

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6411 SENATE LABOR & COMMERCE

815

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353

MEMORANDUM

AFRICAN DEVELOPMENT BANK STATE
LEGISLATIVE PROGRAM - ALASKA

I. Background

The African Development Bank ("the Bank") is currently seeking the enactment of legislation, where necessary, which would permit state-regulated banks, insurance companies, fiduciaries and public employee retirement systems to invest in Bank obligations if they choose to do so. Several years ago, largely through the joint efforts of the Congressional Black Caucus and the Reagan Administration, Congress enacted Title XIII of P.L. 97-35 authorizing United States membership and financial participation in the Bank, which was initially created in 1964 and until 1982 limited its membership to African countries. Today, the Bank's membership includes all African nations except for South Africa, plus the Governments of the United States, Canada, Japan and Western Europe.

The Bank, a principal source of financing for economic development projects on the African continent, funds these projects through the sale of its obligations in the world's capital markets. As with the International Bank for Reconstruction and Development (World Bank), the Inter-American Development Bank and the Asian Development Bank, investments in African Development Bank securities by the state-regulated institutions described above generally require either state legislation or administrative agency rulings prior to the time such securities can be marketed in a particular state. P.L. 97-35 referred to above authorized federally regulated financial institutions to invest in such securities.

Since initiating state legislation activities several years ago, the Bank has obtained passage of legislation or secured comparable administrative agency public rules to qualify its securities for investment in forty-two states.^{1/}

^{1/} These include Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Virginia, Washington, West Virginia and Wisconsin. In addition, Alaska state-chartered banks obtained such investment authorization through legislation enacted in the 1988 session.

Bills are also pending in several additional states, while others have either issued private administrative rulings or have laws which already permit such investments under a "prudent investor" standard. It should be noted that each state has its own particular laws applicable to state-regulated institutional investors and no two states are alike in this regard.

The Bank entered the United States capital market for the first time in the Fall of 1985 and most recently in early November 1987 with highly successful bond issues. The three principal American bond rating services have given its bonds AAA, AAA and AA ratings, which makes this type of investment quite attractive once a regulated investor receives appropriate legal authorization. In order to assure a successful United States market presence, the Bank is seeking enactment of legislation in a number of additional states, including Alaska, to obtain this authorization.

II. Specific Legislation Needs in Alaska

A review of the applicable Alaska laws indicates a need for amending only one section of the Alaska Statutes to gain investment authorization for state-regulated insurance companies. This involves merely adding the name of the African Development Bank to those of the World and already eligible for such investments. Alaska state banks recently gained this investment authorization in similar legislation, while other regulated investors apparently already have the necessary authority without the need for statutory change.

Based upon experience to date in other states, this legislation should be completely noncontroversial. President Reagan and the U.S. Treasury Department have actively supported efforts to get this legislation enacted, as have many Black political leaders around the country. Because of the high Bank securities ratings, prospective investors also support it since this increases their high-yield, low-risk portfolio options and provides them an opportunity to make both profitable and socially worthwhile investments. Finally, since the Bank is the major source of foreign exchange financing for transactions in or with Africa, American exporters and technical assistance providers to that continent have ample incentive to support the Bank's financial success.

Prepared November 1988 by:

David Aronofsky, Esq.
U.S. Legal Counsel, African Development Bank
Arent, Fox, Kintner, Plotkin & Kahn
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339
202-857-6054



THE SECRETARY OF THE TREASURY
WASHINGTON

FEB 12 1988

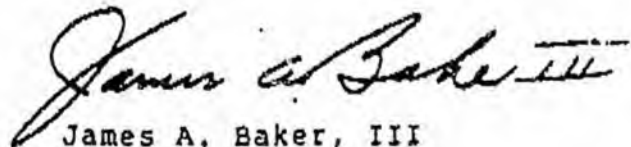
Dear Governor Cowper:

I am writing in support of the African Development Bank's efforts to obtain the qualification of its obligations in the State of Alaska for investment by certain state-regulated institutions.

The African Development Bank was established as a multilateral development bank in 1963 to foster economic and social development of its African members individually and through regional cooperation. In addition to all independent African countries except for South Africa, the Bank's membership now includes the United States, as well as the countries of Western Europe, Japan and other developed nations. The African Development Bank is patterned after the International Bank for Reconstruction and Development (World Bank), the Inter-American Development Bank and the Asian Development Bank, in that they all make extensive use of the world's capital markets through the sale of their highly rated bonds and other obligations to obtain funds for development lending activities. A substantial percentage of such funds finances the purchase of American goods and services used in critical development projects. This in turn enables American businesses and academic institutions to participate directly in these activities, to the benefit of all concerned.

I would appreciate your State taking the necessary steps to have the African Development Bank receive at least as favorable treatment under the laws of Alaska as is currently accorded to one or more of the other multilateral development banks with respect to the qualification of the Bank's securities for purchase by state chartered banks, savings and loan associations, insurance companies, public employee retirement systems and any special statutory or constitutional funds. At least 34 states have already wholly or partially accorded such treatment to the African Development Bank through enactment of legislation or, where appropriate, administrative agency rulings. I anticipate that the Bank will be in touch with you through its American legal counsel to present detailed legislative proposals.

Sincerely,



James A. Baker, III

The Honorable Steve Cowper
Governor, State of Alaska
Juneau, AK 99811-0101

cc: The Honorable Jan Faiks
The Honorable Ben Grussendorf

Third World Projects Create a New Market

By CLYDE H. FARNSWORTH

Special to The New York Times

WASHINGTON, Oct. 9 — Although the market for exports to cash-strapped developing countries has fallen strikingly in the past decade, third-world projects financed by the international development banks have created a booming market for an array of products.

Under their crushing debt burden, developing countries, which normally buy about a third of all American exports, cut purchases from the United States by 13 percent since 1981, to \$82.7 billion in 1987.

But in the same period, American companies doubled, to \$2.1 billion a year, their sales of items needed for projects financed by the four leading development banks — the World Bank, the Inter-American Development Bank, the African Development Bank and the Asian Development Bank.

The market created by the development banks includes power generators, water pumps, trucks, tractors, drilling rigs, irrigation equipment, farm implements, telecommunications equipment, pesticides, seeds and schoolbooks.

In the past five years, the World Bank and the three regional institutions have disbursed \$76 billion to business contractors, chiefly in the industrial countries, to support projects in more than 100 developing countries, according to a recent report by Development Bank Associates Inc., a research group based in Washington.

Chances are that future disbursements will be even greater, following recent Congressional action authorizing American participation in a \$75 billion increase in the resources of the World Bank, nearly doubling its capital. A large increase in funds for the Inter-American Development Bank is likely to be approved in the next few months as well.

"The development banks have created an enormous market," said David A. Raymond, director of international programs for the Enserch Corporation of Dallas, a diversified energy operator which aggressively pursues World Bank contracts. "It isn't an easy business and there's more competition than ever. But it pays hard currency on projects throughout the world."

Despite the numbers, analysts here note that American bidders like Enserch are still relatively few.

"Many business executives do not

The development banks are bringing about a boom for many products.

know about the bidding process," the United States Chamber of Commerce said in a special study of the market published two years ago. "Others fear red tape."

Development Bank Associates said in a recent report, "A Practical Guide to the Development Bank Business," that less than 3 percent of United States exporters are actively engaged in marketing products for such projects.

The lack of interest has hit the pocketbook. Even as the United States has strikingly increased exports to the development-bank market, it has been losing market share to its principal commercial rivals — West Germany and Japan.

By far the biggest of the development institutions, the World Bank committed \$17.7 in 1987 to expand power distribution in Argentina, build irrigation works in Belize, expand technical education in Brazil and to aid scores of other programs. Commitments by the three regional institutions totaled \$7 billion, bringing the total for the four to \$24.7 billion.

The commitments become actual disbursements as the multiyear projects reach varying stages of completion needing additional equipment and supplies.

