

ALASKA LEGISLATIVE COMMITTEE FILED 1995 10/2

4044 SJUD UNIVERSITY OF ALASKA: DISCRIMINATION - SB 2

E. Filing and Hearing Grievance

If the grievance is not resolved informally by the responsible administrator, the grievant may elect to file a grievance in writing to the Council. The local Grievance Council shall cause a copy of the written complaint to be forwarded to the University Counsel for purposes of preparing statistical information.

The local Grievance Council shall recommend dismissal or conduct a hearing within 30 days of the filing of the grievance with the Council. The Council will recommend dismissal of a grievance if after preliminary investigation, it decides that no reasonable likelihood exists that there has been a violation, misinterpretation or misapplication of policy or regulation applicable to the University of Alaska, or an abuse of discretion. The hearing shall be in accord with uniform regulations. If the local Grievance Council fails to fully hear the matter within 30 days of the filing of the grievance in writing, the matter shall be heard by the President as if on appeal. In such cases, the University's expenses and costs shall be paid from the originating chancellor's unit. The parties may, by mutual agreement, extend the 30 day limitation by up to an additional 60 days.

F. Decision by the Chancellor

The local Grievance Council shall make its recommendations to the Chancellor who shall render a decision. The Chancellor's decision may be appealed, by any of the parties at interest, to the President. The Chancellor shall provide a copy of the decision to the University Counsel.

G. Appeals

On appeal the President may: affirm the decision and order of the Chancellor; reverse the decision and order; return the matter to the local Grievance Council for the taking of further evidence as to points specified by the President; return the matter to the Chancellor for clarification of the decision and order; or by himself or through a designee, take such further evidence and further proceedings as may be convenient to the full disposition of the matter.

Upon remand the local Grievance Council may, after the taking of further testimony, either affirm, reverse, or modify its previous recommendation, and the Chancellor may either affirm, reverse, or modify his previous findings and conclusions.

The President's decision will be made within 30 calendar days from the date the matter is appealed to the President. The parties may, by mutual agreement, extend the 30 day limitation by up to 30 additional days. The decision of the President shall be final.

H. Confidentiality

The records of a grievance are confidential, except for the recommendation of the Grievance Council and the final decision.

I. Reprisal Prohibited

No aggrieved or witness may be subjected to harassment, reprisal or retaliation for filing a grievance or testifying at a hearing.

J. Other Forums and Procedures

The hearing and remedies provided through this procedure shall be the sole and exclusive remedy within the University of Alaska, except that no grievance may be heard by the local Grievance Council if a procedure applicable to a collective bargaining unit provides a remedy for the grievance.

K. Exhaustion of Remedies

No person shall be deemed to have exhausted his/her remedies as to any grievance unless the grievance has first been heard and appeal taken and exhausted under this grievance policy.

PART IV

PERSONNEL

CHAPTER IV

GRIEVANCE PROCEDURE

Grievance Procedure

04.04.01

A. Scope of Grievance Procedure

If a student or employee has a question, problem, charge or complaint arising from conditions, practices, working relationships, decisions, actions or inactions by the University of Alaska or by its employees, the aggrieved is required to attempt to resolve the grievance with the appropriate administrators (supervisor through director or dean) prior to filing for relief with a Grievance Council.

B. Assistance in Processing Grievances

Parties to a grievance are encouraged to seek information and assistance from their personnel office and from members of the local Grievance Council. Persons with grievances concerning their equal opportunity rights are also encouraged to seek information and assistance from their EEO/AA Officer.

C. Filing Grievances

If the grievance is not resolved by an administrator to the satisfaction of the aggrieved, the grievant may file a sealed written complaint addressed to the local Grievance Council with the local Personnel Office. The local Personnel Office shall forward the sealed complaint to the local Grievance Committee, and the local Grievance Council shall forward a copy of the complaint to the University Counsel. Current members of each local Grievance Council are to be listed in each local personnel office. Complaints shall include the names and business addresses of all known individuals whose activities have given rise to the grievance, and shall state the complaint with sufficient clarity to enable the parties to understand the issues presented.

D. Preliminary Investigation

The Council Chairman may designate a member of the Council to investigate the complaint and prepare a file containing information pertinent to the complaint.

E. Dismissal of Complaints

If the Council recommends dismissal of the complaint, it shall make its recommendations known to the appropriate Chancellor in writing, and the Chancellor shall render a decision and inform the grievant. (The President shall be substituted for Chancellor in cases of grievances being filed by statewide employees.) A dismissal shall be appealable.

F. Conduct of Hearings

At the hearing at the Chancellor level, each party shall have these rights: To call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues, even though that matter was not covered in the direct examinations; to request that the hearing be closed to the public, to impeach any witness regardless of which party called him/her to testify; and to rebut the evidence against him/her. If a party does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination. The parties may be advised by legal counsel, but legal counsel may not make formal appearance, nor speak or ask questions in a party's behalf. If the grievant is unable to effectively present his/her own case, for reasons acceptable in the discretion of the Grievance Council, the grievant may choose to have his/her case presented by another person, who shall not be a lawyer.

Hearings need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil or criminal actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence or scandalous evidence shall be excluded. The local Grievance Council shall rule on all matters of evidence and procedure in their discretion giving special weight to the need for speedy resolution of the grievance, the desirability of keeping the proceedings as simple and informal as possible, and the interests of justice and fairness. Continuances or further hearings are not favored. Parties with rights affected by the same issues may be joined in the same hearing if possible; all related grievances by one person shall be heard in the same hearing, if possible. A grievance may be settled at any time.

G. Council Recommendations

The Council will submit a report of its deliberations and recommendations to the Chancellor within five (5) working days of the conclusion of the hearing. (The President shall be substituted for Chancellor in cases of grievances by statewide employees.) The report will include:

1. A copy of the grievant's written complaint, and a supplemental statement of issues by the Council, if necessary.
2. A summary of facts determined by the Council through its investigation and hearing.
3. The recommendation as to whether the Chancellor should find that there was a violation, misinterpretation or misapplication of university policies and regulations, or an abuse of discretion.
4. Recommendation, if any, concerning possible action to be taken.

H. Chancellor's Decision

The Chancellor will inform the grievant and other parties at interest of the Council's findings, and the Chancellor shall render a written decision within ten (10) working days; copies of the Chancellor's decision shall be given to the grievant, and the other parties at interest, and to the University Counsel. The decision of the Chancellor shall be final unless appealed to the President by any party.

I. Appeals

Appeals to the President must be taken within fifteen (15) working days after the written decision of the Chancellor is given. A decision not appealed within the time limits provided shall be considered accepted by the parties as a satisfactory settlement of the matter. The appeal to the President shall be upon the record as made before the Council. Hearings conducted by the President or designee shall be conducted as provided for hearings before the local Grievance Council.

The decision of the President shall be final.

J. Reports to Local Assembly

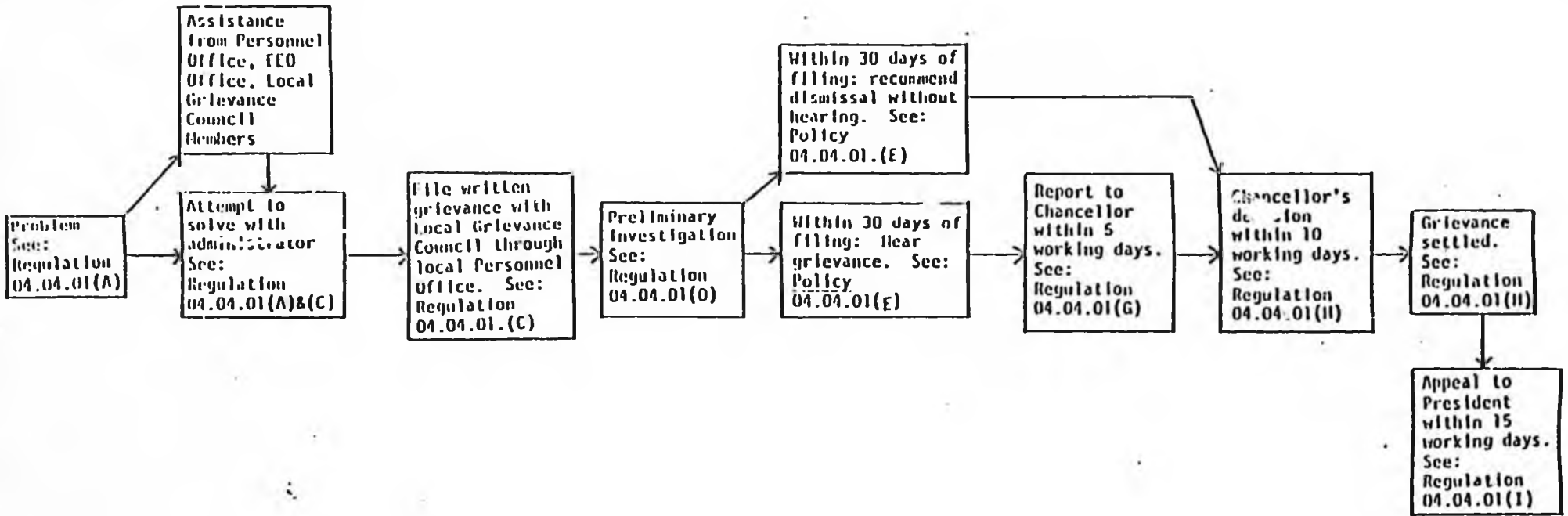
An annual, abridged summary of types of grievances heard or resolved without hearing, together with recommended policy or regulation actions, if any, will be submitted to the local Assembly by the local Grievance Committee. No identification of parties involved will be made.

K. Grievance Flow Chart

By way of illustration of the grievance procedure, refer to the following flow chart:

3-24-80

REGULATIONS



04.04.01

04.04.01



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.

James O. Smith

Signature of Camera Operator

11/7/89

Date

S B

1

Original sponsors: Ziegler and Ray

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 1 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the jurisdiction of the superior
7 court and the district court; and providing for an
8 effective date."

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

10 * Section 1. AS 22.10.020(a) is amended to read:

11 (a) The superior court is the trial court of general jurisdic-
12 tion, with original jurisdiction in all civil and criminal matters,
13 including probate and guardianship of minors and incompetents. An
14 action that falls within the concurrent jurisdiction of the superior
15 court and the district court may not be filed in the superior court,
16 except as provided by rules of the supreme court.

17 * Sec. 2. AS 22.15.030 is amended to read:

18 Sec. 22.15.030. CIVIL JURISDICTION. (a) The district court has
19 jurisdiction of civil cases and proceedings as follows:

20 (1) for the recovery of money or damages when the amount
21 claimed exclusive of costs, interest and attorney fees does not exceed
22 \$25,000 [\$10,000, EXCEPT AS PROVIDED IN (10) OF THIS SUBSECTION];

23 (2) for the recovery of specific personal property, when
24 the value of the property claimed and the damages for the detention do
25 not exceed \$25,000 [\$10,000];

26 (3) for the recovery of a penalty or forfeiture, whether
27 given by statute or arising out of contract, not exceeding \$25,000
28 [\$10,000];

29 (4) to give judgment without action upon the confession of

1 the defendant for any of the cases specified in this section, except
2 for a penalty or forfeiture imposed by statute;

3 (5) for establishing the fact of death of any person in the
4 manner prescribed in AS 09.55.020 09.55.060;

5 (6) [REPEALED.

