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MATERIAL
PROVIDED
FOR THE
HOUSE.



OFFICIAL BUSINESS

ALASKA STATE LEGISLATURE - SENATE

COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON
CHAIRMAN

POUCH V - JUNEAU, ALASKA 99811
207) 465-3844

TO: Senator Dick Eliason
FROM: Sheila Peterson
DATE: May 2, 1984
RE: SB 286 - "Lemon Law"

At your request I have reviewed the Senate passed version of SB 286 and the version of this same legislation that is being seriously considered in the House Labor and Commerce Committee.

SENATE BILL

1. An owner of a "lemon" shall receive the full purchase price less a reasonable allowance for use from the manufacturer.
2. Full purchase price is defined to include "accrued finance charges."
3. An owner shall receive a refund 30 days after notifying the manufacturer of the non-conformity.
4. The manufacturer shall deliver a notice to the original owner on the procedure for making a claim under the "lemon law".
5. A manufacturer shall maintain repair facilities or authorize repairing agents within the state that are able to make

HOUSE BILL

1. An owner of a "lemon" shall have the option to receive a new, comparable vehicle or the full purchase price less a reasonable allowance for use from the manufacturer.
2. Full purchase price is defined NOT to include "accrued finance charges".
3. The owner shall receive a refund/ replacement 60 days after notifying the manufacturer of the nonconformity. Within 30 days after receiving the notice, the manufacturer may make a final attempt to repair the "lemon".
4. Contains no provision regarding an informative notice regarding the "lemon law".
5. A manufacturer who authorizes the sale of motor vehicles shall maintain authorized dealership facilities within the state that are able to make

necessary repairs.

6. A "lemon" may be resold by manufacturer, dealer, or individual designated by the manufacturer if a full disclosure is made.

7. Definition of "repairing agent" includes dealer.

necessary repairs.

6. A "lemon" may be resold by the manufacturer only if a full disclosure is made.

7. "Dealer" is listed as a separate entity and is not included as a "repairing agent".

* * * * *

This comparison is based on the House version which supposedly will pass out of House Labor and Commerce. However, the Committee has considered a version that

(1) allows for a 10 year depreciation method;

(2) allows for another method to define a "lemon". "The nonconformity makes the vehicle unsafe to operate and the nonconformity has been subject to repair at least two times."

Original sponsor: Ray by request

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 HOUSE CS FOR CS 1 STATE BILL NO. 286 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to motor vehicle warranties."

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

8 * Section 1. AS 45.45 is amended by adding a new section to read:

9 ARTICLE 6. MOTOR VEHICLE WARRANTIES.

10 Sec. 45.45.300. MOTOR VEHICLE WARRANTIES. (a) If a new motor
11 vehicle does not conform to an express warranty that is applicable to
12 it and the owner of the vehicle reports the defect or condition to the
13 manufacturer of the vehicle or to the manufacturer's or distributor's
14 dealer during the term of the warranty, the manufacturer, distributor,
15 dealer, or a repairing agent shall make the necessary repairs to
16 conform the vehicle to the express warranty.

17 (b) If during the term of the express warranty or within one
18 year from the date of delivery of the motor vehicle to the original
19 owner, whichever period terminates first, the manufacturer, distribu-
20 tor, dealer, or repairing agent is unable to conform the motor vehicle
21 to an applicable express warranty after a reasonable number of at-
22 tempts, the manufacturer or distributor shall accept the return of the
23 nonconforming motor vehicle, and, at the owner's option, shall replace
24 the nonconforming vehicle with a new, comparable vehicle or shall
25 refund the full purchase price to the owner less a reasonable allow-
26 ance for the use of the motor vehicle from the time it was delivered
27 to the original owner. A refund under this subsection shall be made
28 to a lienholder of record, if any, and the owner, as their interests
29 may appear.

1 (c) In order to claim a refund or replacement under (b) of this
2 section, the owner shall give written notice by certified mail to the
3 manufacturer and its dealer or repairing agent at any time before 60
4 days have elapsed after the expiration of the express warranty or the
5 one-year period after the date of delivery of the motor vehicle to the
6 original owner, whichever period terminates first (1) stating that the
7 vehicle has a nonconformity; (2) providing a reasonable description of
8 the nonconformity; (3) stating that the manufacturer, distributor,
9 dealer, or repairing agent has made a reasonable number of attempts to
10 conform the vehicle; and (4) stating that the owner ^(intends) demands a refund
11 or replacement vehicle to be delivered on the ⁽³⁰⁾ 60th day after the
12 mailing of the written notice. Within 30 days after receiving the
13 notice required by this subsection the manufacturer may make a final
14 attempt to conform the vehicle before a refund or replacement is made
15 under (b) of this section.

16 (d) An owner may not receive a refund or replacement under this
17 section if the manufacturer or distributor shows that the nonconform-
18 ity complained of

19 (1) does not substantially impair either the use or the
20 market value of the motor vehicle; or

21 (2) is the result of

22 (A) alteration of the motor vehicle by the owner or a
23 person other than a dealer or repairing agent that is not au-
24 thorized by the manufacturer or distributor; or

25 (B) abuse or neglect by the owner or a person other
26 than the dealer or repairing agent.

27 (e) A presumption that a reasonable number of attempts have been
28 made to conform a motor vehicle under an applicable express warranty
29 is established if:

1 (1) the same nonconformity has been subject to repair three
2 or more times by the manufacturer, distributor, dealer, or repairing
3 agent during the term of the express warranty or the one-year period
4 after delivery of the motor vehicle to the original owner, whichever
5 period terminates first, but the nonconformity continues to exist;

6 *will be* (2) the nonconformity makes the vehicle unsafe to operate
7 *deleted* and the same nonconformity has been subject to repair at least twice
8 by the manufacturer, distributor, dealer, or repairing agent during
9 the express warranty term or the one-year period referred to in (1) of
10 this section, whichever period terminates first, but the nonconformity
11 continues to exist; or

12 (3) the vehicle is out of service for repair for a total of
13 30 or more business days during the express warranty term or the
14 one-year period referred to in (1) of this subsection, whichever
15 period terminates first; any period of time that repairs are not
16 performed for reasons that are beyond the control of the manufacturer,
17 distributor, dealer, or repairing agent is excluded from the 30-day
18 time period referred to in this paragraph.

19 (f) A manufacturer whose vehicles are sold in the state through
20 an authorized dealer shall provide its dealer or repairing agent with
21 any part necessary to make a repair of a nonconformity covered under
22 an express warranty, as soon as possible, without additional charge
23 for freight or handling, if the part is not in the dealer's or agent's
24 inventory when the nonconforming vehicle is brought to the dealer or
25 repairing agent for repair.

26 (g) A manufacturer or distributor who fails to refund the full
27 purchase price of a motor vehicle or replace the motor vehicle when
28 there is a requirement to do so under this section is presumed to have
29 committed an unfair trade practice under AS 45.50.471.

1 (h) A motor vehicle returned under (b) of this section may not
2 be resold by the manufacturer or distributor in the state unless full
3 disclosure of the reason for the return is made to the prospective
4 buyer before the resale is concluded.

5 (i) The provisions of this section do not limit other rights and
6 remedies that may be available to the owner of a motor vehicle under
7 other provisions of law. This subsection does not create a new cause
8 of action against a dealer or repairing agent who sells or attempts to
9 repair a motor vehicle found to be nonconforming under this section.

10 (j) A manufacturer or distributor of motor vehicles who author-
11 izes the sale of the manufacturer's or distributor's motor vehicles in
12 the state shall maintain authorized dealership facilities within the
13 state that are able to perform the service and make the repairs re-
14 quired by the manufacturer's express warranty and by this section.

15 (k) A manufacturer or distributor who accepts the return of a
16 nonconforming motor vehicle under (b) of this section shall reimburse
17 the owner for any reasonable cost incurred in shipping the vehicle to
18 and from the nearest authorized facility for warranty service and
19 repair of a nonconformity that causes the return of the vehicle.

20 (l) If a manufacturer or distributor has established an informal
21 dispute settlement procedure that substantially complies with the
22 requirements of 16 C.F.R. 703, as that section may be amended, or if
23 the manufacturer or distributor, after receipt of notice required by
24 (c) of this section, offers in writing to participate in an arbitra-
25 tion or mediation process with the owner and the arbitration or me-
26 diation decision is binding on the manufacturer or distributor but not
27 on the owner, and if the informal dispute settlement or arbitration or
28 mediation process is approved by the attorney general, the provisions
29 of (b) of this section concerning refund or replacement or (k) of this

1 section concerning shipping costs do not apply to an owner who has not
2 first resorted to the informal dispute settlement procedure or arbi-
3 tration or mediation process.

4 (m) In this section,

5 (1) "dealer" means a person who has obtained a franchise
6 from, or is authorized by, a motor vehicle manufacturer to engage in
7 the retail sale and warranty repair of the manufacturer's new motor
8 vehicles in the state;

9 (2) "distributor" means a person who is authorized by a
10 manufacturer to engage in the wholesale distribution of the manufac-
11 turer's new motor vehicles in the state;

12 (3) "express warranty" or "warranty" means an express
13 written warranty provided by the manufacturer of a new motor vehicle;

14 (4) "full purchase price" means the total price paid for a
15 motor vehicle by the original owner, including costs added to the
16 retail price, such as original registration fees, transportation fees,
17 dealer preparation, and dealer installed options;

18 (5) "manufacturer" means a person who by labor transforms
19 raw materials and component parts into motor vehicles for wholesale or
20 retail sale;

21 (6) "motor vehicle" or "vehicle" means a land vehicle
22 having four or more wheels, that is self-propelled by a motor, is
23 normally used for personal, family, or household purposes, and is
24 required to be registered under AS 28.10; but does not include a
25 tractor, farm vehicle, or a vehicle designed primarily for off-road
26 use;

27 (7) "nonconformity" means a defect or condition in a motor
28 vehicle caused by a manufacturer, distributor, dealer or repairing
29 agent that substantially impairs the use or market value of a vehicle;

1 (8) "owner" means a purchaser, other than for resale, of a
2 new motor vehicle, and a person to whom ownership of the motor vehicle
3 is transferred in conformity with AS 28;

4 (9) "reasonable allowance" means an amount attributable to
5 an owner's use of a motor vehicle; a "reasonable allowance" may not
6 exceed an amount equal to the depreciation in value of the vehicle for
7 the period during which the vehicle is available for use by the owner,
8 calculated by a straight line depreciation method over ^{7 (7)}10 years, plus
9 an amount equal to the depreciation in value of the vehicle that is
10 caused by

11 (A) any neglect or abuse by the owner; or

12 (B) body damage not caused by a nonconformity;

13 (10) "repairing agent" means a ^{dealer}person who has been specifi-
14 cally authorized by a motor vehicle manufacturer or distributor to
15 perform warranty repairs in the state on one or more of the manufac-
16 turer's or distributor's motor vehicles;

17 (11) "substantially impairs the market value" means a non-
18 conformity that substantially decreases the dollar value of a vehicle
19 to the owner when compared to the dollar value of a similar vehicle
20 that does not have the nonconformity;

21 (12) "substantially impairs the use" means a nonconformity
22 that prevents a motor vehicle from being operated or makes the vehicle
23 unsafe to operate.
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Original sponsor: Ray by request

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 286 (L&C)

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13 manufacturer of the vehicle or to the manufacturer's or distributor's
14 dealer during the term of the warranty, the manufacturer, distributor,
15 dealer, or a repairing agent shall make the necessary repairs to
16 conform the vehicle to the express warranty.

17 (b) If during the term of the express warranty or within one
18 year from the date of delivery of the motor vehicle to the original
19 owner, whichever period terminates first, the manufacturer, distribu-
20 tor, dealer, or repairing agent is unable to conform the motor vehicle
21 to an applicable express warranty after a reasonable number of at-
22 tempts, the manufacturer or distributor shall accept the return of the
23 nonconforming motor vehicle, and shall refund the full purchase price
24 to the owner, less a reasonable allowance for the use of the motor
25 vehicle from the time it was delivered to the original owner. A
26 refund under this subsection shall be made to a lienholder of record,
27 if any, and the owner, as their interests may appear.

28 (c) Before claiming a refund under (b) of this section, the
29 owner shall give written notice by certified mail to the manufacturer

1 and its dealer or repairing agent at any time before 60 days have
2 elapsed after the expiration of the express warranty or the one-year
3 period after the date of delivery of the motor vehicle to the original
4 owner, whichever period terminates first (1) stating that the vehicle
5 has a nonconformity; (2) providing a reasonable description of the
6 nonconformity; (3) stating that the manufacturer, distributor, dealer,
7 or repairing agent has made a reasonable number of attempts to conform
8 the vehicle; and (4) stating that the owner intends to claim a refund
9 within 60 days after mailing the written notice. Within 30 days after
10 receiving the notice required by this subsection the manufacturer may
11 make a final attempt to conform the vehicle before a refund is made
12 under (b) of this section.