Most of the contracts are relatively small — in the range of \$10,000 to \$50,000. In a recent year, 65 percent of all equipment contracts and 55 percent of all consultancy contracts on World Bank projects were for less than \$50,000, according to the Development Bank Associates study.

Over the same period there were 2,000 payments by the World Bank of more than \$1 million.

The development-bank business is confined to developing countries, which includes nearly all countries with per-capita yearly income of less than \$3,000. These include such giants as China and India and such tiny island states as Kiribati and Vanatu. The market also includes some East bloc countries like Hungary and Poland.

low rates. Others disagree.

"I think tax policy in 1989 is going to be a back-burner issue," said Donald H. Straszheim, chief economist for Merrill Lynch & Company, even though "the budget and trade deficits are troubling to economists."

"We're likely to end up with higher taxes down the road, but not immediately," he said. Some form of energy tax is likely, he suggests, and eventually a value-added tax could be imposed. If income tax rates are raised, then preferential treatment for capital gains is "not unreasonable," he said. But with a new Administration and a new Congress due to take office, he does not expect the tax rates to be changed in 1989.

Mr. Straszheim sees a modest recession and lower interest rates for the second half of 1989. If that forecast is accurate, it would argue against making tax-driven sales of bonds now, because bond prices would rise if rates fell. One strategy, though, would be to sell bonds on which one has a loss and replace them with similar securities.

Vern Martens, vice president of Merrill Lynch Tax Advisory, noted that if there is no change in tax rates next year, "taxpayers will pay lower taxes because of indexing for inflation." Nevertheless, he said, "people are still looking for something that will provide a tax break."

The most popular tax-exempt investments are municipal bonds, although certain municipal bonds are subject to the alternative minimum tax. These latter bonds pay slightly higher rates and thus are attractive to investors who are not liable for the alternative minimum tax.

Mr. Martens offered these additional possibilities for reducing taxes:

• Rehabilitation credits for low-income housing can cut taxes by up to \$7,000.

• Tax-deferred annuities can be attractive for retirement plans.

• By switching from money market funds to certificates of deposit or Treasury bills or notes, investors can defer income into future years. A switch in October, however, will only reduce 1988 interest income by 25 percent.



Wart Goldenberg

is a current investment bars, but the it by 1991.

mum tax — ductions or o do well by e accelerat- f said. That . If they are inimum tax rmal rate of

of these in- should do so 1 to lock in might con- against the tal one also ions against

owning Fed- ritable, re- gn rhetoric. take the in- historically

Oil Producers' Challenge to OPEC

From First Business Page

Oil producers are producing about 4.3 million barrels a day, from around 4.3 million barrels a day a month ago. Officials said their current goal was to keep their production at 4.3 million barrels a day to protect their share of the market against other producers who are discounting their oil prices by increasing production to secure sales.

Industry officials said that a 10 percent increase in overall OPEC production would bring the total to 14 million barrels a day, 1 million barrels above the quota. The higher ceiling would allow OPEC to produce more

permanently lower oil prices.

One industry expert said the tentative proposal depended upon a compromise between Iraq and Iran under which the countries would agree to equal production shares of 2.5 million barrels a day each. Iraq is now producing about 2.7 million barrels a day, while Iran's output is just below 3 million barrels a day.

Under the new proposal, OPEC would also agree to lower the official price it has used as a yardstick, to closer to \$15 a barrel, from \$18.

But OPEC officials and oil analysts fear that until an agreement is reached, a further steep drop in oil prices is a real possibility, bringing prices to oil market and, perhaps,

Pillsbury Sued Over Offer

... to protect the interests of the

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: January 8, 1990

FURTHER: Finance

Date of 5-Day Notice: 1/18/90
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 1/24/90

Labor and Commerce Committee considered SENATE BILL NO. 353

"An Act relating to insurer investments in development banks."

and recommended:

- replace with _____ CS _____ same title
- attached amendment(s) new title
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) _____

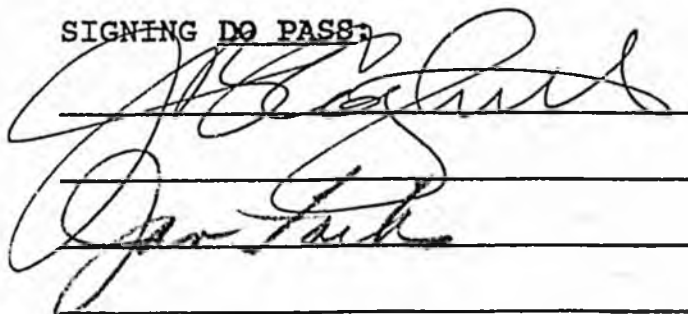
zero fiscal note(s) Dept of Commerce + Econ Dev. 1/18

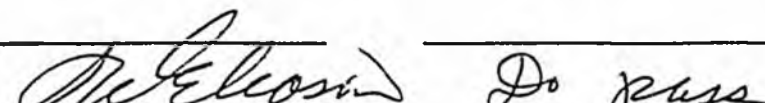
appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:




Chair: Signature and Recommendation

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Insurer investments in
 development banks
 Sponsor: Kelly
 Requestor: Senate Labor & Commerce

Agency Affected: Commerce & Economic Dev.
 BRU: Insurance
 Components: Administration

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

This legislation would have no fiscal impact on the department in FY 90.

Prepared by: James J. Jordan, Acting Director Phone: 465-2515
 Division: Insurance Date: 1/18/90

Approved by Commissioner: Larry Mercutioff Date: 1/11/90
 Agency: Department of Commerce & Economic Development


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

SB 353: "An Act relating to insurer investments in development banks."

SB 353 adds the African and Asian Development Banks to the eligible list of development banks into which investments can be placed. Provisions regarding solvency and nondefault status are also added.

The provisions in this bill are identical to the language contained on page 30, Section 30 of SB 212, an Act relating to insurer solvency, introduced last session by the Governor. SB 212 is in the Senate Labor and Commerce Committee.

The department supports this legislation. The additional provisions regarding solvency and nondefault status give the department the opportunity to make sure these banks are good investments before they are used by insurers.



Larry Mercurieff, Commissioner
Date: 11/1/90

LM/LW/dgl6141D
11990a

OFFICE OF THE PRESIDENT

MEMBER

TENTH ALASKA LEGISLATURE
ELEVENTH ALASKA LEGISLATURE
TWELFTH ALASKA LEGISLATURE
THIRTEENTH ALASKA LEGISLATURE
FOURTEENTH ALASKA LEGISLATURE
FIFTEENTH ALASKA LEGISLATURE
SIXTEENTH ALASKA LEGISLATURE



SENATOR TIM KELLY

P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3822

P.O. BOX 210001
ANCHORAGE, ALASKA 99521
(907) 561-7612

January 23, 1990

MEMORANDUM

To: Senator Eliason, Chair
Labor and Commerce Committee

From: Senator Kelly *TDK*

Re: SB 353, insurer investments in development banks.

Thank you for scheduling this bill for the committee's early consideration.

I introduced SB 353 in response to interest expressed in the Anchorage community. As you can read from the attached support information, it appears to have not only a laudible purpose but provides a valuable investment opportunity to Alaska institutions.

Current law restricts insurers to only those investment opportunities of the Inter-American Development Bank. This bill would expand the authorization to invest in obligations of the African Development Bank and the Asian Development Bank.

Henry Lancaster is a good resource person to contact for more information on the merits of SB 353. He can be reached at 278-4729.

HENRY LANCASTER, INC.

550 West Seventh Avenue • Suite 1325 • P.O. Box 10-3461 • Anchorage, Alaska 99510 • (907) 278-4729 • FAX (907) 276-4289

January 29, 1990

Senator Dick Eliason, Chair
Labor & Commerce Committee
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

Dear Senator Eliason:

I am writing to thank you for allowing me to testify via teleconference in the January 24, 1990 Senate Labor & Commerce Committee meeting.