6 (7) REPEALED.

7 (8)] for the recovery of the possession of premises in the
8 manner provided under AS 09.45.070 - 09.45.160 when the value of the
9 property or of the arrears and damage to the property does not exceed
10 \$25,000 [\$10,000];

11 (7) [(9)] for the foreclosure of a lien when the amount in
12 controversy does not exceed \$25,000 [\$10,000];

13 (8) [(10)] for the recovery of money or damages in motor
14 vehicle tort cases when the amount claimed exclusive of costs, inter-
15 est and attorney fees does not exceed \$25,000 [\$15,000];

16 (9) [(11)] over civil actions for taking utility service
17 and for damages to or interference with a utility line filed under
18 AS 42.20.030;

19 (10) over cases involving injunctive relief for domestic
20 violence under AS 25.35.010 and 25.35.020.

21 (b) Insofar as the civil jurisdiction of the district courts and
22 the superior court is the same, the [SUCH] jurisdiction is concurrent.
23 An action that falls within the concurrent jurisdiction of the super-
24 ior court and the district court may not be filed in the superior
25 court, except as provided by rules of the supreme court.

26 * Sec. 3. AS 22.15.050 is amended to read:

27 Sec. 22.15.050. ACTIONS NOT WITHIN CIVIL JURISDICTION. The
28 jurisdiction of the district courts does not extend to

29 (1) an action in which the title to real property is in

1 question;

2 (2) an action for false imprisonment, libel, slander,
3 malicious prosecution, criminal conversation, seduction upon a promise
4 to marry, actions of an equitable nature (except as otherwise provided
5 by law [IN AS 22.15.030(a)(9)]), or actions in which the state is a
6 defendant.

7 * Sec. 4. AS 22.15.100 is amended to read:

8 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND
9 MAGISTRATE. Each district judge and magistrate has the power

10 (1) to issue writs of habeas corpus for the purpose of
11 inquiring into the cause of restraint of liberty, returnable before a
12 judge of the superior court, and the same proceedings shall be had on
13 the writ as if it had been granted by the superior court judge under
14 the laws of the state in such cases;

15 (2) of a notary public;

16 (3) to issue marriage licenses and to solemnize marriages;

17 (4) to issue warrants of arrest, summons and search war-
18 rants according to manner and procedure prescribed by law and the
19 supreme court;

20 (5) to act as an examining judge or magistrate in prelimi-
21 nary examinations in criminal proceedings; to set, receive and forfeit
22 bail and to order the release of defendants under bail;

23 (6) to act as a referee in matters and actions referred to
24 the judge or magistrate by the superior court, with all powers confer-
25 red upon referees by laws;

26 (7) of the superior court in all respects including but not
27 limited to contempts, attendance of witnesses and bench warrants;

28 (8) to order the temporary detention of a minor, or take
29 other action authorized by law or rules of procedure, in cases arising

1 under AS 47.10, when the minor is in a condition or surrounding dan-
2 gerous or injurious to the welfare of the minor or others which
3 requires immediate action; the action may be continued in effect until
4 reviewed by the superior court in accordance with rules of procedure
5 governing these cases;

6 (9) to issue a temporary order for [EMERGENCY] injunctive
7 relief in cases involving domestic violence as provided in AS 25.35.-
8 010 and AS 25.35.020;

9 (10) to review an administrative revocation of a person's
10 driver's license or nonresident privilege to drive, and an administra-
11 tive refusal to issue an original license, when designated as a hear-
12 ing officer by the commissioner of public safety and with the consent
13 of the administrative director of the state court system.

14 * Sec. 5. AS 25.35.010 is amended to read:

15 Sec. 25.35.010. INJUNCTIVE RELIEF IN CASES INVOLVING DOMESTIC
16 VIOLENCE. (a) A person who is subjected to domestic violence may
17 petition a superior or district court for injunctive relief restrain-
18 ing the infliction of further domestic violence against the petitioner
19 by the respondent.

20 (b) Upon receiving a petition under (a) of this section, the
21 [SUPERIOR] court shall schedule a hearing and shall provide at least
22 10 days notice to the respondent of the hearing and of the respon-
23 dent's right to appear and to be heard either in person or by attor-
24 ney. If, at the hearing, the [SUPERIOR] court finds that the peti-
25 tioner has been subjected to domestic violence by the respondent, the
26 [SUPERIOR] court may issue any order it determines to be necessary for
27 the protection of the health, safety or welfare of the petitioner or
28 of a minor child in the care of the petitioner. An order under this
29 subsection may include provisions that [WHICH]

1 (1) restrain the respondent from subjecting the petitioner
2 to domestic violence;

3 (2) direct the respondent to vacate the home of the peti-
4 tioner;

5 (3) restrain the respondent from communicating directly or
6 indirectly with the petitioner;

7 (4) direct the respondent to pay support for the petitioner
8 or for a minor child in the care of the petitioner if there is an
9 independent legal obligation of the respondent to support the peti-
10 tioner or the child;

11 (5) award temporary custody of a minor child to the peti-
12 tioner;

13 (6) direct the respondent to pay medical expenses incurred
14 by the petitioner as a result of the domestic violence;

15 (7) direct the respondent to engage in personal or family
16 counseling;

17 (8) restrain the respondent from entering a propelled
18 vehicle in the possession of or occupied by the petitioner.

19 (c) An order issued under this section remains in effect for a
20 period of time not to exceed 90 days. However, the petitioner may
21 petition the [SUPERIOR] court for an extension of a provision of the
22 order if the provision is described in (b)(1), (b)(2), (b)(3), (b)(7),
23 or (b)(8) of this section. If the [SUPERIOR] court, after notice to
24 the respondent of and a hearing on the petition for the extension in
25 accordance with the procedures described in (b) of this section, finds
26 that an extension of the provision of the order is necessary to pro-
27 tect the petitioner or a minor child in the care of the petitioner
28 from domestic violence, the [SUPERIOR] court may extend the provision
29 of the order for a period of time not to exceed 45 days. The court

1 may not grant more than one extension under this subsection.

2 (d) Proceedings under this section do not preclude any other
3 available civil or criminal remedies.

4 * Sec. 6. AS 25.35.020(a) is amended to read:

5 (a) A person who has been subjected to domestic violence may
6 petition the superior or district court for a temporary order provid-
7 ing for emergency injunctive relief restraining the infliction of
8 further domestic violence against the petitioner by the respondent.
9 [IF THERE IS NO SUPERIOR COURT WITHIN 50 ROAD MILES OF THE RESIDENCE
10 OF THE PERSON SUBJECTED TO DOMESTIC VIOLENCE, THE PERSON MAY PETITION
11 THE NEAREST DISTRICT COURT FOR A TEMPORARY EMERGENCY INJUNCTIVE RELIEF
12 ORDER. IF THERE IS NO DISTRICT COURT WITHIN 50 ROAD MILES OF THE
13 RESIDENCE OF THE PERSON SUBJECTED TO DOMESTIC VIOLENCE, THE PERSON MAY
14 PETITION THE NEAREST MAGISTRATE FOR A TEMPORARY EMERGENCY INJUNCTIVE
15 RELIEF ORDER. THE DISTRICT COURT OR MAGISTRATE SHALL NOTIFY THE
16 SUPERIOR COURT IMMEDIATELY UPON ISSUANCE OF AN ORDER GRANTING EMER-
17 GENCY INJUNCTIVE RELIEF UNDER THIS SECTION.]

18 * Sec. 7. AS 25.35.020(d) is amended to read:

19 (d) If an order under this section is granted without notice, a
20 hearing before the [SUPERIOR] court for injunctive relief under
21 AS 25.35.010 shall be scheduled by the [SUPERIOR] court at the earli-
22 est possible time consistent with the notice provisions of AS 25.-
23 35.010. If at the hearing the petitioner does not proceed with the
24 petition for injunctive relief, the [SUPERIOR] court shall dissolve
25 the emergency injunctive relief order.

26 * Sec. 8. AS 25.35.020(e) is amended to read:

27 (e) On three days notice to the petitioner, or on shorter notice
28 as the [SUPERIOR] court may prescribe, the respondent may make a
29 motion to the [SUPERIOR] court for the dissolution or modification of

1 an order for emergency injunctive relief under this section. The
2 [SUPERIOR] court shall hear and rule on the motion in an expeditious
3 manner.

4 * Sec. 9. AS 34.35.005(a) is amended to read:

5 (a) When an action is required to enforce a lien provided for in
6 [SECS. 5 - 425 OF] this chapter and the action falls within the
7 monetary jurisdiction of the district court, the action shall be
8 started in the district [SUPERIOR] court in the judicial district in
9 which the property upon which the lien attaches is located. An action
10 that exceeds the monetary jurisdiction of the district court shall be
11 started in the superior court in the judicial district in which the
12 property upon which the lien attaches is located. The procedure,
13 except as otherwise provided in [SECS. 5 - 45 OF] this chapter, is the
14 same as in the trial of an action to secure property to hold it for
15 the satisfaction of a lien against it.

16 * Sec. 10. This Act takes effect immediately in accordance with AS 01.-
17 10.070(c).
18
19
20
21
22
23
24
25
26
27
28
29

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 21, 1985

SUBJECT: Sectional analysis of CSSB 1 (Judiciary)
TO: Senator Patrick M. Rodey
Chairman, Senate Judiciary Committee
FROM: Keith B. Levy *KBL*
Legislative Counsel

You have requested a sectional analysis of CSSB 1 (Judiciary). The bill amends a number of provisions relating to the jurisdiction of the superior and district courts.

Section 1 provides that when a matter falls within the overlapping jurisdiction of the superior court and the district court, the action must be filed in the district court unless the Supreme Court provides for an exception by court rule (AS 22.10.020(a)).

Section 2 increases the monetary jurisdictional limitation in the district court from \$10,000 to \$25,000 and adds the power to issue injunctive relief in domestic violence cases to the jurisdiction of the district court (AS 22.15.030(a)). It also restates the rule that matters within the concurrent jurisdiction of the superior court and the district court must be filed in the district court unless the Supreme Court provides for an exception (AS 22.15.030(b)).

Section 3. AS 22.15.050 currently provides that the district court has no jurisdiction over actions of an equitable nature. Section 3 amends that section to provide for an exception "where otherwise provided by law" to be consistent with other provisions of the bill giving the district court jurisdiction to issue injunctive relief in domestic violence cases since this power is of an equitable nature.

Sections 4 - 8 amend existing provisions of law to allow an individual to seek injunctive relief in domestic violence

Senator Patrick Rodey
January 21, 1985
Page 2

cases in the district court as well as the superior court (AS 22.15.100, AS 25.35.010, and AS 25.35.020).

