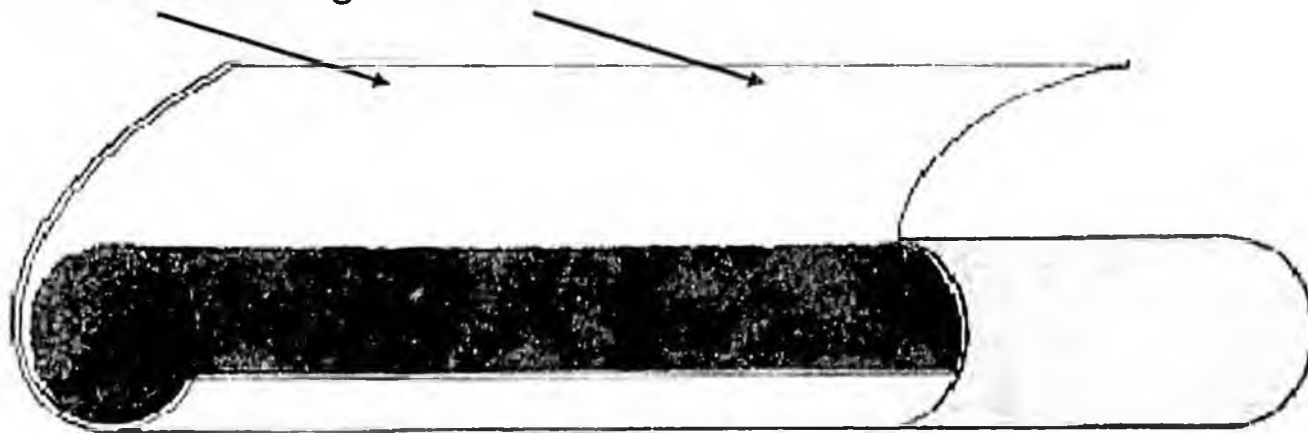
[Terms & Conditions](#)



The Coalition for Fire-Safe Cigarettes campaign is coordinated by NFPA.

URL: <http://firesafecigarettes.org/itemDetail.asp?categoryID=48&itemID=1190&URL=About%20fire-safe%20cigarettes/What%20is%20a%20fire-safe%20cigarette?>

If a fire-safe cigarette is left unattended, the burning tobacco will reach one of these banded "speed bumps" and self-extinguish.



COALITION
for **FIRE-SAFE**
CIGARETTES
The time is now.™

www.firesafecigarettes.org

COALITION for FIRE-SAFE CIGARETTES™

The time is now.



Legislation for fire-safe cigarettes around the U.S.

- States that require fire-safe cigarettes
- States that have fire-safe cigarette legislation

For more information on fire-safe cigarettes, visit our website at www.firesafecigarettes.org. We also have a press kit for you at www.firesafecigarettes.org/presskit. For state legislation on fire-safe cigarettes, visit the legislative page at www.firesafecigarettes.org/legislation.

Click on any state to learn more.



National Institute of Standards & Technology

Certificate of Analysis

Standard Reference Material[®] 1082

Cigarette Ignition Strength Standard

This Standard Reference Material (SRM) is intended for use by test laboratories to assess and control their testing of cigarette ignition strength in accordance with ASTM Standard Methods E 2187-04 (or ASTM E2187-02b). The SRM unit consists of one carton of cigarettes containing 10 packs of 20 cigarettes each.

Certified Values and Uncertainties: A NIST certified value is a value for which NIST has the highest confidence in its accuracy and that all known or suspected sources of bias have been investigated or accounted for by NIST. The certified value for ignition strength is given in Table 1. The certified value is the result of testing at NIST, Kidde-Fenwal, and the National Research Council, Canada. The certified value and its uncertainty were obtained by fitting a Bayesian hierarchical model [1] to the data from the two laboratories. The model accounts for random variation both within and between laboratories. The data from each laboratory was modeled using individual binomial likelihood functions, the between-laboratory variation was modeled using a beta distribution, and non-informative prior distributions were used for all parameters in the model. The model was fit to the data using Markov chain Monte Carlo methods. The expanded uncertainty given in Table 1 is reported at the 95 % probability level. This uncertainty includes measurement variability within and between laboratories. Tests for cigarette uniformity did not show evidence of any significant variation in ignition strength between packs. A combined standard uncertainty for the certified ignition strength of $u_c = 1.65$ % should be used in further uncertainty calculations.

Table 1. Certified Values

Measurand	ASTM Method	Certified Value and Expanded Uncertainty
Ignition Strength (on 10 layers of filter paper)	E 2187-04 ⁽¹⁾	12.6 % ± 3.3 %

⁽¹⁾ Standard Test Method for Measuring the Ignition Strength of Cigarettes.

NOTICE AND WARNING TO USERS: THERE ARE SUBSTANTIAL SAFETY HAZARDS ASSOCIATED WITH EXPOSURE TO BOTH PRIMARY AND SECOND-HAND SMOKE FROM CIGARETTES. THESE CIGARETTES ARE ONLY TO BE USED UNDER THE LABORATORY CONDITIONS DESCRIBED IN ASTM E2187-04.

Expiration of Certification: The certification of SRM 1082 is valid, within the measurement uncertainties specified, until **31 December 2015**, provided the SRM is handled in accordance with the instructions given in this certificate (see "Instructions for Use"). This certification is nullified if the SRM is contaminated, disfigured, or otherwise modified.

Maintenance of Certification: NIST will monitor representative samples from this SRM lot over the period of its certification. If substantive changes occur that affect the certification before the expiration date, NIST will notify the purchaser. Registration (see attached sheet) will facilitate notification.

The coordination of the technical measurements leading to certification was performed by R.G. Gann of the NIST Fire Research Division.

Ignition strength measurements at NIST were made by J. Lee of the Fire Research Division.

Statistical consultation on experiment design and analysis of the certification data were performed by W.F. Guthrie of the NIST Statistical Engineering Division.

William L. Grosshandler, Chief
Fire Research Division

Robert L. Watters, Jr., Chief
Measurement Services Division

Gaithersburg, MD 20899
Certificate Issue Date: 01 February 2006
SRM 1082

Page 1 of 2

The support aspects involved in the issuance of this SRM were coordinated through the NIST Measurement Services Division.

The cigarettes were purchased by NIST from Philip Morris USA (Richmond, VA).¹

INSTRUCTIONS FOR USE

Stability and Use: ASTM E2187-04 states that cigarette test specimens are to be protected from physical or environmental damage while in handling and storage. It is important that the specimens not be crushed or deformed in any manner. Careful handling is needed to ensure that the specimens are not contaminated while in storage, and that they are protected from degradation by insects. If test cigarettes are not to be used for more than one week, they are to be stored in a freezer at approximately 0 °C (32 °F).

Prior to testing, the cigarettes are to be removed from the pack(s) and conditioned at a relative humidity of 55 % ± 5 % and a temperature of 23 °C ± 3 °C (73 °F ± 5 °F) for at least 24 h. The cigarettes are to be placed in a clean, open container, with the number of cigarettes being sufficiently small to enable free air access to the specimens, for example, a maximum of 20 cigarettes in a 250 mL polyethylene or glass beaker.

Material Selection and Packaging: The state of New York, the state of Vermont, the state of California, and the dominion of Canada have enacted legislation requiring that all cigarettes sold in their jurisdictions must not exceed 25 % full-length burns using this test method. A test consists of 40 determinations, each on a substrate consisting of 10 layers of filter paper. The filter paper is to meet the weight requirements in ASTM E2187-04 and is to be conditioned prior to testing, as described in the ASTM standard.

This SRM was developed because cigarette companies, the New York Office of Fire Prevention and Control, and Health Canada indicated a need for a standard cigarette that could be used by testing laboratories and manufacturers to assess and control ignition strength testing to assure regulatory compliance and quality control. The planned cigarette was to have a target ignition strength near (a) the required pass/fail criterion and (b) the value to which cigarette companies would need to design products in order to assure success during compliance testing, which is somewhat lower than the pass/fail criterion.

After examining several prototypes, Philip Morris USA submitted the candidate standard cigarettes to NIST. The packs and cartons were printed to NIST specifications at the factory. The cigarettes themselves bear no markings.

REFERENCE

- [1] Gelman, A.; Carlin, J.B.; Stern, H.S.; Rubin, D.B.; *Bayesian Data Analysis*; Chapman and Hall: London (1995).

Users of this SRM should ensure that the certificate in their possession is current. This can be accomplished by contacting the SRM Program at: telephone (301) 975-6776; fax (301) 926-4751; e-mail srminfo@nist.gov; or via the Internet <http://www.nist.gov/srm>.

¹Certain commercial equipment, instrumentation, or materials are identified in this certificate to specify adequately the experimental procedure. Such identification does not imply recommendation or endorsement by the NIST, nor does it imply that the materials or equipment identified are necessarily the best available for the purpose.