Senator Faiks raised a question during the meeting that deserves further clarification. She asked whether the World Bank should be included in SB 353. My review of the Alaska Statutes has revealed that AS 21.21.120 already allows an insurer to invest in the obligations of International Bank for Reconstruction and Development (IBRD). The IBRD is more commonly known as the "World Bank." Thus the concern for inclusion that Senator Faiks expressed is already addressed in Alaska law.

Please do not hesitate to contact me if you have any other questions or concerns.

Sincerely,



Henry M. Lancaster II
President

HML:bgm

cc: Sen. Tim Kelly
Sen. Jan Faiks
Sen. Pat Rodey
Sen. Jalmar Kertula
Sen. Jack Coghill

S B

357

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: January 8, 1990

FURTHER:

Date of 5-Day Notice: 1/11/90
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 1/22/90

Labor and Commerce Committee considered

SENATE BILL NO. 357

"An Act relating to the state, borough, and city electric codes."

and recommended:

- replace with _____ CS SB357 same title
- attached amendment(s) new title
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) _____

zero fiscal note(s) _____
Commerce + Econ Development 1/16/90
Labor 1/16/90
Public Safety 1/17/90

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

[Signature]
[Signature]
[Signature]

OTHER RECOMMENDATIONS:

[Signature] Po pro
Chair: Signature and Recommendation

Alaska State Legislature



SENATOR JIM DUNCAN

P. O. Box V JUNEAU, ALASKA 99811-3100
(907) 465-4766

COMMITTEES:
FINANCE
VICE CHAIR —
HEALTH EDUCATION
& SOCIAL SERVICES
BUDGET & AUDIT
BANKING &
ECONOMIC
DEVELOPMENT

TO: SENATOR DICK ELIASON
CHAIR
LABOR AND COMMERCE COMMITTEE

FROM: SENATOR JIM DUNCAN

REGARDS: REQUEST FOR HEARING ON SB 357

DATE: JANUARY 9, 1990

I WOULD APPRECIATE THE EARLIEST POSSIBLE HEARING FOR SB 357 BY THE LABOR AND COMMERCE COMMITTEE.

SB 357 AMENDS ALASKA STATUTE 18.60. TO REFLECT THE 1990 UPDATE OF MINIMUM ELECTRICAL STANDARDS APPROVED BY THE AMERICAN NATIONAL STANDARDS INSTITUTE AND PUBLISHED IN THE NATIONAL ELECTRICAL CODE. THE MEASURE WILL ALLOW THE ALASKA DEPARTMENT OF LABOR TO ADOPT AMENDMENTS TO ITS REGULATIONS TO COMPLY WITH THE UPDATED STANDARDS. SINCE MINIMUM ELECTRICAL STANDARDS ARE ADDRESSED IN ALASKA STATUTE, THIS BILL IS NECESSARY TO KEEP ABREAST OF THESE CHANGES.

YOUR KIND CONSIDERATION OF THIS REQUEST IS MOST APPRECIATED.

Bill No Senate Bill 357

Date: January 16, 1990

Title: "An Act relating to the state, borough, and city electric codes."

Contact: Tom Stuart
264-2452

Eileen Plate
465-2700

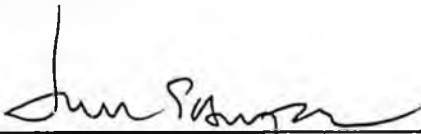
The National Electrical Code and the National Electrical Safety Code establish the State's minimum electrical standards.

These codes are updated every three years, and the 1990 editions are the most recent effort in this regard. The 1987 codes presently in effect for the state of Alaska, are, therefore, outdated and will not be reprinted.

Adoption of the 1990 codes as proposed in Senate Bill 357 will bring Alaska's minimum standards into conformity with those commonly accepted and used by industry across the nation. The latest editions of the codes are also commonly adopted by political subdivisions in the state as the minimum standards enforced under their building inspection programs.

The Department supports Senate Bill 357 which provides for adoption of the 1990 National Electrical Code and National Electrical Safety Code. It will not have a fiscal impact on the Department.

APPROVED:



Jim Sampson, Commissioner
Department of Labor

POSITION FAPER/Department of Labor

SB 357: "An Act relating to the state, borough, and city electric codes."

The Department of Commerce and Economic Development supports the passage of SB 357. This proposed legislation amends electrical safety provisions in AS 18.60.580 to adopt the 1990 editions of the National Electrical Codes.

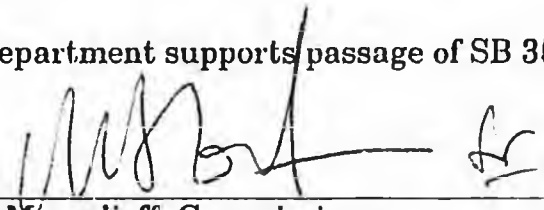
The Board of Electrical Examiners (hereinafter "board") within the Division of Occupational Licensing (hereinafter "division") supports this adoption of the most up-to-date editions of the National Electrical Code and the National Electrical Safety Code.

The board now utilizes and administers an electrical administrator exam written by the National Assessment Institute (NAI). NAI routinely revises its exam to incorporate in its exam questions the most current electrical safety standards. It is, therefore, important that Alaska also adopt the most current national standards; if we fail to do so, then Alaska is forced to continue to test on the outdated standards and use past exams no longer actively validated by the testing institute.

The stated purpose of the Board of Electrical Examiners "is to protect the safety of people and property in the state from the danger of improperly installed electrical wiring and equipment" by providing procedures to assure "the public that persons responsible for making electrical installations in this state are qualified" (see AS 08.40.005).

The board believes that it can only achieve this mandated purpose if the state is testing on the most current national electrical safety standards and if all presently licensed electrical administrators are inspecting and approving electrical installations that are installed according to the most up-to-date safety standards available.

For the reasons stated above, the department supports passage of SB 357.



Larry Merculieff, Commissioner

Date: 10/1/90

LM/RPB/dgl6117D
11790c

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act relating to the state,
borough, and city electric codes.
 Sponsor: Senator Duncan
 Requestor: Senate Labor & Commerce

Agency Affected: Commerce & Economic Dev.
 BRU: Occupational Licensing
 Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The bill updates the minimum electrical standards to reference the current electrical codes. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: 1-16-90

Approved by Commissioner: Larry Merculieff Date: 1/21/90
 Agency: Commerce and Economic Development

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

) Changes in CSSB357 (KC)
 have no fiscal impact.
 This fiscal note is
 appropriate.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : CSSB 357 (L&C)

PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to the state, borough, and city electric codes."
Sponsor: Duncan
Requestor: Senate Labor & Commerce

Agency Affected: Labor
BRU: Labor Standards & Safety
Components: Mechanical Inspection

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Note: there is no fiscal impact in FY 90.

Prepared by: Tom Stuart, Director Phone: 465-2712
Division: Labor Standards & Safety Date: 1/19/90
Approved by Commissioner: Jim Sampson Date: 1/19/90
Agency: Department of Labor

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

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Public Safety
 Title: An act relating to state, borough, and city electric codes BRU: Fire Prevention
 Sponsor: Senator Duncan Component: Fire Prevention Operations
 Requestor: Senate Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

) Changes in CS SB 357 (4+0) have no fiscal impact. This fiscal note is appropriate.

