

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3709 HSTA HB 539 - HB 550

516

```

* DELIVER TO: TCJNU
* ORIGINAL
* SENT: 02/24/86 TIME 13:00
* FROM: TCMAT
* SUBJECT: FNL STS SMD 2/TTE
* PRINT DATE 02/24/86 TIME: 12:49

```

*** FINAL T/C STATE ***

```

DATE: 2/7/86
SITE: SEWARD
SPONSOR: REF BOUCHEP
SUBJECT: LIFELINE AIDS/TELECOMMUNICATIONS
LOCAL MODERATOR: VICKY SEGAL

```

NAME/REPRESENTING	ADDRESS	PHONE
LOUIS BARCH, JR	POB 1292 SEWARD	99664 224-3403
JOEY MARTIN, DIRECTOR	SEWARD SENIOR CENTER	99664 224-4104

```

VERIFIED: 2
OBSERVED: 0
TOTAL: 2

```

```

TIME START
TIME END

```



Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

DATE: February 11, 1986

TO: Members House Special Committee on Telecommunications

FROM: ^{Chris}Herberger
Chris Herberger, Committee staff

The 1985 Poverty Guidelines for Alaska are:

- 1 person -- \$6,560/year
- 2 people -- \$6,810/year
- 3 people -- \$11,060/year

According to Gordon Landes, Division of Public Assistance, you can generally add \$2,200 for each additional person.

I am including pages from the Food Stamp Manual that show the utility and telephone allowance. Gordon Landes said that the Food Stamp program is the only public assistance program with specific utility or phone allowance.

I have calls into both New York and Arkansas public utility commissions to find out how they got around the problem of giving direct cash assistance to lifeline recipients. They are not great about returning calls. One possibility, though, is to have a reduced rate for the lifeline recipient and have the cash go to the phone companies to make up for the loss revenue. In California, the lifeline program is funded through a 4% tax on in-state long distance calls, the money passes through the State Controller and stays off the books of the phone companies. Eligibility in California, though, is not attached to existing public assistance programs, its just any household with less than \$11,000 annual income.

On a different subject, I have file drawer space for Committee members to keep their telecom files if they wish. The cabinet is located outside of Representative Boucher's office. Minutes from the Committee meetings are kept there along with bill files.

ALASKA FOOD STAMP MANUAL

602-4E
Cont'd

- (ii) If a household is responsible for some utilities but not for heating costs then the household does not have an option of either SUA or actual, it must use actual expenses.
 - (iii) If a household is responsible for the expenses of an unoccupied home, only actual verified expenses are allowed.
 - (iv) If a household is billed less than monthly such as for fuel oil the household may use actual expenses and deduct the entire heating costs in the month billed. However, the household will not be allowed to switch to the SUA during the months between billing months. The household has the option of averaging its utility costs and deducting those averaged costs as the actual expense, or (if otherwise eligible for the SUA) using the SUA.
- (b) Using the standard utility allowance

The SUA may only be used for households which incur heating charges separate and apart from the rent. The SUA includes costs of a basic telephone bill, electricity, gas, heating oil, water, garbage, and sewer. Households that are entitled to use the SUA shall have their utility deduction computed on the following year-round standard.

Effective March 1985

<u>Region</u>	<u>SUA</u>	<u>Region</u>	<u>SUA</u>
SERO	\$230	NRO	\$280
SCRO	\$210	SWRO	\$340
NOME	\$340	KOTZEBUE	\$280
ANCHORAGE	\$210		

Residents of rental housing who pay heating costs as part of the monthly rent are not allowed a SUA. However, residents who are billed on a monthly basis by their landlord as determined through actual utility meters will be allowed the SUA. Households which are billed separately by their landlord for excess heating costs are not eligible for the SUA, but excess amounts billed can be counted as a shelter expense.

To qualify for the SUA, the household generally must be billed on a regular basis for its heating costs. A household which incurs heating costs on an irregular basis (fuel oil) but is otherwise eligible to use the SUA may continue to use the SUA between billing periods.

ALASKA FOOD STAMP MANUAL

602-4E
Cont'd

(c) Using the telephone standard

The telephone standard includes the base price for one telephone plus tax on the basic fee, and the initial installation fee. The telephone standard is included in the SUA, however, if the household is not eligible or does not choose to use the SUA but has a telephone bill for which it is responsible, the following telephone standards will be used. If the household verifies that its basic telephone charge including tax on the basic fee is higher than the standard, then the higher amount should be used.

Effective March 1985

<u>Region</u>	<u>Telephone Standard</u>	<u>Region</u>	<u>Telephone Standard</u>
SERO	\$15	NRO	\$16
SCRO	\$15	SWRO	\$20
NOME	\$20	KOTZEBUE	\$16
ANCHORAGE	\$15		

(3) Verification

Households that select or are required to use actual utility expenses must verify those expenses. If verification is not provided then the deduction is not allowed. Once it is established that a household is responsible for certain flat-rate utilities, those utility bills need not be verified monthly. If the SUA is allowed, verification is necessary that a heating cost is incurred; it is not necessary to verify the amount. If rent and heating are included on one billing, the separate charges must be itemized in order for the SUA to be allowed.

Verification of shelter costs and utility expenses is required at initial application if the expense will result in a deduction. For MMR and recertifications the shelter expense does not need to be verified unless the household moves, the shelter cost(s) changes, or the expense becomes questionable. Utility expenses must be verified if the household moves, actual utility costs are used, the cost changes or it becomes questionable.

Some acceptable verification of shelter costs are: signed and dated rent receipt or statement from the landlord showing amount billed, period covered and the landlord's address and telephone; mortgage payment coupons; bill for the most current

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4931



CHAIRMAN
Special Committee on
Telecommunications

DISTRICT 10
BOX 111038
ANCHORAGE, ALASKA 99511
(907) 349-2192

MEMBER
Labor and Commerce
State Affairs
Finance—Subcommittee Administration

Representative H. A. "Red" Boucher

DATE: February 3, 1986
TO: All Members, House Special Committee on
Telecommunications
FROM: Chris Herberger, Committee staff
SUBJECT: Some options for various lifeline programs

Defining "low-income"

1. To participate in the FCC program, people qualifying for Supplemental Social Security Income and Aid to Families with Dependent Children would be lifeline recipients. There are 9,702 cases for both of these programs in Alaska. If each case participated in a lifeline program, the state would be required to contribute \$232,848 per year excluding the administrative costs.
2. "Low-income" could be defined as those people presently receiving Food Stamps, Aid to Families with Dependent Children, and General Relief/General Relief Medical in Alaska. Benefits were issued to 15,246 cases in July 1985, approximately 3% of the Alaska population.
3. California did not align eligibility with any social programs but said that any household earning less than \$11,000 per year is eligible to participate.
4. Arkansas limited eligibility to Food Stamp recipients, Wisconsin to Low Income Energy Assistance recipients, and New York to State financial aid recipients.

Defining "discounted service"

1. Price local calls based on their distance, frequency, time-of-day and duration.
2. Use some combination of the above.
3. Place a cap on the number of local calls which are priced at a low flat-rate. Any calls above that cap would be charged at a per

call rate. In Georgia, for instance, 25 calls are charged at a flat-rate, with all calls after 25 billed at 12 cents per call.

4. Place a cap on the total duration of long distance calls which are priced at a reduced rate. Any calls above that cap would be charged at a regular rate.

Defining "reduced rate"

1. California is the only state that offers unlimited local calls at a reduced rate which is 50% of the normal rate. This is offered only where measured service is not available. Where measured service is available, the lifeline rate is 50% of the measured rate, plus a 30 to 60 call allowance per month.

2. Arkansas offers lifeline rates only where measured service is available. The lifeline rate is 33% of the flat rate with a 20 call per month allowance. All calls over 20 are billed at the normal measured rate.