American Burn Association

625 N. Michigan Avenue, Ste. 2550
Chicago, IL 60611

Voice (312) 642-9260

Fax (312) 642-9130
e-mail: info@ameriburn.org

Fire-Safe Cigarettes American Burn Association Policy Statement

Cigarettes are the leading cause of fatal fires in the United States, killing 700 to 900 people every year and injuring thousands more. Those killed or injured in these fires are oftentimes not the smoker, but family members, children or neighbors. 34,800 smoking-material structure fires in the U.S. in 2002 resulted in property losses in the hundreds of millions of dollars.

The typical scenario for fires caused by cigarettes is the following: a lit cigarette is forgotten or dropped by a smoker whose alertness may be impaired by alcohol or medication. The cigarette fire can smolder for hours hidden between seat cushions or elsewhere before it flares up into a deadly blaze. "Fire safe" or reduced ignition propensity cigarettes have less porous paper, less dense tobacco, a smaller diameter, filter tip and no added citrates to the paper. These design changes result in no change in taste to the cigarette.

Fire safe cigarette legislation has passed in New York, California, Vermont, Illinois, New Hampshire and Massachusetts. Legislation is pending in New Jersey, Pennsylvania and Wisconsin.

The American Burn Association has been a strong advocate for the development of fire-safe cigarettes for more than 15 years, supporting past legislation on the issue and participating in two US Government studies that successfully demonstrated the technical and economic feasibility of commercial production of fire safe cigarettes.

The American Burn Association strongly and actively supports the passage of legislation mandating the manufacture and sale of fire-safe cigarettes along with the efforts of the Fire Safe Cigarette Coalition, a national group of fire service members, consumer, elderly and disabled rights advocates, medical and public health practitioners and other who are committed to saving lives and preventing injuries by reducing the threat of cigarette-ignited fires. The ABA is a member of the Fire Safe Cigarette Coalition.

For more information, contact Kitty Vineyard at the American Burn Association at (312) 642-9260 or vineyard@ameriburn.org.



State of Alaska

Department of Public Safety
Division of

Fire Prevention

Sarah Palin, Governor
Walt Monegan, Commissioner

February 21, 2007

The Honorable Donny Olson
State Senator
State Capitol, Room 514
Juneau, AK 99801-1182

Dear Senator Olson:

The Division of Fire Prevention supports SB84 sponsored by you: "An Act relating to the burning capability of cigarettes being sold or offered for sale, or possessed for sale; relating to compliance certifications by tobacco product manufacturers, a directory of tobacco product manufacturers, the affixing of stamps to cigarette packages, and cigarette tax stamps; and providing for an effective date."

This bill embodies the focus of the Division's mission statement which is to prevent the loss of life and property from fire and explosion. This bill recognizes significant losses of life and property due to cigarettes; as the following statistics will show.

Between 1996 and 2005 Alaska lost \$8.0 million in property to fires with cigarettes as an ignition source.

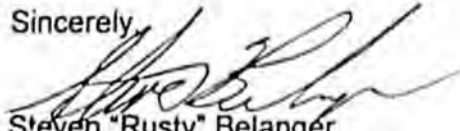
Between 1996 and 2006 cigarette related fires caused 28% (51 Alaskans) of the deaths due to fire. This is the leading cause of fire fatalities in Alaska.

It is our belief that this bill will significantly lower fire fatalities in Alaska related to cigarettes, as the manufacturers will have to meet the new requirements for a cigarette that meets a fire safety standard. This would be at minimal cost to the state.

The states that have enacted similar legislation are New York, Vermont, California, Illinois, New Hampshire and Massachusetts. Those states are closely monitoring their fire statistics for the expected decline in fire fatalities. The legislation enactment is recent; therefore the information on fire fatalities is just now being collected for analysis.

If you have any questions or need more information, please do not hesitate to contact me.

Sincerely,


Steven "Rusty" Belanger
Acting State Fire Marshal

ALASKA FIRE CHIEF'S ASSOCIATION

2358 Bradway Road, North Pole, AK 99705

EIN #92-0098649

Phone: (907) 488-3400

FAX: (907) 488-6118



Date: February 20, 2007
To: Alaska Legislators
From: Alaska Fire Chiefs Association
Subject: Support SB 84 (Olson) and HB131 (Gatto)

The Alaska Fire Chiefs Association, the largest membership of fire service managers in Alaska, is dedicated to serving the needs and issues that face Alaska's fire service. We would like to inform you that Alaska Chiefs strongly support the Burning Capability of Cigarettes (SB 84/HB131) legislation, and encourage your yes vote when this legislation comes before you.

SB 84/HB131 will prohibit the sale, manufacture or distribution of cigarettes in Alaska that do not meet fire safe standards established by the American Society of Testing and Materials (ASTM).

Careless smoking is the leading cause of fire deaths in Alaska. From 1997 to 2006, fires caused by careless smoking resulted in 23% of all fire deaths in Alaska. This type of fire killed 37 people during the past 10 years.

These costs are simply too great. Fortunately, an effective solution to this problem lies within your reach. California, Illinois, New Hampshire, New York and Vermont have already passed similar legislation to protect their residents. We hope you will do your part to accomplish the same in Alaska.

On behalf of the 150 members of the Alaska Fire Chiefs Association, we thank you for considering our support of this legislation, and we hope you will vote YES on SB 84/HB 131 – a life saving piece of legislation.

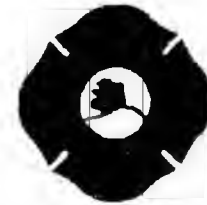
Sincerely,

A handwritten signature in black ink, appearing to read "Warren B. Cummings". The signature is written in a cursive style and is positioned above the printed name.

Warren B. Cummings
President, Alaska Fire Chiefs Association



ALASKA FIRE CHIEF'S ASSOCIATION
and the
ALASKA STATE FIRE FIGHTERS ASSOCIATION



JOINT RESOLUTION NO. 2006-1

A JOINT RESOLUTION TO THE STATE OF ALASKA LEGISLATURE SUPPORTING
PASSAGE OF LEGISLATION TO CREATE A FIRE SAFE CIGARETTE.

WHEREAS: Commercially, mass produced cigarettes have long been the leading
cause of fire deaths in the United States and particularly here in
Alaska and,

WHEREAS: Decades of research done by the National Institutes of Standards and
Technology, private industry and congressional research groups have
shown that reduced ignition propensity cigarettes can be
manufactured and,

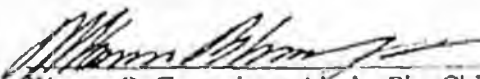
WHEREAS: Legislation has been passed in the state of New York, Vermont,
Illinois, New Hampshire and California as well as the nation of
Canada requiring cigarettes sold in those jurisdictions to meet the
standard in the New York law requiring fire safety performance and,

WHEREAS: Preliminary data from New York state already shows a significant
reduction in fire deaths following implementation of the law and,

WHEREAS: The National Fire Protection Association along with other national
safety and health related agencies have formed a coalition to propose
legislation in the remaining 44 states,

THEREFORE BE IT RESOLVED: That the Alaska Fire Chiefs Association and the Alaska
State Fire Fighters Association request the Alaska State Legislature to pass legislation
requiring cigarettes sold in Alaska meet the fire safe requirements of the standard written in
New York.

Adopted this 29th day of September 2006 by a vote of the joint memberships at their Fall
Conference in Fairbanks, Alaska.

Attested by: 
Warren B. Cummings, Alaska Fire Chief's Association President

Attested by: 
Carol Reed, President Alaska State Fire Fighters Association



National Fire Protection Association

1 Batterymarch Park, Quincy, MA 02169-7471
Phone: 617-770-3000 • Fax: 617-770-0700 • www.nfpa.org

James M. Shannon
President and Chief Executive Officer

February 23, 2007

Senator Donny Olson
State Capitol, Room 514
Juneau, AK 99801-1182

Dear Senator Olson:

I write to thank you for sponsoring SB 84, a bill that would require all cigarettes sold in Alaska to meet a fire safety standard. This important public safety bill will undoubtedly save lives and protect property all across your state.

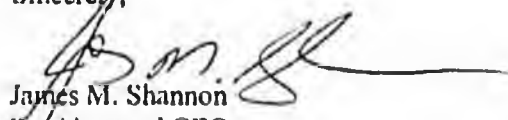
By filing this bill, you are taking a critical step to enhance fire safety by preventing fires caused by cigarettes. If the proposed fire-safe cigarette bill becomes law in Alaska, the state will be in good company. Already, legislative requirements for fire-safe cigarettes have been adopted in New York, Vermont, California, Illinois, New Hampshire and Massachusetts — covering over 25 percent of the U.S. population. Currently, there are 22 states across the country considering similar legislation.