13 (d) An owner may not receive a refund under this section if the
14 manufacturer or distributor shows that the nonconformity complained of

15 (1) does not substantially impair either the use or the
16 market value of the motor vehicle; or

17 (2) is the result of

18 (A) alteration of the motor vehicle by the owner or a
19 person other than a dealer or repairing agent that is not au-
20 thorized by the manufacturer or distributor; or

21 (B) abuse or neglect by the owner or a person other
22 than the dealer or repairing agent.

23 (e) A presumption that a reasonable number of attempts have been
24 made to conform a motor vehicle under an applicable express warranty
25 is established if:

26 (1) the same nonconformity has been subject to repair three
27 or more times by the manufacturer, distributor, dealer, or repairing
28 agent during the term of the express warranty or the one-year period
29 after delivery of the motor vehicle to the original owner, whichever

1 period terminates first, but the nonconformity continues to exist;

2 (2) the nonconformity makes the vehicle unsafe to operate
3 and the same nonconformity has been subject to repair at least twice
4 by the manufacturer, distributor, dealer, or repairing agent during
5 the express warranty term or the one-year period referred to in (1) of
6 this section, whichever period terminates first, but the nonconformity
7 continues to exist; or

8 (3) the vehicle is out of service for repair for a total of
9 30 or more business days during the express warranty term or the
10 one-year period referred to in (1) of this subsection, whichever
11 period terminates first; any period of time that repairs are not
12 performed for reasons that are beyond the control of the manufacturer,
13 distributor, dealer, or repairing agent is excluded from the 30-day
14 time period referred to in this paragraph.

15 (f) A manufacturer whose vehicles are sold in the state through
16 an authorized dealer shall provide its dealer or repairing agent with
17 any part necessary to make a repair of a nonconformity covered under
18 an express warranty, as soon as possible, without additional charge
19 for freight or handling, if the part is not in the dealer's or agent's
20 inventory when the nonconforming vehicle is brought to the dealer or
21 repairing agent for repair.

22 (g) A manufacturer or distributor who fails to refund the full
23 purchase price of a motor vehicle when there is a requirement to do so
24 under this section is presumed to have committed an unfair trade
25 practice under AS 45.50.471.

26 (h) A motor vehicle returned under (b) of this section may not
27 be resold by the manufacturer or distributor in the state unless full
28 disclosure of the reason for the return is made to the prospective
29 buyer before the resale is concluded.

1 (i) The provisions of this section do not limit other rights and
 2 remedies that may be available to the owner of a motor vehicle under
 3 other provisions of law. This subsection does not create a new cause
 4 of action against a dealer or repairing agent who sells or attempts to
 5 repair a motor vehicle found to be nonconforming under this section.

6 (j) A manufacturer or distributor of motor vehicles who author-
 7 izes the sale of the manufacturer's or distributor's motor vehicles in
 8 the state shall maintain authorized dealership facilities within the
 9 state that are able to perform the service and make the repairs re-
 10 quired by the manufacturer's express warranty and by this section.

11 (k) A manufacturer or distributor who accepts the return of a
 12 nonconforming motor vehicle under (b) of this section shall reimburse
 13 the owner for any reasonable cost incurred in shipping the vehicle to
 14 and from the nearest authorized facility for warranty service and
 15 repair of a nonconformity that causes the return of the vehicle.

16 (l) If a manufacturer or distributor has established an informal
 17 dispute settlement procedure that substantially complies with the
 18 requirements of 16 C.F.R. 703, as that section may be amended, or if
 19 the manufacturer or distributor, after receipt of notice required by
 20 (c) of this section, offers in writing to participate in an arbitra-
 21 tion or mediation process with the owner and the arbitration or me-
 22 diation decision is binding on the manufacturer or distributor but not
 23 on the owner, and if the informal dispute settlement or arbitration or
 24 mediation process is approved by the attorney general, the provisions
 25 of (b) of this section concerning refund or (j) of this section con-
 26 cerning shipping costs do not apply to an owner who has not first
 27 resorted to the informal dispute settlement procedure or arbitration
 28 or mediation process.

29 (m) In this section,

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6 manufacturer to engage in the wholesale distribution of the manufac-
7 turer's new motor vehicles in the state;

8 (3) "express warranty" or "warranty" means an express
9 written warranty provided by the manufacturer of a new motor vehicle;

10 (4) "full purchase price" means the total price paid for a
11 motor vehicle by the original owner, including costs added to the
12 manufacturer's suggested retail price, such as original registration
13 fees, transportation fees, dealer preparation, dealer installed op-
14 tions, and accrued finance charges;

15 (5) "manufacturer" means a person who by labor transforms
16 raw materials and component parts into motor vehicles for wholesale or
17 retail sale;

18 (6) "motor vehicle" or "vehicle" means a land vehicle
19 having four or more wheels, that is self-propelled by a motor, is
20 normally used for personal, family, or household purposes, and is
21 required to be registered under AS 28.10; but does not include a
22 tractor, farm vehicle, or a vehicle designed primarily for off-road
23 use;

24 (7) "nonconformity" means a defect or condition in a motor
25 vehicle caused by a manufacturer, distributor, dealer or repairing
26 agent that substantially impairs the use or market value of a vehicle;

27 (8) "owner" means a purchaser, other than for resale, of a
28 new motor vehicle, and a person to whom ownership of the motor vehicle
29 is transferred in conformity with AS 23;

1
2 (9) "reasonable allowance" means an amount attributable to
3 an owner's use of a motor vehicle; a "reasonable allowance" may not
4 exceed an amount equal to the depreciation in value of the vehicle for
5 the period during which the vehicle is available for use by the owner,
6 calculated by a straight line depreciation method over seven years,
7 plus an amount equal to the depreciation in value of the vehicle that
8 is caused by

9 (A) any neglect or abuse by the owner; or

10 (B) body damage not caused by a nonconformity;

11 (10) "repairing agent" means a person who has been specifi-
12 cally authorized by a motor vehicle manufacturer or distributor to
13 perform warranty repairs in the state on one or more of the manufac-
14 turer's or distributor's motor vehicles;

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16 conformity that substantially decreases the dollar value of a vehicle
17 to the owner when compared to the dollar value of a similar vehicle
18 that does not have the nonconformity;

19 (12) "substantially impairs the use" means a nonconformity
20 that prevents a motor vehicle from being operated or makes the vehicle
21 unsafe to operate.
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Next Wed - hearing

Furnance ★
Ringstad
Kopenew

Offered: 2/29/84
Referred: Rules

Original sponsor: Ray by request

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2

CS FOR SENATE BILL NO. 286 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

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THIRTEENTH LEGISLATURE - SECOND SESSION

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A BILL

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For an Act entitled: "An Act relating to motor vehicle warranties."

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owner shall give written notice by mail to the manufacturer and its

1 repairing agent at any time before 60 days have elapsed after the
2 expiration of the express warranty or the one-year period after the
3 date of delivery of the motor vehicle to the original owner, whichever
4 period terminates first

5 (1) stating that the vehicle has a nonconformity;

6 (2) providing a reasonable description of the nonconform-
7 ity;

8 (3) stating that the manufacturer, distributor, dealer, or
9 repairing agent has made a reasonable number of attempts to conform
10 the vehicle; and

11 (4) stating that the owner intends to claim a refund 30
12 days or more after mailing the written notice.

13 (d) A manufacturer or distributor of new motor vehicles shall
14 deliver a notice to an original owner of a motor vehicle that explains
15 in clear and easily understood language the procedure for making a
16 claim for refund under this section.

17 (e) An owner may not receive a refund under this section if the
18 manufacturer or distributor shows that the nonconformity complained of

19 (1) does not substantially impair either the use or the
20 market value of the motor vehicle; or

21 (2) is the result of

22 (A) alteration of the motor vehicle by the owner or a
23 person other than a repairing agent that is not authorized by the
24 manufacturer or distributor; or

25 (B) abuse or neglect by the owner or a person other
26 than the repairing agent.

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28 made to conform a motor vehicle under an applicable express warranty
29 is established if:

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2 or more times by the manufacturer, distributor, dealer, or repairing
3 agent during the term of the express warranty or the one-year period
4 after delivery of the motor vehicle to the original owner, whichever
5 period terminates first, but the nonconformity continues to exist; or

6 (2) the vehicle is out of service for repair for a total of
7 30 or more business days during the express warranty term or the
8 one-year period referred to in (1) of this subsection, whichever
9 period terminates first; any period of time that repairs are not
10 performed for reasons that are beyond the control of the manufacturer,
11 distributor, dealer, or repairing agent is excluded from the 30-day
12 time period referred to in this paragraph.

13 (g) A manufacturer whose vehicles are sold in the state through
14 an authorized dealer shall provide its dealer or repairing agent with
15 any part necessary to make a repair of a nonconformity covered under
16 an express warranty, as soon as possible, without additional charge
17 for freight or handling, if the part is not in the dealer's or agent's
18 inventory when the nonconforming vehicle is brought to the dealer or
19 repairing agent for repair.

20 (h) A manufacturer or distributor who fails to refund the pur-
21 chase price of a motor vehicle when there is a requirement to do so
22 under this section is presumed to have committed an unfair trade
23 practice under AS 45.50.471.

24 (i) A motor vehicle returned under (b) of this section may not
25 be resold by the manufacturer, distributor, or repairing agent unless
26 full disclosure of the reason for the return is made to the prospec-
27 tive buyer before the resale is concluded.

28 (j) The provisions of this section do not limit other rights and
29 remedies that may be available to the owner of a motor vehicle under

1 other provisions of law. This subsection does not create a new cause
2 of action against a dealer or repairing agent who sells or attempts to
3 repair a motor vehicle found to be nonconforming under this section.

4 (k) A manufacturer or distributor of motor vehicles sold in the
5 state shall maintain repair facilities or authorize repairing agents
6 within the state that are able to perform the service and make the
7 repairs required by the manufacturer's express warranty and by this
8 section.

9 (l) A manufacturer or distributor who accepts the return of a
10 nonconforming motor vehicle under (b) of this section shall reimburse
11 the owner for any reasonable cost incurred in shipping the vehicle to
12 and from the nearest authorized facility for warranty service and
13 repair of a nonconformity that causes the return of the vehicle.

14 (m) If a manufacturer or distributor has established an informal
15 dispute settlement procedure that [substantially] ^{AKPIRG} complies with the
16 requirements of 16 C.F.R. 703, as that section may be amended, or if
17 the manufacturer or distributor, after receipt of notice required by
18 (c) of this section, offers in writing to participate in an arbitra-
19 tion or mediation process with the owner and the arbitration or me-
20 diation decision is binding on the manufacturer or distributor but not
21 on the owner, and if the informal dispute settlement or arbitration or
22 mediation process is approved by the attorney general, the provisions
23 of (b) of this section concerning refund or (k) of this section
24 concerning shipping costs do not apply to an owner who has not first
25 resorted to the informal dispute settlement procedure or arbitration
26 or mediation process.

27 (n) In this section,

28 (1) "dealer" means a person who has obtained a franchise
29 from, or is authorized by, a motor vehicle manufacturer to engage in

1 the retail sale and repair of the manufacturer's new motor vehicles in
2 the state;

3 (2) "distributor" means a person who is authorized by a
4 manufacturer to engage in the wholesale distribution of the manufac-
5 turer's new motor vehicles in the state;

6 (3) "express warranty" or "warranty" means an express
7 written warranty provided by the manufacturer of a new motor vehicle;

8 (4) "full purchase price" means the total price paid for a
9 motor vehicle by the original owner, including costs added to the
10 manufacturer's suggested retail price, such as original registration
11 fees, transportation fees, dealer preparation, dealer installed op-
12 tions, and accrued finance charges;

13 (5) "manufacturer" means a person who by labor transforms
14 raw materials and component parts into motor vehicles for wholesale or
15 retail sale;

16 (6) "motor vehicle" or "vehicle" means a land vehicle
17 having four or more wheels, that is self-propelled by a motor, is
18 normally used for personal, family, or household purposes, and is
19 required to be registered under AS 28.10; but does not include a
20 tractor, farm vehicle, or a vehicle designed primarily for off-road
21 use;

22 (7) "nonconformity" means a defect or condition in a motor
23 vehicle caused by a manufacturer, distributor, dealer or repairing
24 agent that substantially impairs the use or market value of a vehicle;

25 (8) "owner" means a purchaser, other than for resale, of a
26 new motor vehicle, and a person to whom ownership of the motor vehicle
27 is transferred in conformity with AS 28;

28 (9) "reasonable allowance" means an amount attributable to
29 an owner's use of a motor vehicle; a "reasonable allowance" may not

Manufacturer

1 exceed an amount equal to the depreciation in value of the vehicle for
2 the period during which the vehicle is available for use by the owner,
3 calculated by a straight line depreciation method over seven years,
4 plus an amount equal to the depreciation in value of the vehicle that
5 is caused by

6 (A) any neglect or abuse by the owner; or

7 (B) body damage not caused by a nonconformity;

8 (10) "repairing agent" includes a dealer or other person who
9 has been specifically authorized by a motor vehicle manufacturer or
10 distributor to perform warranty repairs in the state on one or more of
11 the manufacturer's or distributor's motor vehicles;

12 (11) "substantially impairs the market value" means a non-
13 conformity that substantially decreases the dollar value of a vehicle
14 to the owner when compared to the dollar value of a similar vehicle
15 that does not have the nonconformity;

16 (12) "substantially impairs the use" means a nonconformity
17 that prevents a motor vehicle from being operated or makes the vehicle
18 unsafe to operate.