Section 9 amends AS 34.35.005(a) to allow the district court to enforce liens in cases where the value of the property attached does not exceed the monetary limit of \$25,000 provided for in section 1 of the Act.

Section 10 provides that the Act is to take effect immediately.

KBL:ojb
J11/019

COMMITTEE REPORTS (House)(cont'd)

Hyder as Mile "0" on the Alaska-Yukon Highway (designating) HOUSE-RESOLUTION-NO.-5, (see page 319). Reported back to the House April 16 from Transportation as follows: Furnance recommends do pass. Pignalberi recommends do not pass. Davis, (vice-chair), Marrou and Shultz had no recommendation. To Rules.

BILLS PASSED IN THE HOUSE

Superior & District Ct. Jurisdiction HCS FOR CS FOR SENATE BILL NO.-1-(JUD)-(AM-H), (see pages 1; 126;179;211;495;568). On April 17 the bill was removed from the calendar and returned to the Rules Committee. On April 19 the House Judiciary substitute was adopted (see page 495). Amendment 1 by Gruenberg was adopted and it adds a new section amending AS 25.35.020 (Emergency Injunctive Relief in Cases Involving Domestic Violence) to read:

(c) An order issued under this section may include a provision described in AS 25.35.010(b), except an order for mediation. The order shall be endorsed with the date and hour of issuance, shall be filed in the clerk's office and entered in the records of the court, and shall state the reason that it was granted without notice. The order shall remain in effect for a period not to exceed 20 days, unless extended by the court for good cause. The reasons for the extension shall be entered in the records of the court."

Note: AS 25.35.010 referred to in the amendment is Injunctive Relief in Cases Involving Domestic Violence.

The bill then passed the House, 36-0-4. Excused: Collins, Herrmann, Marrou and Sund. The effective date clause was adopted.

Car Theft/
Joyriding
(heavier
penalty) SCS FOR CS FOR HOUSE BILL NO 17 (JUD), (see pp. 40;284;287; 332;355;382;433;603). On April 16 the House concurred in the Senate amendment to CSHB 17 (JUD), 36-0-3-2, thus adopting SCS CSHB 17 (SA). Excused: Adams, Cato, Collins. Absent: Fuller.

Municipal Code
(revision) CS FOR HOUSE-BILL-NO. 72 (C&RA) (AM), (see pages 61;415; 456;505;549;619;646). April 15 the House adopted Am. 1 by the Finance Committee (technical). Further attempts to amend the bill failed, and the bill passed the House, 37-1-2. Nay: Martin. Excused: Adams, Cato. The effective date clause and the C&RA letter of intent (see page 549) were adopted. Rep. Pignalberi gave notice of reconsideration on his vote.

Before the House on reconsideration April 16. An attempt to amend the bill by Rep. Pignalberi failed, and the bill passed the House on reconsideration, 36-1-3. Nays: Martin. Excused: Adams, Cato, Collins. The effective date clause and the C&RA letter were again adopted.

COMMITTEE REPORTS, (House)

Superior &
District Ct.
Jurisdiction

CS FOR SENATE BILL NO. 1 (JUD), (see pages 1;126;179;211).
Reported back to the House March 18 by Judiciary recommending
it be replaced with a House Judiciary substitute and as
follows: M. M. Miller (Chair), Taylor and Phillips recommend do
pass. Clocksin and Sund have no recommendation. To Finance.

The Judiciary substitute makes the following changes:

--Amends AS 08.81.081 (Claims Against Contractor). Would allow a
person having a claim against a contractor to bring suit upon the
bond in the district court of the judicial district in which venue
lies (currently may bring suit upon the bond in the superior court
of the judicial district in which the work is done or of any
judicial district in which jurisdiction of the contractor may be
obtained).

--Further amends AS 22.10.020(a) (Jurisdiction of the Superior
Court) and AS 22.15.030 (District Court. Civil Jurisdiction) by
stating that except for a petition for injunctive relief for
domestic violence cases, an action that falls within the concurrent
jurisdiction of the Superior Court and the District Court may not
be filed in the Superior Court, except as provided by the rules of
the Supreme Court (reference to domestic violence added).

--removes language that limits the jurisdiction of the District
Court in actions for criminal conversation, seduction upon a
promise to marry (the District Court currently does not have
jurisdiction in these cases).

--a court order in domestic violence cases may include a provision
that directs the respondent to engage in personal or family
mediation (former version mentioned only counseling -- this version
adds mediation).

--Section relating to liens has been changed (see page HB 119, page
145, former version was identical to last paragraph of that
write-up). This version states that when an action is required to
enforce a lien and the action falls within the monetary
jurisdiction of the District Court, the action shall be started in
the District Court in the judicial district in which the venue lies
(was "in which the property upon which the lien attaches is
located.")

--Adds new section stating the amendments to domestic violence law
provided in sections 2 and 3 of the bill apply only to cases filed
on or after the effective date of this bill.

--Changes effective date to July 1, 1985 (was immediate).

State Bond
Committee
(within Dept.
of Revenue)

HOUSE BILL NO. 4, (see page 35). Reported back to the
House March 20 by House Loans recommending it be replaced
with a Loans substitute and that it do pass. Concurring:
Sund (Chair), Uehling and Fuller. Not concurring: Cotten had
no recommendation. To Finance.

The Loans Committee requires that the policies and guidelines

ALASKA COURT SYSTEM

Requested legislation

(1) Amendments to SB 1, increasing district court and small claims jurisdiction

(a) eliminating concurrent civil jurisdiction in the superior and district court

(b) lien enforcement in district court

(c) authorizing district court to issue domestic violence injunctive orders

(d) standardizing the monetary level of magistrate jurisdiction

(2) Venue

(3) Judicial vacancy

(4) Internal auditor

SB 1: AMENDMENTS PROPOSED BY
THE ALASKA COURT SYSTEM

Proposed Amendment #1 - eliminating concurrent civil jurisdiction in the superior and district court

AS 22.10.020(a) is amended to read:

Sec. 22.10.020. Jurisdiction. (a) The superior court is the trial court of general jurisdiction, with [ORIGINAL] jurisdiction in all civil and criminal matters, including but not limited to probate and guardianship of minors and incompetents.

AS 22.15.030(b) is repealed and re-enacted to read:

Sec. 22.15.030(b). [INSOFAR AS THE CIVIL JURISDICTION OF THE DISTRICT COURTS AND THE SUPERIOR COURT IS THE SAME, SUCH JURISDICTION IS CONCURRENT.] An action within the civil jurisdiction of the district court may be referred to the superior court only under procedures provided by supreme court rule.

Proposed Amendment #2 - lien enforcement in district court

AS 34.35.005(a) is amended to read:

(a) When an action is required to enforce a lien provided for in [§§ 5 - 425 OF] this chapter, and when such action falls within the monetary jurisdiction of the district court, the action shall be started in the [SUPERIOR] district court in the judicial district in which the property upon which the lien attaches is located. An action which exceeds the monetary jurisdiction of the district court shall be started in the superior court. The procedure, except as otherwise provided in §§ 5 - 45 of this chapter is the same as in the trial of an

action to secure property to hold it for the satisfaction of a lien against it.

Proposed Amendment #3 - authorizing district court to issue emergency domestic violence injunctive orders

Third Judicial District Presiding Judge Douglas Serdahely has proposed that the district court be given authority to issue injunctive orders in domestic violence matters. At present, under AS 25.35.020 the district court can issue such an order only if there is no superior court within 50 road miles of the residence of the person subjected to domestic violence. The administrative office of the Alaska Court system takes no position on this proposal.

This proposal would require the following amendments:

AS 22.15.100 is amended to read:

Sec. 22.15.100. Functions and powers of district judge and magistrate. Each district judge and magistrate has the power

(1) to issue writs of habeas corpus for the purpose of inquiring into the cause of restraint of liberty, returnable before a judge of the superior court, and the same proceedings shall be held on the writ as if it had been granted by the superior court judge under the laws of the state in such cases;

(2) of a notary public;

(3) to issue marriage licenses and to solemnize marriages;

(4) to issue warrants of arrest, summons and search warrants according to manner and procedure prescribed by law and the supreme court;

(5) to act as an examining judge or magistrate in preliminary examinations in criminal proceedings; to set, receive and forfeit bail and to order the release of defendants under bail;

(6) to act as a referee in matters and actions referred to the judge or magistrate by the superior court, with all powers conferred upon referees by laws;

(7) of the superior court in all respects including but not limited to contempts, attendance of witnesses and bench warrants;

(8) to order the temporary detention of a minor, or take other action authorized by law or rules of procedure, in cases arising under AS 47.10, when the minor is in a condition or surrounding dangerous or injurious to the welfare of the minor or others which requires immediate action; the action may be continued in effect until reviewed by the superior court in accordance with rules of procedure governing these cases;

(9) to issue a temporary order for [EMERGENCY] injunctive relief in cases involving domestic violence [AS PROVIDED IN AS 09.55.610];

(10) to review an administrative revocation of a person's driver's license or nonresident privilege to drive, and an administrative refusal to issue an original license, when designated as a hearing officer by the commissioner of public safety and with the consent of the administrative director of the state court system.

AS 25.35.010 is amended to read:

Sec. 25.35.010. Injunctive relief in cases involving domestic violence. (a) A person who is subjected to domestic violence may petition [A] the superior or district court for injunctive relief restraining the infliction of further domestic violence against the petitioner by the respondent.

(b) Upon receiving a petition under (a) of this section, the [SUPERIOR] court shall schedule a hearing and shall provide at least 10 days notice to the respondent of the hearing and of the respondent's right to appear and to be heard either in person or by attorney. If, at the hearing, the [SUPERIOR] court finds that the petitioner has been subjected to domestic violence by the respondent, the [SUPERIOR] court may issue any order it determines to be necessary for the protection of the health, safety or welfare of the petitioner or of a minor child in the care of the petitioner. An order under this subsection may include provisions which

(1) restrain the respondent from subjecting the petitioner to domestic violence;

(2) direct the respondent to vacate the home of the petitioner;

(3) restrain the respondent from communicating directly or indirectly with the petitioner;

(4) direct the respondent to pay support for the petitioner or for a minor child in the care of the petitioner if there is an independent legal obligation of the respondent to support the petitioner or the child;

(5) award temporary custody of a minor child to the petitioner;

(6) direct the respondent to pay medical expenses incurred by the petitioner as a result of the domestic violence;

(7) direct the respondent to engage in personal or family counseling;

(8) restrain the respondent from entering a propelled vehicle in the possession of or occupied by the petitioner.

(c) An order issued under this section remains in effect for a period of time not to exceed 90 days. However, the petitioner may petition the [SUPERIOR] court for an extension of a provision of the order if the provision is described in (b)(1), (b)(2), (b)(3), (b)(7), or (b)(8) of this section. If the [SUPERIOR] court, after notice to the respondent of and a hearing on the petition for the extension in accordance with the procedures described in (b) of this section, finds that an extension of the provision of the order is necessary to protect the petitioner or a minor child in the care of the petitioner from domestic violence, the [SUPERIOR] court may extend the provision of the order for a period of time not to exceed 45 days. The court may not grant more than one extension under this subsection.