Jnr
1/17/90

Prepared by: Gordon E. Brunton
 Division: Fire Prevention

Phone: 465-4331
 Date: 1/17/90

Approved by Commissioner: Arthur English
 Agency: Department of Public Safety

Date: 1-18-90
 Page 1 of 1

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act relating to the state, borough, and city electric codes.
 Sponsor: Senator Duncan
 Requestor: Senate Labor & Commerce

Agency Affected: Commerce & Economic Dev.
 BRU: Occupational Licensing
 Components: All

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

The bill updates the minimum electrical standards to reference the current electrical codes. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Officer
 Division: Occupational Licensing

Phone: 465-2144
 Date: 1-16-90

Approved by Commissioner: Larry Merculieff
 Agency: Commerce and Economic Development

Date: 1/17/90

Distribution (by preparer):

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

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : SB 357
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
 Title: "An Act relating to the state, borough, and city electric codes." BRU: Labor Standards & Safety
 Sponsor: Duncan Components: Mechanical Inspection
 Requestor: Senate Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Tom Stuart, Director Phone: 465-2712
 Division: Labor Standards & Safety Date: 1/16/90
 Approved by Commissioner: Jim Sampson Date: 1/16/90
 Agency: Department of Labor

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

Original sponsor(s): SEN. DUNCAN

1 IN THE SENATE BY THE LABOR & COMMERCE COMMITTEE
2 CS FOR SENATE BILL NO. 357 (L&C)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to the state, borough, and city
7 electric codes."

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

9 * Section 1. AS 18.60.580 is amended to read:

10 Sec. 18.60.580. MINIMUM ELECTRICAL STANDARDS. The 1990 [1987]
11 published edition of the National Electrical Code (ANSI/NFPA) approved
12 by the American National Standards Institute on August 7, 1989
13 [JULY 30, 1986], and the 1990 [1987] published edition of the National
14 Electrical Safety Code (ANSI C2-1990 [C2-1987]) approved by the Ameri-
15 can National Standards Institute on June 26, 1989 [JUNE 23, 1986],
16 constitute the minimum electrical safety standards of the state.

17 * Sec. 2. AS 18.60.590(a) is amended to read:

18 (a) The department may by regulation adopt amendments to the
19 1990 [1987] National Electrical Code as approved and issued by the
20 American National Standards Institute [ASSOCIATION].
21
22
23
24
25
26
27
28
29

S B

375

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: January 8, 1990

FURTHER: Finance

Date of 5-Day Notice: 1/18/90
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 1/24/90

Labor and Commerce Committee considered

SENATE BILL NO. 375

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

and recommended:

- replace with _____ CS _____ same title
- attached amendment(s) new title
- _____ letter of intent adopted
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

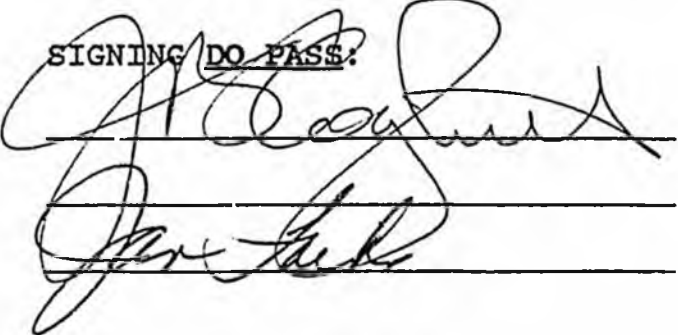
fiscal note(s) _____
Dept. of Revenue 12/21/89

zero fiscal note(s) _____


appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:



OTHER RECOMMENDATIONS:


Chair: Signature and Recommendation

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Continue existence of the
Alcoholic Beverage Control Board
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Dept. of Revenue
BRU: Alcoholic Beverage Control
Board
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	618.8	618.8	618.8	618.8	618.8	618.8
TRAVEL	43.7	43.7	43.7	43.7	43.7	43.7
CONTRACTUAL	68.1	68.1	68.1	68.1	68.1	68.1
SUPPLIES	7.8	7.8	7.8	7.8	7.8	7.8
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	738.4	738.4	738.4	738.4	738.4	738.4

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	1,729.0	1,729.0	1,729.0	1,729.0	1,729.0	1,729.0
---------	---------	---------	---------	---------	---------	---------

FUNDING: (Thousands of Dollars)

GENERAL FUND	738.4	738.4	738.4	738.4	738.4	738.4
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	738.4	738.4	738.4	738.4	738.4	738.4

POSITIONS:

FULL-TIME	12	12	12	12	12	12
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

ANALYSIS : (Attach a separate page if necessary)

Revenue projections and operating costs are contained in the proposed operating budget and revenue projections submitted by the Alcoholic Beverage Control Board for FY 91.

Prepared by: Patrick L. Sharrock, Director Phone: 277-8638
Division: Alcoholic Beverage Control Board Date: _____

Approved by Commissioner: Hugh Malone Date: 12.21.89
Agency: Department of Revenue

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



375

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 8, 1990

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to continue the existence of the Alcoholic Beverage Control Board for four years (AS 44.66.010(c)). Under current law, the board is scheduled to "sunset" June 30, 1990 (AS 44.66.010(a)), and will go into its "wind-down" year under AS 44.66.010(b).

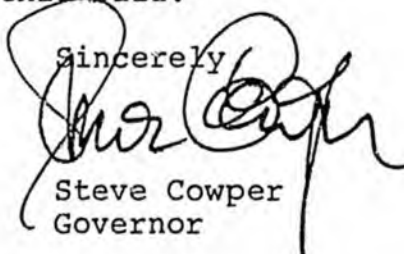
If the board is allowed to "sunset," many of the liquor control laws in AS 04 could not be implemented or enforced by the state, although municipalities could, under AS 04.21.010, adopt their own liquor control ordinances. Virtually all states, however, regulate the sale of alcohol at the state level, with some input from local authorities. Such a system avoids situations in which locally powerful special interests could exert undue influence over local officials who might be more vulnerable to such pressure than would a state-level administrative body.

Policing liquor vendors is a critical government function given the grave social ills that result when liquor is not responsibly dispensed. Alaska has experienced much grief brought on by unscrupulous liquor vendors. In view of the tremendous profitability of liquor sales, a system of exclusive local control could too often result in liquor licensing decisions being made for financial reasons, at the expense of the public interest. At one time, Alaska liquor licenses were issued at the local level; an overabundance of licenses resulted in many locations.

Additionally, local control would very likely mean inconsistency in regulation from area to area, which would confuse the public and make enforcement difficult in the court system.

In light of the alcohol abuse problems that exist now in our state, I believe that the board's activities in administering, implementing, and enforcing our liquor control laws are essential. I urge your prompt and favorable consideration of this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the word "Sincerely,".

Steve Cowper
Governor

SUNSET

Under sunset statutes the board expires on June 30, 1990. Unless the board is extended during the 1990 legislative session, this budget reflects estimated costs for the board's operations to terminate its affairs by June 30, 1991.

Under the 21st amendment to the federal constitution all 50 states have chosen to regulate alcoholic beverages at the state, and not the local level. The purpose of state regulation/control is to provide a system for enforcing laws which authorize approved responsible persons to sell and distribute alcohol to the public. Alcohol, if reasonably consumed, is not dangerous. Responsible distribution is an essential step in helping to insure responsible consumption by the public.

Alaska at one time granted issuance of liquor licenses to local governments. This delegation led to an overabundance of licenses in a number of Alaskan communities. If local governments were to establish local controls by ordinance, laws would vary from city to city and confuse the public. Local governments, under current statute, have an ability to impose controls consistent with state law and provide valuable input to the board on licensing matters. However, with few exceptions, cities and boroughs have chosen to develop controls that only assure collection of revenues.

If Alaska abandoned its current system of state level control in favor of local level control, it is inevitable that distribution of alcohol in some locations would be taken over by powerful interests who, unfortunately, have been known to exert undue control over the local governing body. It is essential, therefore, that control be retained at the state level where the administrators are less susceptible to undue and improper local political pressures.

Without some form of control over alcoholic beverages, sale and distribution would be rapidly overtaken by unscrupulous operators who are not held responsible for placing public interest above self-interest. The board has taken action against several such unscrupulous licensees over the years.

If Alaska's alcoholic beverage control board were to be discarded, current liquor licenses would terminate on December 31, and alcohol could not be legally sold thereafter because no organization would exist to administer the law. Repeal of present state law would allow indiscriminate sale/distribution within Alaska i.e. to underage persons, drunken persons, and in villages which have a stated preference to ban sale or importation of alcohol and promote other activities contrary to the public interest. Neither approach would be acceptable to the public or in the public interest.