3. New York offers lifeline rates only to those customers who subscribe to budget service. The lifeline rate is 50% of the budget rate.

4. In Wisconsin, the lifeline rate is priced at \$3.50/month plus 24 cents per local call.

Defining "essential service"

1. Limit lifeline service only to local calls.

2. Limit lifeline service only to long distance calls.

3. Have lifeline service include both local and long distance calls.

Administrative Agencies

Since the statute change is in the Alaska Public Utilities Commission jurisdiction, the APUC is the most likely agency to administrate a lifeline program. The Division of Public Assistance could be required to help in determining eligibility, etc.

Administrative Costs

California estimates that for 500,000 customers, there are \$221,500 in administrative costs annually. New York estimated its administrative costs will be \$20,000 annually with no mention of the number of recipients.

Funding

1. Have the telephone companies make up the shortfall through their tariff which would mean raising rates for the other customers.
2. Place a surcharge on all intrastate calls. This way everyone making a intrastate call contributes to the program, but it puts an additional burden on intrastate rates.
3. Have the state pick up the tab.

COMMENTS

As can be seen by the varied programs in the different states, there is lots of room for creativity in setting up a lifeline program. Innovative ways to meet Alaska's special needs should be possible, and the options listed here are not exhaustive.

As far as I know, no state has implemented any kind of discounted service or reduced rate for long distance service. Since long distance rates for calling within the state are already high for the rural areas and could substantially increase, some thought should be given to a lifeline program containing some provision for long distance rates.

There has been a lot of discussion among utility commissions, consumer groups, and phone utilities in the Lower 48 about the merits of option #1 under Defining "discounted service." Utilities basically say that the service is efficient and makes the cost causer be the cost payer. If you do not use the phone a lot, you do not pay a lot. The consumer groups say that local service is mostly a fixed cost and whether you make ten calls or fifty calls within the local service area it costs the same.

*
* DELIVER TO: TCJNU
*
* ORIGINAL
* SENT: 02/11/86 TIME: 18:07
* FROM: LIODJT
* SUBJECT: 2/11 DELTA FINALSTATS
* PRINT DATE: 02/11/86 TIME: 18:08
*

V

***** DELTA FINAL TC STATS *****

DATE: FEBRUARY 11, 1986
SPONSOR: HOUSE SPECIAL COM ON TELECOMMUNICATIONS
SUBJECT: HB 539 - LIFELINE LEGISLATION
SITE: DELTA
LOCAL MODERATOR: LIZ SARVER
TESTIFIED:
NONE
OBSERVED:
NONE

TESTIFIED: 0
OBSERVED: 0
TOTAL: 0

EOM

*
* DELIVER TO: TCJNU



```

* BELLEVILLE TO - FLORNO
*
* ORIGINAL
* SENT: 02/11/86 TIME: 18:09
* FROM: LIOVAL
* SUBJECT: T/C LIFELINE LEG.
* PRINT DATE: 02/11/86 TIME: 18:09
*
*****

```



*** FINAL T/C STATS ***

```

DATE: _____ FEB 11, 1986 _____
SITE: _____ VALREZ _____
SPONSOR: _____ H SPE COMM ON TELECOMMUNICATIONS _____
SUBJECT: _____ HB 539 LIFELINE LEG. _____
LOCAL MODERATOR: _____ PAT VON BARGEN _____

```

TESTIFIED: 0

NAME/REPRESENTING	ADDRESS	PHONE
-------------------	---------	-------

OBSERVED: 0	NAME/REPRESENTING	ADDRESS
-------------	-------------------	---------

TESTIFIED: _____ 0 _____	TIME START: _____ 2:00 PM _____
OBSERVED: _____ 0 _____	TIME END: _____ ? _____
TOTAL: _____ 0 _____ NOT ON LINE	



```

*
* DELIVER TO: LTCJ
*
*
* ORIGINAL
* SENT: 02/11/86 TIME: 15:09
* FROM: TCANC
* SUBJECT: FINAL STATS (H) TELECOM 2/11
* PRINT DATE: 02/11/86 TIME: 15:43
*
*
*****

```



*** FINAL T/C STATS ***

```

DATE: FEB. 11, 1986
SITE: ANCHORAGE
SPONSOR: (H) SPECIAL ON TELECOMMUNICATIONS
SUBJECT: P.H., HB 539
LOCAL MODERATOR: BARBARA

```

TESTIFIED:

- | NAME/REPRESENTING | ADDRESS | PHONE |
|------------------------------------|-----------------------|---------------------|
| 1. MARV WEATHERLY/APUC, | 420 L ST., SUITE 100, | ANC 99501, 263-2102 |
| 2. ROSEMARY P. HALLNER (HAFFNER?), | 550 W. 8TH, STE 500, | 99501, 276-6282 |

OBSERVED:

- | NAME/REPRESENTING | ADDRESS | PHONE |
|----------------------|----------------------------|-----------------|
| 1. BERNIE MURRAY, | 3940 ARCTIC BLV. ANCHORAGE | 99503, 564-3001 |
| 2. CHARITY B. KADOW, | 600 E. 38 AVE., ANCHORAGE | 99503, 564-1162 |
| 3. TED MONINSKI, | 420 L. ST., STE 100, ANCH | 99501, 276-6222 |
| 4. MARK FYRINA, | 420 L ST., ANCHORAGE, | 99501, 276-6222 |

```

TESTIFIED: 2
OBSERVED: 4
TOTAL: 6

```

```

TIME START: 2:00
TIME END: 2:55

```

* ORIGINAL
* SENT: 02/11/86 TIME: 17:02
* FROM: LIODLG
* SUBJECT: FINAL STATS
* PRINT DATE: 02/11/86 TIME: 17:02
*

DATE: FEBRUARY 11 1986-TUESDAY
SITE: DILLINGHAM, ANNA MAY
SPONSOR\SUBJECT: HOUSE SPECIAL COMMITTEE ON TELECOMMUNICATIONS,
HB539, LIFELINE LEGISLATION

-0- TESTIFIED TNC STARTED 2:00 P.M.
-2- OBSERVED TNC ENDED 3:00 P.M.
-2- TOTAL

NAME\REP. ADDRESS\PHONE

- OBSERVE
1. GUSTIE KNUITSEN, BRISTOL BAY NATIVE ASSOC, BOX 189, DILLINGHAM, AK. 99576 842-5257
 2. JIM TIMMERMAN, BRISTOL BAY NATIVE ASSOC, BOX 189, DILLINGHAM, AK. 99576 842-5257

EQM



```

* DELIVER TO: JFOM
*
* ORIGINAL
* SENT: 02/11/86 TIME: 16:00
* FROM: TCFEX
* SUBJECT: HSC TELECOMM/LIFELINE
* PRINT DATE: 02/11/86 TIME: 16:00
*
*****

```



***** FINAL T/C STATS *****

DATE: 2-11-86
SITE: FAIRBANKS NODEBATOR MAXIME WALTON

SPONSOR: HOUSE SPECIAL COMMITTEE ON TELECOMMUNICATIONS
SUBJECT: HB 539, "LIFELINE"

NAME/REPRESENTING	ADDRESS	PHONE
TESTIFIED:		

OBSERVED

TESTIFIED: 0 TIME START: 2:00 P TIME END: 3:00 P

OBSERVED: 0
TOTAL: 0





*
* DELIVER TO: TCJNU *
* *
* *
* ORIGINAL *
* SENT: 02/11/86 TIME: 14:03 *
* FROM: LIOSET *
* SUBJECT: FINAL STATS *
* PRINT DATE: 02/11/86 TIME: 14:03 *
* *

FINAL STATS

T/C: HSC ON TELECOMMUNICATIONS
SUBJECT: HB 539 LIFELINE LEG.
DATE: 2-10-86
SITE: BETHEL

IN BETHEL NO PARTICIPANT

```

*****
*
* DELIVER TO: TCJNU
*
* ORIGINAL
* SENT: 02/11/86 TIME: 15:26
* FROM: EVELYN JOHNSON
* SUBJECT: FINAL T/C STATS
* PRINT DATE: 02/11/86 TIME: 15:37
*
*****

```



*** FINAL T/C STATS ***

DATE: ___FEBRUARY 11, 1986___
 SITE: ___KETCHIKAN L D___
 SPONSOR: ___HOUSE SPECIAL COMM ON TELECOMMUNICATIONS___
 SUBJECT: ___HR 539/LIFELINE LEGISLATION___
 LOCAL MODERATOR: ___BONNIE POTTER___

TESTIFIED:
 NAME/REPRESENTING ADDRESS PHONE

NOTE: KETCHIKAN DID NOT DIAL ON TO THIS T/C BECAUSE NO PARTICIPANTS
 SHOWED UP.