(d) Proceedings under this section do not preclude any other available civil or criminal remedies.

AS 25.35.020(a) is amended to read:

Sec. 25.35.020. Emergency injunctive relief in cases involving domestic violence. (a) A person who has been subjected to domestic violence may petition the superior or district court for a temporary order providing for emergency injunctive relief restraining the infliction of further domestic violence against the petitioner by the respondent. [IF THERE IS NO SUPERIOR COURT WITHIN 50 ROAD MILES OF THE RESIDENCE OF THE PERSON SUBJECTED TO DOMESTIC VIOLENCE, THE PERSON MAY PETITION THE NEAREST DISTRICT COURT FOR A TEMPORARY EMERGENCY INJUNCTIVE RELIEF ORDER. IF

THERE IS NO DISTRICT COURT WITHIN 50 ROAD MILES OF THE RESIDENCE OF THE PERSON SUBJECTED TO DOMESTIC VIOLENCE, THE PERSON MAY PETITION THE NEAREST MAGISTRATE FOR THE TEMPORARY EMERGENCY INJUNCTIVE RELIEF ORDER. THE DISTRICT COURT OR AGISTRATE SHALL NOTIFY THE SUPERIOR COURT IMMEDIATELY UPON ISSUANCE OF AN ORDER GRANTING EMERGENCY INJUNCTIVE RELIEF UNDER THIS SECTION.]

Proposed Amendment #4 - standardization of jurisdiction of magistrates

AS 22.15.120. Limitations on proceedings which magistrate may hear. A magistrate shall preside only in cases and proceedings under AS 22.15.040, 22.15.100, and 22.15.110, and as follows,

(1) for the recovery of money or damages only when the amount claimed, exclusive of costs, interest, and attorney fees, does not exceed \$5,000 [\$1,000];

(2) for the recovery of specific personal property when the value of the property claimed and the damages for the detention do not exceed \$5,000 [\$1,000];

(3) for the recovery of a penalty or forfeiture, whether given by statute or arising out of contract, not exceeding \$5,000 [\$1,000];

(4) to give judgment without action upon the confession of the defendant for any of the cases specified in this section, except for a penalty or forfeiture imposed by statute;

(5) to give judgment of conviction upon a plea of guilty by the defendant in a criminal proceeding within the jurisdiction of the district court;

(6) to hear, try, and enter judgments in all cases involving misdemeanors, if the defendant consents in writing that the magistrate may try the case;

(7) to hear, try and enter judgments in all cases involving infractions under AS 28 and violations of ordinances of political subdivisions. [;

(8) REPEALED]

1 IN THE SENATE

BY ZIEGLER AND RAY

2 SENATE BILL NO. 1

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the jurisdiction of the district
7 court and the small claims jurisdictional limitation;
8 and providing for an effective date."

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

10 * Section 1. AS 22.15.030(a) is amended to read:

11 (a) The district court has jurisdiction of civil cases and
12 proceedings as follows:

13 (1) for the recovery of money or damages when the amount
14 claimed exclusive of costs, interest and attorney fees does not exceed
15 \$25,000 [\$10,000, EXCEPT AS PROVIDED IN (10) OF THIS SUBSECTION];

16 (2) for the recovery of specific personal property, when
17 the value of the property claimed and the damages for the detention do
18 not exceed \$25,000 [\$10,000];

19 (3) for the recovery of a penalty or forfeiture, whether
20 given by statute or arising out of contract, not exceeding \$25,000
21 [\$10,000];

22 (4) to give judgment without action upon the confession of
23 the defendant for any of the cases specified in this section, except
24 for a penalty or forfeiture imposed by statute;

25 (5) for establishing the fact of death of any person in the
26 manner prescribed in AS 09.55.020 - 09.55.060;

27 [(6) Repealed

28 (7) Repealed]

29 (6) [(8)] for the recovery of the possession of premises in

1 the manner provided under AS 09.45.070 - 09.45.160 when the value of
2 the property or of the arrears and damage to the property does not
3 exceed \$25,000 [\$10,000];

4 (7) [(9)] for the foreclosure of a lien when the amount in
5 controversy does not exceed \$25,000 [\$10,000];

6 (8) [(10)] for the recovery of money or damages in motor
7 vehicle tort cases when the amount claimed exclusive of costs, inter-
8 est and attorney fees does not exceed \$25,000 [\$15,000];

9 (9) [(11)] over civil actions for taking utility service
10 and for damages to or interference with a utility line filed under
11 AS 42.20.030.

12 * Sec. 2. AS 22.15.040 is amended to read:

13 Sec. 22.15.040. SMALL CLAIMS. When a claim for relief does not
14 exceed \$5,000 [\$2,000] exclusive of costs, interest and attorney fees,
15 and request is so made, the district judge or magistrate shall hear
16 the action as a small claim unless important or unusual points of law
17 are involved. The supreme court shall prescribe the procedural rules
18 and standard forms to assure simplicity and the expeditious handling
19 of small claims.

20 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
21 10.070(c).

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 1
Title: District Court Jurisdiction and Small Claims Jurisdictional Lmt.
Sponsor: _____
Requestor: _____
Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Court System
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		94.8	100.5	106.5	112.9	119.7
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES		2.0	2.1	2.2	2.3	2.4
500 EQUIPMENT		9.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		105.8	102.6	108.7	115.2	122.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		105.8	102.6	108.7	115.2	122.1
FEDERAL FUNDS						
OTHER						
TOTAL		105.8	102.6	108.7	115.2	122.1

POSITIONS:

FULL-TIME		3	3	3	3	3
PART-TIME		1	1	1	1	1
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert G. Fisher, Fiscal Officer Phone: 264-0561
Division: Alaska Court System Date: 1/15/85
Approved by Commissioner: [Signature] Date: 1/15/85
Agency: Alaska Court System

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

12/1/83

ALASKA COURT SYSTEM

SB 1 - DISTRICT COURT JURISDICTION AND SMALL CLAIMS JURISDICTIONAL LIMITATION

FISCAL IMPACT

The increase in the District Court civil jurisdiction to \$25,000 is expected to have a minimal fiscal impact on the courts. In contrast, it is anticipated that the increase in small claims jurisdiction from \$2,000 to \$5,000 will have a significant impact on court operations.

The Civil Division of the Anchorage Clerk's Office, which is the court location with the greatest number of small claims filings, anticipates that a jurisdictional increase would result in a 15-20% increase in small claims filings. Some of these cases would be matters previously handled in District Court. Others would be new to the system, representing legal problems with a relatively low dollar amount involved for which persons are reluctant to incur the costs entailed for an attorney, but which they wish to handle themselves in small claims court.

Additionally, some litigants would be willing to waive the amount of their claim over \$5,000 and proceed in small claims court, balancing the waiver of the claim amount against the savings in attorney fees in small claims.

Judicial resources should not be impacted by the increase since most of these types of cases are already in the system. However, additional clerical help will be required. The small claims procedures involve an extensive amount of clerical assistance, including mailing notices for litigants and substantial time expended in advising the public. General District Court matters require only simple filing and journaling of documents. This impact could be handled by the addition of three and one-half (3½) positions with costs calculated on the following page. One and one-half of these positions would be located in Anchorage. Fairbanks and Juneau would each receive one position.

ALASKA COURT SYSTEM
FISCAL NOTE ANALYSIS

SB 1 - DISTRICT COURT JURISDICTION AND SMALL
CLAIMS JURISDICTIONAL LIMITATION

PERSONNEL:	SALARY	BENEFITS	TOTAL COST
1½ COURT CLERK I (Anchorage - 8B)	\$28,926	\$10,418	\$39,344
1 COURT CLERK I (Fairbanks - 8B)	21,744	7,496	29,240
1 COURT CLERK I (Juneau - 8B)	19,284	6,945	26,229

	Total Personnel Costs		94,813
SUPPLIES			2,000
EQUIPMENT (one-time items)			8,996

TOTAL FY 86 COST			\$105,809
			=====

Subsequent fiscal years adjusted to reflect 6% inflation.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 1
 Title: Jurisdiction of Superior
 and District Court; ED
 Sponsor: _____
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Court System
 Program Category Affected: _____
Administration of Justice
 BRU, Program or Subprogram(s) Affected: _____
Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: _____ Phone: _____
 Division: _____ Date: _____

Approved by Commissioner: [Signature] Date: 11/22/85
 Agency: Alaska Court System

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

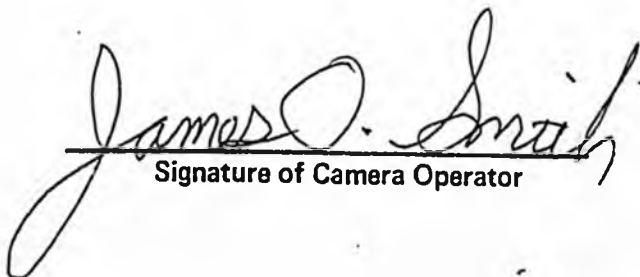
7/1/84

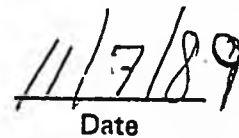


RECORDS CERTIFICATION



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

S B

2

Original sponsors: Ziegler, Kelly,
Faiks, et al

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 2 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act extending the termination date of the Board
7 of Governors of the Alaska Bar Association; and
8 providing for an effective date."

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

10 * Section 1. AS 08.03.010(c)(19) is amended to read:

11 (19) Board of Governors of the Alaska Bar Association

12 (AS 08.80.040) -- June 30, 1989 [1985].

13 * Sec. 2. This Act takes effect immediately in accordance with AS 01.-
14 10.070(c).

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB 2
 Title: Extending the termination date of the Bd. of Governors, Alaska Bar Assoc.
 Sponsor: Senate Judiciary
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Board of Governors,
 Agency Affected: Alaska Bar Assoc.
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		11.4	11.4	11.4	11.4	
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		11.4	11.4	11.4	11.4	
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		11.4	11.4	11.4	11.4	
FEDERAL FUNDS						
OTHER						
TOTAL		11.4	11.4	11.4	11.4	

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Travel and per diem expenses for three public members of the Board of Governors of the Alaska Bar Association to attend six meetings annually.

Prepared By: Roger Lewis

Division: Senate Judiciary Committee

Phone: 465-3717

Date: 1/22/85

Approved by Commissioner: Sen. John S. Peltola

Agency: _____

Date: 1/22/85

Distribution (by Agency preparing fiscal note):

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

7/1/84

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Cross references. — As to constitutionality of ch. 102, SLA 1976, see notes to AS 09.55.536 and Alas. Const., art. II, § 14.

Chapter 03. Termination, Continuation and Reestablishment of Regulatory Boards.

Section	Section
10. Termination dates for regulatory boards	20. Procedures governing termination, transition and continuation

Cross references. — As to review of the activities of agencies, boards and commissions, see AS 44.66.010 et seq.