An independent quasi-judicial organization is necessary to review and administer the conduct of sellers of alcoholic beverages in view of the public interest, and in light of the serious social ills that follow when alcohol is not distributed responsibly.

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

June 30, 1989

Audit Control Number

04-1374-90-R

Commissioner, Department
of Revenue

Hugh Malone

Deputy Commissioner,
Department of Revenue

Milton B. Barker

Assistant Commissioner
Department of Revenue

Royce Weller

Members of the
Alcoholic Beverage Control Board

Chairman
Vice-Chairman
Member
Member
Member

Michael W. Gordon
Robert J. Klein
Andy Durny
Jane C. Perkins
Richard Stitt

STATE OF ALASKA

THE LEGISLATURE
BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
P.O. BOX W
JUNEAU, ALASKA 99811-3300

September 26, 1989

Members of the Legislative Budget
and Audit Committee:

According to the provisions of Titles 24 and 44 of the Alaska Statutes, the Division of Legislative Audit is required to conduct a "Sunset" review of the Alcoholic Beverage Control Board.

At the request of the Chairman, the Audit Division's budget was revised in Fiscal Year 1988 to reflect certain changes in the organization of the Committee's two Divisions. The revised budget of the Audit Division reflected efficiencies that might be obtained by utilizing the staff of the Legislative Finance Division on selected audit assignments during the interim.

As a result, this report has been prepared by the Legislative Finance Division. We feel the audit examination conducted by Legislative Finance and the accompanying report discharges our responsibility under Titles 24 and 44. The report is submitted for your review.



Randy S. Welker, CPA
Legislative Auditor
Division of Legislative Audit

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
P.O. BOX WF
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

September 26, 1989

Members of the Legislative Budget
and Audit Committee:

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

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

June 30, 1989

Audit Control Number

04-1374-90-R



Mike Greany, Director
Division of Legislative Finance

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PURPOSE AND SCOPE OF THE REPORT

Purpose

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

Legislative intent requires consideration of this report during legislative hearings to determine whether the ABC Board should be reestablished. The law now specifies that the Board will terminate June 30, 1990 and has one year from that date to conclude its affairs.

Scope

The major areas of our examination were: licensing, inspections, investigations and administrative functions of the Board. We reviewed and evaluated the following:

1. Applicable statutes and regulations.
2. Tests of files and documents of licenses.
3. Interviews with the staff of the ABC Board.
4. Complaints filed with the Attorney General's office and the Ombudsman's office.
5. Discussions with Board members.
6. Minutes of Board meetings and Board correspondence files.
7. Attorney General opinions and advisements applicable to the Board.
8. Surveys submitted to law enforcement agencies and municipalities.

ORGANIZATION AND FUNCTION

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

Members are appointed for three-year terms by the Governor and are subject to confirmation by the Legislature. Membership is specified by statute to five persons (two liquor industry representatives and three non-industry representatives). A director, serves as executive officer and is responsible for enforcement of Title 4 liquor laws and regulations. Under the direction of the Board, the director is capable of issuing, renewing, transferring, revoking or suspending licenses or permits.

Title 4 prescribes the type of licenses, fees, and specific activities allowed under each license classification. The availability of licenses throughout the State is determined by the population within designated areas. For calendar year 1988, a total of 1,762 licenses were issued.

The staff of the ABC Board is divided into three major functions: administration, licensing, and enforcement. The following narratives briefly describe the services provided within the three functions.

Administration. The director of the ABC Board has the responsibility of managing the administrative support for the Board. The responsibilities consist of: overseeing all staff work, preparing budget documents, directing the preparation and implementation of administrative and public hearings, and directing special enforcement investigations.

Licensing. The licensing staff is responsible for processing application forms, maintaining records and files for all licenses, collecting fees and answering inquiries from the general public on routine licensing matters.

Enforcement. The ABC Board currently employs six investigators - four operating from the Anchorage central office and one each operating in the Fairbanks and Juneau field offices. Investigative duties consist of: surveillance and inspections of licensed premises for suspected licensing violations, public appearances relating to ABC laws and regulations, and responding to inquiries from the general public.

REPORT CONCLUSION

Policy Issues

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

Implementation of Prior Audit Recommendations

In order to operate in a more efficient and effective manner, the ABC Board incorporated administrative procedures or promulgated regulations to implement the recommendations in the prior Sunset audit, dated August 25, 1985.

Report Conclusions

In our opinion, the ABC Board should be reestablished. Title 4 of the Alaska Statutes established the ABC Board to control the manufacture, barter, possession, and sale of alcoholic beverages in the State in order to protect the public's health, safety, and welfare. Protection of the public's health, safety and welfare is provided by the Board through active investigation of complaints and revocation or suspension of licenses when appropriate.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

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(Intentionally left blank)

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In our opinion, the ABC Board should be reestablished. Title 4 of the Alaska Statutes established the ABC Board to control the manufacture, barter, possession, and sale of alcoholic beverages in the State in order to protect the public's health, safety, and welfare. Protection of the public's health, safety and welfare is provided by the Board through active investigation of complaints and revocation or suspension of licenses when appropriate.

(Intentionally left blank)

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Department of Revenue, Income and Excise Audit Division and the Alcoholic Beverage Control Board (ABC Board) should coordinate more on matters relating to revenue sharing and compare records of liquor license files to ensure that revenues collected for licenses are shared with municipalities in accordance with the law.

As required by AS 04.11.610, annual liquor license fees (excluding annual wholesale license fees and miscellaneous permits) collected from businesses operating within the boundaries of a municipality shall be refunded to the municipality. The only requirement is that the municipality enforce laws and regulations relating to the sale and manufacture of alcoholic beverages.

The Department of Revenue, Income and Excise Audit Division (hereinafter referred to as the Division) provides administrative support to the ABC Board relative to revenue sharing. The Division obtains a copy of each liquor license from the staff of the ABC Board. Based upon information on the license, a clerk posts a record of the license to a written schedule for each municipality. During December and June of each year, the Department refunds an amount based upon the number and type of licenses for each municipality.

However, there has never been a comparison of records between the Division's revenue sharing accounts and liquor licenses of the ABC Board. Since there is no comparison of records or coordination of administrative effort, the potential exists for a material error or irregularity to occur and it would not be found during the normal administrative processing of revenue sharing.

In the course of our review, several items came to our attention which can be attributed to the lack of coordination between the agencies. Contrary to law, miscellaneous permits have been shared with municipalities; conversely brewery and distillery licenses have not been shared. In addition, Division personnel have stated that their records indicate that certain liquor license fees have not been shared with municipalities.

To determine if revenue is accurately shared with municipalities we used as a test sample the FY89 license and shared revenue records of four municipalities. For three of the four communities we found a number of discrepancies. Although the items are not material in value, it demonstrates how an error or irregularity could occur and it would not be discovered during the course of conducting business.

Anchorage - Fees relating to miscellaneous permits (\$2,400) were erroneously shared. The Division's records did not indicate that two liquor licenses totaling \$600 were shared. The revenue associated with a distillery license had not been shared (\$500).

Fairbanks - Fees for miscellaneous permits (\$350) were incorrectly disbursed to municipalities.

Juneau - Fees associated with miscellaneous permits (\$650) were incorrectly shared. The Division's own records indicate that a liquor license fee of \$400 was not shared. The brewery license fees have never been shared with the municipality (\$500 annually).

Because of the discrepancies disclosed in the previous paragraphs, the disbursement of revenue to other municipalities in FY89 and previous fiscal years should be reviewed. According to AS 04.11.610 (c), the Department of Revenue is required to recover any revenue erroneously shared. If during the review the Department finds that a municipality was not refunded the total amount due, the Department should request a special appropriation to fund the disbursement to the municipality.