Cigarettes are the leading cause of residential fire death across the country, killing 700 to 900 Americans each year. Additionally, thousands of victims suffer devastating burn and lung injuries, and property losses total millions of dollars each year. Cigarette fires also create a significant risk for firefighters battling these fires. Cigarette manufacturers can produce cigarettes that are more likely to go out when left unattended, greatly lowering the risk of igniting nearby furniture and bedding.

Fire-safe cigarettes work. Initial research in New York State since the implementation of its statewide mandate shows a dramatic decline in the number of fires and fatalities caused by cigarettes. Research has also shown that these fire-safe cigarettes have not reduced sales or made cigarettes more toxic to smoke. In short, fire-safe cigarettes save lives, and can make a difference in Alaska as well.

I strongly support this bill and your efforts to better protect the citizens of Alaska. Please let me know if I can be of assistance as the bill moves forward.

Sincerely,


James M. Shannon
President and CEO
National Fire Protection Association

Denise Liccioli

From: Sen. Donny Olson
Sent: Tuesday, March 27, 2007 8:09 AM
To: Denise Liccioli
Subject: FW: SB84

Jane Ann Boer
Legislative Assistant
Senator Donald Olson
Capitol Building Rm 514

(907) 465-3707
jane_boer@legis.state.ak.us

-----Original Message-----

From: Jack Smith [mailto:Jack.Smith@north-slope.org]
Sent: Tuesday, March 27, 2007 8:08 AM
To: Sen. Donny Olson
Cc: Edward Itta; George Olemaun; Andy Mack
Subject: SB84

Dear Senator Olson:

Want to again thank you for sponsoring SB 84. Was notified the bill has been read and forwarded to Senate finance. Am hopeful it can be heard and continue to move forward. The fire service strongly supports mandating safe cigarette sales in Alaska, recognizing the potential to save lives and property. Fire Chiefs around the state are in constant email contact about important bills such as this, ready to offer additional assistance. Please let me know if there is anything we can do to continue to support your efforts.

Again, thank you for recognizing the importance of this issue and your willingness to take up the fight.

Jack M. Smith Jr., Fire Chief
North Slope Borough Fire Department
P.O. Box 69
Barrow, Alaska 99723
(907) 852-0234
Fax (907) 852-0235



[Click here to return to the original story](#)

Fire leaves 18 homeless

City still considering sprinkler rule for downtown buildings

For years, commercial fisherman Norval Nelson III and friends lived in the eight-unit apartment building at 331 Gastineau Ave.

It was the perfect spot for a bachelor's shack.

"It was a nice comfortable place for watching the boat leave and come back and for watching fireworks," he said. "It was a cool option for someone that wasn't the richest to have a bay view."

It's not any more.

An abandoned cigarette blew out of an ashtray and into a crevice in an outdoor couch Wednesday morning, touching off a fire that gutted the three-story Gastineau Avenue apartment building and left 18 people homeless, Capital City Fire & Rescue investigators said.

Propelled by gusting winds, the fire quickly decimated the wooden building. There was no sprinkler system to stop it.

"Really, the only way to make these old buildings safe is to install a sprinkler system," Fire Chief Eric Mohrmann said. "A system that was properly installed, with two or more heads at the most, would have easily extinguished the fire."

The smoldering cigarette was left in an ashtray outside the first floor 30 minutes before the fire was reported, at 10:23 a.m., Mohrmann said.

By then, the fire was progressing rapidly up the wooden staircase. The first Capital City unit arrived at 10:28, and the first ladder truck pulled up by 10:32.

The fire has been ruled accidental. No charges have been filed, nor are any anticipated, Mohrmann said. Property damage is still unknown, but the 18 residents lost practically everything they had in the building.

"There's definitely a large group of people that were living there that aren't the wealthiest," Nelson said. "They had enough to make ends meet. I doubt

that any of them will recover any personal belongings of that loss. And if they do, it's going to take some time to regain everything.

"It's a shame to live with 10 shirts, and 10 pants and 10 shoes, and get maybe a shirt and a pair of pants and a shoe," he said.

Though belongings were lost, no lives were. One person was treated at Bartlett Regional Hospital for injuries.

As of Thursday afternoon, the Red Cross had doled out \$11,000 in immediate response credit cards to the 11 families, or 18 people, who lived in the building, said Shad Engkilterra, Southeast service center director.

The cards pay for food for each person for a week, clothing, shoes, seasonal garments, an allotment for storage containers, bedding and linens.

The Red Cross expects to give out a total of \$22,000, he said. It also has a rental assistance program that sometimes provides the first month's rent or enough money to cover a deposit.

Six of the families have been housed at the Driftwood Lodge for at least three days. Five other families found alternative options.

In a situation like this, Engkilterra said, the Red Cross is able to pay for up to five days of lodging.

"After that, I have to say, 'No, you have to pay for this on your own,' which is hard," he said. "The housing situation in Juneau being what it is. I've had some people contact us about (housing options), and the best I can do is pass that information on."

As of 3 p.m. Thursday, Juneau residents had donated \$500 to the fire relief effort. Most people had called wondering if they could donate items.

"I've been referring them to St. Vincent or the Salvation Army," Engkilterra said. "We're not equipped to deal with anything other than monetary donations."

The apartment was built in the 1960s. The codes at that time did not mandate sprinkler systems, said Sara Boesser, the city's chief building inspector.

The owner installed a six-inch fire line in 2001 to feed a sprinkler system, but apparently never took the next step.

The city's Public Works Committee is deliberating a retrofit ordinance that would require all buildings in downtown Juneau's "high hazard" core area to install sprinkler systems.

The burned apartment falls within that zone.

The "high hazard" map stretches along Gastineau Avenue to Sixth Street, down Sixth to Main Street, and down Main to the intersection with Egan Drive and Marine Way. It also includes the area by the Mount Roberts Tram and part of Willoughby Avenue.

"The problem we have is a lot of 100-year-old wood-framed construction right next to each other without fire prevention or walls or yards separating them," Mohrmann said. "That can lead to fire jumping from building to building."

At the last Public Works Committee meeting, the staff was directed to develop a financial plan to help subsidize sprinklers, Mohrmann said.

Click here to return to story:

http://www.juneauempire.com/stories/040607/loc_20070406028.shtml

SB

85

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: May 2, 2007

FURTHER REFERRALS:

Date of Committee Action: 5/9/07

The FINANCE Committee considered:

SB 85

SENATE BILL NO. 85

EXTEND STATE MEDICAL BOARD

"An Act extending the termination date for the State Medical Board; and providing for an effective date."

Recommends it be replaced with HCS or CS for _____ (_____)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:

- ADM
- CEC
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LWF
- LAW
- LEG
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
FC for CED	2			

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
<i>[Signature]</i>	Gara	✓			
<i>[Signature]</i>	Thomas	✓			
<i>[Signature]</i>	TESTER	X			
<i>[Signature]</i>	CRAWFORD	X			
<i>[Signature]</i>	KELLY	X			
<i>[Signature]</i>	NEELSON	✓			
<i>[Signature]</i>	Touche	X			
<i>[Signature]</i>	Hawker	X			
<i>[Signature]</i>	STOLTZ	X			
Chair: <i>[Signature]</i>					
Chair: <i>[Signature]</i>	Mayer	✓			

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 85
(S) Publish Date: 3/28/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title Extend State Medical Board RDU Occupational Licensing (117)
Component Occupational Licensing
Sponsor Senator Davis
Requester Senate Finance Committee Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services		493.7	493.7	493.7	493.7	493.7
Travel		32.4	32.4	32.4	32.4	32.4
Contractual		309.0	309.0	309.0	309.0	309.0
Supplies		11.9	11.9	11.9	11.9	11.9
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	847.0	847.0	847.0	847.0	847.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services		847.0	847.0	847.0	847.0	847.0
TOTAL	0.0	847.0	847.0	847.0	847.0	847.0

Estimate of any current year (FY2007) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation extends the State Medical Board to June 30, 2013. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Board to conclude its affairs. FY 2008 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years are estimated based on the direct costs included in the FY 2008 budget.

The program is required to cover its costs with licensing fees under AS 08.01.065, and revenue generated by board fees is anticipated to cover the full operating costs. New funds are not required to implement this bill.

Prepared by: Senate Finance Committee Phone 465-6581
Division _____ Date/Time 3/26/07 3:29 PM
Approved by: Senator Bert Stedman Date 3/27/2007
Agency _____

Alaska State Legislature

Interim: (May - Dec.)
716 W. 4th Ave
Anchorage, AK 99501
Phone: (907) 269-0144
Fax: (907) 269-0148



Session: (Jan. - May)
State Capitol, Suite 7
Juneau, AK 99801-1182
Phone: (907) 465-3822
Fax: (907) 465-3756
Toll free: (800) 770-3822

Senator Bettye Davis@legis.state.ak.us
<http://www.aksenate.org/>

Senator Bettye Davis

SB 85 "An Act extending the termination date for the State Medical Board; and providing for an effective date."