Sec. 08.03.010. Termination dates for regulatory boards. (a) Boards listed in this subsection have a termination date of June 30, 1979:

- (1) Repealed by § 3 ch 36 SLA 1980.
- (2) Repealed by § 3 ch 40 SLA 1980.
- (3) Repealed by § 3 ch 87 SLA 1980.
- (4) Repealed by § 3 ch 74 SLA 1979.
- (5) Repealed by § 3 ch 39 SLA 1980.
- (6) Repealed by § 3 ch 37 SLA 1980.
- (7) Repealed by § 3 ch 38 SLA 1980.
- (8) Repealed by § 3 ch 41 SLA 1980.
- (9) Repealed by § 3 ch 67 SLA 1980.
- (10) Repealed by § 2 ch 43 SLA 1980.
- (11) Repealed by § 3 ch 42 SLA 1980.

(b) Boards listed in this subsection have a termination date of June 30, 1980:

- (1) Repealed by § 15 ch 82 SLA 1980.
- (2) Repealed by § 5 ch 159 SLA 1980.
- (3) Collection Agency Board (AS 08.24.011) (obsolete);
- (4) Repealed by § 5 ch 159 SLA 1980.
- (5) Repealed by § 11 ch 71 SLA 1980.
- (6) Repealed by § 7 ch 72 SLA 1980.
- (7) Repealed by § 2 ch 53 SLA 1981.
- (8) Repealed by § 8 ch 143 SLA 1980.
- (9) Repealed by § 42 ch 167 SLA 1980.
- (10) Repealed by § 2 ch 153 SLA 1980.
- (11) Repealed by § 13 ch 52 SLA 1981.

(c) The following boards have the termination date provided by this subsection:

- (1) Board of Nursing (AS 08.68.010) — June 30, 1983.
- (2) Board of Chiropractic Examiners (AS 08.20.010) — June 30, 1984.

— As to
2. SLA 1976, see
id Alas. Const.,

and
ds.

g termination,
nuation

boards. (a)
of June 30,

late of June

led by this

June 30,

- (3) Board of Examiners in Optometry (AS 08.72.010) — June 30, 1984.
- (4) Board of Pharmacy (AS 08.80.010) — June 30, 1984.
- (5) Board of Dispensing Opticians (AS 08.71.010) — June 30, 1985.
- (6) Board of Dental Examiners (AS 08.36.010) — June 30, 1986.
- (7) Board of Veterinary Examiners (AS 08.98.010) — June 30, 1985.
- (8) State Physical Therapy Board (AS 08.84.010) — June 30, 1986.
- (9) Board of Nursing Home Administrators (AS 08.70.010) — June 30, 1986.
- (10) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010) — June 30, 1982.
- (11) State Medical Board (AS 08.64.010) — June 30, 1983.
- (12) Board of Marine Pilots (AS 08.62.010) — June 30, 1983.
- (13) Board of Welding Examiners (AS 08.99.010) — June 30, 1981 (obsolete).
- (14) Board of Electrical Examiners (AS 08.40.010) — June 30, 1986.
- (15) State Board of Registration for Architects, Engineers, and Land Surveyors (AS 08.48.011) — June 30, 1984.
- (16) Board of Barbers and Hairdressers (AS 08.13.010) — June 30, 1984.
- (17) Board of Public Accountancy (AS 08.04.010) — June 30, 1984.
- (18) Real Estate Commission (AS 08.88.011) — June 30, 1986.
- (19) Board of Governors of the Alaska Bar Association (AS 08.08.040) — June 30, 1985.
- (20) Guide Licensing and Control Board (AS 08.54.010) — June 30, 1982.
- (d) Repealed by § 3 ch 74 SLA 1979.
- (e) Repealed by § 3 ch 74 SLA 1979. (§ 2 ch 149 SLA 1977; am §§ 1, 3 ch 74 SLA 1979; am §§ 1, 3 ch 36 SLA 1980; am §§ 1, 3 ch 37 SLA 1980; am §§ 1, 3 ch 38 SLA 1980; am §§ 1, 3 ch 39 SLA 1980; am §§ 1, 3 ch 40 SLA 1980; am §§ 1, 3 ch 41 SLA 1980; am §§ 1, 3 ch 42 SLA 1980; am §§ 1, 2 ch 43 SLA 1980; am §§ 1, 3 ch 67 SLA 1980; am §§ 10, 11 ch 71 SLA 1980; am §§ 6, 7 ch 72 SLA 1980; am §§ 2, 15 ch 82 SLA 1980; am §§ 1, 3 ch 87 SLA 1980; am §§ 7, 8 ch 143 SLA 1980; am §§ 1, 2 ch 153 SLA 1980; am §§ 2, 5 ch 159 SLA 1980; am §§ 41, 42 ch 167 SLA 1980; am §§ 1, 13 ch 52 SLA 1981; am §§ 1, 2 ch 53 SLA 1981; am § 1 ch 28 SLA 1982; am § 1 ch 60 SLA 1982; am § 1 ch 96 SLA 1982)

Revisor's notes. — Subsection (c) was rearranged by the revisor of statutes pursuant to AS 01.05.031 to conform to a logical arrangement of the subject matter.

Cross references. — For present provisions covering the subject matter of subsection (c) as it read prior to the 1979 amendment and of former subsections (d) and (e), see AS 08.03.020.

Effect of amendments. — The 1979 amendment repealed paragraph (4) of subsection (a), which read: "Board of Nursing (AS 08.68.010)," rewrote subsection (c), and repealed subsections (d) and (e), which read: "The termination, dissolution, continuation or reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS

44.66.050" and "A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years," respectively.

The first 1980 amendment repealed paragraph (1) of subsection (a), which read: "Board of Chiropractic Examiners (AS 08.20.010)" and added paragraph (2) of subsection (c).

The second 1980 amendment repealed paragraph (6) of subsection (a), which read: "Board of Examiners in Optometry (AS 08.72.010)" and added paragraph (3) of subsection (c).

The third 1980 amendment repealed paragraph (7) of subsection (a), which read: "Board of Pharmacy (AS 08.80.010)" and added paragraph (4) of subsection (c).

The fourth 1980 amendment repealed paragraph (5) of subsection (a), which read: "Board of Dispensing Opticians (AS 08.71.010)" and added paragraph (5) of subsection (c).

The fifth 1980 amendment repealed paragraph (2) of subsection (a), which read: "Board of Dental Examiners (AS 08.36.010)" and added paragraph (6) of subsection (c).

The sixth 1980 amendment repealed paragraph (8) of subsection (a), which read: "Board of Veterinary Examiners (AS 08.98.010)" and added paragraph (7) of subsection (c).

The seventh 1980 amendment repealed paragraph (11) of subsection (a), which read: "Physical Therapy Board (AS 08.84.010)" and added paragraph (8) of subsection (c).

The eighth 1980 amendment repealed paragraph (10) of subsection (a), which read: "Board of Nursing Home Administrators (AS 08.70.010)" and added paragraph (9) of subsection (c).

The ninth 1980 amendment repealed former paragraph (9) of subsection (a), which read: "Board of Psychologist and Psychological Associate Examiners (AS 08.86.010)," and added paragraph (10) of subsection (c).

The tenth 1980 amendment repealed former paragraph (5) of subsection (b), which read: "Board of Electrical Examiners (AS 08.40.010)," and added paragraph (14) of subsection (c).

The eleventh 1980 amendment repealed former paragraph (6) of subsection (b), which read: "State Board of Registration for Architects, Engineers and Land Surveyors (AS 08.48.011)," and added paragraph (15) of subsection (c).

The twelfth 1980 amendment repealed former paragraph (1) of subsection (b), which read: "Board of Public Accountancy (AS 08.04.010)," and added paragraph (17) of subsection (c).

The thirteenth 1980 amendment repealed former paragraph (3) of subsection (a), which read: "State Medical Board (AS 08.64.010)," and added paragraph (11) of subsection (c).

The fourteenth 1980 amendment repealed former paragraph (8) of subsection (b), which read: "Board of Marine Pilots (AS 08.62.010)," and added paragraph (12) of subsection (c).

The fifteenth 1980 amendment repealed former paragraph (10) of subsection (b), which read: "Board of Welding Examiners (AS 08.99.010)," and added paragraph (13) of subsection (c).

The sixteenth 1980 amendment repealed paragraphs (2) and (4) of subsection (b), which read, respectively: "Board of Barber Examiners (AS 08.12.010)" and "Board of Hairdressing and Beauty Culture Examiners (AS 08.28.010)" and added paragraph (16) of subsection (c).

The seventeenth 1980 amendment repealed paragraph (9) of subsection (b), which read: "Real Estate Commission (AS 08.88.011)," and added paragraph (18) of subsection (c).

The first 1981 amendment added paragraph (19) of subsection (c) and repealed paragraph (11) of subsection (b) pertaining to the Board of Governors of the Alaska Bar Association.

The second 1981 amendment added paragraph (20) in subsection (c) and repealed paragraph (7) of subsection (b) pertaining to the Guide Licensing and Control Board.

The first 1982 amendment, effective May 15, 1982, in paragraph (6) of subsection (c), substituted "June 30, 1986" for "June 30, 1982."

The second 1982 amendment, effective May 28, 1982, substituted "June 30, 1986" for "June 30, 1982" in paragraph (14) of subsection (c).

The third 1982 amendment, effective June 15, 1982, substituted "1986" for "1982" in paragraph (18) of subsection (c).

Editor's notes. — Paragraph (20) of subsection (c) was originally enacted as paragraph (19) of that subsection but was renumbered by the revisor of statutes pursuant to AS 01.05.031(b).

amendment repealed
 of subsection (b),
 Public Accountancy
 added paragraph (17)

1980 amendment
 graph (3) of subsec-
 State Medical Board
 added paragraph (11)

1980 amendment
 graph (8) of subsec-
 "Board of Marine
 " and added para-
 n (c).

amendment repealed
 of subsection (b),
 Welding Examiners
 added paragraph (13)

1980 amendment
 2) and (4) of subsec-
 respectively: "Board
 AS 08.12.010)" and
 ing and Beauty
 S 08.28.010)" and
 of subsection (c).

1980 amendment
 of subsection (b),
 te Commission (AS
 paragraph (18) of

ment added para-
 n (c) and repealed
 tion (b) pertaining
 ors of the Alaska

amendment added
 bsection (c) and
 of subsection (b)
 le Licensing and

ndment, effective
 aph (6) of subsec-
 ne 30, 1936" for

ndment, effective
 d "June 30, 1986"
 paragraph (14) of

ndment, effective
 uted "1986" for
 of subsection (c).
 aragraph (20) of
 nally enacted as
 bsection but was
 r of statutes pur-

Sec. 08.03.020. Procedures governing termination, transition and continuation. (a) Upon termination, each board listed in AS 08.03.010 shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities.

(b) The termination, dissolution, continuation or reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS 44.66.050.