OBSERVED:
 NAME/REPRESENTING ADDRESS PHONE

TESTIFIED: ___0___ TIME START: _____
 OBSERVED: ___0___ TIME END: _____
 TOTAL: ___0___

*
* DELIVER TO: TCJNU
*
* ORIGINAL
* SENT: 02/11/86 TIME: 14:59
* FROM: LIOGLN
* SUBJECT: FINAL STATS 2-11 HSCT TC
* PRINT DATE: 02/11/86 TIME: 15:00
*



LEGISLATIVE TELECONFERENCE NETWORK

E_I_N_A_L____S_I_A_I_S

DATE: 02-11-86
SITE/MODERATOR: GLENN ALLEN-JOANN
SPONSOR: HSCT
SUBJECT: LIFELINE LEGISLATION HB 539

00 TESTIFIED	TC BEGAN: 02:00
00 OBSERVED	TC ENDED: 03:00
00 TOTAL	MODERATOR AIIIN BILL

EOM

*
* DELIVER TO: TCJNU *
*
* ORIGINAL *
* SENT: 02/11/86 TIME: 16:44 *
* FROM: LIOKOD *
* SUBJECT: KODIAK FINAL STATS *
* PRINT DATE: 02/11/86 TIME: 16:44 *
*

*** FINAL T/C STATS ***

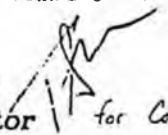
DATE: ___FEBRUARY 11, 1986___
SITE: ___KODIAK L.F.O. ___
SPONSOR: ___SPEC. COMM. ON TELECOMMUNICATIONS___
SUBJECT: ___LIFELINE RATES___
LOCAL MODERATOR: ___MARY JO SIMMONS___

"KODIAK HAD NO PARTICIPANTS"
DID NOT DIAL IN

MEMORANDUM

To: Marvin R. Weatherly
Chairman, Alaska Public Utilities Commission

Date: February 12, 1986

From: Ted Moninski
Deputy Director  for Commission

Subject: Proposed Lifeline
Legislation

Per our discussion following yesterday's teleconference on the proposed "Lifeline" bill, I caused a quick survey of entitlement programs to be conducted. Attached is a list of programs surveyed and comments where appropriate. As you will see, there are no programs which provide direct support to offset the cost of essential telephone service.

I would draw particular attention to the comments on the foodstamp program. Your suggestion of contacting Jack Rhyner was taken and he confirmed his earlier finding that the foodstamp program did provide some form of assistance. He also mentioned that getting information from that program was like pulling teeth. When we first called the foodstamp office we were told that they had no provision whatsoever for telephone service support. I then called them back myself and pressed further for an answer. Finally, they went and checked their own eligibility manual and determined that they did consider a certain amount of telephone expense as a legitimate reduction to disposable income for purposes of determining foodstamp eligibility. They continued to emphasize, however, that there were no instances of direct subsidy to program participants to assist in paying for telephone service.

Contrary to the representations made by the ATA, it appears that, absent some form of "lifeline" legislation, no other method currently exists to provide direct assistance to disadvantaged or elderly rate payers.

To: T.S. Moninski
Deputy Director

Date: February 12, 1986

From: Kathi Launius

Subject: Telephone
Subsidy

Per your request, I contacted the following agencies to determine if there were any telephone subsidies available in Alaska to low income, disabled or older persons:

MUNICIPALITY OF ANCHORAGE

Health & Human Services
Older Persons Action Group
Community Services - Support

STATE OF ALASKA

Health & Social Services
Public Assistance
Food Stamps
Longevity Bonus Program
Old Age Assistance
Older Alaskans Commission

I received a negative response from all of the above agencies. Per your request I contacted Jack Rhyner of Interior Telephone to inquire where he had received the information that the Food Stamp Program offered a telephone subsidy. He claimed the information was available in the Food Stamp Manual, and that it indicated that a monthly telephone allowance was available in Alaska. However, I understand that when you called the Food Stamp Office to try to verify this, you were informed that telephone expenses were only considered to determine Food Stamp eligibility and no direct allowance is provided.

Alaska Consumer Advocacy Program

513 West Seventh Avenue • P.O. Box 103111 • Anchorage, Alaska 99510 • (907) 272-6355 or 278-3663

February 14, 1986

Honorable H. A. Boucher
Chairman
Special Committee on
Telecommunications
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Lifeline legislation

Dear Representative Boucher:

I am writing to confirm the substance of ACAP's suggested changes to H.B. No. 539 which we presented at the teleconference on February 7, 1986. First, ACAP suggests the following language for the two proposed subsections:

Section 1. AS 42.05.301 is amended by adding a new subsection to read:

(b) Notwithstanding (a) of this section, a public utility may grant low-income customers discounted service for essential telecommunications services.

Section 2. AS 42.05.391 is amended by adding a new subsection to read:

(e) Notwithstanding (a) of this section, a public utility may grant low-income customers a reduced rate for essential telecommunications services.

The suggested sections as here given differ slightly from what ACAP proposed at the teleconference. First, the subject matter of each amending subsection is confined to that of the section it amends. Thus, the proposed AS 42.05.301(b) would now relate only to discounted services because discrimination in charges for services is the subject of AS 42.05.301. Similarly, the proposed AS 42.05.391(e) is limited to reduced rate because AS 42.05.391 addresses rate discrimination.

Second, at the teleconference ACAP suggested the insertion of the word "reasonably" in both proposed subsections before the phrase "discounted service or a reduced rate". Upon reflection

Alaska Consumer Advocacy Program

513 West Seventh Avenue • P.O. Box 103111 • Anchorage, Alaska 99510 • (907) 272-6355 or 278-3663

we think that the suggested insertion is superfluous. ACAP had originally proposed the insertion as an added guarantee that a proposed discount or reduction would in fact be substantial enough to meaningfully assist low-income customers in maintaining access to telecommunications services. We now conclude that simply adding "reasonably" would not necessarily achieve this purpose and could just add problems of interpretation. We think that there is sufficient protection of consumer interests in the APUC approval process for the tariff revision that would be required for any proposed discount or reduction.

ACAP continues to support inclusion of additional amendments. The first of these is a proposed AS 42.05.301(c) which would read as follows:

(c) The commission may by regulation require a public utility to grant low-income customers discounted service for essential telecommunications services.

The second amendment is a proposed AS 42.05.391(f) which reads:

(f) The commission may by regulation require a public utility to grant low-income customers a reduced rate for essential telecommunications services.

The purpose of these amendments is to enable the APUC to require discounted service or a reduced rate even where telephone utilities did not choose to offer them voluntarily in order to assist low-income customers in maintaining access to those services. At the teleconference ACAP proposed inserting the word "reasonably" before the word "grant" in these amendments. Again, the intended purpose of the insertion was to ensure that the APUC in imposing these requirements did so in a manner that adequately assisted low-income customers. ACAP has here also concluded in part for the reasons given above that the proposed insertion is not necessary and might actually be an impediment. An additional reason is that an APUC regulation requiring discounted service or reduced rates would be subject to the requirement of the Alaska Administrative Procedure Act that the regulation be consistent with the statute and reasonably necessary to carry out the purpose of the statute. AS.42.05.161(b); AS 44.62.030.