Sponsor Statement

Senate Bill 85 extends the sunset date of the State Medical Board until June 30, 2013, in accordance with the recommendations of the Legislative Auditor. The legislative auditor has concluded that the State Medical Board meets the statutory requirements of public need and should continue to regulate the occupations under its purview.

The board consists of five licensed physicians, one licensed physician assistant, and two persons with no direct financial interests in the healthcare industry. The board serves the public interest by establishing the minimum education and work experience requirements that individuals must meet to become licensed physicians, osteopaths, podiatrists, paramedics, and physician assistants. The board further serves the public interest by investigating complaints against licensed professionals and taking disciplinary licensing action when appropriate.

The board has consistently proven to be efficient, therefore I recommend that the State Medical Board be extended to June 30, 2013, and ask for your support in passage of this bill.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: SB85-COM-OL-03-07-07
 Bill Version: SB 85
 () Publish Date: _____

Revision Date/Time (Note if correction): 3/7/2007

Dept. Affected: Commerce

Title: Extend State Medical Board

RDU: Occupational Licensing (117)

Component: Occupational Licensing

Sponsor: Davis

Requester: Senate HES

Component No.: 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services		493.7	493.7	493.7	493.7	493.7
Travel		32.4	32.4	32.4	32.4	32.4
Contractual		309.0	309.0	309.0	309.0	309.0
Supplies		11.9	11.9	11.9	11.9	11.9
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	846.9	846.9	846.9	846.9	846.9

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services		846.9	846.9	846.9	846.9	846.9
TOTAL	0.0	846.9	846.9	846.9	846.9	846.9

Estimate of any current year (FY2007) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation extends the State Medical Board to June 30, 2013. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Board to conclude its affairs. FY 2008 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years reflect the direct costs included in the FY 2008 budget.

The program is required to cover its costs with licensing fees under AS 08.01.065, and revenue generated by board fees is anticipated to cover the full operating costs. New funds are not required to implement this bill.

Prepared by: Chris Wyatt, Administrative Manager
 Division: Corporations, Business, and Professional Licensing
 Approved by: Emil Notti, Commissioner
 Agency: Commerce, Community, and Economic Development

Phone: (907) 465-2572
 Date/Time: 3/7/07 5:57 PM
 Date: 3/7/2007

Audit Report

DEPARTMENT OF COMMERCE,
COMMUNITY, AND ECONOMIC
DEVELOPMENT
STATE MEDICAL BOARD
SUNSET REVIEW

October 3, 2006



Audit Control Number:

08-20046-06

Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from the Senate and two from the House. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$6 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed as mandated by Alaska Statutes or at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in Juneau, Anchorage, or at our web site <http://www.legaudit.state.ak.us/>

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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November 3, 2006

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT
STATE MEDICAL BOARD
SUNSET REVIEW

October 3, 2006

Audit Control Number

08-20046-06

This audit was conducted as required by AS 44.66.050 and under 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, or program subject to the sunset review process. Currently under AS 08.03.010(c)(12), the State Medical Board is scheduled to terminate on June 30, 2007. The board would be allowed one year in which to conclude its administrative operations.

In our opinion, the termination date for the State Medical Board should be extended. We recommend that the legislature extend the termination date of the board to June 30, 2013.

The audit was conducted in accordance with generally accepted government audit standards. Fieldwork procedures utilized in the course of developing report conclusion and the analysis presented in this report are discussed in the Objectives, Scope, and Methodology.

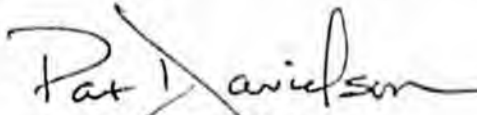

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the State Medical Board (board). Under AS 44.66.050(a), the legislative committee of reference is to consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(12) requires the board to terminate on June 30, 2007. If the legislature takes no action to extend the termination date, the board will have one year from that date to conclude its operations.

Objectives

Central, interrelated objectives of our report are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public interest.
3. To determine if the board has exercised appropriate regulatory oversight of physicians, osteopaths, podiatrists, paramedics and physician assistants.

The assessment of the operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

Scope and Methodology

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

The major areas of our review were board proceedings, licensing, and complaint investigation and resolution functions for fiscal years ending June 30, 2003, 2004, 2005, and 2006. During the course of our examination we reviewed and evaluated the following:

- Applicable statutes and regulations.
- Compliance with statutes and regulation related to the licensing of physicians, osteopaths, podiatrists, paramedics, and physician assistants.
- Minutes of board meetings, budget documents, and annual reports related to or issued by the board.

- Files related to applicants for, and holders of, licenses issued by the board.
- Complaints filed with the Department of Commerce, Community, and Economic Development, Division of Corporations, Professional and Business Licensing (division)
- Interviews with employees of the division.
- Reading and correspondence files maintained with the division.

ORGANIZATION AND FUNCTION

Alaska Statute 08.64.010 establishes the State Medical Board (board). The board consists of five licensed physicians "*residing in as many separate geographical areas of the state as possible,*" a licensed physician assistant, and two public members who are to have "*no direct financial interest in the health care industry.*"

The board regulates the following groups of professionals engaged in medical practice in Alaska: physicians, osteopaths, podiatrists, paramedics, and physician assistants.

Most licensing requirements are established by statute. However, for unique circumstances, the statutes permit the board to waive some requirements and replace them with special conditions, imposed by the board, for issuing special licenses.

These special licenses include those issued by endorsement, and those permitting temporary practice for up to six months, or until the board meets to consider the application, whichever comes first.

The board also issues a temporary *locum tenens* permit which is valid for 120 consecutive days, but not more than 240 days in any two-year period.

Department of Commerce, Community, and Economic Development (DCCED), Division of Corporations, Business and Professional Licensing (division)

State Medical Board (As of June 30, 2006)

David M. Head, MD, Chair
Robert A. Breffeilh, MD
John T. Duddy, MD
G. Bert Flaming, MD
Edward A. Hall, Physician Assistant
Nancy Puckett, Public Member
Michael J. Tauriainen, Public Member
Kevin M. Tomera, MD

The division provides administrative and investigative assistance to the State Medical Board. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065 mandates that DCCED, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of fees for applications, examinations, licenses, registration, permits, investigations, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the division with the authority to act on its own initiative, or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person is engaged in, or is about to engage in, a prohibited professional practice.
2. Bring an action in superior court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

REPORT CONCLUSIONS

In our opinion, the State Medical Board (board) is operating in the public's best interest and should continue to regulate occupations within the purview of the board.¹ The board is safeguarding the public interest by promoting the competence and integrity of those who hold themselves out to the public as qualified and competent medical professionals.

The board serves a public purpose and has demonstrated an ability to conduct its business in a satisfactory manner. The board continues to propose changes to regulations to improve its effectiveness and ensure that medical professionals are licensed in the State of Alaska.

As discussed more fully in the Analysis of Public Need section of this letter, investigations are open for significantly longer periods of time when compared to the prior audit. Several factors such as staff turnover among investigators and the establishment of a panel review process for standard-of-care cases have contributed to lengthier investigative periods. However, prompt investigations of complaints regarding medical professionals are essential to public health and welfare.

Alaska Statute 08.03.010(c)(12) requires the State Medical Board be terminated on June 30, 2007. Under AS 08.03.020, the board has a one-year period to administratively conclude its affairs. We recommend that the legislature extend the board's termination date by six years, until June 30, 2013.

¹ Occupations regulated by the State Medical Board include physicians, osteopaths, podiatrists, paramedics, and physician assistants.

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FINDING AND RECOMMENDATION

Recommendation No. 1

The board should update regulatory language to reflect current license-by-examination practices.

Current license by examination practices are not in accordance with regulatory language. Regulation 12 AAC 40.020(a) reads "*[T]he written examination is administered twice yearly in Alaska ...*" However, candidates may sit for the computerized examination up to three times within a 12-month period. The State Medical Board has contracted with the Federation of State Medical Boards (FSMB) to administer the computerized examination. Candidates schedule testing directly with FSMB and may test at any time throughout the year at an approved testing center.

Due to other pressing matters, updating the regulatory language has not been a priority of the board. Outdated regulatory language is misleading to readers seeking information regarding licensing procedures in the State of Alaska. As such, 12 AAC 40.020(a) should be updated to reflect current examination practices.

(Intentionally left blank)

ANALYSIS OF PUBLIC NEED

The following analyses of State Medical Board (board) activities relate to the public-need factors defined in the sunset review law at AS 44.66.050(c). These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

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

The State Medical Board, through regulation of the licensure of medical professionals, has provided the public with qualified professionals in the field of medicine. To promote continued competence, all licensees must provide proof of continuing education for license renewal and each licensee is subject to a continuing education audit.