Walter Johnson - Kodiak - special
consideration for rural - consumer fraud

AKPIRG - applied + expressed warranty

Ralph Seckins - difference between repairing
agent + dealer

Jim Austin - replacement in addition to \$ after
notice; get opportunity to fix - air receipt - revamp
j - hold harmless



SEEKINS FORD-LINCOLN-MERCURY, INC.

1625 Old Steese Highway Telephone (907) 452-1991
FAIRBANKS, ALASKA 99701

April 3, 1984

John Ringstad
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear John:

The Fairbanks dealers of the Alaska Automobile Dealers Association recently met and considered Senate Bill No. 286, as passed through the Labor and Commerce Committee and adopted by the entire Senate (The Lemon Law).

Although we had opportunity to give some input into the Committee we still have changes we would like made before it passes the House. Since you are on the Labor and Commerce Committee, I have been delegated to explain to you what changes we would like to see and our supporting rationale on an item by item basis. I hope to be able to do so in such a way that it's obvious we are not trying to water down the bill but rather to make it even better.

In order to show you exactly what we suggest, I have prepared a draft, enclosed with this letter, and also have enclosed a marked copy of the Senate Bill showing those areas we have addressed.

We specifically object to any statement or inference which might mislead anyone into believing that dealerships are "agents" of manufacturers or distributors. We absolutely are not "agents" of the manufacturer or distributor. We have sales and service agreements (contracts) with manufacturers or distributors which specifically outline our respective relationships. I have enclosed a copy of page 14 of the Ford Sales and Service Agreement under which this dealership operates. Notice that paragraph 14 specifically addresses this concern and absolutely supports our argument. Therefore, we feel it necessary to make a distinct difference between "dealers" and "repairing agents", which will be evident in our suggested changes.

With that out of the way, let me address each concern on an item by item basis.

Page 2, line 1...add "dealer or" just prior to "repairing agent". This request results from our earlier discussion.

Page 2, lines 11 & 12...remove (30 days or more) and add "within 30 days". We feel there should be a time certain under which this process should begin. In it's present form, the customer could wait for months or even years before claiming the refund. To leave it open-ended would be unfair to the manufacturer.

Page 2, lines 13, 14, 15 & 16...Delete this entire section. We can not find any other industry, in any other state, which is required to give the purchasers of it's merchandise a notice that explains how that buyer can bring legal action against it.

Page 2, line 23...add "dealer or" just prior to "repairing agent".

Page 2, line 25...add "dealer or" just prior to "repairing agent".

Page 3, line 1...delete (three) and substitute "four". This is the number used in ALL other similar legislation nation-wide.

Page 3, line 25...delete (or repairing agent) and add, in it's place, "in the state". We do not believe "repairing agents" should be in the sales business and we would just as soon see the vehicle leave the state.

Page 4, lines 4 & 5...delete (sold in the state shall maintain repair facilities or authorize repairing agents) and replace it with "who authorizes the sale of their motor vehicles in the state shall maintain authorized dealership facilities". First, we don't feel any manufacturer or distributor should be required by law to supply repair facilities in the state, either through dealerships or repairing agents, unless their vehicles are authorized for sale in the state. Secondly, we don't want legislation which would infer that any manufacturer or distributor was either required by or allowed by state law to step around the normal dealer/manufacturer relationship and maintain their own repair facilities in Alaska, either in lieu of or in addition to those which we are required to maintain in order to be authorized dealers. We feel the wording presently in the Senate version would open that door.

Page 4, line 28...Insert "or entity" between "person" and "who". Most of us operate as corporations and would feel

more comfortable with this insertion.

Page 5, line 1...Insert "warranty" just prior to "repair". This is for obvious reasons since this is a bill referencing just that, warranty repair.

Page 5, line 3...Insert "or entity" between "person" and "who". Same reasoning as above.

Page 5, line 12...Delete (and accrued finance charges). The owner has enjoyed the use of the vehicle for a specific time, chose to finance the vehicle rather than pay in full for it at the time of purchase, has probably written these charges off on his income taxes and, for these and other sound reasons, we feel would not fairly expect to have them refunded.

Page 5, line 13...Insert "or entity" between "person" and "who".

Page 6, line 3...Substitute "five" for (seven). We believe a seven year straight line depreciation unfairly burdens the manufacturer. Standard depreciation within the industry for the first year of ownership is 2.5% per month. We feel five years on a straight line basis is more than fair to the owner and urge you to adopt this shorter period of time.

Page 6, line 8...Delete (includes a dealer or other person) and substitute "means a person or entity, other than a dealer,". This change in definition helps accomplish the differentiation between dealers and repairing agents and is consistent with the contractual relationships we have with our manufacturers or distributors.

Additionally, we have, in our enclosed draft, re-arranged the definition section in a more logical and sequential order. This was done simply for easier comparison in our local discussions but may be something which you may wish to consider.

The one portion we do NOT want changed in any manner is section (g) on page 3. We definitely believe this section alone will do much to mitigate current problems experienced by Fairbanks dealerships in administering warranty repairs and will avoid many future problems. This section will do the most for the owner by keeping us dealers from being caught between the manufacturers or distributors and the owners.

With these changes, we feel we can whole-heartedly support this bill as a dealer body.

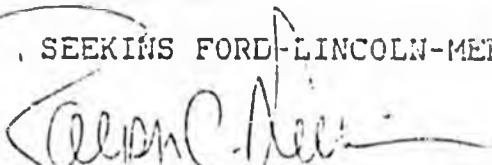
We look forward to your positive actions regarding our requests and carrying this legislation into action. The Fairbanks dealer body is willing to discuss any portion of this legislation with you at any time and would like to do so if you are in Fairbanks any time in the near future.

I am sending an identical letter to Niilo Koponen since he is on the committee with you.

Thank you for your time and consideration.

Sincerely,

SEEKINS FORD-LINCOLN-MERCURY, INC.



Ralph C. Seekins
President

cc: Fairbanks Dealer Body

enclosures

CHANGES IN COMPANY PRODUCTS (Continued)

time to time, without notice or obligation to the Dealer, including any obligation with respect to any COMPANY PRODUCT theretofore ordered or purchased by or delivered to the Dealer. Such changes shall not be considered model year changes as contemplated by the provisions of any VEHICLE TERMS OF SALE BULLETIN. The Company may discontinue any VEHICLE or other COMPANY PRODUCT at any time without liability to the Dealer.

DEALER NOT AGENT OF THE COMPANY

14. This agreement does not in any way create the relationship of principal and agent between the Company and the Dealer and under no circumstances shall the Dealer be considered to be an agent of the Company. The Dealer shall not act or attempt to act, or represent himself, directly or by implication, as agent of the Company or in any manner assume or create any obligation on behalf of or in the name of the Company.

TRADEMARKS AND TRADE NAMES

15. (a) *Use in Firm Name.* The Dealer may not use any trademark or trade name used or claimed by the Company or any of its subsidiaries in the Dealer's firm name or trade name except with the Company's prior written approval. If, after such approval, the Company should at any time so request, the Dealer shall promptly discontinue such use and take all steps necessary or appropriate in the opinion of the Company to eliminate such trademark or trade name from the Dealer's firm name or trade name.

15. (b) *Limitations on Use.* The Dealer shall not use any trademark or trade name used or claimed by the Company or any of its subsidiaries, or any part of a combination containing the same or parts thereof, in connection with any business conducted by the Dealer other than in advertising COMPANY PRODUCTS to which such trademark or trade name refers, and then only in the manner and form approved by the Company; provided that the word "Ford" may be used in connection with a business operated by or affiliated with the Dealer as the Dealer's used vehicle outlet if the Dealer obtains the Company's prior written approval, which may be revoked at any time, and if the Dealer retains the right to require any such affiliated business to discontinue such use at any time the Dealer may direct. The Dealer shall direct such discontinuance on request of the Company at any time.

The Dealer shall not contest the right of the Company to exclusive use of any trademark or trade name used or claimed by the Company or any of its subsidiaries.

REPORTS TO FORD MOTOR COMPANY'S DEALER POLICY BOARD

16. In the interest of maintaining harmonious relationships between the parties to this agreement, the Dealer shall report promptly in writing to the Company - Dealer Policy Board (hereafter called "Policy Board") any act or failure to act on the part of the Company or any of its representatives which the Dealer believes was not in accordance with this agreement or was not reasonable, fair, for good cause or provocation or in good faith as to the Dealer. For the purposes of this agreement, the term "good faith" shall mean the Company and its representatives acting in a fair and equitable manner toward the Dealer so as to guarantee the Dealer freedom from coercion or intimidation from the Company. It is the purpose of the Policy Board to receive, carefully evaluate and, to the extent possible, resolve any such claim to the mutual satisfaction of the parties. Any decision of the Policy Board shall be binding on the Company but shall not be binding on the Dealer.

BOARD of
PHARMACY

report to
Legislature

Ulmer



DOWNTOWN REXALL DRUG
415 West 5th - P.O. Box 1420
Anchorage, Alaska 99510 • (907) 277-2567

ANCHORAGE PROFESSIONAL PHARMACY
2841 DeBarr Rd., Suite #225 • Box 1420
Anchorage, Alaska 99510 • (907) 264-1650

ULMER REXALL & TRUE VALUE HARDWARE
Lakeside Mall • Box 520
Homer, Alaska 99603 • (907) 235-8594



3 March 1984

Senator Richard Eliason
Chairman, Committee on Labor & Management
Alaska State Senate
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Dick:

I am aware that your Committee will be dealing with Sunset Legislation as it involves the Board of Pharmacy. I have been a member of the Board since 1978 and President for much of that time. The Governor in his infinite wisdom, recently removed me from the Board, so I no longer serve. I am however very much concerned about the future of the Board, and particularly, in the ability of the Board to implement the Controlled Substance Act (AS 17.30 & AS 17.35). This ability to perform has been greatly impeded by the present administration, for the various reasons that are in the attached copy of REPORT TO THE LEGISLATURE, FY'83.

The Legislature, by enacting AS 17.30 & AS 17.35, mandated that the Board of Pharmacy function as the agency to implement the legislation. I broke my back, spending hundreds of hours, as explained in the report, to assure an early implementation of the requirements. No cooperation was given the Board by either the Governor or the Division of Occupational Licensing, although I wrote and called on numerous occasions. The Governor's letter to me (Addendum # 2, in the report) promised that "serious consideration" would be given my request. Nothing happened.

I am sending you the report so you may be informed as to actions taken by all parties concerned. I may come to Juneau to testify, on my own behalf, if I can arrange it. I am sure the Pharmacy Board members will be doing likewise.

Sincerely,

Eldon R. Ulmer, R.Ph.

Encl: Copy REPORT TO THE LEGISLATURE FY'83 (Board Pharmacy)

BOARD OF PHARMACY

Report to the Legislature FY ' 83.

Submitted August 11 , 1983

CONTENTS:

1. Cover Letter .
2. Narrative Statement.
3. Statistical Overview .
4. Review of prior years objectives .
5. Goals and Objectives for FY ' 84
6. Budget Recommendations .

Addendum # 1 :	Ulmer letter to Treagger	5 March 1983
Addendum # 2 :	Governor's letter to Ulmer	28 March 1983
Addendum # 3 :	Lawson letter to Treager (cover letter Treager to Ulmer)	13 April 1983 15 June 1983
Addendum # 4 :	Treager letter to Ulmer	29 July 1983
* Addendum # 5 :	Notice of Proposed Regulation changes	13 July 1983

* This is a FY '84 action item , but shown here as these regulations were reviewed in FY ' 83 & passed at a FY '83 board meeting.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

August 11 , 1983

BILL SHEFFIELD, GOVERNOR

Board of Pharmacy
POUCH D
JUNEAU, ALASKA 99811
PHONE: (907) 465-2534

Mr. Harry D. Treager
Director
Division of Occupational
Licensing
Department of Commerce and
Economic Development
Pouch D
Juneau , Alaska 99811


Dear Mr. Treager:

In compliance with AS 37 and AS 08 and on behalf of the Board of Pharmacy , I am submitting the enclosed Annual Report concerning the board's activities and accomplishments for Fiscal Year 1983.

In compliance with AS 37 and specifically with AS 08.80.040 (4) , and on behalf of the Board of Pharmacy , please submit this report to the Legislature.

Should there be any questions concerning this report, please feel free to contact me. Thank you.

Sincerely,



Eldon R. Ulmer, R.Ph.
President
Board of Pharmacy

Enclosure A six part report with the inclusion of five addendums.

Part 2.

Narrative Statement prepared and submitted by
Margaret Soden , R.Ph., Secretary of the Board
for FY '83

FY '83 was a significant year for the Alaska Board of Pharmacy. Not only did we have our usual number of requests for information, applicants for licensure, and general Board business to conduct at each meeting, but the Alaska Controlled Substances Act became effective on January 1, 1983. The Act impacts our Board to a great extent in that we are the responsible administrator of Title 17, Chapter 30, Regulation of Manufacture, Distribution, Prescription and Dispensing of Controlled Substances and Title 17, Chapter 35, Marijuana Therapeutic Research Program.