ACAP also thinks that a statutory definition of the phrase "low-income customer" is desirable. Without a definition both the APUC and the utilities could be swallowed up in an administrative nightmare of case by case eligibility determinations. ACAP suggests as a definition the following:

"low-income customer" means any person eligible for benefits from the Aid For Dependent Children, unemployment insurance, Social Security disability, Supplemental Security Income, and Adult Public Assistance programs.

Alaska Consumer Advocacy Program

513 West Seventh Avenue • P.O. Box 103111 • Anchorage, Alaska 99510 • (907) 272-6355 or 278-3663

ACAP offers these eligibility categories because they include persons likely to be needy and particularly dependent upon the telephone and carry with them an elaborate eligibility determination structure. We do not say that the categories necessarily include all persons for whom lifeline discounts and reductions may be appropriate. The list could be expanded to include, for example, recipients of regular old-age Social Security benefits who may have a low fixed income. Once the lifeline system is operating, the legislature will be able to judge whether its reach should be extended. ACAP welcomes any comments or questions this proposal may generate.

Very truly yours,

ALASKA CONSUMER ADVOCACY PROGRAM


Joel A. Rotinberg
Staff Attorney

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS data base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Telecommunications Special Committee	1/31/1986, 1:30 pm
"	"
"	"
"	"
"	"
"	"

2/4/1986, 2:00 pm
2/7/1986, 1:30 pm
2/11/1986, 2:00 pm
2/21/1986, 1:30 pm

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

May, 1988

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

Mary Van Nimwegen

Joint Meeting

HSA + ~~HSA~~ HHE & SS

3-17-86 3pm



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

H B

5 4 1

HOUSE
COMMITTEE REPORT

(7)

Date referred: 2/5/86

FURTHER REFERRALS: JUDICIARY

DATE: 2/19/86

The STATE AFFAIRS Committee has considered HB 541

"An Act relating to absentee voting by personal representative."

and recommends:

[] do pass

[] do not pass

[] do pass with attached amendment(s)

[] no recommendation

[x] replace with HB 541 (SA) [x] same title

and recommends DO PASS [] new title

[] further referral to the _____ Committee

and attaches:

[] letter of intent

[x] first fiscal note

[] new fiscal note

[x] zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Katie Hurley
Bette Cobb
W. H. ...

M. ... NO REC.
Peggy Jenkins NO REC.

Katie Hurley
Chairman

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
- 907-465-3000

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House State Affairs Committee 2/19/1986, 3:00pm

A M E N D M E N T

Offered in the HOUSE

By Gruenberg

TO: HB 541

Page 1, lines 10 - 15, delete all material and insert:

"(a) A qualified voter who is physically disabled, imprisoned, or confined to an institution may vote by [APPLY FOR AN] absentee ballot through a personal representative. A personal representative may apply for an absentee ballot on behalf of a qualified voter who is physically disabled, imprisoned, or confined to an institution to the following election officials at the times specified:"

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSHB541 (SA)
Title : Absentee Voting by Personal Representative

Sponsor : Gruenberg
Requestor : Sponsor
Date of Request : 2-13-86

FISCAL DETAIL

Agency Affected : Office of the Governor
BRU : Elections

Components : Primary and General Elections

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING : (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Linda Edgeworth
Division : Elections

Phone : 465-4611
Date : 2-18-86

Approved by Commissioner : Harry Calvert
Agency : Elections

Date : 2/18/86

Distribution (by Agency preparing fiscal note) :

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

STATE OF ALASKA
THE LEGISLATURE

POUCHY STATE CAPITAL
JUNEAU ALASKA 99801
907 465 1500

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 3, 1986

SUBJECT: Absentee voting by personal representative
(Work Order No. 14-1722)

TO: Senator Bill Ray

FROM: Richard A. Bradley *B*
Legislative Counsel

You have asked for our comments on the draft of a bill prepared for Representative Gruenberg. You have asked whether the bill would apparently enfranchise individuals who are disenfranchised by the Alaska Constitution.

The answer is that the bill might be made somewhat clearer.

The first paragraph of AS 15.20.071(a) is amended in section 1 as follows:

Sec. 15.20.071. ABSENTEE VOTING BY PERSONAL REPRESENTATIVE. (a) A qualified voter who is physically disabled, imprisoned, or confined to an institution may vote by [APPLY FOR AN] absentee ballot through a personal representative. A personal representative may apply for an absentee ballot on behalf of a physically disabled voter or a voter imprisoned or confined to an institution to the following election officials at the times specified:

* * *

The section starts out addressing the concerns of "a qualified voter" but by the second sentence, the "qualified aspect has been dropped. While to some extent the phrase a "qualified voter" is a tautology since a person cannot become a voter unless qualified, the usage within AS 15 frequently contains the "qualified voter" usage and it would be preferred here.

Senator Bill Ray
Page 2
February 3, 1986

Note of course that neither imprisonment nor confinement within an institution is, in itself, disqualifying. Sec. 2 of art. V of the Alaska Constitution addresses these questions:

SECTION 2. DISQUALIFICATIONS. No person may vote who has been convicted of a felony involving moral turpitude unless his civil rights have been restored. No person may vote who has been judicially determined to be of unsound mind unless the disability has been removed.

Thus a person convicted of a crime that is either a misdemeanor of any character or a felony not involving moral turpitude may vote. And a person who has been institutionalized without a determination of "unsound mind" may vote.

I suggest the following improvement to the lead paragraph of sec. 1:

Sec. 15.20.071. ABSENTEE VOTING BY PERSONAL REPRESENTATIVE. (a) A qualified voter who is physically disabled, imprisoned, or confined to an institution may vote by [APPLY FOR AN] absentee ballot through a personal representative. A personal representative may apply for an absentee ballot on behalf of a qualified voter who is physically disabled or a qualified voter imprisoned or confined to an institution to the following election officials at the times specified:

* * *

If I may be of further assistance, please advise.

RAB:mkr
M2:133

most be voted by election day but may be returned to the Division up to 15 days after the election and still be counted. Research shows that 30% of all mailed ballots have no postmark affixed. Concern has been expressed by candidates and legislators that with such a liberal extension period and the high percentage of missing postmarks, the potential for fraudulent absentee voting is excessive. In close races, which occur frequently in our State, casting of late ballots after initial returns are announced could impact final outcomes.

The 15 day extension also causes considerable delay in the certification process. With our late primary, and especially in situations where recounts are necessary, any delay can become critical, and create an additional burden for candidates and administrators preparing for the general election. It is interesting to note that only a few other states provide any extension beyond an election day deadline with none of those offering more than a few days. In an analysis of 1857 actual ballots cast by mail in Alaska's 1984 general election, the Division found that 98% of the ballots returned with postmarks took 5 or fewer days to be delivered, with 70% requiring fewer than 4 days.

House Bill 284 continues to provide leniency to safeguard absentee voting by military and overseas voters, however, by allowing a 10 day extension for any ballot being mailed from a foreign country, APO or FPO address. The Division found that 97.7% of ballots in these categories were delivered in less than 10 days.

Of major concern in considering these bills is timing, according to Sandra Stout, Director. Preliminary preparation for this year's major elections is already underway. It is hoped that any action taken by the legislature on election issues will be completed soon enough to allow implementation in the 1986 elections.

all-mail jurisdictions was higher than at communities using traditional polling place methods. In local candidate elections the average turnout for all-mail voting was 73.3% while the process garnered 57% turnout in water district elections.