The board adopted or revised regulations regarding professional conduct and ethical standards, professional licensure, and educational requirements. The board has issued licenses in a uniform manner and held required meetings.

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

During the review period, the board continually reviewed statutes and regulations for necessary changes. No changes to statutes governing the medical board were made during the review period. The board did, however, support passage of Ch 40, SLA 2005, Sec. 2 (AS 09.55.549) which limits liability on malpractice claims.

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

The locations, dates, and times of upcoming board meetings and proposed changes in regulations were published in the *Anchorage Daily News*, as well as posted on the board's website. Adequate time was provided for interested individuals to plan to attend or to submit written comment for review.

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

The board submitted annual reports for FY 03 through FY 06 in a timely manner. Additionally, the board has a financial surplus at the end of FY 06. See Exhibit 1 for details.

Exhibit 1

State Medical Board Schedule of License Revenues and Board Expenditures FY 03 - FY 06 (Unaudited)				
	FY 06	FY 05	FY 04	FY 03
Revenue	\$405,691	\$1,818,123	\$331,850	\$1,630,349
Direct Expenses				
Personal Services	416,838	416,568	446,749	429,996
Travel	32,060	30,658	30,934	38,269
Contractual	275,050	214,586	146,593	282,043
Supplies	4,435	6,489	4,361	5,354
Equipment	-	-	-	120
Total Direct Expenses	<u>728,383</u>	<u>668,301</u>	<u>628,637</u>	<u>755,782</u>
Indirect Expense	<u>170,600</u>	<u>161,019</u>	<u>146,809</u>	<u>140,633</u>
Total Expenses	<u>898,983</u>	<u>829,320</u>	<u>775,446</u>	<u>896,415</u>
Annual Surplus (Deficit)	<u>(493,292)</u>	<u>988,803</u>	<u>(443,596)</u>	<u>733,934</u>
Beginning Cumulative Surplus (Deficit)	<u>1,087,979</u>	<u>99,176</u>	<u>542,434</u>	<u>(191,500)</u>
Unallocated Administrative Indirect Revenue	<u>-</u>	<u>-</u>	<u>338</u>	<u>-</u>
Ending Cumulative Surplus (Deficit)	<u>\$ 594,687</u>	<u>\$1,087,979</u>	<u>\$ 99,176</u>	<u>\$ 542,434</u>

The Division of Corporations, Business, and Professional Licensing (division), with input from the board, sets fees based on a two-year cycle, with the majority of the revenue collected in odd-numbered fiscal years. Based upon the financial data presented in Exhibit 1, licensing fees may need to be decreased during the next licensing period.

For multiple licensing periods, revenues have steadily risen while expenditures have remained relatively stable. These two factors combined with an increase in the number of

licensees, present the likelihood that the cumulative surplus will continue to grow in future years. Given this likely scenario, the division and the board should closely review licensing fees to ensure occupational fees are sufficiently set to avoid an operational surplus.

Determine 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 the *Anchorage Daily News* and the State of Alaska's Online Public Notice System. The board meeting minutes show that unlimited time was allotted for the scheduled public comment period. All proposed regulation changes are subject to the public participation process.

Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.

For the period July 2002 through June 2006, the division opened 337 investigative cases related to individuals either seeking licensure or licensed by the State Medical Board.

Approximately 43% of the cases involved complaints made by patients or other individuals of the public. Another 30% were initiated by occupational licensing staff. Board actions taken during the audit period included, but were not limited to those identified in Exhibit 2.

Exhibit 2

Discipline or Other Actions	2003	2004	2005	2006	Total
Audit Compliance	-0-	2	-0-	3	5
Education	-0-	-0-	1	-0-	1
Fine	11	14	12	14	51
Limited License ²	-0-	3	-0-	4	7
Probation	5	3	1	2	11
Reprimand	6	15	8	12	41
Revocation	-0-	3	1	-0-	4
Suspension	<u>3</u>	<u>2</u>	<u>4</u>	<u>2</u>	<u>11</u>
Total	25	42	27	37	131

The types of complaints filed included, but were not limited to:

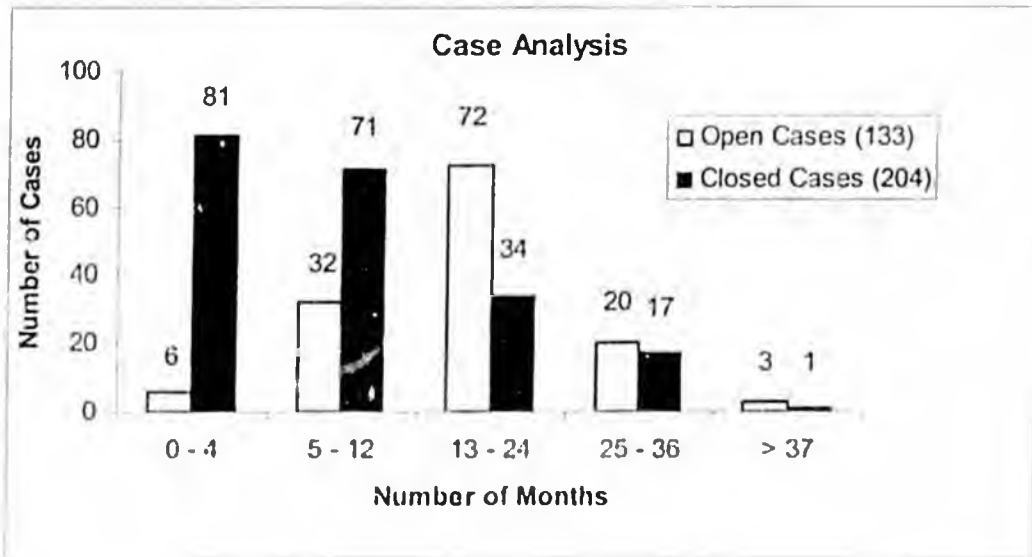
- Prescriptive practice (77)
- Negligence (71)
- Other (22)
- License application problem (20)

² License limitations may be self-imposed and, therefore, do not necessarily reflect board imposed restrictions.

- Continuing education requirements (17)
- Sexual misconduct (15)
- Falsified application (14)
- Incompetence (13)
- Patient/client abuse (15)
- Action in another state (12)
- Unlicensed practice (12)

Two hundred four (204) of the 337 investigative cases had closed as of June 30, 2006; 133 remained open. The cases are graphically depicted below.

Exhibit 3



During the review period, investigative cases remained open for longer periods of time when compared to the prior sunset audit. While the number of investigations that opened and closed did not change significantly between the prior and current audit periods,¹ the length of time, or the age, of investigative cases open at the end of FY 06 was substantially different.

In the prior audit, 121 or 29% of cases remained open at the end of the review period. Of those cases, 74% had opened within the prior four months; the remaining 26% were open for a period of time exceeding four months.

The 133 open investigations at the end of FY 06 shows only 5% were opened in the prior four months; the remaining 95% were open for periods of time exceeding four months.

¹ In the prior audit, 413 investigative cases were opened. Two hundred ninety-two (292) closed within the audit period; 121 remained open. Comparatively, in the current period 337 investigative cases were opened. Two hundred four (204) closed within the audit period; 133 remained open.

Further, 71% were open for longer than one year.⁴

Several factors likely contributed to the lengthy investigations in the current audit period. Specifically, multiple ongoing high profile cases which may involve litigation, implementation of a panel review process⁵ for standard-of-care cases⁶, high employee turnover, and investigator training have slowed case processing times. Individually, these factors may not have significantly slowed the investigative process; however, collectively, their impact is notable.

We have reviewed the nature and extent of complaints filed involving medical professionals. The division, in conjunction with the board, prioritized complaints in a reasonable manner. We have concern with the increase in the number of investigations that are staying open for longer periods of time. We believe the division should report to the board regarding the length of investigations to help ensure the complaints are being investigated in an efficient and timely manner.

No complaints or investigations specifically involving the actions and activities of the State Medical Board were received, or undertaken by, either the Office of the Ombudsman or the Office of Victims' Rights within the past four fiscal years.

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

The application process for licensing appears reasonable and appropriate. The licensing process is neither unduly restrictive nor too lax. Exhibit 4 below, summarized new licenses and permits issued by the board for FY 03 through FY 06 as well as the current number of license and permit holders at the end of FY 06.

Exhibit 4

License or Permit Type	New Licenses and Permits Issued (exclusive of renewals)				Current Number of Licensees (as of June 30, 2006)
	FY 03	FY 04	FY 05	FY 06	
Physicians	235	192	237	212	2,604
Osteopaths	16	16	23	22	205
Podiatrists	1	1	2	1	21
Paramedics	36	37	47	47	334
Physician Assistants	24	34	45	37	361
Total					3,525

⁴ Typically in high-profile cases numerous complaints are filed against an individual. At the end of the audit period, there were more than 59 open cases related to two physicians; 43 cases have been open longer than one year.