The municipalities hold in trust and confidence that liquor license revenues will be accurately shared. Therefore, the Division and the ABC Board should coordinate more on matters relating to revenue sharing and develop a means of cross checking the amount of revenues shared with municipalities and the number of licenses issued by the ABC Board.

Recommendation No. 2

The ABC Board should reconsider the issuance of recreational site liquor licenses to businesses engaged in selling meals to tourists.

The recreational site license allows the holder to sell beer and wine at a recreational site during and one hour before and after a recreational event. Furthermore, AS 04.11.210 (c), reads as follows:

"In this section, recreational site means, but is not limited to, a location where baseball games, hockey games, dog sled racing events, or curling matches are regularly held during a season."

Complicating the issuance of recreational site licenses is the fact that the Board has issued three recreational site licenses to enterprises whose primary business is selling meals/beverages to tourists during the summer months. One of the licenses issued has been returned to the Board and the business is now operating under a beverage dispensing license. The remaining two licenses are currently active.

The issuance of a recreational site license has been the subject of an Attorney General's memorandum on the type of activities that would qualify for recreational site license.

The Attorney General in a memorandum dated February 3, 1983 stated:

"The activities listed in AS 04.11.210 (c) are distinctly and exclusively athletic in nature. Note that the statute specifies that the athletic event, whatever it may be, must be held regularly and during a season. Both qualifiers evince a legislative intent to confine recreational site licenses to athletic events only."

It is our opinion that it is not the intent of the statute to issue a recreational site license to an enterprise whose primary business purpose is selling meals/beverages to tourists. These businesses are similar to a restaurant operation and the Board should re-license them under the public convenience license statute which would allow them to continue to sell beer and wine. While the Board did not act illegally or grossly improper in issuing these as recreational rather than public convenience licenses, it is our fear they could be cited as precedences for patently questionable operations. Further, the Board should reconsider the criteria for issuing recreational site licenses and establish the necessary regulations to ensure that the intent of the statute is complied with.

(Intentionally left blank)

ANALYSIS OF PUBLIC NEED

Limited Analysis

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

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

The health, safety, and welfare of the public is protected by the Board through active investigation of complaints and revocation or suspension of licenses when appropriate.

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

A large number of respondents to the enforcement agency questionnaire (Appendix D) indicated a need for more investigators. Including the supervisory agent, there are presently six agents available for inspecting and investigating 1,762 licensed premises. In addition, the enforcement section does not have clerical support.

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

Senate Bill No. 157, which was introduced by the Governor during the first session of the Sixteenth Legislature, amends AS 04.11 by imposing a civil fine for the violation of a statute, regulation, or ordinance related to alcoholic beverages.

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

The Board has met at least seven times for fiscal years 1988 and 1989. During each fiscal year, the Board has held meetings in each of the four judicial districts. Each meeting has been adequately advertised and open to the public.

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

As noted in number IV the board has provided an adequate forum for obtaining input from the public.

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

Since July 1985, ten complaints have been filed with the Ombudsman's Office concerning Board activity. Only one of these complaints, alleging "conflict of interest" by a board member, was found to be justified. Subsequent to this infraction, the Board has been cognizant of situations that may be construed as a conflict of interest.

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

Our review of licenses issued by the Board consisted of determining whether the licensees met statutory qualifications. The review disclosed no material infractions of the law.

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

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

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

The Board has discussed the possibility of proposing legislation that would require a biennial renewal of most liquor licenses, rather than annual. A biennial renewal would streamline the licensing process and lessen the workload of the administrative staff.

APPENDIXES

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APPENDIX A

STATE OF ALASKA
DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD
REVENUE COMPARED WITH EXPENDITURES
Fiscal Years 1987, 1988, 1989
(Unaudited-See Note 1)

	<u>1987</u>	<u>1988</u>	<u>1989</u>
<u>Revenue</u> (See Schedule 1)	\$ 1,665,950	\$ 1,793,977	\$ 1,748,593
Less: Transfers to Municipalities (Note 2)	< 885,875>	< 884,517>	< 874,050>
<u>Net Revenue</u>	780,075	909,460	874,543
Less: Expenditures	< 570,646>	< 633,759>	< 690,124>
<u>Excess of Revenues Over Expenditures</u>	<u>\$ 209,429</u>	<u>\$ 275,701</u>	<u>\$ 184,419</u>

Schedule 1
Revenue Collected
(Note 2)

	<u>1987</u>	<u>1988</u>	<u>1989</u>
Liquor License Application \$	104,550	\$ 224,470	\$ 206,175
Common Carrier License	36,925	49,725	42,775
Retail Stock Sale	100	-0-	-0-
Wholesale General	127,100	126,100	116,000
Wholesale Malt Beverage	10,000	7,300	7,900
Pub License	400	400	400
Brewery License	500	1,000	1,000
Distillery License	-0-	-0-	1,000
Beverage Dispensary License	828,288	839,594	821,950
Club License	47,800	51,666	51,850
Recreational-Site License	4,800	5,400	5,400
Restaurant/Eating Place License	97,300	94,166	93,100
Package Store License	360,475	347,791	341,625
Miscellaneous (Note 3)	47,712	46,365	59,418
 <u>Total Revenues</u>	 <u>\$1,665,950</u>	 <u>\$1,793,977</u>	 <u>\$1,748,593</u>

The accompanying notes are an integral part of the above statement and schedule.

APPENDIX A (CONTINUED)

STATE OF ALASKA
DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD
NOTES TO STATEMENT OF REVENUE COMPARED
WITH EXPENDITURES AND SCHEDULE OF REVENUE COLLECTED

Note 1

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

Note 2

Revenues consist of receipts collected on various licenses, permits and miscellaneous items. In accordance with AS.04.11.610, annual license fees (excluding wholesale license fees) collected within a municipality are to be refunded to the municipality. The amount of revenue transferred to municipalities is represented by a deduction from revenues, "Transfers to Municipalities". If a municipality fails to enforce laws relating to the manufacture or sale of alcoholic beverages or the licensed premises are located outside of city limits, the annual license fee would not be shared with the municipality and would be deposited in the general fund. Other revenues that should be deposited in the general fund are fees associated with permits, applications and wholesale licenses.

Note 3

The "miscellaneous" revenue account includes caterer's permit, special events permit, conditional contractor's permits, and restaurant caterer's dinner permit.

APPENDIX B

STATE OF ALASKA
DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD
NUMBER OF LICENSES BY CATEGORY
Calendar Years 1986, 1987, and 1988

<u>License Categories</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>
Distillery	-0-	-0-	1
Brewery	1	2	2
Pub	1	1	1
Beverage Dispensary	699	698	690
Club	78	82	85
Common Carrier	139	144	150
Restaurant	322	320	317
Retail Store	492	488	475
Wholesale General	19	16	16
Wholesale Malt Beverage	8	8	7
Recreational-Site	<u>17</u>	<u>17</u>	<u>18</u>
<u>Total Licenses</u>	<u>1,776</u>	<u>1,776</u>	<u>1,762</u>

(Intentionally left blank)