A typical contrast was reflected in the turnout experienced by 2 very similar communities in Golden Valley County. Lavena, using regular polling place voting, had 39% of its voters cast ballots, while its counterpart Ryegate, only 16 miles away, reported a 68% turnout using the all-mail process in the same type of election.

Such findings are impressive and may point the way to solving similar problems facing Alaska in its conduct of regional elections. Specifically, the state continues to experience disappointing turnout in Rural Educational Attendance Area School Board and Coastal Resource Service Area elections held every October, while absorbing the high costs incurred in utilizing the traditional polling place system. In the 1985 REAA/CRSA elections, the total turnout was just over 26% of the eligible registered voters. At a total election cost in excess of \$125,000, it averaged to approximately \$13.00 for every vote cast.

Relating the positive results experienced by Montana to the potential of an all-mail system in the conduct of our regional elections, there could be some substantial benefits. If, through an all-mail system we were also able to achieve an approximate 70% turnout rate, that would increase the number of voters casting ballots in REAA and CRSA elections from about 9500 to nearly 26,000. In addition, based on an analysis of election costs anticipated in an all-mail system, the Division determined that actual expense of the election would be reduced by nearly \$36,000 per year, resulting in an average cost per vote of only \$3.17.

As we continue to look for positive ways to increase voter participation and seek constructive ways to reduce costs, there is no doubt that the all-mail alternative offers some tantalizing food for thought.

Alaska Gears Up to Improve Polling Place Access for Handicapped and Elderly

A new law has been passed by Congress which provides that all polling places used for federal elections be handicapped accessible. The law which applies to any election for President, Vice President, U.S. Senate and U.S. House of Representatives, went into effect December 31, 1985. Its purpose is to improve access to registration locations and polling places for elderly people and individuals who have a physical disability, by doing everything possible to remove the physical barriers that prevent these people from getting to the polls and voting.

Public Law 98-435 allows each state to develop its own guidelines for determining whether or not a polling place provides the best accessibility possible or available. The Division of Elections has developed the guidelines which will be used by Alaska. The Division will be conducting a survey of each of the 442 polling places currently being utilized. The survey will

cover such items as adequate handicapped parking, easily opened doors that are wide enough to accommodate a wheelchair, stairs, ground and floor surfaces which may be slippery or uneven, and the distance which must be walked to get to the actual voting area. In some cases accessibility can be improved by making very simple changes. For example, at a school it may be found that a different entrance may be closer to the parking area, or a polling place currently located on the second floor of a commercial building can be changed to a room on the ground floor. Chairs can be provided for elderly or disabled voters waiting in line.

"We recognize that in some communities, especially in rural areas, it may be difficult to find a suitable facility which can meet all the standards, but our purpose will be to assure that in all locations our polling places are the best they can be," said Sandra Stout, Director.

OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS
P. O. BOX AF
JUNEAU, ALASKA 99811-0105
PHONE (907) 465-4611

January 27, 1986

The Honorable Max Gruenberg
Alaska State House of Representatives
P. O. Box V
Juneau, AK 99811

Dear Representative Gruenberg:

In response to your request, we have enclosed possible changes that could be made to streamline the statutory provisions covering absentee voting by personal representative. At best, this method of voting has historically placed an undue burden on the personal representative who volunteers to assist handicapped or confined individuals in exercising their right to vote.

Under the existing statutes a personal representative has been required to:

1. go to an election supervisor's office or other absentee official and request an application;
2. take the application to the disabled voter for completion;
3. return the completed application to the election official and pick up a ballot packet;
4. return the ballot packet to the disabled voter;
5. return the voted ballot to the election official.

Our goal has been to alleviate some of these steps. You will note ~~in both versions of amendments~~ we have virtually eliminated trips 1 and 2 by allowing the personal representative to make application rather than the disabled voter.

We have also eliminated the witnessing requirement. Under the current statutes, the disabled voter was required to acquire a letter from a licensed physician or a statement signed by two persons, stating that the voter is unable to go to the polls because of physical disability. This requirement has been made illegal under H.R.1250, passed

The Honorable Max Gruenberg
January 27, 1986
Page 2

this last year by the U.S. Congress. The elimination of this requirement, therefore, is necessary to conform with federal law. This amendment is also part of Senate Bill 252, sponsored by Senator Ray, which passed the Senate last year and is awaiting calendaring in the House.

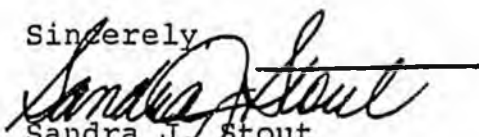
Pursuant to the conceptual amendment passed in Judiciary Committee last week, we have also eliminated the witnessing requirement by the personal representative.

A suggestion was proposed by Dixie Belcher that the law also be changed to allow a personal representative to return the voted ballots in person, or by mail. We have given this option serious thought, and want to bring to your attention a potential problem which we feel deserves cautious consideration. Our concern is that the vast majority of absentee by personal representative voting is applied for and voted on election day, and not in advance. Allowing the personal representative to return the ballot by mail might result in many ballots not being counted, if ballots are mailed very late in the day, after the post office is closed, or after the final mail pick up. This would be especially likely in very small communities where postal offices close early and there are no after hour mail pick ups scheduled. This would result in those ballots being postmarked the following day, too late to be counted. We are also concerned that accountability could be jeopardized if two methods of delivery were implemented.

Finally, we would like to point out that the suggested amendments we have provided have not had the benefit of review by law, and are only suggestions. We trust that should you choose to offer any of these suggestions in committee that they will be reviewed by a legislative attorney.

We appreciate your interest and assistance in working with the bills regarding election laws. Please call on us if we can provide you with more information or if we can be of assistance.

Sincerely,


Sandra J. Stout
Director

Enclosures

State of Alaska

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
(Co-Chairman)
HOUSE JUDICIARY
HOUSE COMMUNITY AND
REGIONAL AFFAIRS



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4968

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

February 6, 1986

PRESS RELEASE

"Alaska's elections are often cliffhangers. Every vote counts, and every voter should have a chance to be counted," said Rep. Max Gruenberg, Anchorage Democrat. "That's why I introduced the absentee voting bill yesterday."

Current law burdens the handicapped, the confined, and the imprisoned, making it difficult for them to exercise their right to vote. "The proposed changes would delete two steps from today's five-step process for absentee voting, so that our elderly, our ill and others less fortunate can participate more fully in the democratic process," explained Gruenberg.

"We have a tradition here of major statewide races being decided by less than 300 votes, of legislative seats being won by less than 20 votes. It's not fair to keep unnecessary hurdles restricting anyone's ability to vote."

The bill (HB 541) allows a personal representative of the voter to apply directly for the voter's absentee ballot. It deletes a requirement for a physician's statement of physical disability, a provision made illegal last year by federal statutes. "With these changes, the paperwork is cut in half," stated Gruenberg. For more information, contact Nancy Bennett at 465-3759.



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

H B

5 4 9

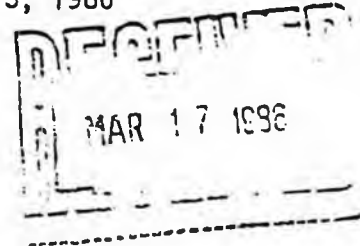
BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

P.O. BOX 5
JUNEAU, ALASKA 99811-0400
PHONE: (907) 485-2300

March 13, 1986



The Honorable Joe Josephson
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Josephson:

Enclosed is language which we suggest be substituted for Section 1 of your bill or for Section 1 of HB 549. You will note that in addition to expertise in the treatment of alcohol abuse, we suggest also that qualification in the area of alcohol abuse prevention also be available to the board.

I understood your concerns to arise from three principal areas:

1. Public concern for greater sensitivity to the location of alcohol sales points, especially retail sales.
2. Public concern for greater sensitivity in the board's actions affecting alcohol abuse and the prevention of abuse.
3. Public concern for compliance with conditions of licensure.