Because Title 17 did not become effective until January 1, 1983, we could not actually begin working on our duties as outlined in the two Sections cited above. We did, however, do much preliminary work in ascertaining how best we could handle state registration of Federal Drug Enforcement Administration (DEA) registrants (estimated to be 1000-2000 in number), the procedure for obtaining therapeutic marijuana for the research program, seeking out physicians to serve on the Patient Qualification Review Committee established in Section 35, and a number of miscellaneous administrative details.

In April 1983 the Regulations Specialist budgeted to work with the Board was hired. At our June 1983 meeting she presented regulations for the state registration of all Alaskan DEA license holders and for the Marijuana Therapeutic Research Program's Patient Qualification Review Committee. With some changes, the regulations were approved and are now in the "notice and hearing" phase. We are hopeful they will be adopted before November or December so we can begin registration and officially appoint the four physicians who have agreed to serve on the Patient Qualification Review Committee.

In general business of the Board this year we:

1. Completed inspection of all pharmacies, drug room, hospital pharmacies and nursing home drug rooms with the exception of those in Seward, Glenallen and Seldovia. We also followed up on violations observed in prior inspections such as security in two retail pharmacies and general physical conditions in one Anchorage pharmacy.

2. Observed non-compliance with prescription advertising regulations in a Fairbanks pharmacy, corresponded with the outlet in question and the problem was resolved.

3. Rewrote several questions on our Jurisprudence exam to include the Controlled Substances Statute and Marijuana Program.

4. Approved a form for the reporting of Continuing Education that will be required of pharmacists with their June 1984 renewals.

5. Asked that updated statute books be sent to all licensees. This required two printings so is in progress.

6. Sought and had preliminary approval for the Board to participate in the National Association of Boards of Pharmacy (NABP) Foundation's newsletter program. This newsletter is published quarterly with two pages of Federal regulations news and two pages of state news. It is a very worthwhile and timely publication. The DOL felt it would be more cost effective to publish a newsletter locally so withdrew approval. However no state publication has been done since Fall 1981 with the exception of a very short several paragraph letter sent to licensees in early 1982. Although \$1000 was budgeted for FY'83, no newsletter type communication from the DOL or Board of Pharmacy was sent to licensees.

7. Held a joint meeting with the Medical and Nursing Boards in February 1983 in which we discussed matters of common interest. One matter of particular concern was the emergency room dispensing of controlled substances on weekends, evenings or at other times when the pharmacist or pharmacist/consultant is not available. This is a

This is a special problem throughout Alaska. DEA had a proposed rule change which would have allowed emergency controlled substances to be allowed in such situations, but nationally it met with a great deal of opposition. We were the "cry in the wilderness" in favor. DEA has now dropped the whole idea. The Alaska Board of Pharmacy cannot write regulations counter to Federal law so the problem will remain.

8. Reviewed several requests from individuals and groups for approval of Continuing Education programs not strictly meeting the requirements of our regulations.

9. Received a favorable opinion from Attorney General, Wilson Condon, covering our Board's desired policy regarding investigations handled by DOL.

10. Attempted to come to some understanding with the Alaska Dental Society and the Board of Dental Examiners relating to the practice by some dentists of writing prescriptions outside their area of expertise. Many pharmacists were refusing to fill prescriptions for non-dental related conditions and some tension was the result.

11. Acted on proposals or legislation of interest either as a Board or individually. Some of them were:

- a. Alaska Code Revision-did not support as currently written.
- b. HB 10 Imitation Controlled Substances-supported with qualification.
- c. HE 225 Use of Drugs by Optometrists-did not support as written.
- d. Proposed change in regulations regarding "keys to a pharmacy."
- e. Repealed several CE regulations-a "housekeeping" measure.

12. Began preparing for Sunset Review in 1984. Carol Carroll, Legislative Audit, attended our February 1983 meeting and we discussed several activities and questions she had with regard to Pharmacy Board policy or procedure. We individually received and responded to "Interim Letter No. 1" from the Committee.

Our primary continuing concern is with the need to proceed with implementation of Title 17, Sections 30 and 35 with all due haste. Over seven months have passed and little concrete progress appears to have been made. We are particularly concerned with the staff budgeted to put Title 17, Sections 30 and 35 into effect. The Board was budgeted for two Regulations Specialists and two Investigators. We feel very strongly that two Regulations Specialists are not needed nor are two Investigators needed to do the work our portion of Title 17 requires. We have requested on several occasions that the one Regulations Specialist and one Investigator positions budgeted (but unfilled to this date) be somehow changed to encompass an "executive secretary/inspector" (various titles may be used) type person who would directly attend to the administrative duties we are now required to handle. Our licensing examiner cannot be expected to fulfill these functions along with her other duties. It is important that this position be filled by someone familiar with pharmacy nomenclature, pharmacy procedures, the administration of a Controlled Substances Act and Marijuana Program, and be able to handle and review the registration of 1000 to 2000 Alaska Controlled Substances licensees as a year long, on going process. This person could also serve as an inspector since that activity will increase with the implementation of Title 17. This

would also release the Pharmacy Board members from an inspection function which they do as personal time and funds allow. For a more complete discussion, see the attached letter and review of the Board's position written by Mr. Eldon Ulmer, Chairman.

The second major concern is for some sort of timely publication to be sent to all licensees. Since we are currently implementing a whole new section of regulations that very directly impact the practice of the pharmacy profession in this state, some means of communication is vital. The Board would prefer participation in the NAEP program since it encompasses both Federal and state activities. Since many other states participate in the program, the cost of publication is shared. Timely communication to licensees is the key to our concern and in FY '83 there was none. We are hopeful the \$1000 we included in Budget FY '84 for a newsletter will be used to achieve this goal.

Part 3.

Statistical Overview prepared and submitted by
Licensing Examiner Barbara Branson for FY '83.

BOARD OF PHARMACY
FISCAL YEAR 1983
STATISTICAL REPORT

EXPENDITURES

Travel & Per Diem.....\$9,196.25
Contractual.....\$1,600.11

RECEIPTS

Application & License Fees.....\$8,128.00

LICENSES ISSUED

Pharmacists.....26
Retail Dealers.....4
Wholesale Dealers.....0
Hospital Pharmacies.....1
Hospital Drug Rooms.....0
Nursing Home Drug Rooms.....0
License Renewals.....1

EXAMINATIONS

June 28-29, 1983 NABPLEX EXAM, Anchorage, Alaska

Three Candidates - PASS: 3 FAIL: 0

BOARD MEETINGS

October 7-8, 1982 Fairbanks, AK

February 24-25, 1983 Juneau, AK

June 28-29, 1983 Anchorage, AK

Part 4: Review of Prior Year Objectives

The Board of Pharmacy enumerated eight objectives for FY '83. Several of these have been discussed previously in the "Narrative Statement" but will be repeated here to comply with the requested format. The eight objectives were:

1. Inspect all pharmacies licensed under the Board of Pharmacy Jurisdiction. The board's activity as to inspections was limited due to lack of funds and time. The board realized that the implementation of its responsibilities under AS 30 and AS 35 would make it impossible to inspect all pharmacies. The board decided to follow up in problem areas that were revealed in the massive inspections conducted in FY '81 and FY '82. Almost all pharmacies had been inspected in those two years. This would delay the next statewide inspection of pharmacies until FY '84, rather than to spend funds that might jeopardize the board's fiscal ability to conduct the three board meetings programmed for FY '83. The problem area follow up revealed that the installation of a sink in one pharmacy had been accomplished, that adequate security of those pharmacies (who closed their prescriptions departments when other areas of the store were open) had been accomplished, and that house keeping measures had been improved in those areas where adequate cleanliness had been found to be below approved standards.
2. Establish continuing education method of reporting and auditing for licensure requirements for 1984. The board adopted the reporting and auditing system developed by Sid Fry, R.Ph., professional member of the board from Sitka. A form was approved, to be mailed with the license renewal statement. Pharmacists will be required to submit the completed form, showing they have completed the required number of continuing education hours, with the understanding that a spot check system of those hours will be conducted.
3. Meet the requirements of the Controlled Substance Act AS 30 and The Marijuana Therapeutic Research Program Statute AS 35. These two statutes, although passed by the legislature in 1982, did not go into effect until January 1, 1983. There were no funds available for half of FY '83 for the implementation of the statutes. This crammed all effort by the board into the six month period from January 1, 1983 until June 30, 1983. The board was aware of this and spent many hours individually, and collectively, prior to the first meeting of the board in February of 1983, preparing proposed regulations so that a running start could be made at the February meeting. Pages of these proposals were prepared by the president of the board and brought to the February meeting. The board had requested that a representative from the Attorney General's office and a representative from the Special Prosecutor's Office be in attendance at the February meeting. This request was granted and these two professionals were very helpful in the area of regulations.

3. (continued)

The many pages of proposed regulations presented by the president of the board, were considered in depth by the board. It was agreed that this was a starting point, but that many more pages would be necessary before all subjects and requirements were met. Several facts were made available to the board at the February meeting, that here-to-fore were not known by the board. The board started as early as FY'81 (as substantiated by minutes of meetings in FY 81 and FY '82) planning for action under the then proposed controlled substance act that was being considered by the legislature. The board realized (again substantiated by minutes of meetings of FY'81 and FY'82) that the board would need certain personnel, within the Division of Occupational Licensing (DOL) to effectively administer a controlled substance act, if the board was given the responsibility of administering the act. The board placed high priority on the hiring of an executive-secretary type person, on a full time basis, who would work within the jurisdiction of the DOL, but at the direction and guidance of the board. The board realized that it would need a full time regulation specialist and after the regulations had been adopted, and a licensing system had been established, possible the service of an investigative person. Some of these requests were provided for when the DOL submitted the board's budget to the budget process for FY'83. The most needed position request was completely ignored by the DOL when the line items were submitted to the legislature via the budget process. The position of executive-secretary had been left out and instead, the budgeted dollars for personnel that were allowed with enactment of the Controlled Substance Act and AS 35, were submitted requesting two investigators. The board was frustrated by this action of the DOL, since the board had not been made aware of the line item requests made by the DOL. An investigator will be needed in FY 85 or FY'86. Investigators are not needed until the licensing process is established so there are licenses to investigate, if problems occur. The hiring of investigators will accomplish nothing in the early stages of implementation of AS 30 and AS 35. Dollars will be wasted. Investigators specifically hired (not under the intent of the legislature when enacting AS 30 and AS 35) will sit on their hands, or be used by the director of DOL in other areas outside the budget of the board of pharmacy and in violation of the intent of the legislation. The board knows that the Controlled Substance Acts of Washington, Oregon, and Wyoming were all put in place effectively, with the aid of an executive secretary type person. These three states have established programs and have been effectively operating them for from five to seven years. They do so with the help of a full time executive secretary type person. The board has knowledge that there are a number of people who have been working in the programs of those three states, both as executive secretaries and investigators, who are interested in coming to Alaska in a like position. The board does not know of any person presently with the DOL or available in Alaska who could qualify for this highly technical and specialized position.

3. (continued)

When the director of DOL advised the board that the budget line items could not be changed and that his plan was to hire the two investigators, the board was in shock. An immediate evaluation of what would happen under such a plan revealed the fact that the program would be in jeopardy and indeed probably completely delayed until the action by the director of the DOL could be changed or altered. The director then advised the board that the only remedy was to submit a request to the department of personnel that a "special exemption" status be enacted and that an executive-secretary position be created under the special exemption process. The other alternative is to seek legislative action. Since time is already a prime factor, a delay until legislative action can be taken in January or February of 1984, would seriously delay placing the provisions of AS 30 and AS 35 on stream. The board requested that the director of DOL apply for a special exemption status and proceed full speed with the request. The director asked the president of the board to write him a letter, requesting that this action be taken. He also requested that the president of the board write a job description for the executive-secretary position and provide the qualifications for the job. The president of the board spent many hours drafting the qualifications and the job description and sent them with a cover letter to the director of DOL with copies to the Governor, the Legislative Audit Committee, and the Speaker of the House and President of the Senate as well as to the Attorney General and the Commissioner of Commerce & Economic Development. A copy of that letter and the qualification paper and job description are attached to this report as Addendum # 1. A copy of the letter from the Governor, in reply to the receipt of all the material that went to the director of DOL, is attached to this report as Addendum # 2. The request, through the personnel officer of the DOL to the personnel office of the state, was garbled. This is evident from the letter of reply written to the request. The letter rejecting the request states that an exchange of the "positions" of investigators to the "positions" of executive type personnel was denied. The board did not ask that the two investigator positions be exchanged for two secretary type positions. It asked that the two positions of investigators be changed to ONE POSITION OF EXECUTIVE-SECRETARY. This exchange would result in one less person being hired and would be cost effective due to the elimination of one position. Not only would the exchange benefit the board in implementation of AS 30 and AS 35, BUT DOLLARS WOULD BE SAVED. A copy of the memorandum of April 13, 1983 to the director of DOL from the personnel officer of DOL, Jim Lawson, is attached as Addendum # 3. The board meeting in June of 1983, again asked the director of DOL to appeal the decision of the personnel director, and to specifically state that only one person was being asked for instead of two. The director apparently did appeal and a copy of the letter of July 29, 1983 written by the director of DOL to the president of the board, advising of the failure of the appeal, is attached as Addendum # 4.