APPENDIX C

STATE OF ALASKA
DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL BOARD
DESCRIPTION OF LICENSES, PERMITS AND FEES

<u>DESCRIPTION</u>	<u>FEE</u>
Application Fee	\$ 100
Restaurant Designation Fee	50
Pub License	400
Brewery License	500
Distillery License	500
Brewpub License	250
Beverage Dispensary License-Half Year	625
Beverage Dispensary License-Tourism Half Year	625
Beverage Dispensary License	1,250
Beverage Dispensary License-Duplicate	1,250
Beverage Dispensary License-Tourism	1,250
Beverage Dispensary License-Tourism Duplicate	1,250
Beverage Dispensary License-Public Convenience	1,250
Beverage Dispensary License-Community License	1,250
Club License	600
Club License-Half Year	300
Common Carrier License	350
Common Carrier License-Half Year	175
Restaurant/Eating Place (Beer & Wine Only)	300
Restaurant/Eating Place (Beer & Wine Only)-Half Year	150
Restaurant/Eating Place (Beer & Wine Only)-Tourism	300
Restaurant/Eating Place (Beer & Wine Only)-Public Convenience	300
Theater License (Beer & Wine Only)	300
Package Store License	750
Package Store License-Tourism	750
Package Store License-Half Year	375
Package Store License-Community License	750
Retail Stock Sale License	100
Wholesale License-General (\$1,000 first \$100,000 of sales, plus \$500 on each additional \$50,000 of sales)	1,000
Wholesale License-Malt Beverage & Wine (\$200 first \$20,000 of sales, plus, \$300 on additional \$30,000 of sales and thereafter \$500 on each additional \$50,000 of sales)	200
Bottling Works License	250
Recreational Site License	400
Recreational Site License-Half Year	200
Winery License	250
Conditional Contractor's Permit	600
Caterer's Permit	50
Restaurant Caterer's Dinner Permit	50
Special Events Permit	50

(Intentionally left blank)

APPENDIX D

SUMMARY OF QUESTIONNAIRE SENT TO STATE OF
ALASKA LAW ENFORCEMENT AGENCIES

1. Are you aware of the existence of the Board of Alcoholic Beverage Control (ABC), its operation and its role in the enforcement of ABC laws, rules and regulations?

Number of respondents commenting

- 20 Yes
 Enforcement role is not well known.
 1 Aware of Board but have never seen any enforcement.
 Not aware of its role in enforcement.

2. Do you feel the enforcement staff of the ABC Board complements, duplicates or conflicts with the efforts of your law enforcement personnel?

Number of respondents commenting

- 15 Complements
 Duplicates
 1 Conflicts
 3 None of the above.
 1 Other (please respond and cite specific instances)

Respondent Comments

In some cases it is the only source of regulation or enforcement there is.

The enforcement effort is so minor that it isn't worth noting. The Board is functioning more as a regulatory agency issuing licenses and issuing meaningless notices of violations.

Would compliment if enough unscheduled inspections were made on licensed premises.

We support additional funding for State-Wide enforcement.

3. Do you have a cooperative working agreement with the ABC Board enforcement staff, such as, sharing investigative information and notification of arrests made on licensed premises?

Number of respondents commenting

- No, never share information.
16 Yes, always share information.
 5 Occasionally, ABC is sent copies of liquor related arrests and reports.
 1 ABC is notified, but we never receive a response.

4. Are there any existing alcoholic beverage control laws or regulations that are obsolete, vague, unduly restrictive and/or inadequate?

Number of respondents commenting

11 No
8 Yes

Respondent Comments

AS 04.16.051(b)(1)

AS 04.11.410 The process of measuring should be the same for the State or City/Borough.

Serving intoxicated persons, intoxicated persons on premises.

License protests by local government should be considered an automatic denial by the Board.

It is extremely hard to take closure action against a license holder.

Minors being allowed inside a bar that doesn't serve food even accompanied by parent or guardian. Minors should not be allowed in a bar with persons drinking.

5. Any comments you would like to make?

Respondent Comments

I strongly recommend continuation of the ABC Board.

I would like to see additional staff "investigators" hired. ABC staff are surely understaffed.

Keep up the good work.

The most obvious is Sale To A Drunken Person. This needs to be changed in order for it to be an effective tool in dealing with the problem it was hoped to address.

They do a good job given the available staff.

If the Board is to continue they must become more active in enforcement.

Give them more investigators.

I think ABC fills a real need. It is badly understaffed, but does a good job with the resources it has. It's funding should be increased.

I would like to see the ABC Board personnel increased. We need more enforcement on licensed premises by them.

I have called them on 2 occasions within the last 4 months and received prompt attention to the problems. I am pleased with their service.

Recommend: State-Wide reduction of license beverage hours of operation.

(Intentionally left blank)

APPENDIX E

SUMMARY OF QUESTIONNAIRE
SENT TO MUNICIPALITIES

1. Is your city or borough given adequate notice by the Board of Alcoholic Beverage Control (ABC) of proposed issuances of new licenses and/or transfers of existing licenses?

Number of respondents commenting

Yes 33 No 2

2. Has your city or borough protested the issuance of a new or renewal of a license or the transfer of a license?

Number of respondents commenting

Yes 21 No 12

If yes, what criteria has the city or borough used to protest a license?

Typical Response

- A. Delinquent taxes.
- B. Too many liquor establishments.
- C. License not operated 30 days as required by law.
- D. Disapproval by police department.

3. Have protests lodged by the city or borough resulted in a hearing by the ABC Board or by a hearing officer appointed by the Governor?

Number of respondents commenting

Yes 12 No 12

4. Does the current system of notification/protest/hearing enable local government's opinions to be heard during the licensing process?

Number of respondents commenting

Yes 25 No 4

If not, should local governing bodies be
4 more involved in the licensing process?
 less involved in the licensing process?

5. Are there existing alcoholic beverage control laws or regulations that are obsolete, vague, unduly restrictive and/or inadequate?

Number of respondents commenting

Yes 5 No 17

If yes, please cite the law or regulations.

Two "yes" respondents did not cite any specific laws or regulations that were obsolete, vague, unduly restrictive or inadequate. One respondent cited the Bottle Club law AS 04.16.090. Another respondent stated that there should be provisions for license suspension when taxes are unpaid. The last respondent cited the law limiting the number of licenses are too low for tourism towns.

6. What changes in the ABC Board's policies or alcoholic beverage control laws and regulations could be made that would enable your local governing body to better serve the public? (Please write in the space below.)

Typical Response

- A. More enforcement effort by ABC Board investigative staff and enforcement of AS 04.11.330(a)(3) - days of operation requirement.
- B. Repeal the population limitations on the number of liquor licenses allowed in a community.
- C. The ABC staff is very helpful and knowledgeable.
- D. The ABC Board's notification/protest/hearing process does not allow enough time for local governments to respond or it would be helpful to have more time.
- E. ABC Board hearings concerning local licenses should be held locally.
- F. The ABC Board should develop instructions to help municipalities understand their role in the licensing process.

7. Any comments you would like to make?

Typical Response

- A. The Board is needed and should be continued.
- B. The Board staff is always very helpful.
- C. The ABC Board should conduct more inspections of liquor establishments.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

P.O. BOX 5
JUNEAU, ALASKA 99811-0400
PHONE: (907) 465-2300
TELEFAX: (907) 465-2389

October 2, 1989

Tom Sutton
Fiscal Analyst
Division of Legislative Finance
P.O. Box WF
Juneau, AK 99811-3300

Dear Mr. Sutton:

Following is our response to your Interim Letter No. 2 dated September 26, 1989 related to a review of the Alcoholic Beverage Control Board.

Recommendation No. 1

The Department of Revenue, Division of Income and Excise Audit Division and the Alcoholic Beverage Control Board (ABC Board) should coordinate more on matters relating to revenue sharing and compare records of liquor license files to ensure that revenues collected for licenses are shared with municipalities in accordance with the law.

The department agrees with your recommendation. I will ensure that staff personnel from both the ABC Board and the Income and Excise Audit Division work closely this year to coordinate on matters relating to revenue sharing of annual license fees collected by the ABC Board.

Although immaterial, I will ensure that Income and Excise Audit Division staff rectify amounts over or undershared with municipalities as pointed out, and that brewery and distillery license fees are shared in the future.

Sincerely,



Hugh Malone
Commissioner

HM:PED:m11
89-212

STATE OF ALASKA

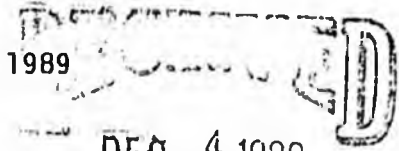
STEVE COWPER, GOVERNOR

DEPARTMENT OF REVENUE

550 W. 7TH AVE
ANCHORAGE, ALASKA 99501-6698

ALCOHOLIC BEVERAGE CONTROL BOARD

December 1, 1989



DEC -4 1989

Mr. Randy S. Welker, Legislative Auditor
P. O. Box W
Juneau, Alaska 99811-3300

LEGISLATIVE
AUDIT

RE: Response to audit report, A Performance Report on the Department of Revenue, Alcoholic Beverage Control Board June 30, 1989

Dear Mr. Welker:

Thank you for the courtesy of an opportunity to comment.