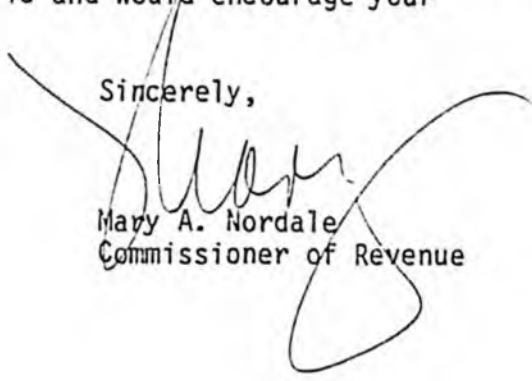
As I indicated to the committee, a change in qualifications for board members was not of great concern to this department. What is of concern is that applicants for licensure be properly dealt with and that community concerns as to location be appropriately addressed. The participation of community councils, pursuant to the 1985 amendments, has been actively sought. We would like to see their participation commence at the time the local governing body deliberates the question of approval of the license. Because we have less than a year's experience, we are as yet uncertain of the most effective means of insuring such participation.

Although the board has an admirable record of accommodation to community concerns, the system does not guarantee that everyone's concerns will be fully alleviated. However, with changing views relating to sales of alcohol and with the dynamic growth of some communities, the board's responsibilities become more complex and dealing with community

The Honorable Joe Josephson
March 13, 1986
Page 2

concerns more imperative. We believe that alcohol abuse prevention is of great and wide interest among the public and would encourage your adoption of that qualification.

Sincerely,



Mary A. Nordale
Commissioner of Revenue

MAN:m11
86-69

Enclosure

Sec. 04.06.020. Appointment and qualifications. The board consists of five members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. A member of the board may not hold any other state or federal office, either elective or appointive. Two members of the board shall be persons actively engaged in the alcoholic beverage industry, except that no member may hold a wholesale license or be an officer, agent, or employee of a wholesale alcoholic beverage enterprise. One member shall have experience in the fields of alcohol abuse treatment or prevention. Two members shall represent the public interest. [NO THREE MEMBERS OF THE BOARD MAY BE

ENGAGED IN THE SAME BUSINESS, OCCUPATION, OR PROFESSION.] *or be retired from same business occupation or profession*

A M E N D M E N T

TO: HB 549

Page 1, lines 10 - 22, delete all material and insert:

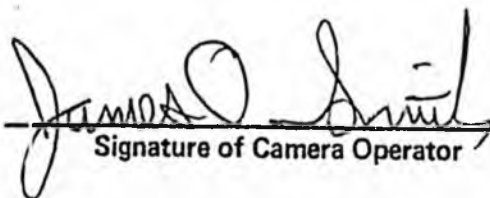
"Sec. 04.06.020. APPOINTMENT AND QUALIFICATIONS. The board consists of five members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. A member of the board may not hold any other state or federal office, either elective or appointive. Two members of the board shall be persons actively engaged in the alcoholic beverage industry, except that no member may hold a wholesale license or be an officer, agent, or employee of a wholesale alcoholic beverage enterprise. One member shall have experience in the field of alcohol abuse treatment or prevention. Two members are public members. No three members of the board may be engaged in or retired from the same business, occupation, or profession."

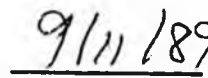


RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

H B

5 5 0

HOUSE
COMMITTEE REPORT

(7)

Date referred: 2/7/86

FURTHER REFERRALS: FINANCE

DATE: _____

The STATE AFFAIRS Committee has considered HB 550

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

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with 15 HB 550 (SA) same title
- new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

Katie Hurley

Mike Savano

M. J. ...

Beth ...

D.A. ...

SIGNING OTHER RECOMMENDATIONS:

Roger Jenkins No Rec.

Katie Hurley

 Chairman

Utermohle
4/14/86

Original sponsor: Judiciary Committee

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 CS FOR HOUSE BILL NO. 550 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: ^{title chg to include Membership} "An Act relating to the Alcoholic Beverage Control
7 Board; and providing for an effective date."

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

9 * Section 1. AS 04.06.020 is amended to read:

10 Sec. 04.06.020. APPOINTMENT AND QUALIFICATIONS. The board
11 consists of five members appointed by the governor and confirmed by a
12 majority of the members of the legislature in joint session. A member
13 of the board may not hold any other state or federal office, either
14 elective or appointive. Two members of the board shall be persons
15 actively engaged in the alcoholic beverage industry, except that no
16 member may hold a wholesale license or be an officer, agent; or em-
17 ployee of a wholesale alcoholic beverage enterprise. One member shall
18 have experience in the field of alcohol abuse treatment or prevention.
19 Two members shall be public members. No three members of the board
20 may be engaged in or retired from the same business, occupation, or
21 profession.

22 * Sec. 2. AS 44.66.010(a)(1) is amended to read:

23 (1) Alcoholic Beverage Control Board (AS 04.06.010) --
24 June 30, 1990 [1986];

25 * Sec. 3. TRANSITION. Notwithstanding the provisions of AS 04.06.020
26 as amended by sec. 1 of this Act, the members of the Alcoholic Beverage
27 Control Board on the effective date of this Act remain on the board until
28 their terms expire or the positions otherwise become vacant.

29 * Sec. 4. This Act takes effect immediately in accordance with

1 AS 01.10.070(c).

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

Alaska State Legislature

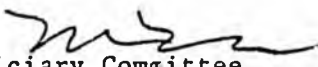


House of Representatives House Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4990

MEMO: March 18, 1986

TO: Rep. Katie Hurley
Chairwoman, State Affairs Committee

FROM: Rep. M. Mike Miller 
Chairman, House Judiciary Committee

RE: HB 550/ Extend Alcoholic Beverage Control Board
Request for hearing

You have in your committee HB 550, a "sunset" bill to extend the alcohol beverage control board. I respectfully request that the bill be scheduled for a hearing at your earliest convenience.

The bill is an essential matter that should properly be brought up so that the ABC board continues to exist and to provide its statutory obligations.

The bill was introduced by the Judiciary Committee at the request of the Department of Revenue.

If you have any questions, please contact me personally or have your staff contact Bob Speed of my office (x-4990).

The second 1981 amendment substituted "1983" for "1981" in subsection (a)(1).

The third 1981 amendment added paragraph (10) of subsection (a).

The fourth 1981 amendment added paragraph (11) of subsection (a).

The fifth 1981 amendment repeated paragraph (5) of subsection (a) which provided a termination date for the Alaska Pipeline Commission.

The sixth 1981 amendment substituted "AS 44.21.241" for "AS 44.19.181" in paragraph (6) of subsection (a).

The first 1982 amendment substituted "1985" for "1982" in paragraph (8) of subsection (a).

The second 1982 amendment deleted "Renewable" preceding "Resources Corporation" and substituted "June 30, 1992" for "June 30, 1982" in paragraph (7) of subsection (a).

Sec. 44.66.020. Agency programs. (a) Agency programs and activities listed in this subsection which are specifically designated as provided in AS 44.66.030 are subject to termination during the regular legislative session convening in the month and year set out after each:

(1) programs in the budget categories of general government, public protection, and administration of justice — January, 1980;

(2) programs in the budget categories of education and the University of Alaska — January, 1981;

(3) programs in the budget categories of health and social services — January, 1982;

(4) programs in the budget categories of natural resources management, development and transportation — January, 1983.

(b) An agency program or activity designated in (a) of this section shall be subject to termination during the regular legislative session convening four years after the preceding review and may be subject to termination at any time upon the recommendation of the Legislative Budget and Audit Committee and the concurrence of the legislature as if under AS 44.66.030. (§ 3 ch 149 SLA 1977)

Sec. 44.66.030. Program identification. During the legislative session preceding each of the years set out in AS 44.66.020, the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category which shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill which, if enacted into law, would terminate those designated programs and activities on or before July 1 of the following year. (§ 3 ch 149 SLA 1977)

The first 1983 amendment, substituted "1985" for "1982" in paragraph (a)(3).