3. (continued)

The board has spent much valuable time in FY'83 trying to convince the director of DOL, the Commissioner of Commerce & Economic Development, and the Governor that the board believes the intent of the legislature in the enactment of AS 30 and AS 35 was to get the job done. The board believes that the pressure by-pass special exemption method of securing the necessary qualified personnel in the DOL to aid the board in implementing AS 30 and AS 35 should and could be used, if it were presented properly. The progress of the board in implementing the statutes has been greatly impeded by the lack of the qualified personnel. The director of DOL finally hired a regulation specialist, who came on board in mid April 1983. This regulation specialist has been of great help and with the help of a regular regulation specialist in the Juneau office of DOL, prepared regulations that were patterned after those written by the president of the board. These proposed regulations were presented to the board at the June 1983 meeting. Changes were made and the proposed regulations were asked to be put in final form and promulgated as soon as possible. An outline copy of these regulations is attached as Addendum #5. Irregardles to all the road blocks that have impeded implementation of AS 30 and AS 35, the following has been accomplished:

- A. The board president contacted, first by phone, and then where needed, by letter....the following:
- Federal Drug Administration (FDA)
 - The National Institute of Drug Abuse (NIDA)
 - The Drug Enforcement Administration (DEA)
(State level, Regional level, National level.)
 - The National Eye Institute (NEI)
 - The National Cancer Institute (NCI)

The FDA sent copies of the Group Guidelines for the use of Delta-9-Tetrahydrocannabinol (THC) NSC 134454 along with registration forms, order forms, and information on obtaining marijuana for use when implementing AS 35. The DEA sent a complete print out of all DEA registrations in Alaska (some 1000), when the board president wrote them and explained that the list was imperative to the program in Alaska. The board president further asked and received a letter from DEA allowing limited distribution of this list to pharmacies (as the only people other than the board and its extensions) who have a need for this list. The NIDA, the federal agency authorized to issue THC, promised to co-operate with the board when regulations are implemented, so we have a source of THC (marijuana derivative) for the research program.

- B. The president of the board contacted many ophthalmologists, radiologists, psychiatrists and members of the Medical Board, in an effort to stimulate as much interest as possible with those professionals so they would apply for appointment to the Patient Qualification Review Committee (AS 17 35). Copies of the law were handed out at a meeting of the psychiatry Association meeting,

3. (continued)

resulting in the application from a psychiatrist, a radiologist, a ophthalmologist and a response from a member (professional member) of the medical board. The president of the board, with the help of the regulation specialist, designed an application form to be used by these professionals. The professionals filled the forms out and sent them to the president of the board, who presented them at the June meeting. All were approved for appointment and the president of the board (attested to by the secretary) mailed official letters of appointment to the four physicians. As soon as promulgations are finalized, this Patient Qualification Review Committee will meet and the program will be initiated.

C. The board is still persuing with vigor the attempt to bring an executive secretary on board at DOL.

D. Controlled substance license forms are being designed with the help of the regulation specialist. The concept, if not the actual form, was approved at the June meeting. This form will speed up the licensure of those that are required to be licensed under AS 30, as soon as all regulations are promulgated, hopefully early FY '84.

E. The president of the board did write a qualification paper for an executive secretary and also a job description (see Addendum #1).

F. Regulations as evidenced by Addendum # 5 are being promulgated, after approval at June meeting of the board.

G. In summary, a great deal has been done and a great deal of it by individual action by dedicated board members. A great deal more could have been accomplished with the help of qualified personnel.

4. Promulgate regular regulations (other than those mandated by AS 30 & AS 35). The board at a regular meeting voted on the need for regulations that would specifically allow the secretary of the board to keep "copies" of applications for registration and back up material copies to aid all board members in the issuing of temporary permits. A board member assumes a great responsibility when he/she issues one of these permits. The board member needs to be able to verify that all material submitted is factual and all necessary requirements are met. The personnel at DOL have demonstrated a lack of knowledge to look at documents and verify facts. A board member, assuming the responsibility for the qualifications of an applicant, when a temporary permit is issued, would be remiss indeed if all material is not checked by a professional member of the board. This person should be the secretary, who should have copies of all documents, so the proper information can be transmitted to the issuing board member. The board member is responsible, not a member of DOL staff, who might interpret information wrong, and result in a license being issued without proper qualification. The director of DOL told the regulation specialist to put that regulation "on the back burner" and not do anything about it. Result.....no regulation, even though voted on

5. News letter in cooperation with the National Association of Boards of Pharmacy (NABP). The NABP in cooperation with most of the 50 states, prints a news letter and mails it to pharmacists within the states. The NABP, uses 50 % of the space in the letter for national news, and the boards of pharmacy of participating states send in state news, thus supplying the other 50 % of the news letter. The NABP puts this together and mails each state the news letter pertaining to their individual states. This usually is mailed from the NABP after approval of the participating state. The board in regular session unanimously approved participation in this program. The secretary was instructed to obtain all the details and if it could be done within the budget, to proceed with the letter. The director of DOL had a ten or fifteen minute telephone conversation with a member of the attorney general's office, and as a result nixed the letter. ResultNo news letter, although it is greatly needed to make regulons aware of ANP and PA licensure as well as regulation changes and board actions. Most states, if they have the financial means (board's budget privided funds) participate in this very worth while project. Alaska does not and the board wonders why, when it was passed in regular session and funds budgeted for it.
6. Department news letter.(DOL). The board was told that the DOL was planning a department news letter that could and would contain news items from all boards that are associated with DOL. The board (or boards) were to submit news items when this publication was to go to press. To the boards knowledge no such letter was published in FY '83 and if it was, no news was solicited from the pharmacy board.
7. Conduct three regular board meetings during FY '83. The board did conduct three meetings during FY'83. The dates and location of these meetings was: October 7 & 8, 1982 in Fairbanks: February 24 & 25, 1983 in Juneau: June 28 & 29, 1983 in Anchorage. Most material covered in those meetings is reported in the "Narrative Report", so will not be repeated here other than to note that the goal of holding three meetings was met.
8. Board response to sunset. The members of the board of pharmacy were made aware of the provisions of sunset legislation by the receipt of a letter written February 24, 1983, from the Legislative Audit Committee. The letter asked that the board respond to a questionnaire. The board did. The next communication from the Legislative Audit Committee was in the form of "Interim Letter No. 1" that was written April 12, 1983 and addressed to each board member. Most board members answered this letter. Documents, letters, and facts were submitted by some board members. The board stands ready, willing, and able to testify, within the budget, or board members individual means, when so asked by the Legislative Audit Committee. The board welcomes the opportunity to present it's argument as to why the board should stay in existance.

1. Inspections:

Inspections of pharmacies was at a minimum during FY '83 due to the pressing demand on the board's time and funds. It is believed that a full scale state wide inspection of pharmacies will be initiated in FY '84. The two professional board members from South Eastern Alaska will team up to cover all of South Eastern. These board members will take advantage of super saver fares when possible and will schedule their inspection so the entire area is covered on one trip . Ideally the board likes to have a professional member team with a non-professional, but there is no non-professional in South Eastern Alaska. This mandates that two professionals conduct that portion of the state wide inspections. Central and North Western Alaska can be covered by having the non-professional member from Anchor Point travel to Fairbanks and team with the professional member there. The two can then inspect all of the Fairbanks area, fly on to Nome and other areas in Central and cover all pharmacies in those areas. The two professional members in the Anchorage area can team with the non-professional member in Anchorage and cover all of the Anchorage area as well as the Matanuska Valley , and areas along the highway . The non-professional member from Anchor Point will be met on the Kenai by one of the professional members from Anchorage to cover all of the Kenai Peninsula . One of the professional members from Anchorage will join with the non-professional from Anchorage and inspect Cordova, Valdez and Kodiak. This plan should effectively cover the state in FY '84, and within the budgeted amount of \$ 5,000.00 (requested).

2. Continuing Education Requirements for Licensure in 1984 and the Future. All regulons will be coming up for re-licensure during 1984 . The board has adopted a program that will allow continuing education credits to be used to satisfy the requirements for competency under AS 08.80.040(8). The board has adopted regulation that will be in force during the registration and re-registration of regulons in 1984 and following years. The board will follow these regulations in 1984 and re-register all applicants who submit the required hours of continuing education and pay the fee. A system for spot checking requirements is established and will be in effect utilizing personnel from the DOL and Board members .

3. Establish, by Regulation , the Procedure for Administration of the Controlled Substance Act AS 17 35 and the Marijuana Therapeutic Research Program, AS 17 35 and Proceed to Administer the Acts: The Federal Controlled Substance Act of 1970 as ammended was put in place in 1970. From that time until January 1 , 1983 , Alaska did not have a workable state controlled substance act. All other 49 states did pass controlled substance acts . Alaska was the last. When the legislature was considering a controlled substance act in the many years between 1970 and 1983 , they always ran into problems and for one reason or another always aborted the efforts . The legitimate industry must have an Alaskan State Controlled Substance Act to exist in harmony with

3. (continued)

Federal Statutes. During 1982 a serious effort by the legislature resulted in the passage of an Alaskan Controlled Substance Act AS 17.30 and a companion act The Marijuana Therapeutic Research Program AS .35. The board of pharmacy attended hearings with the legislative committees and contributed information and expert testimony. In doing so they worked, with the help of those in state government who desired the passage of the act, to write the legitimate industry portion of the act. This portion is known as AS 17 30. The legislature was in doubt as to what board or commission or department should administer the act. During the hearings the board of pharmacy demonstrated knowledge, both in writing the legitimate industry portion, and in an understanding of how it would relate and function with the Federal Act. The question was asked "Does the Board of Pharmacy have the ability and knowledge to administer AS 17 30 and AS 17 35?". The answer given by board members who testified was a resounding "YES", but a qualified "YES". The board has knowledge as to how Washington, Oregon and Wyoming administer their controlled substance acts and the board knew that it could do the samegiven the proper tools and funds. One of the qualifications was that qualified personnel, be hired within the DOL, to assist the board. This qualified personnel should be in the form of an executive-secretary, who should be a pharmacist, and if not registered in the state, be required to become registered in the state. With this qualified and experienced help, the board would be able to properly and promptly put in place all the requirements of AS 17 30 & AS 17 35. The board believed that this would take place, and investigated the availability of qualified people and found at least three people who qualified. These people had many years (from 5 to 8 years) of experience with pharmacy boards from our neighboring states to the south. The board planned to bring one of these people on line at an early date. The board, as outlined in Section 4 of this report, ran into difficulties, not of their doing, but brought on by the erroneous submission of the request for two investigators, instead of the one executive-secretary that the board, in documented minutes, requested. It is the board's goal for FY '84, to have the executive-secretary position placed in the personnel division of the state, so this position may be filled. It can be done by special exception, and done rather rapidly, or it can be done by legislative action early in 1984. It must be done to assure proper implementation of AS 17 30 & AS 17 35 and at the earliest date possible. The board has submitted FY '84 budget as part 6 of this report and has budgeted \$ 35,000.00 for what remains of FY '84, and \$ 52,000.00 in FY '85 and \$ 56,000.00 in FY '86. These budget requests are reasonable and are necessary to get the job done. One person does the job in Washington, in Oregon and in Wyoming. Two investigators are not needed. The board has submitted a budget of \$15,000.00 per year for each of the years FY'84, FY '85 and FY '86, as a travel expense item for the executive-secretary. The executive-secretary, in future years, could take over

3 (continued)

much of the inspection of pharmacies , in conjunction with board members in the various geographic areas of the state. The executive-secretary could also do most of the investigation work , with the help of investigators now employed by the DOL, without hiring additional investigators. This is how the program works in the three states referred to previously in this report. It is effective and it is cost effective. The board has requested \$ 35,000.00 for a regulation specialist for the FY '84 and reduced this to \$ 33,000.00 in FY '85 and to zero in FY'86. Most of the regulations needed should be in place by the end of FY '85. The board has requested that no money be spent or put in the board's budget for investigators for FY 84. The licenses must be issued and in place prior to being able to investigate license violations . The board has requested \$ 45,000.00 a year for investigator hire in FY 85 and again in FY' 86 , as by that time investigations will be in order and indeed needed. The board has requested \$15,000.00 for licensing regulons in each year of FY'84, FY '85 and FY '86., and this amount of money represents the board's share of the expense for a licensing examiner that is shared by other boards. The board has submitted the amount of \$ 1,000.00 per year for each of FY '84, FY '85 and FY '86 for the production of a news letter. It is one of the board's goals that this be done in conjunction with the NABP news letter . The board has requested the sum of \$18,000.00 to conduct three board meetings in FY '84 and the sum of \$ 20,000.00 for FY '85 and the sum of \$22,000.00 for FY '86 . The board has requested the sum of \$ 5,000.00 to help defray the cost of board members being represented at hearings during sunset . In 1979 board members paid their own way to these hearings at a considerable out of pocket expense that should not be a responsibility of board members. Total budget requests for FY '84 is \$158,400.00, for FY '85 it is \$ 194,000.00 and for Fy '86 it is \$163,000.00

4. Promulgate Regulations to Carry Out the Purpose of AS 80, That Have Not Been Previously Considered Due to Work Loads
The board is projecting an expense (budget request) of \$3,000.00 for each year, FY '84, FY '85, and FY '86. This amount should cover actual costs ,not including salary for the regulation specials ,that is submitted elsewhere in budget request.