⁵ The two-member panel review is composed of medical professionals serving on the board. Panel members are rotated monthly.

⁶ Standard-of-care is defined as the level of care, skill, and treatment which is recognized as acceptable and appropriate by reasonably prudent similar healthcare providers under similar circumstances.

Continuing medical education is required and adequately monitored by the board to promote a high level of quality performance and to help ensure the integrity of the profession. In FY 03, the continuing medical education requirement increased from 17 to 25 hours for licensing periods beginning after January 1, 2005.

Each applicant is required to satisfy the requirements for licensing. Meeting minutes reflect that the board considers each application and verifies the licensing requirements are satisfied prior to issuing a license.

Determine 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.

We did not find any evidence that the board was not complying with the state personnel practices, including affirmative action, in qualifying applicants. Each time the board has denied an applicant a license, the reason has been based on requirements set out in statute and regulation. The reasons for denials are stated in writing and the applicant is always informed of their rights, and the process to contest or appeal any denial of licensure.

Determine 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.

Regulatory revision to 12 AAC 40.020(a) is necessary to clarify the current exam process. The regulation states the "...written examination administered twice yearly in Alaska..." does not reflect the current practice. The board has contracted with the Federation of State Medical Boards (FSMB) to administer the computerized United States Medical Licensing Examination which is available year-round at specific test sites. See Recommendation No. 1.

The board continues to be active in recommending regulatory changes, in order to better service the interest of both the public and the profession.

Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.

Broad objectives identified by the board included:

- Continue to provide timely, complete processing of all applications submitted to the board for licensure.
- Respond promptly, objectively, and decisively to all complaints.
- Act upon disciplinary matters swiftly and in accordance with the law after obtaining complete and detailed investigation reports and advice from the Assistant Attorneys General.

- Review, draft and pursue regulatory changes in order to more clearly define existing law and to establish clear, concise requirements for applicants and practitioners.
- Maintain a presence in national organizations important to the function of the medical board.
- Send one voting delegate, one other board member, and the board's administrator to the annual FSMB conference.

The board establishes and meets its operational objectives annually.

Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.

The board is tasked with licensing physicians, osteopaths, podiatrists, physician assistants, and intensive care paramedics. Our review of the interactions among the State Medical Board, the Alaska State Medical Association, the American Medical Association, and other national organizations showed no overlap of duties. Licensees are not required to be members of any professional organization.

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DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Division of Corporations, Business and Professional Licensing

Sarah Palin, Governor
William C. Noll, Commissioner
Rick Urion, Director

December 8, 2006

RECEIVED

DEC 11 2006

LEGISLATIVE AUDIT

Ms. Pat Davidson
Legislative Auditor
Legislative Budget and Audit Committee
Division of Legislative Audit
PO Box 113300
Juneau, Alaska 99811-3300

Dear Ms. Davidson,

RE: Sunset Review Audit, State Medical Board

Dear Ms. Davidson:

Thank you for the opportunity to comment on your preliminary audit findings concerning the Alaska State Medical Board. The department concurs with your findings and fully supports extension of the State Medical Board to June 30, 2013.

As mentioned in the earlier Management Letter No. 1, the department will encourage and assist the Board to comply with your Recommendation No. 1 to update its regulation 12 AAC 40.020(a) reflecting the current practice of computerized examinations offered by the Federation of State Medical Boards (FSMB).

We also appreciate your comments in paragraph 1 on page 13 recognizing that several factors contribute toward lengthy investigations. We also want to clarify that several of the investigative cases which appear to be "open" have already completed the investigation stage and remain open because of litigation. We feel it is important to note the distinction of these open cases. The Investigations Unit has no control over cases once it enters the litigation process.

Again, we appreciate the opportunity to comment on your audit findings.

Sincerely,


William C. Noll
Commissioner

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DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

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NOV 08 2006
LEGISLATIVE AUDIT

Frank H. Murkowski, Governor
William C. Noll, Commissioner
Rick Urion, Director

Division of Corporations, Business and Professional Licensing

Alaska State Medical Board

907/269-8163 - Office

907/269-8196 - Fax

November 3, 2006

Regina M. Vose, In-Charge Auditor
Legislative Budget and Audit Committee
Post Office Box 113300
Juneau AK 99811-3300

Ms. Vose, thank you for your letter of October 9, 2006 in which you present your findings from the sunset audit for the Alaska State Medical Board.

We noted in the report that it is your recommendation that the board pursue a change regarding the administration of the physician qualification examination, regulation, 12 AAC 40.020(a). Since the Alaska board licenses very few physicians by examination, less than five percent of our applicants per year, the revision of this particular regulation has not been a high priority for the board. We do agree that it needs to be updated to conform with current practices and have initiated the process to do so.

Thank you, Ms. Vose, for your review of the medical board and we appreciate your comments.

David M. Head, MD
Chair, Alaska State Medical Board

cc: Richard Urion, Division Director
Division of Corporations, Business, and Professional Licensing

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SB

85

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAR 27 2007
 SENATE FINANCE COMMITTEE

DATE: 3/23/07

FURTHER:

 DATE TURNED IN TO OFFICE: 27 March 2007

Finance Committee considered SENATE BILL NO. 85

SB 85 EXTEND STATE MEDICAL BOARD

"An Act extending the termination date for the State Medical Board; and providing for an effective date."

and recommends:

- be replaced with SCS or CS _____ (_____)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:

- Same Title
- New Title

HOUSE BILL:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
Commerce	3/27/07	✓		✓	#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

 APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Elton	✓			
	Thomas	✓			
	Dyson	✓			
	Haggins	✓			
	Olson			✓	
CO-CHAIR:	Hoffman	✓			
CO-CHAIR:	Stedman	✓			

FISCAL NOTE

REPORTED OUT
MAR 27 2007
 SENATE FINANCE COMMITTEE

STATE OF ALASKA
 2007 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 85
 (S) Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Extend State Medical Board RDU Occupational Licensing (117)
 Component Occupational Licensing
 Sponsor Senator Davis
 Requester Senate Finance Committee Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services		493.7	493.7	493.7	493.7	493.7
Travel		32.4	32.4	32.4	32.4	32.4
Contractual		309.0	309.0	309.0	309.0	309.0
Supplies		11.9	11.9	11.9	11.9	11.9
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	847.0	847.0	847.0	847.0	847.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services		847.0	847.0	847.0	847.0	847.0
TOTAL	0.0	847.0	847.0	847.0	847.0	847.0

Estimate of any current year (FY2007) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation extends the State Medical Board to June 30, 2013. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Board to conclude its affairs. FY 2008 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years are estimated based on the direct costs included in the FY 2008 budget.

The program is required to cover its costs with licensing fees under AS 08.01.065, and revenue generated by board fees is anticipated to cover the full operating costs. New funds are not required to implement this bill.

Prepared by: Senate Finance Committee Phone 465-6581
 Division: _____ Date/Time 3/26/07 3:29 PM
 Approved by: Senator Bert Stedman Date 3/27/2007
 Agency: _____

Alaska State Legislature

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Senator Bettye Davis@legis.state.ak.us
<http://www.akdemocrats.org>

Senator Bettye Davis

SB 85 "An Act extending the termination date for the State Medical Board; and providing for an effective date."

Sponsor Statement

Senate Bill 85 extends the sunset date of the State Medical Board until June 30, 2013, in accordance with the recommendations of the Legislative Auditor. The legislative auditor has concluded that the State Medical Board meets the statutory requirements of public need and should continue to regulate the occupations under its purview.

The board consists of five licensed physicians, one licensed physician assistant, and two persons with no direct financial interests in the healthcare industry. The board serves the public interest by establishing the minimum education and work experience requirements that individuals must meet to become licensed physicians, osteopaths, podiatrists, paramedics, and physician assistants. The board further serves the public interest by investigating complaints against licensed professionals and taking disciplinary licensing action when appropriate.

The board has consistently proven to be efficient, therefore I recommend that the State Medical Board be extended to June 30, 2013, and ask for your support in passage of this bill.



Audit Report

DEPARTMENT OF COMMERCE,
COMMUNITY, AND ECONOMIC
DEVELOPMENT
STATE MEDICAL BOARD
SUNSET REVIEW

October 3, 2006



Audit Control Number:

08-20046-06

Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300

ALASKA STATE LEGISLATURE
LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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November 3, 2006

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT
STATE MEDICAL BOARD
SUNSET REVIEW

October 3, 2006

Audit Control Number

08-20046-06

This audit was conducted as required by AS 44.66.050 and under 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, or program subject to the sunset review process. Currently under AS 08.03.010(c)(12), the State Medical Board is scheduled to terminate on June 30, 2007. The board would be allowed one year in which to conclude its administrative operations.