(c) A board scheduled for termination under AS 08.03.010 — 08.03.020 may be continued or reestablished by the legislature for a period not to exceed four years unless the board is continued or reestablished for a longer period under AS 08.03.010. (§ 2 ch 74 SLA 1979; am § 2 ch 36 SLA 1980; am § 2 ch 37 SLA 1980; am § 2 ch 38 SLA 1980; am § 2 ch 39 SLA 1980; am § 2 ch 40 SLA 1980; am § 2 ch 41 SLA 1980; am § 2 ch 42 SLA 1980; am § 2 ch 67 SLA 1980; am § 2 ch 87 SLA 1980)

Revisor's notes. — AS 08.03.020 as added by sec. 2, ch. 74, SLA 1979 derives from former AS 08.03.010(c), (d) and (e) which were repealed by ch. 74, SLA 1979.

second, and third 1980 amendments all added "unless the board is continued or reestablished for a longer period under AS 08.03.010" to the end of subsection (c).

Effect of amendments. — The first,

Chapter 04. Accountancy Act of 1960.

Article

1. Board of Public Accountancy (§§ 08.04.010 — 08.04.090)
2. Certified Public Accountants (§§ 08.04.100 — 08.04.260)
3. Public Accountants (§§ 08.04.270 — 08.04.340)
4. Regulation of Accountants (§§ 08.04.350 — 08.04.490)
5. Unlawful Acts and Penalties (§§ 08.04.500 — 08.04.650)
6. Miscellaneous Provisions (§§ 08.04.660 — 08.04.670)
7. General Provisions (§§ 08.04.680 — 08.04.690)

Collateral references. — 1 Am. Jur. 2d, Accountants, §§ 1-21.

Failure of accountant to procure license as affecting validity or enforceability of contract. 4 ALR 1087; 30 ALR 834; 42 ALR 1226; 118 ALR 651.

Construction and application of statutory provisions respecting persons who may prepare tax returns for others. 10 ALR2d 1443.

Privilege against disclosure of matters arising out of transactions or relationship between accountant and client. 38 ALR2d 670.

Conclusiveness of statement or decision

of accountant or similar third person under contract between others requiring property to be valued by him. 50 ALR2d 1268.

Liability of public accountant to third parties. 46 ALR3d 979.

Liability of one preparing income tax return for another, for losses or penalties resulting from errors in return. 47 ALR3d 1286.

Tax preparer's liability to taxpayer in connection with preparation of tax returns. 81 ALR3d 1119.

Accountant's malpractice liability to client. 92 ALR3d 396.

amendment, substituted
in paragraph (a)(3).
1983 amendment, added

amendment, substituted
in paragraph (a)(2).
1983 amendment, substi-
tuted "1983" in paragraph

1 amendment repealed
which provided a ter-
mination of the Alaska Resources

1984 amendment substi-
tuted "1984" in paragraph (1) of

story reports. — For
purpose of intent relating to ch.
ending the termination
of a Transportation Com-
missioner. Senate Journal, p. 14
Senate Journal, p. 1939.

agency programs and
activities designated as
priority during the regular
session set out after each:
state government, public
utilities, 1980;
education and the Univer-

and social services —

natural resources
act, January, 1983.

(a) of this section
may be subject to
legislative session
of the Legislative
Assembly of the legislature as

by the legislative
act, 3.020, the Legisla-
ture, not later than
the end of each pro-
cess in the next fiscal
year and Audit Com-
missioner the legislature in
shall terminate those
of the following

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.

(e) The committee of reference may introduce a bill providing for the reorganization or continuation of the board, commission or agency

program. No
shall be conti
board, commis
of the bill. (§

Sec. 44.66.
termination or
commission or
which is subje
the departmen
this chapter w
1977)

Chapter
68. State-Own
71. Surplus P
74. Managem

C

Section
10. Use of state-
20. Regulations
state-owne

Sec. 44.68.
cles may be u
or employee
except in the

Collateral ref
2d States, Terri
§ 66.
Responsibility
gence of subordi
cle, 3 ALR 149.

Sec. 44.68
vehicles. Th
shall adopt r
(1) define
vehicles in th
misappropria
(2) prescri
those locatic
Department
storage of st

or complaints
agency filed with
on is administra-
have been pro-

regulates entry
ied applicants to

cluding affirma-
the board, com-
a of activity or

lgetting or other
r commission to
with the factors

m assigned to it
l, not later than
to the presiding
y of the findings
commission or
ection, together
as to each of the

at the programs
re intended to

bjectives of the
, and its antici-

g similar, con-

g the purposes

the board, com-
h another pro-

or extension of
of the manner
efforts; and
he committee,
sion or agency
s to the public

oviding for the
ion or agency

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 storage of state-owned vehicles;

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

M E M O R A N D U M

DATE: February 7, 1985
TO: Members of the Legislature
FROM: Gerald L. Wilkerson *GLW*
Legislative Auditor
Division of Legislative Audit
SUBJECT: Release of Audits

In accordance with AS 24.20.311, the following audit reports were approved for release by the Legislative Budget and Audit Committee to the Legislature and the public on February 6, 1985:

"A Report on the Alaska Commission on Postsecondary Education, Memorial Scholarship Revolving Loan Fund, For the Fiscal Year Ended June 30, 1984."

"A Report on the Office of the Governor and the Department of Community and Regional Affairs, Coastal Zone Management, Coastal Energy Impact, and Federal Emergency Management Agency Programs, For the Grant Periods Ending June 30, 1982, August 31, 1982, September 30, 1982, June 30, 1983, and September 30, 1983."

"A Performance Report on the Board of Governors of the Alaska Bar Association, December 15, 1984."

Enclosed for your convenience are short digests covering each audit. Should you desire a copy of the completed reports, they are available through our office (465-3830).

Enclosures

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

January 3, 1985

SUMMARY OF: A Performance Report on the Board of Governors of the Alaska Bar Association, December 15, 1984.

PURPOSE OF THE REPORT

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have examined the activities of the Board of Governors of the Alaska Bar Association to determine if there is a demonstrated public need for its continued existence, and if the Board has been operating in an efficient and effective manner.

REPORT CONCLUSION

In our opinion, the Board of Governors of the Alaska Bar Association should be reestablished. The regulation and licensing of qualified legal professionals is necessary to protect the public's safety and welfare. The Board provides this protection by reasonably assuring that persons licensed to practice law are qualified and by assuring that those licensed act in a competent and ethical manner through a sophisticated complaint investigation process.

FINDINGS AND RECOMMENDATIONS

1. The Board of Governors of the Alaska Bar Association (ABA) should take prompt action to reduce both the number of backlogged disciplinary investigation cases and the length of time it takes to bring an investigation to a conclusion.

As of October 31, 1984, the ABA's discipline section had 41 cases pending disciplinary or other proceedings and an additional 165 cases under investigation. In addition, an analysis of 21 cases recently dismissed showed the average days these cases were open was 317, ranging from 56 to 943 days.

2. The ABA should comply with the public notice requirements of AS 08.08.075.

Chapter 52, SLA 1981 amended the Alaska Integrated Bar Act (AS 08.08) to bring meetings of the Board of Governors under

the public meeting statutes, AS 44.62.310 and .312. More specifically, the Bar Act was amended to require that the public shall be given 30 days notice of meetings of the Board, except for emergency meetings.

The ABA has not publicly advertised meetings of the Board since enactment of this statute.

3. The ABA should seek legislation requiring applicants for admission be fingerprinted to determine whether the applicant has a record of criminal convictions.

In conducting its moral character investigation of the applicants, the ABA submits the fingerprint cards to the Alaska State Troopers for a criminal records check. However, this records check is restricted to information contained in the State's information system. The Federal Bureau of Investigation's (FBI) Identification Division will not accept these fingerprint cards for processing without a specific statute authorizing the ABA to require fingerprinting as an admission requirement.

4. The ABA should amend its bylaws to increase the quorum requirements for meetings of the Board of Governors.

Article V, Section 9 of the Association's bylaws provides that five members of the Board constitute a quorum at any meeting. This section has not been amended to reflect the statutory increase in the total membership of the Board.

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

November 21, 1984

SUMMARY OF: A Report on the Office of the Governor and the Department of Community and Regional Affairs, Coastal Zone Management, Coastal Energy Impact, and Federal Emergency Management Agency Programs, For the Grant Periods Ending between June 30, 1982, and September 30, 1983.

PURPOSE OF THE REPORT

In accordance with the provisions of Title 24 of the Alaska Statutes and contracts with the Office of the Governor (OG) and the Department of Community and Regional Affairs (DCRA), we conducted an examination of the Coastal Zone Management, Coastal Energy Impact, and Federal Emergency Management Programs to determine:

1. If Federal financial reports submitted to pertinent Federal agencies are fairly presented.
2. The extent OG and DCRA have complied with provisions of Federal laws and regulations, as embodied in the U.S. Office of Management and Budget Circular A-102, Attachment P.

FINANCIAL STATEMENTS

In our opinion, the financial statements present fairly the receipts and expenditures arising from cash transactions for the Office of Governor's and the Department of Community and Regional Affairs' Coastal Zone Management, Coastal Energy Impact, and Federal Emergency Management Agency Programs, for the grant periods ending between June 30, 1982, and September 30, 1983.

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

November 30, 1984

SUMMARY OF: A Report on the Alaska Commission on Postsecondary Education, Memorial Scholarship Revolving Loan Fund, For the Fiscal Year Ended June 30, 1984.

PURPOSE OF THE REPORT

In accordance with the provisions of Title 24 of the Alaska Statutes, an examination of the Alaska Commission on Postsecondary Education, Memorial Scholarship Revolving Loan Fund was conducted to:

1. Determine if the financial statements present fairly, the financial position, results of operations, and changes in financial position for the Fund, for the Fiscal Year ended June 30, 1984.
2. Determine the compliance by the Alaska Commission on Postsecondary Education with the applicable State statutes and regulations governing fiscal activities of the Fund.

FINANCIAL STATEMENTS

In our opinion, the financial statements present fairly, the financial position, results of operations, and changes in financial position for the Fiscal Year ended June 30, 1984.

The Alaska Commission on Postsecondary Education has complied with the applicable State statutes and regulations governing fiscal activities of the Fund.



Official Business

Alaska State Legislature

Senate

February 7, 1985

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM TO: Senator Patrick Rodey, Chairman
Judiciary Committee

From: Peggy Mulligan, *PM*
Secretary of the Senate

Subject: Sunset Report

President Bennett referred the following report to your committee:

A PERFORMANCE REPORT ON THE BOARD OF GOVERNORS
OF THE ALASKA BAR ASSOCIATION, December 15, 1984

*Rec 2/7/85
Secretary of Senate
Referred to Judiciary*

A PERFORMANCE REPORT ON THE
BOARD OF GOVERNORS OF THE
ALASKA BAR ASSOCIATION

December 15, 1984

Audit Control Number

41-1185-85-R

Chief Justice, Alaska
Supreme Court

Jay A. Rabinowitz

ALASKA BAR ASSOCIATION

Executive Director

Randall P. Burns

Board of Governors

President

Harold M. Brown

President-Elect

Harry Branson

Vice President

Gail Roy Fraties

Secretary

Paul A. Barrett

Treasurer

Lew M. Williams

Member

Judith J. Bazeley

Member

R. Stanley Ditus

Member

Bruce E. Gagnon

Member

Andonia Harrison

Member

Ronald W. Lorensen

Member

Niesje J. Steinkruger

Member

Glenda J. Straube

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

December 15, 1984

Members of the Legislative Budget
and Audit Committee:

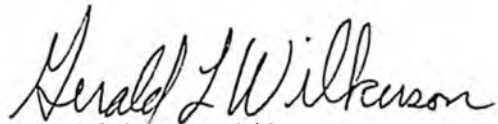
In accordance with the provisions of Title 24 of the Alaska
Statutes, the attached report is submitted for your review.