5. News Letter:

Although the board has been temporarily stopped by action of the director of DOL , from a cooperative effort with the NABP in the production of a news letter, the board has as a goal in FY '84 the establishment of the news letter. The board has asked the attorney general representative , who gave an unofficial negative response to the request the first time, to take an indepth look at the legal problems that are imagined ,to determine that they really do not exist. Most other states have this program with no problems. Alaska should also benefit from the cooperation of NABP in supplying a good news letter to all regulons.

6. The Board Plans Three Regularly Scheduled Meetings for FY' 84 and is Projecting a Like Amount for Each year FY'85 & FY'86
The board will continue to hold at least one meeting a year in Juneau and for FY '84 , has scheduled the fall 1983 meeting in Juneau on October 27 & 28 , 1983. There will probably also be a meeting in Juneau in February 1984 and the June meeting will be held (at an undecided location) and at the time the NABPLEX (national) examination is scheduled nation wide . The board may also hold telephone teleconferences , in FY '84 , in an attempt to expedite implimentation of AS 30 & AS 35 and as a necessity due to limited funds and time. Projected costs are FY'83-'84 & '85 is \$18,20, and \$22,000.00

7. The Board Will Respond to Legislative audit Under "Sunset" Legislation to Justufy the Existance of the Board.
The board strongly feels that the board system is the best method of administering pharmacy laws and regulations, and to this end will present testimony to the legislative audit committee and the various committes? of the legislature, when this is necessary . The pharmacy board was given a vote of confidence , when the Controlled Substance Act was implemented . The legislature felt at that time that the pharmacy board cound administer the Act in a knowledgable and cost effective way. The board in reacting to that confidence is attempting to do just that and to conduct the duties of the board in a responsive and effective manner. Costs are projected as \$ 5,000.00 for FY'84 and no costs for FY '85 & FY' 86 as the two later years are non-sunset years.

Part 6. Budget Recommendations FY '84 With Estimates Budget
Recommendations for FY '85 and FY'86:

ITEM	BUDGET FY '84	BUDGET FY'85	BUDGET FY '86
1. Inspections	\$5,000.00	\$ 5,500.00	\$ 6,000.00
2. Continuing Education	5,000.00	-0-	-0-
3. Controlled Substance Act. AS 30 & AS .35			
A. Executive Secretary	\$35,000.00	\$52,000.00	\$56,000.00
B. Travel for Ex-Sect.	\$15,000.00	\$15,000.00	\$15,000.00
C. Regulation Specialist	\$35,000.00	\$33,000.00	-0-
D. Investigator	-0-	\$45,000.00	\$45,000.00
E. Licensing Examiner (Shared expense)	\$15,000.00	\$15,000.00	\$15,000.00
4. Registration Of Regulations	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
5. News Letter	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
6. Board Meetings (3 a year)	\$18,000.00	\$20,000.00	\$22,000.00
7. Response to Sunset	\$ 5,000.00	-0-	-0-
TOTALS	\$158,400.00	\$194,000.00	\$163,000.00

William Sheffield,

Governor

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

POUCH D

JUNEAU, ALASKA 99811

5 March 1983

Eldon R. Ulmer , R.Ph.
President, Board of Pharmacy
P.O. Box 101420
Anchorage, Alaska 99510

Mr. Harry Treager
Director
Division of Occupational Licensing
Pouch "D"
Juneau , Alaska 99811

Dear Mr. Treager:

Please consider this letter and supportive information attached , as an official request for action by you , from the Board of Pharmacy .

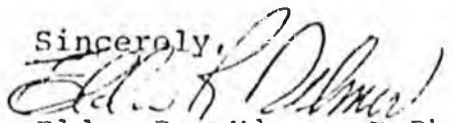
When you met with the Board in Juneau on February 25, 1983, you requested that I write to you asking your help in obtaining changes in the "designation of personnel" portion of the budgeted line items for implementation of AS 17.30 and As 17.35 by the Board of Pharmacy.

You also asked for a job description for the Boards designation of "EXECUTIVE-SECRETARY-INSPECTOR" . In the five pages, attached, stating purpose , and including narrative , conclusion , and an addendum, I have attempted to do that . It is complex , to say the least, but I do believe it conveys the intent of the legislature and a means of implementing that intent.

Please expedite your request for the line item change so we may proceed at once. We are already two months into 1983 , and need to go at full speed in the next month or two .

Let me know as soon as you have hired the regulation specialist that you promised to hire and base in Anchorage. I have five pages of suggested regulations covering not only AS 17.30, but also AS 17.35 . I have a commitment from all four of the physicians to serve in the various categories on the Patient Qualification Review Committee and need the specialist to aid in getting my proposed applications for those positions into printed form, so letters of appointment may be sent.

Sincerely,



Eldon R. Ulmer, R.Ph.

President, Board of Pharmacy

William Sheffield,
Governor

**DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

5 March 1983

POUCH D

JUNEAU, ALASKA 99811

Eldon R. Ulmer , R.Ph.
President, Board of Pharmacy
P.O. Box 101420
Anchorage, Alaska 99510

Mr. Harry Treager
Director, Division of Occupational Licensing.....

Enclosure: Five pages of supportive material.

COPY TO: Honorable William Sheffield,
Governor, State of Alaska
Pouch "A" State Capitol Building
Juneau , Alaska 99811

Richard A. Lyon, Commissioner Commerce & Econ. Dev.
Pouch "D"
Juneau , Alaska 99811

Honorable Joe Hayes, Speaker of House of Representative
Pouch "V"
Juneau , Alaska 99811

Honorable Jalmar Kerttula, President of the Senate
Pouch "V"
Juneau , Alaska 99811

Norman Gorsuch, Attorney General
Department of Law
Pouch "K"
Juneau , Alaska 99811

Dan Hickey, Chief Prosecutor,
Department of Law
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ALL MEMBERS OF ALASKA BOARD OF PHARMACY

Gerald Wilkerson, CPA
Legislative Auditor
Pouch "W"
Juneau, Alaska 99811

ALASKA STATE BOARD OF PHARMACY

IMPLEMENTATION

CONTROLLED SUBSTANCE STATUTE AS.17.30
AND

MARIJUANA THERAPEUTIC RESEARCH
PROGRAM STATUTE AS.17.35

The Legislature passed the CONTROLLED SUBSTANCE STATUTE AS 17.30 AND THE MARIJUANA THERAPEUTIC RESEARCH PROGRAM STATUTE AS 17.35 IN 1982 with an effective date of January 1, 1983.

Much of the responsibility for the implementation of these two statutes rests with the Board of Pharmacy. The legislation did not specifically address the funding for the implementation, nor the number or type of personnel that would be needed for implementation.

The Board of Pharmacy has been planning, since 1981, for the responsibilities that many believed would be vested with the Board, but could make no definite plans until enactment was accomplished and an effective date established.

The Board is now faced with problems of selecting and funding personnel to insure a timely implementation of its responsibility.

N A R R A T I V E:

Under Sec 17.30.010 Regulations must be promulgated.

Under Sec 17.30.020, (a), (b), (c), (d), (e) & (f) Registration requirements must be met.

Under Sec 17.30.030 (a), (b), & (c) Registration must be accomplished.

Under Sec 17.35 Marijuana Therapeutic Research, a program must be established, physicians interviewed and appointed to the Patient Qualification Review Committee and regulations must be adopted to assure this program is administered at a state level that is compatible with Federal Statutes.

All of above can not be accomplished in three meetings of two days each presently budgeted for the Board.

Competent, qualified and experienced personnel must be hired, and fast, to accomplish the mandate of the legislature.

With this in mind the Board as early as June 1981, started setting up a proposed budget and establishing goals and objectives, even though no law was on the books at that time.

At two of its three meetings in 1982, after the enactment of the legislation, but still prior to the effective date, the Board again established goals and an accompanying proposed budget. This fact may be verified by the minutes of all of the above cited meetings and the attached goals and objectives to those minutes.

Throughout the meetings, evidence of the Board's intent can be clearly identified. Never did the Board waver from its intent to hire a "Executive-Secretary" type person to come on board in a full time position. Various budget figures were submitted in the range of \$ 85,000.00 for the period January 1, 1983 through June 30, 1983 (a half year) to fit the fiscal budget time frame from effective date of January 1, 1983.

The Board does not enjoy budget-bypass priveledges and must submit a budget through the Division of Occupational Licensing . It is the Boards understanding that this budget is then submitted through the Division of Commerce and Economic Deveicpemnt and on to the House and Senate Budget Committees .

The Board DID submit a budget , both for the fiscal year 1983 and again for the half-fiscal year 1983(January 1,1983 through June 30 , 1983. The 1983-84 Fiscal year budget was submitted to the Division of Occupational Licensing also, and it is presently in the process.

With each budget request , a breakdown was also submitted. In every request there is an audit trail established in the minutes of meetings and in letters. The Board always included expenses for a position that was labeled various ways , but either was called " Executive-Secretary" or a combined position of "Executive-Secretary-Investigator-Examiner.

The Board realized that a regulation specialist would be needed to promulgate all of the regulations mandated by statute and budgeted for that position also . The Board also ralized that , although it has always been assigned an inspector , by the DOL , that a full time inspector would aslo be needed , in addition to sharing the one used in the past . This would then amount to an investigator and a half (the half one being shared with other boards) and the full time one being used in the extensive investigatory work anticipated in the drug enforcement area .

Somewhere, in the translation from Board minutes and vocal requests, made by the Board to the Director of Occupational Licensing , MUCH WAS LOST. The Board recently was made aware that line item budget items were requested OR AT LEAST GRANTED in the budget , TIED to specific personnel. This personnel is defined, according to the DOL for two regulation specialists and two investigators . These people are in addition to the regular licensing examiner that is assigned to each board and usually shared by at least one other board. The regulation specialists and the two investigators were to be the people that would aid the Board in emplementing its work.

This will just NOT WORK. The Board needs an Executive-Secretary type person , comparable to those in the employee of other states , such as Washington, Oregon, and Wyoming, where state pharmacy boards have full responsibility for their states controlled substance statutes. The Board has in mind at least three people , two of which would be excellent, and who have indicated a desire to come to Alaska . These people have been employed for at least five years as executive-secretaries, and: also have investigate exeperience , and have been involved in the administration of both controlled substance legislation and marijuana research programs . Just the type of person with just the type of experience needed in the initial

N A R R A T I V E : (continued)

stage of the program in Alaska . Unfortunately ,no such position is specifically listed in the job classification program of the state, directly identified with the Pharmacy Board . Similiar positions do exist with the Board of Nursing and others, but not Pharmacy.

The Board of Pharmacy does not need, in the initial organization , two investigators . The Board does desperately need an experienced executive-secretary type, on a day-by-day basis to get the programs initiated and then properly administrated .

The Director of the Division of Occupational Licensing has agreed to submit the Boards desires as to changing the budget line item identification from two regulation specialists and two investigators to the personnel that could do the job , as long as the Board stays within the budgeted dollars. The Board has been informed that it has , budgeted dollars covering the four people mentioned above, in the amount of \$ 75,000.00 for the period January 1, 1983 through June 30 , 1983 . The Board has asked the director of DOL to make the following request:

Investigator /	
Executive-Secretary-Inspector	range of \$45,000.00/yr
Estimated 30 % of salary for office etc	13,500.00/yr
One full time regulation specialist	33,000.00/yr
Estimated 30% of salary for office	9,900.00/yr
Licensing Examiner(or secretary type)	28,000.00/yr
Estimated 30 % for office etc.	8,400.00/yr
<u>TOTAL FOR ONE YEAR</u>	<u>\$ 137,800.00/yr</u>

This would break down to \$ 68,900.00 for the remainder of fiscal year 1983(half year Jan 1 through June 30 , 1983) and well under the \$75,000.00 Budgeted . The figures above may be slightly off , but should be fairly close and definitely on the conservative side considering the licensing examiner budgeted above for full time Pharamcey Board work , when she would probably be part time with another board.

The Director of The Division of Occupational Licensing has asked that the President of The Board Of Pharmacy write him a letter asking for his cooperation in requesting the change and in addition attempt to write a job experience qualification requirements and a job description for the position of Executive-Secretary-Investigator .

The letter has been written and will be sent to the Director along with this narrative and a conclusion statement. Copies of all material will also be sent to The Governor, The Commissioner of Commerce & Economic Development, The Speaker of the House of Representatives, The President of the Alaska State Senate. all Board of Pharmacy Members, and Legislative Sunset Review Committee, and The Attorney General , and Department of Law.