In our opinion, the termination date for the State Medical Board should be extended. We recommend that the legislature extend the termination date of the board to June 30, 2013.

The audit was conducted in accordance with generally accepted government audit standards. Fieldwork procedures utilized in the course of developing report conclusion and the analysis presented in this report are discussed in the Objectives, Scope, and Methodology.

Handwritten signature of Pat Davidson in cursive.

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the State Medical Board (board). Under AS 44.66.050(a), the legislative committee of reference is to consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(12) requires the board to terminate on June 30, 2007. If the legislature takes no action to extend the termination date, the board will have one year from that date to conclude its operations.

Objectives

Central, interrelated objectives of our report are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public interest.
3. To determine if the board has exercised appropriate regulatory oversight of physicians, osteopaths, podiatrists, paramedics and physician assistants.

The assessment of the operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

Scope and Methodology

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

The major areas of our review were board proceedings, licensing, and complaint investigation and resolution functions for fiscal years ending June 30, 2003, 2004, 2005, and 2006. During the course of our examination we reviewed and evaluated the following:

- Applicable statutes and regulations.
- Compliance with statutes and regulation related to the licensing of physicians, osteopaths, podiatrists, paramedics, and physician assistants.
- Minutes of board meetings, budget documents, and annual reports related to or issued by the board.

- Files related to applicants for, and holders of, licenses issued by the board.
- Complaints filed with the Department of Commerce, Community, and Economic Development, Division of Corporations, Professional and Business Licensing (division)
- Interviews with employees of the division.
- Reading and correspondence files maintained with the division.

ORGANIZATION AND FUNCTION

Alaska Statute 08.64.010 establishes the State Medical Board (board). The board consists of five licensed physicians "*residing in as many separate geographical areas of the state as possible.*" a licensed physician assistant, and two public members who are to have "*no direct financial interest in the health care industry.*"

The board regulates the following groups of professionals engaged in medical practice in Alaska: physicians, osteopaths, podiatrists, paramedics, and physician assistants.

Most licensing requirements are established by statute. However, for unique circumstances, the statutes permit the board to waive some requirements and replace them with special conditions, imposed by the board, for issuing special licenses.

These special licenses include those issued by endorsement, and those permitting temporary practice for up to six months, or until the board meets to consider the application, whichever comes first.

The board also issues a temporary *locum tenens* permit which is valid for 120 consecutive days, but not more than 240 days in any two-year period.

Department of Commerce, Community, and Economic Development (DCCED), Division of Corporations, Business and Professional Licensing (division)

State Medical Board (As of June 30, 2006)

David M. Head, MD, Chair
Robert A. Breffeilh, MD
John T. Duddy, MD
G. Bert Flaming, MD
Edward A. Hall, Physician Assistant
Nancy Puckett, Public Member
Michael J. Tauriainen, Public Member
Kevin M. Tomera, MD

The division provides administrative and investigative assistance to the State Medical Board. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065 mandates that DCCED, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of fees for applications, examinations, licenses, registration, permits, investigations, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the division with the authority to act on its own initiative, or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person is engaged in, or is about to engage in, a prohibited professional practice.
2. Bring an action in superior court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

REPORT CONCLUSIONS

In our opinion, the State Medical Board (board) is operating in the public's best interest and should continue to regulate occupations within the purview of the board.¹ The board is safeguarding the public interest by promoting the competence and integrity of those who hold themselves out to the public as qualified and competent medical professionals.

The board serves a public purpose and has demonstrated an ability to conduct its business in a satisfactory manner. The board continues to propose changes to regulations to improve its effectiveness and ensure that medical professionals are licensed in the State of Alaska.

As discussed more fully in the Analysis of Public Need section of this letter, investigations are open for significantly longer periods of time when compared to the prior audit. Several factors such as staff turnover among investigators and the establishment of a panel review process for standard-of-care cases have contributed to lengthier investigative periods. However, prompt investigations of complaints regarding medical professionals are essential to public health and welfare.

Alaska Statute 08.03.010(c)(12) requires the State Medical Board be terminated on June 30, 2007. Under AS 08.03.020, the board has a one-year period to administratively conclude its affairs. We recommend that the legislature extend the board's termination date by six years, until June 30, 2013.

¹ Occupations regulated by the State Medical Board include physicians, osteopaths, podiatrists, paramedics, and physician assistants.

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FINDING AND RECOMMENDATION

Recommendation No. 1

The board should update regulatory language to reflect current license-by-examination practices.

Current license by examination practices are not in accordance with regulatory language. Regulation 12 AAC 40.020(a) reads "*[T]he written examination is administered twice yearly in Alaska ...* ." However, candidates may sit for the computerized examination up to three times within a 12-month period. The State Medical Board has contracted with the Federation of State Medical Boards (FSMB) to administer the computerized examination. Candidates schedule testing directly with FSMB and may test at any time throughout the year at an approved testing center.

Due to other pressing matters, updating the regulatory language has not been a priority of the board. Outdated regulatory language is misleading to readers seeking information regarding licensing procedures in the State of Alaska. As such, 12 AAC 40.020(a) should be updated to reflect current examination practices.

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ANALYSIS OF PUBLIC NEED

The following analyses of State Medical Board (board) activities relate to the public-need factors defined in the sunset review law at AS 44.66.050(c). These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

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

The State Medical Board, through regulation of the licensure of medical professionals, has provided the public with qualified professionals in the field of medicine. To promote continued competence, all licensees must provide proof of continuing education for license renewal and each licensee is subject to a continuing education audit.

The board adopted or revised regulations regarding professional conduct and ethical standards, professional licensure, and educational requirements. The board has issued licenses in a uniform manner and held required meetings.

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

During the review period, the board continually reviewed statutes and regulations for necessary changes. No changes to statutes governing the medical board were made during the review period. The board did, however, support passage of Ch 40, SLA 2005, Sec. 2 (AS 09.55.549) which limits liability on malpractice claims.

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

The locations, dates, and times of upcoming board meetings and proposed changes in regulations were published in the *Anchorage Daily News*, as well as posted on the board's website. Adequate time was provided for interested individuals to plan to attend or to submit written comment for review.

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

The board submitted annual reports for FY 03 through FY 06 in a timely manner. Additionally, the board has a financial surplus at the end of FY 06. See Exhibit I for details.

Exhibit I

State Medical Board Schedule of License Revenues and Board Expenditures FY 03 - FY 06 (Unaudited)				
	FY 06	FY 05	FY 04	FY 03
Revenue	\$405,691	\$1,818,123	\$331,850	\$1,630,349
Direct Expenses				
Personal Services	416,838	416,568	446,749	429,996
Travel	32,060	30,658	30,934	38,269
Contractual	275,050	214,586	146,593	282,043
Supplies	4,435	6,489	4,361	5,354
Equipment	-	-	-	120
Total Direct Expenses	<u>728,383</u>	<u>668,301</u>	<u>628,637</u>	<u>755,782</u>
Indirect Expense	<u>170,600</u>	<u>161,019</u>	<u>146,809</u>	<u>140,633</u>
Total Expenses	<u>898,983</u>	<u>829,320</u>	<u>775,446</u>	<u>896,415</u>
Annual Surplus (Deficit)	<u>(493,292)</u>	<u>988,803</u>	<u>(443,596)</u>	<u>733,934</u>
Beginning Cumulative Surplus (Deficit)	<u>1,087,979</u>	<u>99,176</u>	<u>542,434</u>	<u>(191,500)</u>
Unallocated Administrative Indirect Revenue	<u>-</u>	<u>-</u>	<u>338</u>	<u>-</u>
Ending Cumulative Surplus (Deficit)	<u>\$ 594,687</u>	<u>\$1,087,979</u>	<u>\$ 99,176</u>	<u>\$ 542,434</u>

The Division of Corporations, Business, and Professional Licensing (division), with input from the board, sets fees based on a two-year cycle, with the majority of the revenue collected in odd-numbered fiscal years. Based upon the financial data presented in Exhibit I, licensing fees may need to be decreased during the next licensing period.

For multiple licensing periods, revenues have steadily risen while expenditures have remained relatively stable. These two factors combined with an increase in the number of

licensees, present the likelihood that the cumulative surplus will continue to grow in future years. Given this likely scenario, the division and the board should closely review licensing fees to ensure occupational fees are sufficiently set to avoid an operational surplus.

Determine 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 the *Anchorage Daily News* and the State of Alaska's Online Public Notice System. The board meeting minutes show that unlimited time was allotted for the scheduled public comment period. All proposed regulation changes are subject to the public participation process.

Determine the efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.

For the period July 2002 through June 2006, the division opened 337 investigative cases related to individuals either seeking licensure or licensed by the State Medical Board.

Approximately 43% of the cases involved complaints made by patients or other individuals of the public. Another 30% were initiated by occupational licensing staff. Board actions taken during the audit period included, but were not limited to those identified in Exhibit 2.