A PERFORMANCE REPORT ON THE
BOARD OF GOVERNORS OF THE
ALASKA BAR ASSOCIATION

December 15, 1984

Audit Control Number

41-1185-85-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	11
Appendixes:	
A. Revenues Compared with Expenses	17
B. Discipline Statistics	19
C. Bar Examination Statistics	21
D. Attorney Referral Calls Received	23
E. Membership on ABA Committees	25
Agency Response:	
The Supreme Court, State of Alaska	27

PURPOSE OF THE REPORT

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have examined the activities of the Board of Governors of the Alaska Bar Association to determine if there is a demonstrated public need for its continued existence, and if the Board has been operating in an efficient and effective manner.

Legislative intent requires consideration of this report during the legislative oversight hearings to determine whether the Board of Governors of the Alaska Bar Association should be reestablished. The law now specifies that the Board will terminate June 30, 1985, and have one year from that date to conclude its affairs.

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.

ORGANIZATION AND FUNCTION

The practice of law in the State of Alaska is regulated by the Board of Governors of the Alaska Bar Association. The Board consists of twelve members; nine attorneys elected by the active membership of the Association, and three non-attorney, public members appointed by the Governor and confirmed by the Legislature in joint session.

The powers and duties of the Board are conferred by the Alaska Integrated Bar Act (AS 08.08) and the Alaska Bar Rules promulgated by the Supreme Court of Alaska.

The two primary functions of the Alaska Bar Association are the admission and discipline of its members. To accomplish these and other functions, the Association has a 1984 operating budget of approximately \$900,000. Funding is provided primarily by membership dues (\$310 per year), admission fees, lawyer referral fees, continuing legal education, and interest income.

The Association's office is located in Anchorage and is staffed with ten full-time employees.

PURPOSE OF THE REPORT

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have examined the activities of the Board of Governors of the Alaska Bar Association to determine if there is a demonstrated public need for its continued existence, and if the Board has been operating in an efficient and effective manner.

Legislative intent requires consideration of this report during the legislative oversight hearings to determine whether the Board of Governors of the Alaska Bar Association should be reestablished. The law now specifies that the Board will terminate June 30, 1985, and have one year from that date to conclude its affairs.

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 practice of law in the State of Alaska is regulated by the Board of Governors of the Alaska Bar Association. The Board consists of twelve members; nine attorneys elected by the active membership of the Association, and three non-attorney, public members appointed by the Governor and confirmed by the Legislature in joint session.

The powers and duties of the Board are conferred by the Alaska Integrated Bar Act (AS 08.08) and the Alaska Bar Rules promulgated by the Supreme Court of Alaska.

The two primary functions of the Alaska Bar Association are the admission and discipline of its members. To accomplish these and other functions, the Association has a 1984 operating budget of approximately \$900,000. Funding is provided primarily by membership dues (\$310 per year), admission fees, lawyer referral fees, continuing legal education, and interest income.

The Association's office is located in Anchorage and is staffed with ten full-time employees.

(Intentionally left blank)

REPORT CONCLUSION

This review contains policy issues raised as a result of our evaluation of the Board of Governors of the Alaska Bar Association (ABA). The final policy decisions affecting the ABA are not within the scope of this report, but require legislative consideration. In debating these issues, the oversight committees should take into consideration the findings and recommendations and other information presented in this report so the potential impact of policy changes can be evaluated.

Report Conclusion

In our opinion, the Board of Governors of the Alaska Bar Association should be reestablished. The regulation and licensing of qualified legal professionals is necessary to protect the public's safety and welfare. The Board provides this protection by reasonably assuring that persons licensed to practice law are qualified and by assuring that those licensed act in a competent and ethical manner through a sophisticated complaint investigation process.

Furthermore, nothing came to our attention during our review, that showed the public's best interest would be better served by any different regulatory method.

Overall, it is our opinion that the Board operates in an effective and economical manner. However, we have made recommendations which, if implemented, will improve the efficiency and effectiveness of the Board's operations (see the Findings and Recommendations section of this report).

(Intentionally left blank)

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Board of Governors of the Alaska Bar Association (ABA) should take prompt action to reduce both the number of backlogged disciplinary investigation cases and the length of time it takes to bring an investigation to a conclusion.

As of October 31, 1984, the ABA's discipline section had 41 cases pending disciplinary or other proceedings and an additional 165 cases under investigation.

An analysis of the status and length of time these cases have been open showed the following.

<u>Status</u>	<u>Cases</u>	<u>Avg. Days Open</u>	<u>Range of Days Open</u>
<u>Pending Proceedings:</u>			
Pending Supreme Court	5	636	396 - 853
Pending Discipline Board	6	425	230 - 783
Pending Hearing Comm.	10	720	343 - 1428
Pending Admonition	3	422	333 - 474
Pending Fee Arbitration	12	291	117 - 525
Pending Conciliation	<u>5</u>	332	70 - 405
<u>Total</u>	<u>41</u>		
<u>Under Investigation:</u>			
Investigator on Case	11	606	252 - 1093
Special Counsel	1	1,662	N/A
Investigation - Prelim.	113	188	7 - 607
Investigation-Formal	<u>40</u>	342	13 - 1097
<u>Total</u>	<u>165</u>		

In addition, an analysis of 21 cases recently dismissed showed the average days these cases were open was 317, ranging from 56 to 943 days.

The Board of Governors is well aware of the serious backlog in disciplinary cases. One of the Board's immediate goals is to take action necessary to reduce this backlog. It should be noted that the backlog and its age has resulted primarily from prior years' turnover and vacancies in the disciplinary staff.

We encourage the Board to take prompt action to reduce the case backlog. In addition, we recommend that during the

Board's deliberations of available options, consideration should also be given to the length of time taken to conclude cases. It is in the best interest of the ABA, the complainant, and the attorneys against whom the complaints were filed to take timely action in closing cases.

Therefore, we recommend that the Board's actions not only address the immediate need to reduce the case backlog, but also address the long-term staffing needs of the discipline section.

Recommendation No. 2

The ABA should comply with the public notice requirements of AS 08.08.075.

Chapter 52, SLA 1981 amended the Alaska Integrated Bar Act (AS 08.08) to bring meetings of the Board of Governors under the public meeting statutes, AS 44.62.310 and .312. More specifically, the Bar Act was amended to require that the public shall be given 30 days notice of meetings of the Board, except for emergency meetings.

The ABA has not publicly advertised meetings of the Board since enactment of this statute.

We recommend that the ABA publicly advertise the meetings of the Board in at least three major newspapers in the State.

Recommendation No. 3

The ABA should seek legislation requiring applicants for admission be fingerprinted to determine whether the applicant has a record of criminal convictions.

The standing policies of the Board of Governors require that applicants for admission to the ABA must submit completed sets of fingerprint cards with their application.

In conducting its moral character investigation of the applicants, the ABA submits the fingerprint cards to the Alaska State Troopers for a criminal records check. However, this records check is restricted to information contained in the State's information system. The Federal Bureau of Investigation's (FBI) Identification Division will not accept these fingerprint cards for processing without a specific statute authorizing the ABA to require fingerprinting as an admission requirement.

Effective January 1, 1985, the ABA will institute licensing by reciprocity in Alaska. This process will most likely bring more applicants from other states who have been practicing law for longer periods. To ensure the good moral character of these applicants, the ABA should have access

to the nationwide criminal record information maintained by the FBI.

Recommendation No. 4

The ABA should amend its bylaws to increase the quorum requirements for meetings of the Board of Governors.

In 1981, the Legislature amended the Alaska Integrated Bar Act to increase the membership of the Board of Governors from nine attorney members to twelve members by adding three non-attorney or "public" members.

Article V, Section 9 of the Association's bylaws provides that five members of the Board constitute a quorum at any meeting. This section has not been amended to reflect the statutory increase in the total membership of the Board.

We recommend that the quorum requirement be increased to seven members of the Board of Governors to ensure adequate representation of Association members at all Board meetings.

(Intentionally left blank)

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses indicate both positive and negative factors as they relate to the public need as defined in the "sunset" law. These analyses are not intended to be comprehensive, but to address those areas we were able to cover during our examination.

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

- A. Effective January 1, 1985, the ABA will operate under revised Alaska Bar Rules of Disciplinary Enforcement adopted by the Supreme Court. The revised rules resulted from the major undertaking and joint cooperation of the Supreme Court, the Board of Governors, the ABA staff, and a review team from the American Bar Association's Standing Committee on Professional Discipline.

The most dramatic revision is contained in Alaska Bar Rule 21 which provides for public access to disciplinary proceedings. The previous rules provided for confidential proceedings up until proceedings before the Supreme Court. Relatively few cases ever reached that stage.

In order to alleviate public concern that attorney discipline is not taken seriously by the ABA, the Board voted to open disciplinary proceedings to the public. The revised rules provide for public access at a much earlier stage of the discipline process.

The revised rules also establish procedures for a complainant to appeal the decision of the ABA discipline staff to dismiss a complaint.

- B. The ABA provides public notice of any attorney who has been disbarred or suspended.
- C. In addition to the three public members who serve on the Board of Governors, the Board has also appointed a total of 42 non-attorney individuals to serve on disciplinary hearing committees and fee arbitration panels throughout the State.
- D. If a complaint received by the ABA does not constitute misconduct on the part of an attorney, but rather is primarily concerned with a fee dispute, the ABA offers a fee arbitration process.

This process provides for the dispute to be arbitrated by a third party panel consisting of two attorneys and one public member.

Similarly, the ABA offers a conciliation process to attempt to resolve disputes between attorneys and clients where the dispute is neither fee nor misconduct related.

Failure by an attorney to participate in good faith in the conciliation process may be grounds for disciplinary action.

- E. The ABA operates an attorney referral service, funded by subscribing attorneys, whereby anyone from around the State or from outside the State can call a toll-free Zenith number and receive the names of three attorneys who practice law in certain disciplines. Subscribing attorneys agree to provide referred clients the first half hour of consultation at a reduced rate of \$35. (See Appendix D for the number of referral calls received, by discipline.)
- F. Effective January 1, 1985, revised Alaska Bar Rules will permit licensing by reciprocity.
- G. The ABA maintains a Client Security Fund for the purpose of making reimbursement to clients of attorneys who have suffered non-insured losses of money, property, or other things of value as a result of a dishonest act by an attorney. A portion (\$10) of each ABA member's annual dues is deposited in the Fund.
- H. The ABA has actively supported the Conflict Resolution Center in Anchorage and the Alaska Legal Services Corporation.