CONCLUSION:

EXECUTIVE-SECRETARY-INVESTIGATOR FOR BOARD OF PHARMACY:

Qualifications:

1. Five years experience with another Board of Pharmacy, of which three years must be in the position of executive-secretary and the remainder in the position of investigator.
2. Experienced in administering controlled substance law of a state, under direction and supervision of a pharmacy board.
3. Experience in administering a marijuana therapeutic research program under the direction and supervision of a board of pharmacy.
4. Experience maintaining files and registration and licensing of pharmacists and controlled substance registrants at the direction and under the supervision of a board of pharmacy.
5. Be a registered pharmacist in a state recognized by the National Association of Boards of Pharmacy and be required to become registered as a pharmacist in the State of Alaska within six months of being hired as Executive-Secretary-Investigator by the State of Alaska.

JOB DESCRIPTION:

UNDER THE SUPERVISION AND AT THE DIRECTION OF THE BOARD OF PHARMACY AND UNDER THE MANDATES OF AS.08.01., CENTRALIZED licensing statute and AS 08.80 PHARMACY ACT.:

1. Assist Board in process of registration of all Drug enforcement registrants under the Federal Law under the AS 17.30 Alaska State Statute, including design of application form and license.
2. Maintain record of registration and licensure under AS 17.30 with such records properly maintained at the Division of Occupational Licensing.
3. INVESTIGATE violations of any state or federal law under the jurisdiction of the Board of Pharmacy and at the direction of the Board of Pharmacy and the Division of Occupational Licensing.
4. Aid Board in the administration of the Marijuana Therapeutic Research Program AS.17.35, including maintaining records at the Division of Occupational Licensing, and aiding the Patient Qualification Review Committee in processing applicants under that program.
5. Cooperate with all state and federal law enforcement agencies at direction of Board of Pharmacy.

C O N C L U S I O N : (continued)

6. Follow direction of DOL in maintaining records, issuing licenses, receiving fees, and any other job requirements assigned to licensing examiners, including:
 - (a) Collecting fees & issuing receipts;
 - (b) Maintaining records and files;
 - (c) Issuing & receiving application forms;
 - (d) Notifying applicants of acceptance or rejection of applicants as determined by Board;
 - (e) At direction of DOL & Board, notifying applicants for any licensure under AS 08.80 or AS 17.30 of examination dates or license renewal dates.
 - (f) Arrange space for holding examinations
 - (g) Notify applicants of results of examinations;
 - (h) Issue licenses & certificates or temporary licenses or certificates as authorized by Board
 - (i) Answer routine inquires;
 - (j) Maintain a current registry of all licenses issued under AS 08.80 & AS 17.30
 - (k) Perform other services as requested by board consistent with requirements of AS 08.80 & AS -7.30 & As 17.35.

7. Perform the following job description duties as mandated by and established by investigative procedures of DOL & Board.
 - (a) (b) (c) etc.....to be inserted by DOL & consistent with job description duties of INVESTIGATORS.

NOTE: It is the intent of the Board of Pharmacy that the above person be employed, under state employment laws, by the Division of Occupational Licensing. The Director would, in effect, be the person's boss, and would direct the duties and performance of the person, at the request and with direct input, from the Board of Pharmacy. The person would reside in the Anchorage area, working out of the Division of Occupational License office in Anchorage.

ADDENDUM:

The above job description, narrative, and conclusion solves the problem temporarily., however the problem may ultimately have to be addressed by the legislature. The Board of Pharmacy in offering the solution listed here, is attempting to carry out the wishes of the Legislature, so the important programs may be started at once and carried out to the best of the ability of all involved.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 28, 1983

Mr. Eldon R. Ulmer, R.Ph.
President, Board of Pharmacy
P.O. Box 101420
Anchorage, AK 99510

Dear Mr. Ulmer:

Thank you for a copy of your recent correspondence to Mr. Harry Treager regarding your request in obtaining changes in the "designation of personnel" portion of the budgeted line items for implementation of AS 17.30 and AS 17.35 by the Board of Pharmacy. You may be assured that I will give serious consideration to your comments on this important issue.

I appreciate your personally informing me of your views, and I have copied the Department of Commerce & Economic Development for Commissioner Richard Lyon's review.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

ADDENDUM # 3
(two part)

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

POUCH D
JUNEAU, ALASKA 99811
PHONE: (907) 455-2534

DIVISION OF OCCUPATIONAL LICENSING

DATE: June 15, 1983

TO: Board of Pharmacy

FROM: *Harry D. Treager*
Harry D. Treager, Director
Division of Occupational Licensing

SUBJECT: Personnel Position

The attached memorandum was received from the personnel officer.

HDT/jarH4
61583a

Attachment

MEMORANDUM

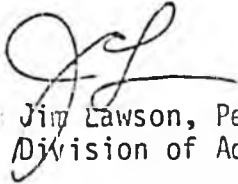
State of Alaska

TO: Harry D. Treager, Director
Division of Occupational Licensing

DATE: April 13, 1983

FILE NO:

TELEPHONE NO:

FROM:  Jim Lawson, Personnel Officer
Division of Administrative Services

SUBJECT: Requested Change of
Authorized Position
and Function

In response to your memo of April 7, 1983 requesting a change in title for two Investigator III positions to "Executive Officers."

These positions were budgeted for and authorized in the classified service subject to the rules of the classified personnel system. There is no classification for Executive Officer and I am, therefore, unable to effect the requested change.

JL/cw#23Q13

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

ADDENDUM # 4

DIVISION OF OCCUPATIONAL LICENSING

BILL SHEFFIELD, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
PHONE: (907) 465-2534

July 29, 1981

Eldon Ulmer, R.Ph.
Chairman
Board of Pharmacy
P.O. Box 101420
Anchorage, Alaska 99510

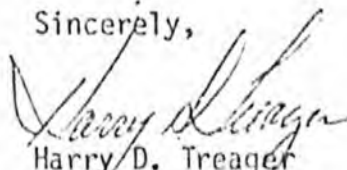
Dear Mr. Ulmer:

Re: Executive Officer Position

This correspondence is to advise you that efforts of Mr. Jim Lawson, personnel officer, Department of Commerce and Economic Development, were to no avail in changing the position of the investigator to an executive officer.

We should proceed immediately to fill the position as mandated by legislation.

Sincerely,



Harry D. Treager
Director

HDT/cw#2707
72983A
cc: Dick Long

STATE OF ALASKA
PUBLIC NOTICE
NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
BOARD OF PHARMACY

Notice is hereby given that the Department of Commerce and Economic Development, Board of Pharmacy, under authority vested by AS 08.80.030, AS 17.30.010, and AS 17.35.020, proposes to adopt regulations in Title 12 of the Alaska Administrative Code, Chapter 52, dealing with regulation of manufacture, distribution, prescription and dispensing controlled substances, marijuana therapeutic research program and definitions to implement AS 17.30.020, AS 17.30.030, AS 17.30.040 and AS 17.35.030 as follows:

Article 5, General Provisions is renumbered to Article 7, General Provisions, with Article 5 being assigned to the "Regulation of Manufacture, Distribution, Prescription and Dispensing of Controlled Substances," and Article 6 being assigned to the "Marijuana Therapeutic Research Program."

12 AAC 52 is amended by adding a new article to read:

ARTICLE 5
REGULATION OF MANUFACTURE, DISTRIBUTION, PRESCRIPTION
AND DISPENSING OF CONTROLLED SUBSTANCES

Section

400. Registration requirements

405. Registration

410. Registration

415. Registration

12 AAC 52 is amended by adding a new article to read:

ARTICLE 6
MARIJUANA THERAPEUTIC RESEARCH PROGRAM

Section

- 600. Patient Qualification Review Committee
- 610. Application for appointment
- 620. Term of appointment
- 630. Duties of committee

12 AAC 52.600 establishes a Patient Qualification Review Committee of four members to oversee the marijuana therapeutic research program.

12 AAC 52.610 sets forth the application for appointment to the Patient Qualification Review Committee by the Board of Pharmacy.

12 AAC 52.620 provides for the term of appointment for each of the four members appointed and designating which appointee will be the chairman of the committee.

12 AAC 52.630 sets forth the duties of the committee in the management of the marijuana therapeutic research program.

12 AAC 52.900 DEFINITIONS (ARTICLE 7) is amended by adding new paragraphs to provide definitions for "compounder" and "committee."

Notice is also given that any person interested may present written statements or arguments, relevant to the action proposed by mailing or delivering them so they are received by 4:30 p.m., September 30, 1983 to:

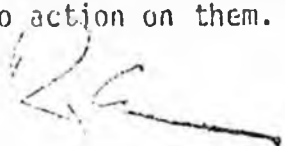
Department of Commerce and Economic Development
Division of Occupational Licensing
Board of Pharmacy - Regulations
Century Plaza
142 East 3rd Avenue
Anchorage, Alaska 99501

Copies of the proposed regulations may be obtained by writing to the above address, or by telephoning (907) 276-7969.

This action is expected to require an increased appropriation to implement and maintain the registration requirements, as specified in 12 AAC 52.400-.440. It is anticipated that the additional funding required for one-half of Fiscal Year 1984 will amount to \$17,500.00 to cover personal services, contractual, commodities and equipment (the equipment is a one-time cost). Fiscal Year 1985 is estimated to require \$26,700.00 and Fiscal Year 1986 is estimated to require \$27,900.00.

The action in regard to 12 AAC 52.600-.630 and 12 AAC 52.900(16) and (17) is not expected to require an increased appropriation.

The Department of Commerce and Economic Development, Board of Pharmacy, upon its own motion or at the instance of any interested persons, may thereafter adopt the proposal substantially as described above without further notice, or may decide to take no action on them.


Richard A. Lyon, Commissioner

DATE: JULY 13, 1983

E.O.

57



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 9, 1984

The Honorable Jalmar Kerttula
President of the Senate
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance with AS 24.30.130(b), I am transmitting an executive order that transfers the Alaska State Office from the Governor's Office to the Department of Commerce and Economic Development and renames it the Alaska Foreign Office.

Under current statutes (AS 44.19.074 -- 44.19.082), the Alaska State Office is in the Office of the Governor. Because the functions of the Alaska State Office are in the area of economic development, resource, and trade information, and contact between government and private industry, the appropriate administrative location for the office is the Department of Commerce and Economic Development. With a very slight re-wording, this Order just re-locates the current statutes to that department's chapter from the Governor's Office chapter. No substantive changes are being made. State employees in the Tokyo office remain in the exempt service by virtue of AS 39.25.-110(17).

Renaming the office as the Alaska Foreign Office gives it an obviously more appropriate name.

I believe that this transfer will improve the efficiency of state government.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: _____
 Title: Establishing the Alaska Foreign Office in Commerce & Ec. Dev.
 Sponsor: Rules by request of Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Commerce and Economic Development
 Program Category Affected: Development
 PRU, Program or Subprogram(s) Affected: _____
 Office of International Trade

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Catherine Wallen
 Division: Administrative Services

Phone: 465-2504
 Date: 12/21/83

Approved by Commissioner: Richard A. Lyon
 Agency: Commerce and Economic Development

Date: 12/28/83

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

COMMITTEE REPORT

SENATE

1/9/34

FURTHER:

Date: 1/7/49

Mr. President:

The Committee on Labor and Commerce has had Executive Order NO. 57
Administer the Alaska Foreign Office

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

- do pass recommends approved do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends approved
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]
CHAIRMAN

Name (please print)	Address	Representing	Testify?? (YES or NO)	Phone Number
<i>Vincino O'Reilly</i>	<i>Pouch O'Jennan</i>	<i>Commerce & E. De</i>	<i>Yes</i>	<i>465-2500</i>

SENATE LABOR AND COMMERCE COMMITTEE

HEARING DATE 2/7/84*Administration of Ak. Foreign Office*

Alaska's man in Tokyo

Ex-mayor sets up office in Japan

By CHRISTOPHER JARVIS
The Juneau Empire

Juneau's "Shogun," also known as former City-Borough Mayor Bill Overstreet, is home this week consulting with administration and local officials after spending his first four months as Alaska's Asia liaison.

His experience has been enlightening, enjoyable and rewarding, he said Tuesday in an interview.

In his meetings with Gov. Bill Sheffield and other administration officials, Overstreet said the message he has been given is the state should "reemphasize the importance of oil and gas to the future of the state" regarding oil and gas exports to Pacific Rim nations.

It is a message that will "be well received in Asia," Overstreet said.

Sheffield told him "renewed efforts here to get the federal government off the dime" will be a priority, he said of the drive to lift the ban on exporting Prudhoe Bay oil.

"The president and the prime minister have noted it's in the best interest of both nations for Alaska to become a source of energy" for Pacific Rim nations, he said.

Oil and gas matters, of course, are not Overstreet's only charge. "Tourism is not insignificant," he said.

His time in Japan and the Far East has impressed Overstreet not only because of the "sheer numbers of people," but also, "here is really a civilized society." It is safe to walk the streets at night and the people are well educated and well read, he said.

He described the Japanese as "polite, law-abiding and industrious."

Some features of Western society do exist in Tokyo, where Overstreet makes his home. Graffiti is seen, but usually written in English, "which might give you some idea of who's doing it."

Overstreet's tenure has not been without its serious diplomatic tasks, though.

As Far East representative, Overstreet went to Seoul, South Korea, to represent Sheffield at the funerals of South Korean Deputy Premier Suh Suk-Joon and Foreign Minister Lee Bum-Suk. The two officials were killed in an Oct. 9 terrorist blast in Rangoon, Burma.