The second 1983 amendment, added paragraph (12).

The third 1983 amendment, substituted "1985" for "1983" in paragraph (a)(2).

The fourth 1983 amendment, substituted "1984" for "1983" in paragraph (a)(1).

The first 1984 amendment repealed paragraph (a)(7), which provided a termination date for the Alaska Resources Corporation.

The second 1984 amendment substituted "1986" for "1984" in paragraph (1) of subsection (a).

Legislative history reports. — For adoption of letter of intent relating to ch. 74, SLA 1983, extending the termination date of the Alaska Transportation Commission, see 1983 Senate Journal, p. 1424, and 1983 House Journal, p. 1939.

Sec. 44.66.050. Legislative oversight. (a) Before the termination, dissolution, continuation or reestablishment of a board or commission under AS 08.03.010 or AS 44.66.010, or of an agency program under AS 44.66.020 and 44.66.030, a committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Legislature, shall hold one or more hearings to receive testimony from the public, the commissioner of the department having administrative responsibility for each named board, commission, or agency program, and the members of the board or commission involved. The hearings may be joint hearings. The committee shall also consider the proposed budget of the board, commission, or agency program, prepared in accordance with AS 37.07.050(f), and the performance audit of the activities of the board, commission, or agency program, prepared by the legislative audit division as prescribed in AS 24.20.271(1). The committee may consider any other report of the activities of the board, commission or program, including but not limited to annual reports, summaries prepared by the Legislative Affairs Agency, and any evaluation or general report of the manner of conduct of activities of the board, commission, or agency program prepared by the office of the ombudsman.

(b) During a public hearing, the board, commission or agency shall have the burden of demonstrating a public need for its continued existence or the continuation of the program, and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest.

(c) A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:

(1) the extent to which the board, commission or program has operated in the public interest;

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

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

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

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

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

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

(d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

(4) an assessment of alternative methods of achieving the purposes of the program;

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

program. No more than one board, commission, or agency program shall be continued or reestablished in any legislative bill, and the board, commission, or agency program shall be mentioned in the title of the bill. (§ 3 ch 149 SLA 1977)

Sec. 44.66.060. Existing claims. This chapter shall not cause the termination or dismissal of a claim or right of a citizen against a board, commission or program of an agency terminated under this chapter which is subject to litigation. Claims and rights shall be assumed by the department to which the board or commission terminated under this chapter was attached for administrative purposes. (§ 3 ch 149 SLA 1977)

Part 6. State Property.

Chapter

68. State-Owned Vehicles (§§ 44.68.010 — 44.68.040)

71. Surplus Property (§§ 44.71.010 — 44.71.040)

74. Management and Disposition (§§ 44.74.010 — 44.74.090)

Chapter 68. State-Owned Vehicles.

Section

10. Use of state-owned vehicles

20. Regulations regarding the use of state-owned vehicles

Section

30. Exemptions

40. Violations

Sec. 44.68.010. Use of state-owned vehicles. State-owned vehicles may be used only in the conduct of state business. A state officer or employee may not use or permit the use of a state-owned vehicle except in the conduct of state business. (§ 1 ch 178 SLA 1959)

Collateral references. — 72 Am. Jur. 2d States, Territories and Dependencies, § 66.

Responsibility of public officer for negligence of subordinate in operation of vehicle, 3 ALR 149.

Applicability to public officials or employees of motor vehicle regulations, 19 ALR 459; 23 ALR 418.

Sec. 44.68.020. Regulations regarding the use of state-owned vehicles. The Department of Transportation and Public Facilities shall adopt regulations that

(1) define what is the use of state-owned automotive and mechanical vehicles in the conduct of state business and distinguish this use from misappropriation for private use;

(2) prescribe use governing the storage of state-owned vehicles in those locations where storage space, under the jurisdiction of the Department of Transportation and Public Facilities, is available for

Wilson Condon
Deputy Attorney General
Department of Law

October 31, 1979

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Opinion Request -
Effects of Discontinuation
of AEC Board During FY 80.

The Budget Review Committee has requested that the Department of Revenue, after consultation with the Departments of Law, Community and Regional Affairs, Health and Social Services and Public Safety, prepare a report outlining the effects of the discontinuation of the Alcoholic Beverage Control Board, analyzing the organizational options should the Board be discontinued, analyzing the pending legislation and recommending a position which the Administration should adopt. Therefore, we would like to amend our opinion request dated August 13, 1979, relating to the meaning of an agency's "concluding its affairs" under the sunset legislation and add to it the following questions:

1. Should the Board be terminated without further legislative action what provisions, if any, of AS 04 would remain in force and effect? In other words, would the termination of the Board constitute the effective repeal of all liquor control legislation in the State? Since the Board was technically terminated on June 30, 1979, pursuant to AS 44.66.010(a)(1), is that the situation now?

2. Given the Department of Law's long experience in working with the Board handling civil and criminal prosecutions, what is your Department's recommendation with regard to whether the Board should be discontinued? If you feel the Board should be terminated, do you feel the function should be transferred to a line agency within the Department of Revenue or within some other department? Any thoughts or comments on the above questions would be greatly appreciated.

The ERC has requested this Department's final report by November 15, 1979. We would, therefore, appreciate your response by November 9, 1979.

JKD:jrb

COMMERCIAL SERVICE
NOV 5 3 59 PM '79
COMMERCIAL SERVICE
RECEIVED

MEMORANDUM

TO: [The Honorable Thomas Williams
Commissioner
Department of Revenue

DATE: November 13, 1979

FILE NO.

ATTN: Joseph Donohue
Deputy Commissioner

TELEPHONE NO.

FROM:

Avrum M. Gross
Attorney General

SUBJECT:

Effects of Discontinuation
of ABC Board
Our File: J-66-103-80

By:

Rodger W. Pegues
Assistant Attorney General
Department of Law



You have asked what the effects of the discontinuation of the Alcoholic Beverage Control (ABC) Board under the Sunset Law will be.

Assuming that the Sunset Law is constitutional, ^{*}/ the termination of the ABC Board pursuant to its provisions probably will have the effect of repealing most, if not all, of Title 4 of the Alaska Statutes. The board's activities are inextricably intermingled within the state's liquor laws, and the latter -- almost in their entirety -- can have no force or effect without the board to apply them.

There are certain provisions of the liquor laws which do not require the existence of the board for implementation, e.g., hours of sale are prescribed by the law. AS 04.15.010, AS 04.15.080, as is the legal age. AS 04.15.020. (However, without a board, there will be no liquor licenses and no liquor licensees, and as a result, no prohibition against minors' consuming or being present on licensed premises.) Municipalities will still be able to regulate liquor without a board. AS 04.15.070. But they will have to start from scratch.

In brief, the ABC Board's existence is essential to the execution of the title on alcoholic beverages. If the board ceases to exist, the regulation of alcohol will, for most purposes, also cease. Again, this assumes that the Sunset Law is constitutional, a not at all certain proposition.

^{*}/ Without going into detail, the Sunset Law raises serious questions under the separation of powers doctrine and the single-subject rule.

RWP:md

TO: Hon. Thomas K. Williams
 Commissioner
 Department of Revenue
 ATTN: Joseph K. Donohue
 Deputy Commissioner

DATE: November 9, 1979

FILE NO: J-66-103-80

TELEPHONE NO:

FROM: AVRUM M. GROSS
 ATTORNEY GENERAL

SUBJECT: Status of ABC
 Board in 1980

By:

Rodger W. Pegues
 Assistant Attorney General *RWP*

You have asked if it is within the scope of the Sunset Law to continue the normal exercise of the powers of the ABC Board at least until March 1980 and then, absent any statutory resurrection, phasing it out.