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 personnel matters.

- A. The ABA is enhanced by an unprecedented involvement of the membership in its operations. A total of 250 members serve on various committees, panels or other adjunct organizations. (See Appendix E for membership and public involvement.)
- B. The operations of the Board are enhanced by a substantial budget funded virtually entirely by

the ABA membership through dues, admission fees, continuing legal education, lawyer referral fees, conventions, and interest income. The 1984 budget totals approximately \$900,000. (See Appendix A for a schedule of ABA revenues and expenditures.)

- C. One of the public member positions of the Board of Governors was vacant from May of 1983 until the Governor made the appointment in June of 1984.
- III. The extent to which the board, commission, or agency has recommended statutory changes which are generally of benefit to the public interest.
- A. In the transmittal letter accompanying its 1982-1983 Annual Report to the Legislature, the Board requested legislative support for statutory authority to require the fingerprinting of ABA applicants. See Recommendation No. 3 of this report.
- 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.
- A. The ABA publicly displays information and forms regarding complaint avenues available through ABA's disciplinary section.
- V. The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.
- A. The ABA has not publicly advertised meetings of the Board of Governors as required by statute.
- 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.
- A. As of October 31, 1984, the ABA's discipline section had 41 cases pending disciplinary or other proceedings and an additional 165 cases under investigation. In addition, an analysis of 21 cases recently dismissed showed the average number of days these cases were open was 317, ranging from 56 to 943 days. (See Recommendation No. 1 of this report.)

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.

- A. We found no instances where the Board had licensed unqualified applicants.
- B. Although many complaints are filed against attorneys, few have been found to be misconduct resulting in formal disciplinary action. (See Appendix B for a summary of disciplinary statistics.)
- C. The ABA offers a continuing legal education program to its membership and also maintains an education library.

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.

- A. Nothing came to our attention that showed the Board was in violation of any affirmative action or hiring requirements.

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 the previous section, Findings and Recommendation.

APPENDIXES

(Intentionally left blank)

APPENDIX A

BOARD OF GOVERNORS
ALASKA BAR ASSOCIATION
REVENUES COMPARED WITH EXPENSES
For the Calendar Years 1982, 1983, and 1984
(Note 1)

	<u>1982</u>	<u>1983</u>	<u>1984</u> (Note 2)
<u>Revenues</u>			
Membership Dues	\$481,834	\$515,281	\$506,239
Admission Fees	89,595	88,883	96,664
Continuing Legal Education	113,188	58,205	27,476
Lawyer Referral Fees	47,703	52,203	49,869
Interest on Investments	51,979	45,746	45,135
Annual Meeting	37,105	34,157	43,686
Other	31,344	38,314	58,940
<u>Total Revenues</u>	<u>852,748</u>	<u>832,789</u>	<u>828,009</u>
<u>Expenses</u>			
Admissions	77,632	109,983	106,895
Board of Governors	18,376	22,513	28,996
Discipline/Bar Counsel	110,439	132,875	208,939
Administration	226,343	243,607	248,204
Lawyer Referral Service	28,459	37,987	31,300
Continuing Legal Education	146,975	101,063	54,376
Annual Meeting	37,533	28,350	41,238
The Bar Rag	14,505	13,330	10,259
Alaska Law Review	9,774	11,198	10,000
Other	15,886	13,323	43,478
<u>Total Expenses</u>	<u>685,922</u>	<u>714,229</u>	<u>783,685</u>
<u>Excess of Revenue over Expenses</u>	<u>\$166,826</u>	<u>\$118,560</u>	<u>\$ 44,324</u>

Note 1: The 1982 and 1983 revenue and expense information was taken from audited financial statements of the ABA. The 1984 information was obtained from the accounting records of the ABA and has not been audited.

Note 2: The 1984 amounts are as of November 30, 1984.

(Intentionally left blank)

APPENDIX B

BOARD OF GOVERNORS
ALASKA BAR ASSOCIATION
DISCIPLINE STATISTICS
(Note 1)

Disposition of Cases Closed
during 1982, 1983, and 1984

<u>Disposition</u>	<u>1982</u>	<u>1983</u>	<u>1984</u> (Note 2)
Disbarment by Supreme Court	0	0	1
Suspension by Supreme Court	0	2	1
Public Censure by Supreme Court	1	3	0
Private Informal Admonition	7	6	15
Dismissed by Disciplinary Counsel	<u>61</u>	<u>72</u>	<u>130</u>
<u>Total Cases Closed</u>	<u>69</u>	<u>83</u>	<u>147</u>

Status of Cases Open
as of October 31, 1984

<u>Status</u>	<u>Cases</u>
Suspension in Effect	4
Pending Supreme Court	5
Pending Disciplinary Board	6
Pending Hearing Committee	10
Pending Informal Admonition	3
Pending Fee Arbitration	12
Pending Conciliation	5
Held in Abeyance	3
Investigator on Case	11
Special Counsel	1
Preliminary Investigation	113
Formal Investigation	<u>40</u>
<u>Total Open Cases</u>	<u>213</u>

Note 1: The information in this Appendix was obtained from statistical summaries prepared by the ABA's discipline section.

Note 2: The 1984 statistics are as of October 31, 1984.

(Intentionally left blank)

APPENDIX C

BOARD OF GOVERNORS
ALASKA BAR ASSOCIATION
BAR EXAMINATION STATISTICS
For Calendar Years 1982, 1983, and 1984

	<u>Number Taking Exam</u>	<u>Number Passing Exam</u>	<u>Percent Passing Exam</u>
<u>February 1982 Exam</u>			
General Applicants	126	89	70.6%
Attorney Applicants	<u>10</u>	<u>5</u>	<u>50.0%</u>
<u>Total</u>	<u>136</u>	<u>94</u>	<u>69.1%</u>
<u>July 1982 Exam</u>			
General Applicants	119	83	69.7%
Attorney Applicants	<u>7</u>	<u>5</u>	<u>71.4%</u>
<u>Total</u>	<u>126</u>	<u>88</u>	<u>69.8%</u>
<u>February 1983 Exam</u>			
General Applicants	106	80	75.5%
Attorney Applicants	<u>15</u>	<u>10</u>	<u>66.7%</u>
<u>Total</u>	<u>121</u>	<u>90</u>	<u>74.4%</u>
<u>July 1983 Exam</u>			
General Applicants	122	86	70.5%
Attorney Applicants	<u>9</u>	<u>6</u>	<u>66.7%</u>
<u>Total</u>	<u>131</u>	<u>92</u>	<u>70.2%</u>
<u>February 1984 Exam</u>			
General Applicants	108	72	66.7%
Attorney Applicants	<u>16</u>	<u>8</u>	<u>50.0%</u>
<u>Total</u>	<u>124</u>	<u>80</u>	<u>64.5%</u>
<u>July 1984 Exam</u>			
General Applicants	118	73	61.9%
Attorney Applicants	<u>8</u>	<u>6</u>	<u>75.0%</u>
<u>Total</u>	<u>126</u>	<u>79</u>	<u>62.7%</u>
<u>Total 1982 through 1984</u>	<u>764</u>	<u>523</u>	<u>68.5%</u>

(Intentionally left blank)

APPENDIX D

BOARD OF GOVERNORS
ALASKA BAR ASSOCIATION
ATTORNEY REFERRAL CALLS RECEIVED
For Calendar Years 1982, 1983, and 1984
(Note 1)

<u>Discipline</u>	<u>1982</u>	<u>1983</u>	<u>1984</u> (Note 2)
Administrative	232	368	278
Admiralty	30	40	37
Arts	30	14	5
Bankruptcy	153	167	174
Commercial	1,254	1,389	1,126
Consumer	47	184	212
Community Legal Asst.	7	7	-0-
Criminal	498	751	549
Discrimination	51	59	61
Eminent Domain	11	17	22
Environmental	1	2	1
Family	1,987	2,295	1,962
Foreign Speaking	8	12	3
Immigration	74	85	50
Labor Relations	154	243	170
Landlord/Tenant	239	295	251
Mining	17	23	16
Negligence	971	1,241	601
Patent/Copyright	50	92	103
Public Interest	-0-	-0-	2
Tax	54	103	70
Traffic	427	273	398
Trust/Wills/Estates	274	265	215
Worker's Compensation	<u>N/A</u>	<u>N/A</u>	<u>135</u>
<u>Total</u>	<u>6,569</u>	<u>7,924</u>	<u>6,441</u>
<u>Total Projected for 1984:</u>			<u>8,600</u>

Note 1: The information in this Appendix was obtained from statistical summaries prepared by the ABA.

Note 2: The 1984 statistics are as of September 30, 1984.

(Intentionally left blank)

APPENDIX E

BOARD OF GOVERNORS
ALASKA BAR ASSOCIATION
MEMBERSHIP ON ABA COMMITTEES
December 15, 1984

<u>Committee</u>	<u>Attorney Members</u>	<u>Public Members</u>	<u>Total Members</u>
<u>Board of Governors</u>	<u>9</u>	<u>3</u>	<u>12</u>
<u>Standing Committees</u>			
Bar Polls and Elections	9	-	9
Continuing Legal Education	12	-	12
Ethics	9	-	9
Historians	13	-	13
Law Related Education	15	-	15
Legal Education Opportunities	10	-	10
Status, Bylaws & Rules	12	-	12
<u>Total Standing Committees</u>	<u>80</u>	<u>-</u>	<u>80</u>
<u>Bar Rule Committees</u>			
<u>Conciliation Panels:</u>			
First District	3	-	3
Second & Fourth Districts	3	-	3
Third District	6	-	6
<u>Discipline Hearing:</u>			
First District	8	3	11
Second & Fourth Districts	8	4	12
Third District	24	12	36
<u>Fee Arbitration:</u>			
First District	14	5	19
Second & Fourth Districts	12	6	18
Third District	28	12	40
Law Examiners	20	-	20
<u>Total Bar Rule Committees</u>	<u>126</u>	<u>42</u>	<u>168</u>
<u>Other Adjunct Involvement</u>			
American Bar Assoc. Delegate	1	-	1
AK Assoc. of Legal Assistance	1	-	1
AK Bar Foundation	3	-	3
AK Code Revision Commission	1	-	1
AK Judicial Council	3	-	3
AK Comm. on Judicial Conduct	3	-	3
AK Law Review	3	-	3
AK Legal Services Corp.			
Board of Directors	17	-	17
Ninth Circuit Judicial Conf.	2	-	2
Rocky Mountain Mineral			
Law Foundation	1	-	1
<u>Total Other Adjunct Involvement</u>	<u>35</u>	<u>-</u>	<u>35</u>
<u>Total Committee Membership</u>	<u>250</u>	<u>45</u>	<u>295</u>

(Intentionally left blank)