It has also been a time of irony for

Continued on Page 12

Tokyo...

Continued from Page 1

Overstreet, who also visited Kamakura, Japan, a "small town" of 80,000. Kamakura, Overstreet said, is to Japan what he worked so hard to prevent Juneau from becoming — a former capital city.

Of course, Overstreet said, "while I have the same consideration for Kamakura as I do for Sitka, I think capitals should remain where they are."

Overstreet, once Juneau's school superintendent, praised the Japanese public school system, where children attend classes 5 1/2 days a week, 11 months a year.

"College is almost a vacation" after the years of preparation, he said.

He declined to say if he recommends an academic regimen similar to Japan's but said "that would be up to the local school board."

Although away for four months from the city where he was the highest elected public official, Overstreet said Juneau seems to be doing well.

"The community is continuing to catch up to its needs," he said.

He said, however, he sees some "evidence we're inclined to think quantity rather than quality."

Residents, developers and private business must start looking at things with a critical eye, particularly in construction, he said. The community must not always look at what is the least expensive, but other factors as well.

"I don't like to ride in an airplane where all the parts have been purchased from the low bidder," he said.

Sounding much like his old self, he again urged action on the part of Juneau residents to assure capital move efforts aren't revived.

"While we've got this tide, we need to move as quickly as possible to meet our city's and our state's needs."

As a new assembly gets up to speed, he urged it not to "re-invent every wheel and rediscover every need."

He has already briefly spoken with Mayor Frau Ulmer and was to meet her for lunch today.

"I offered her my view, from across the Pacific, that she is representing the city well to the rest of the state," he said.

S.E. Empire

1/11/84

1.

Editor's note. — This section derives from AS 44.19.430 and was renumbered by the revisor under 01.05.031.

The provisions formerly contained in AS 44.19.070 are now contained in AS 44.19.030.

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A 1959;

Sec. 44.19.072. Duties. The commission shall

(1) prepare a plan for the joint development and use by the United States and Canada of the water resources of the upper Yukon River and its tributaries;

(2) prepare, study, and judge proposals to grant to Canada the lease of land in the state for use and occupancy by the Canadian government or its nationals to establish industrial or trade facilities and sites for domicile and employment, which will be subject only to Canadian law and administration and for access to the land by land, water, or air;

national

(3) meet with other agencies having related purposes (Canadian, United States, joint, and other) to seek the cooperation of the United States and Canada and their agencies and nationals in the development and use of mineral, power and forest resources near the border of Alaska and Canada;

(4) report to the state legislature and recommend legislation by Congress and the state to carry out the purposes of AS 44.19.064 — 44.19.072. (§ 3 ch 61 SLA 1959)

resident

Editor's note. — This section derives from AS 44.19.440 and was renumbered by the revisor under 01.05.031.

pointed
11 SLA

Article 6. Alaska State Office.

Section

- 74. Alaska State Office created
- 76. Personnel
- 78. Information

Section

- 80. Annual report
- 82. Expenses

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Sec. 44.19.074. Alaska State Office created. There is created within the Office of the Governor an Alaska State Office to be opened and maintained in Tokyo, Japan, as an outlet for economic development, resource, and trade information, and as a contact point for government and private industry of Alaska and the Far East in promoting and carrying on trade between the state and the Far East. (§ 1 ch 92 SLA 1964; am § 1 ch 45 SLA 1966)

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Editor's note. — This section derives from AS 44.19.640 and was renumbered by the revisor under 01.05.031.

Sec. 44.19.076. Personnel. The office shall be staffed by personnel selected by the governor on the basis of his experience, training and linguistic ability and such subordinate personnel who in his discretion the governor may find necessary to hire. (§ 1 ch 92 SLA 1964)

Editor's note. — This section derives from AS 44.19.650 and was renumbered by the revisor under 01.05.031.

Sec. 44.19.078. Information. The governor shall direct the cooperation of all state agencies and request the cooperation of the federal government and private industry in providing the office with necessary reports, brochures, and information requested by that office. (§ 1 ch 92 SLA 1964)

Editor's note. — This section derives from AS 44.19.660 and was renumbered by the revisor under 01.05.031.

Sec. 44.19.080. Annual report. The governor shall annually report to the legislature on the activities and accomplishments of the office. (§ 1 ch 92 SLA 1964)

Editor's note. — This section derives from AS 44.19.670 and was renumbered by the revisor under 01.05.031. The provisions formerly contained in AS 44.19.080 are now contained in AS 44.99.002.

Sec. 44.19.082. Expenses. The expenses of operating the office shall be included in the appropriations made to the Office of the Governor. (§ 1 ch 92 SLA 1964)

Editor's note. — This section derives from AS 44.19.680 and was renumbered by the revisor under 01.05.031.

Article 7. Commission for Northern Operations of Rail Transportation and Highways.

Section	Section
84. Creation of commission	88. Chairman and quorum
85. Purpose of the commission	89. Personnel
86. Composition and appointment of commission	90. Powers and duties
87. Compensation, and per diem	100. Report to the legislature

Sec. 44.19.084. Creation of commission. There is created in the Office of the Governor the Commission for Northern Operations of Rail Transportation and Highways (§ 1 ch 90 SLA 1967)

Cross reference. — As to appointment, qualifications, and terms of office of members of departmental boards, councils, or commissions, see AS 39.05.060. **Editor's note.** — This section derives from AS 44.19.700 and was renumbered by the revisor under 01.05.031.

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LEGISLATURE OF THE STATE OF ILLINOIS
THIRTIETH LEGISLATURE

FISCAL NOTE

Expenditure Type
 Revenue Type

I. REQUEST
Bill/Resolution No. SB 35
Title An Act relating to transportation
Requested by Senate Labor & Commerce Date 1-24-83

II. FISCAL DETAIL
Agency Affected Department of Public Safety
Program Category Affected Life and Property Protection
BRU, Program, Or Subprogram(s) Affected Driver/Vehicle Services - Field Services
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		4.0	-0-	-0-		

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		4.0	-0-	-0-		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Impact to Division of Motor Vehicles will be requirement to revise some forms, and computer program changes.

See also fiscal note concerning increased revenues

RECEIVED

FEB 7 1983

LEGISLATIVE FINANCE

IV. DATE January 26, 1983 PREPARED BY Donald Walte: Phone 269-5551

Original: Legislative Finance DIVISION Motor Vehicles Initials RTK/LABE
cc: Budget and Management DEPARTMENT OF PUBLIC SAFETY Initials mlm OWT
Prime Sponsor (First Legislator Named) R

33-001 (Rev. 12/82) CMB Reviewed by: Eric Laschever ESL

LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

Expenditure Type
 Revenue Type

I. REQUEST

Bill/Resolution No. SB 35
Title "An Act Relating to Transportation..."
Requested by Senate Labor & Commerce Date 01/24/83

II. FISCAL DETAIL

Agency Affected Department of Public Safety
Program Category Affected Life & Property Protection
BRU, Program, Or Subprogram(s) Affected Driver/Vehicle Services
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		320.2	333.0	346.3		

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		320.2	333.0	346.3		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

See also fiscal note concerning increased costs.

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IV. DATE January 21, 1983 PREPARED BY Marcia L. McKenzie Phone 465-4349

Original: Legislative Finance DIVISION Admin. Services Initials [Signature]
cc: Budget and Management DEPARTMENT OF PUBLIC SAFETY Initials [Signature]

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82) OMB Reviewed by: Eric Laschever

SB 35
FISCAL NOTE DETAIL

EXPENDITURES

	FY84	FY85	FY86
300 Contractual	4.0	-0-	-0-

Fiscal note based on the replacement costs of forms, trip permit books, etc., that are currently used from existing department facilities and computer programming time required to change and update the computer system.

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FISCAL NOTE DETAIL
 BILL NO. SB 35

EXPENDITURES		FY 83	FY 84	FY 85	FY 86
100	Personal Services				
200	Travel				
300	Contractual				
400	Commodities				
500	Equipment				
600	Land & Structures				
700	Grants, Claims, etc.				
800	Miscellaneous				
	TOTAL				
FUNDING					
	General Fund		320.2	333.0	346.3
	Federal Funds				
	Program Receipts				
	Inter-Agency Receipts				
	Other				
POSITIONS					
	Full Time				
	Part Time/Seasonal				
	Non-Perm				
	Months				

ANALYSIS:

Unrestricted Revenue Collected for "ATC" will increase by approximately fifty percent, which is deposited into the State General Fund.

FY 84 Budget \$640.4 x 150% = \$960.6 (increase of 320.2).

The FY 85 and FY 86 figures are based on a four percent continual growth for private, commerce, and contract carrier vehicles.

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Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

January 24, 1983

Honorable Vic Fischer
Senator
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Fischer:

We are concerned with a particular provision of Senate Bill 35, merging the Alaska Transportation Commission with the Public Utilities Commission. While we take no stand on the merits of the bill itself, we note that section 7 of this bill adds "staff legal counsel" to the commission positions designated as partially exempt under AS 39.25.120(c).

This department has historically opposed attempts to establish staff counsel positions in state departments and agencies. AS 44.23.020 makes the attorney general the legal advisor to the governor and state officers and directs the attorney general to provide a wide range of legal services to state departments and agencies. The legislative intent of this section is not met when staff counsel positions are established outside the Department of Law in individual departments, agencies, and commissions. In my view, this kind of decentralization allows the development of inconsistent legal positions among agencies, and thwarts the purpose of Article III, section 22 of the Alaska Constitution, which mandates the allocation of governmental powers and duties according to purpose in principal departments, not to exceed twenty in number.

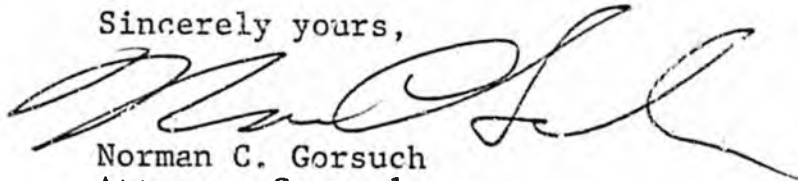
We recommend that section 7 of Senate Bill No. 35 be deleted. In conjunction with this amendment, a section should be added to the bill repealing AS 39.25.120(c)(7), relating to partially exempt employees of the Transportation Commission, which would be merged with the Public Utilities Commission if the bill becomes law.

Honorable Vic Fischer
Senator

January 24, 1983
Page 2

Thank you for your consideration of this matter. If
you have any questions, please do not hesitate to contact us.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'Norman C. Gorsuch', written in a cursive style.

Norman C. Gorsuch
Attorney General

NCG:DTC:eja

cc: Honorable Richard I. Eliason, Chair
Senate Labor and Commerce Committee

Summary - Ak. Trans Comm Audit

Purpose - Should ATC be allowed to be "sunset" - June 30, 1983?

Method of Review - Concentrated on problem areas. Did not review areas where no problem existed.

Alaska Transportation Commission -

- 1) ensures all transportation activities are safe, at reasonable rates.
- 2) ensures sound economic conditions prevail in industry
- 3) act as quasi-judicial body on contested applications, complaints, + rate matters

Audit Conclusion

ATC should be allowed to be terminate on June 30, 1983, + regulation of transportation should be administered through Alaska Public Utilities Commission

Time is right for the merger as there are many problem areas which need addressing. While the major overhaul is being done way not under the heading of "transition between agencies".

Findings + Recommendations

Audit Response

ATC Response

1) ATC should become a section within APUC:

- policies by ATC do not ensure public served in effective + economical manner
- workload decreased from 1978 (reason - deregulation)
- present statutes + regulations need to be revised
- survey showed 80% of other states have one regulatory commission
- study should be conducted prior to merger - determine correct staffing, reshape + reorganize policies, procedures, etc.

1) ATC should not merge within APUC

- recommendations do not support that public interest is not being served by Comm.
- no reason to assume that combination would be better - reason based on other states is simplistic
- no comparison of Alaska to other states - only 6 states regulate air carriers but not air taxi operations - states have other forms travel - makes Alaska different
- regulatory functions of both vastly different

2) ATC awarding Temporary Authority too loosely

- Out of 32 test applications, 22 did not meet statute - emergency defined too loosely. 4 exceeded 90 day limit
- processing time too slow - therefore temporary used (ave. processing time - 5 mths for permanent authority)
- pay single fee for temporary + permanent - against statute - unfair advantage
- temp authority granted via telegram - Superior Court ruled violates provisions of statute

2) ATC disagrees temp authority issued without considering statutory constraints

- discontinued practice of sending telegrams
- since May 28-82 - statute change which requires more info to grant relief
- ATC feels petitioner can be notified before written order is published
- ATC feels AS 02.05.060 - not restricted. Emergency need not be defined before issuing an order.
- ATC takes exception to using example of Superior Court - shows "due process" + not order - must be written before issuing temporary.
- If application longer than 120 days it's because incomplete application.

3) Economic regulatory procedure should include financial analysis of data

- 44 out of 70 application showed staff did not

3) Agree - ATC needs to improve method for financial analysis

- But current staffing makes it impossible to do a full rate review