We believe that you are acting within the scope of the law.

The 1977 Legislature enacted a sunset law for two classes of agencies. §§ 2 and 3, ch. 149, SLA 1977. One section applies to 22 expressly designated professional and occupational licensing boards. It has been codified as AS 08.03.010. The other applies, first, to five expressly designated regulatory commissions and then to certain other agencies. It is codified as AS 44.66.010, 020. The latter, over a period of years, provides for review and potential termination of all state agencies and institutions. */ The ABC Board is one of the regulatory agencies specified in AS 44.66.010.

Both provide for "termination" on dates certain, e.g., June 30, 1979, in the case of the ABC Board. Both provide for a terminated agency to "continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs." Compare AS 08.03.010(c) with AS 44.66.010(b). It is at this point, however, that an apparent distinction arises.

Under AS 08.03.010(c), during its year of continued "existence," the terminated agency's powers expressly remain undiminished. A similar provision does not occur in AS 44.66.010(b). It is silent on the matter. Ordinarily,

*/ Because they are constitutionally established or mandated, certain agencies cannot be abolished, e.g., the Alaska Legislative Council, Alaska Const., art. II, § 11.

Joseph K. Donohue
November 9, 1979
Page #2

when two provisions are enacted together on related matters and are distinguishable in this manner, the distinction is considered to intend a substantial difference, i.e., here, that agencies terminated under AS 44.66.010 do not continue to possess their powers during this closing-out year. There is no reason, however, to perceive such a difference here. The situation is the same for both classes of agencies and for the objects of regulation and public protection. Indeed, AS 08.03.010(d) provides that the provisions of AS 44.66.050 govern the termination of agencies under AS 08.03, a rather persuasive indication that the same rules are to apply to both classes of agencies.

Our conclusion is, therefore, that the difference in wording is inadvertant and that there was no intention to strip the regulatory boards terminated under AS 44.66 of their powers during the year in which they are closing out. If the boards are not resurrected during that last year, then their powers cease to exist, and they cannot -- absent new legislation -- be delegated to the departments in which the boards were located.

RWP/pjg

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No: HB 550
Title: Extending the Termination Date
of the ABC Board

FISCAL DETAIL

Agency Affected: Revenue
BRU: _____

Sponsor: (H) Judiciary Committee
Requestor: (H) State Affairs Committee
Date of Request: April 4, 1986

Components: Alcoholic Beverage Control
Board

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
OPERATING						
PERSONAL SERVICES	-	540.7	540.7	540.7	540.7	540.7
TRAVEL	-	51.9	51.9	51.9	51.9	59.1
CONTRACTUAL	-	79.7	79.7	71.7	71.7	71.7
SUPPLIES	-	7.6	7.6	7.6	7.6	7.6
EQUIPMENT	-	10.1	10.1	10.1	10.1	10.1
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	690.0	690.0	690.0	690.0	690.0
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	690.0	690.0	690.0	690.0	690.0
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

Prepared By: Patrick L. Sharrock
Division: Alcoholic Beverage Control Board

Phone: 277-8638
Date: April 8, 1986

Approved by Commissioner: Walter G. Jankala
Agency: Department of Revenue

Date: April 8, 1986

Distribution (by Agency preparing-fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Wilson Condon
Deputy Attorney General
Department of Law

October 31, 1979

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Opinion Request -
Effects of Discontinuation
of AEC Board During FY 80.

The Budget Review Committee has requested that the Department of Revenue, after consultation with the Departments of Law, Community and Regional Affairs, Health and Social Services and Public Safety, prepare a report outlining the effects of the discontinuation of the Alcoholic Beverage Control Board, analyzing the organizational options should the Board be discontinued, analyzing the pending legislation and recommending a position which the Administration should adopt. Therefore, we would like to amend our opinion request dated August 13, 1979, relating to the meaning of an agency's "concluding its affairs" under the sunset legislation and add to it the following questions:

1. Should the Board be terminated without further legislative action what provisions, if any, of AS 04 would remain in force and effect? In other words, would the termination of the Board constitute the effective repeal of all liquor control legislation in the State? Since the Board was technically terminated on June 30, 1979, pursuant to AS 44.66.010(2)(1), is that the situation now?

2. Given the Department of Law's long experience in working with the Board handling civil and criminal prosecutions, what is your Department's recommendation with regard to whether the Board should be discontinued? If you feel the Board should be terminated, do you feel the function should be transferred to a line agency within the Department of Revenue or within some other department? Any thoughts or comments on the above questions would be greatly appreciated.

The ERC has requested this Department's final report by November 15, 1979. We would, therefore, appreciate your response by November 9, 1979.

JRW:jrb

COMMUNICATIONS SECTION
OCT 31 1979
RECEIVED

file SB ~~1000~~
466

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

August 21, 1985

Audit Control Number

04-1223-86-R

Commissioner, Department
of Revenue

Mary A. Nordale

Deputy Commissioners,
Department of Revenue

Bruce M. Botelho
Milton B. Barker

Members of the
Alcoholic Beverage Control Board

Chairman
Member
Member
Member
Member

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

STATE OF ALASKA

THE LEGISLATURE
BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

August 21, 1985

Members of the Legislative Budget
and Audit Committee:

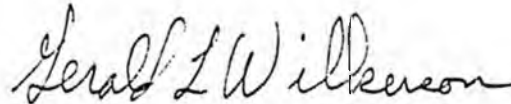
In accordance with the provisions of Title 24 of the Alaska
Statutes, the attached report is submitted for your review.

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

August 21, 1985

Audit Control Number

04-1223-86-R



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

TABLE OF CONTENTS

	<u>Page</u>
Purpose of the Report	1
Organization and Function	3
Report Conclusion	5
Findings and Recommendations	7
Analysis of Public Need	13
Appendixes:	
A. Revenue Compared with Expenditures	19
B. Number of Licenses by Type	20
B. Description of License Type and Fees	21
Agency Response:	
Department of Revenue	25

PURPOSE OF THE REPORT

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

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

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

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

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

(Intentionally left blank)

ORGANIZATION AND FUNCTION

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

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

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

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

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

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

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

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

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

ANALYSIS OF PUBLIC NEED

Limited Analysis

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Intentionally left blank)

APPENDIXES

(Intentionally left blank)

APPENDIX A

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

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

Schedule 1
Revenue Collected

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

Note 1

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

Note 2

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

APPENDIX B

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

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

APPENDIX C

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

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

APPENDIX C

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

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

APPENDIX C

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

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

(Intentionally left blank)

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

December 30, 1985

RECEIVED
DEC 30 1985

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

LEGISLATIVE
AUDIT

Dear Mr. Wilkerson:

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

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

Recommendation No. 1

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

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

Recommendation No. 2

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

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

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

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

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

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

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

Recommendation No. 3

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

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

Recommendation No. 4

The ABC Board should improve documentation of its enforcement efforts.

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

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

3. The administrative filing system needs improvement.

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

Recommendation No. 5

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

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

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

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

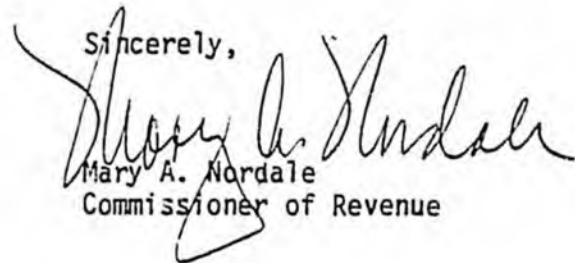
Recommendation No. 6

The ABC Board should strengthen controls over liquor license stock.

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

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

Sincerely,

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

Mary A. Nordale
Commissioner of Revenue

REPORT CONCLUSION

Policy Issues

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

Report Conclusions

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

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

(Intentionally left blank)

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

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

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

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

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

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

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

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