Exhibit 2

Discipline or Other Actions	2003	2004	2005	2006	Total
Audit Compliance	-0-	2	-0-	3	5
Education	-0-	-0-	1	-0-	1
Fine	11	14	12	14	51
Limited License ²	-0-	3	-0-	4	7
Probation	5	3	1	2	11
Reprimand	6	15	8	12	41
Revocation	-0-	3	1	-0-	4
Suspension	3	2	4	2	11
Total	25	42	27	37	131

The types of complaints filed included, but were not limited to:

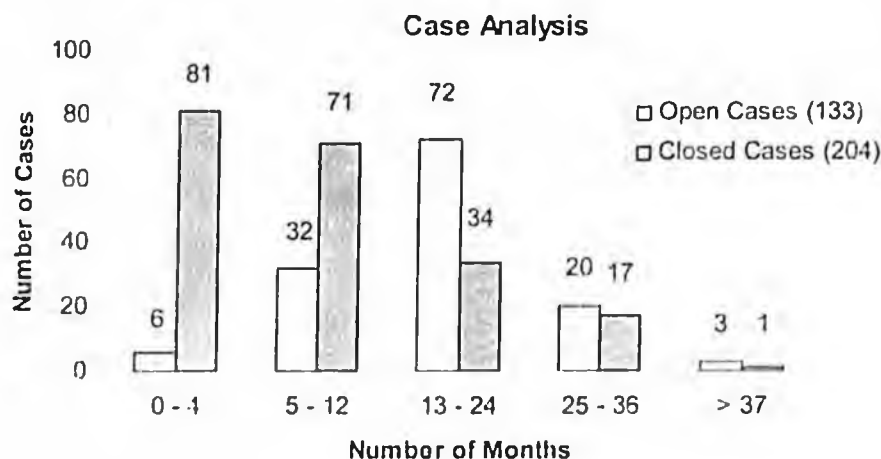
- Prescriptive practice (77)
- Negligence (71)
- Other (22)
- License application problem (20)

² License limitations may be self-imposed and, therefore, do not necessarily reflect board imposed restrictions.

- Continuing education requirements (17)
- Sexual misconduct (15)
- Falsified application (14)
- Incompetence (13)
- Patient/client abuse (15)
- Action in another state (12)
- Unlicensed practice (12)

Two hundred four (204) of the 337 investigative cases had closed as of June 30, 2006; 133 remained open. The cases are graphically depicted below.

Exhibit 3



During the review period, investigative cases remained open for longer periods of time when compared to the prior sunset audit. While the number of investigations that opened and closed did not change significantly between the prior and current audit periods,¹ the length of time, or the age, of investigative cases open at the end of FY 06 was substantially different.

In the prior audit, 121 or 29% of cases remained open at the end of the review period. Of those cases, 74% had opened within the prior four months; the remaining 26% were open for a period of time exceeding four months.

The 133 open investigations at the end of FY 06 shows only 5% were opened in the prior four months; the remaining 95% were open for periods of time exceeding four months.

¹ In the prior audit, 413 investigative cases were opened. Two hundred ninety-two (292) closed within the audit period; 121 remained open. Comparatively, in the current period 337 investigative cases were opened. Two hundred four (204) closed within the audit period; 133 remained open.

Further, 71% were open for longer than one year.⁴

Several factors likely contributed to the lengthy investigations in the current audit period. Specifically, multiple ongoing high profile cases which may involve litigation, implementation of a panel review process⁵ for standard-of-care cases⁶, high employee turnover, and investigator training have slowed case processing times. Individually, these factors may not have significantly slowed the investigative process; however, collectively, their impact is notable.

We have reviewed the nature and extent of complaints filed involving medical professionals. The division, in conjunction with the board, prioritized complaints in a reasonable manner. We have concern with the increase in the number of investigations that are staying open for longer periods of time. We believe the division should report to the board regarding the length of investigations to help ensure the complaints are being investigated in an efficient and timely manner.

No complaints or investigations specifically involving the actions and activities of the State Medical Board were received, or undertaken by, either the Office of the Ombudsman or the Office of Victims' Rights within the past four fiscal years.

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

The application process for licensing appears reasonable and appropriate. The licensing process is neither unduly restrictive nor too lax. Exhibit 4 below, summarized new licenses and permits issued by the board for FY 03 through FY 06 as well as the current number of license and permit holders at the end of FY 06.

Exhibit 4

License or Permit Type	New Licenses and Permits Issued (exclusive of renewals)				Current Number of Licensees (as of June 30, 2006)
	FY 03	FY 04	FY 05	FY 06	
Physicians	235	192	237	212	2,604
Osteopaths	16	16	23	22	205
Podiatrists	1	1	2	1	21
Paramedics	36	35	42	48	334
Physician Assistants	24	34	45	37	361
Total					3,525

⁴ Typically in high-profile cases numerous complaints are filed against an individual. At the end of the audit period, there were more than 59 open cases related to two physicians; 43 cases have been open longer than one year.

⁵ The two-member panel review is composed of medical professionals serving on the board. Panel members are rotated monthly.

⁶ Standard-of-care is defined as the level of care, skill, and treatment which is recognized as acceptable and appropriate by reasonably prudent similar healthcare providers under similar circumstances.

Continuing medical education is required and adequately monitored by the board to promote a high level of quality performance and to help ensure the integrity of the profession. In FY 03, the continuing medical education requirement increased from 17 to 25 hours for licensing periods beginning after January 1, 2005.

Each applicant is required to satisfy the requirements for licensing. Meeting minutes reflect that the board considers each application and verifies the licensing requirements are satisfied prior to issuing a license.

Determine 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.

We did not find any evidence that the board was not complying with the state personnel practices, including affirmative action, in qualifying applicants. Each time the board has denied an applicant a license, the reason has been based on requirements set out in statute and regulation. The reasons for denials are stated in writing and the applicant is always informed of their rights, and the process to contest or appeal any denial of licensure.

Determine 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.

Regulatory revision to 12 AAC 40.020(a) is necessary to clarify the current exam process. The regulation states the "...written examination administered twice yearly in Alaska..." does not reflect the current practice. The board has contracted with the Federation of State Medical Boards (FSMB) to administer the computerized United States Medical Licensing Examination which is available year-round at specific test sites. See Recommendation No. 1.

The board continues to be active in recommending regulatory changes, in order to better service the interest of both the public and the profession.

Determine the extent to which the board, commission, or agency has effectively attained its objectives and purposes and the efficiency with which the board, commission, or agency has operated.

Broad objectives identified by the board included:

- Continue to provide timely, complete processing of all applications submitted to the board for licensure.
- Respond promptly, objectively, and decisively to all complaints.
- Act upon disciplinary matters swiftly and in accordance with the law after obtaining complete and detailed investigation reports and advice from the Assistant Attorneys General.

- Review, draft and pursue regulatory changes in order to more clearly define existing law and to establish clear, concise requirements for applicants and practitioners.
- Maintain a presence in national organizations important to the function of the medical board.
- Send one voting delegate, one other board member, and the board's administrator to the annual FSMB conference.

The board establishes and meets its operational objectives annually.

Determine the extent to which the board, commission, or agency duplicates the activities of another governmental agency or the private sector.

The board is tasked with licensing physicians, osteopaths, podiatrists, physician assistants, and intensive care paramedics. Our review of the interactions among the State Medical Board, the Alaska State Medical Association, the American Medical Association, and other national organizations showed no overlap of duties. Licensees are not required to be members of any professional organization.

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DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Division of Corporations, Business and Professional Licensing

Sarah Palin, Governor
William C. Noll, Commissioner
Rick Urian, Director

December 8, 2006

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DEC 11 2006

LEGISLATIVE AUDIT

Ms. Pat Davidson
Legislative Auditor
Legislative Budget and Audit Committee
Division of Legislative Audit
PO Box 113300
Juneau, Alaska 99811-3300

Dear Ms. Davidson,

RE: Sunset Review Audit, State Medical Board

Dear Ms. Davidson:

Thank you for the opportunity to comment on your preliminary audit findings concerning the Alaska State Medical Board. The department concurs with your findings and fully supports extension of the State Medical Board to June 30, 2013.

As mentioned in the earlier Management Letter No. 1, the department will encourage and assist the Board to comply with your Recommendation No. 1 to update its regulation 12 AAC 40.020(a) reflecting the current practice of computerized examinations offered by the Federation of State Medical Boards (FSMB).

We also appreciate your comments in paragraph 1 on page 13 recognizing that several factors contribute toward lengthy investigations. We also want to clarify that several of the investigative cases which appear to be "open" have already completed the investigation stage and remain open because of litigation. We feel it is important to note the distinction of these open cases. The Investigations Unit has no control over cases once it enters the litigation process.

Again, we appreciate the opportunity to comment on your audit findings.

Sincerely,


William C. Noll
Commissioner