The board concurs with the report conclusion that the board is accomplishing its role to serve the public and the public interest. This conclusion is buttressed by the survey results from law enforcement agencies and municipalities in appendixes "D" and "E".

Comments from survey participants indicate a request that the board's investigative staff be increased to expand enforcement efforts and provide for greater presence at licensed premises. Having this support, the board will pursue additional funding for investigators in its FY 91 budget.

The following remarks respond to the specific recommendations:

Recommendation No. 1:

Agree. This issue is being resolved and a separate response will be submitted by the Commissioner of Revenue.

Recommendation No. 2:

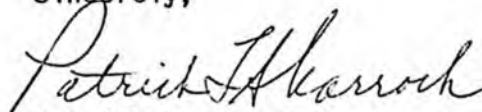
Disagree. Without going into a great deal of background detail, the recommended solution to a perceived problem could cause more difficulty than the situation warrants. In essence, the recommendation questions the board's interpretation/discretion regarding issuance of recreational site licenses.

December 1, 1989
Mr. Randy S. Welker, Legislative Auditor

The Alcoholic Beverage Control Board will discuss the matter upon issuance of the audit report.

If I can provide any additional information or clarification, please do not hesitate to let me know.

Sincerely,



Patrick L. Sharrock
Director, ABC Board
277-8638

PS/cl
cc: Hugh Malone, Commissioner of Revenue
ABC Board Members

CTS 89-244

S B

376

STEVE COWPER
GOVERNOR



376

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 8, 1990

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill expressly authorizing the Department of Labor to establish a crane operator certification program.

During the past three years, Alaska has had three fatal crane accidents and one that resulted in serious injury (loss of a leg). It should be noted that these four accidents occurred during years when construction activity in the state was dramatically reduced. On a national level, cranes are involved in accidents more serious than those caused by other construction equipment, and contribute significantly to construction fatalities.

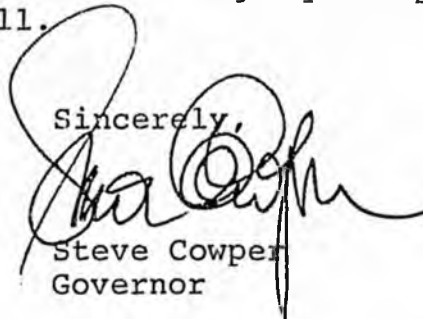
This trend is largely attributable to the fact that cranes have evolved from relatively simple machines to highly complex and sophisticated pieces of equipment. Not surprisingly, the skills necessary to operate them safely and proficiently have likewise become more sophisticated and complex. Unfortunately, training has not kept up to the pace of development, and, in some situations, has been neglected altogether. As a result, it is all too common to find inadequately trained personnel operating cranes. This situation jeopardizes the safety of the operator and the operator's co-workers as well as the general public. The attached bill addresses this problem by providing for crane operator training and certification (licensing).

Under the bill, effective May 15, 1991, all persons operating cranes in the state must be certified. After that date, persons who employ, contract with, or permit a person to operate a crane without a valid certificate will be subject to civil penalties. This program will be administered by the Department of Labor.

Persons interested in obtaining a crane operator certificate will be required to submit an application to the department with proof that they have completed a department-approved training program or that they have 2,000 hours of experience as a crane operator. The department will not actually operate training programs. Rather, it will establish minimum training program requirements. It will then review and approve programs proposed by contractors, labor organizations, public and private schools, vocational institutions, or any other organization interested in operating such a program.

Because of the critical and direct relationship that operator competency has on the safety and health of workers, by assuring that crane operators are properly trained and certified, I hope to minimize the number of crane accidents in our state. I urge your prompt and favorable action on this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the typed name below.

Steve Cowper
Governor

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: SB 376
PUBLISH DATE: 1/8/90

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
 Title: " An Act relating to crane operator certification..." BRU: Labor Standards & Safety
 Sponsor: Rules Committee Components: _____
 Requestor: Governor Occupational Safety & Health

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	43.6	87.1	87.1	87.1	87.1	87.1
TRAVEL	3.5	7.0	7.0	7.0	7.0	7.0
CONTRACTUAL	9.8	19.6	19.6	19.6	19.6	19.6
SUPPLIES	1.0	1.5	1.5	1.5	1.5	1.5
EQUIPMENT	3.0					
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	60.9	115.2	115.2	115.2	115.2	115.2

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

REVENUE	11.7	21.7	16.7	16.7	16.7	16.7
---------	------	------	------	------	------	------

FUNDING: (Thousands of Dollars)

GENERAL FUND	60.9	115.2	115.2	115.2	115.2	115.2
FEDERAL FUNDS						
OTHER						
TOTAL	60.9	115.2	115.2	115.2	115.2	115.2

POSITIONS:

FULL-TIME	2.0	2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

see attached

Prepared by: Tom Stuart, Director Phone: 465-2712
 Division: Labor Standards & Safety Date: 12/5/89

Approved by Commissioner: Jim Sampson Date: 12/5/89
 Agency: Department of Labor

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

Fiscal Note Analysis for:

"An Act relating to crane operator certification..."

This legislation would require the department of review and approve crane operator training programs, assist training vendors to develop training programs, and audit such programs. It would also require us to enforce the certification requirement.

Expenditures:

One new technical position will be needed to develop this new program, review and approve training programs, and assist training vendors in developing their training programs. While this new position will assist in the enforcement of the legislation, because of the number of potential work sites over a very large geographic area where cranes could be in use, existing staff would also have to assist in work site inspections.

It has been our experience that it is possible to develop a certification program with one technical position and absorb the supervision and clerical support with existing staff. However, since we added one technical position for a certification program for hazardous paint handlers, our support staff is now unable to cope with more work. Therefore, it will be necessary to add at least a clerical position along with the technical position for this legislation.

Thus, two new positions, a Crane Inspector Compliance Officer and a Clerk Typist III, along with associated non-personal services costs would be needed to operate this program. Since the effective date of the implementation of this bill is May 15, 1991, the new positions would be hired in January of 1991 to set up the program. In future years they would be funded for a full 12 months.

Revenues:

Two revenue sources are identified in this bill.

First, a fee would be charged once every three years to obtain certification. We estimate a fee of \$100 with about 350 persons applying for the certificate. Thus approximately \$35,000 would be generated every three years, or an average of \$11,667 per year.

Second, there are penalties assessed for non-compliance with this legislation. We estimate \$10,000 in fines in FY 92, and \$5,000 per year as the deterrent effect of the fine takes place.

Position Title Occupational Safety Compliance Officer (Safety Officer)			No. of Positions 1	Range/Step 50B	Barg. Unit LTC
Time Status Full Time	Staff Months 6		Location Anchorage		Election District 8
			Justification		
Type of Expenditure			Amount		
1			2		3
Salary			\$22,100		
Benefits			\$7,200		
Premium Pay					
Other					
Total Personal Services					\$29,300
Travel					\$3,500
Contractual					\$7,300
Commodities					\$700
Equipment					\$1,500
Other					
Total Cost					\$42,300
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004				\$42,300
GF Program Receipts	1005				
Other					

This position will develop the certification program, review and approve training programs, and assist training vendors in developing such training. Also this position will issue the necessary citations for violations.

Travel is for on-site inspection of work sites to determine compliance with certification requirements.

Contractual is for indirect costs associated with the position, space, legal services with the Department of Law, printing and advertising, postage, and miscellaneous contractual services.

Commodities are normal office supplies.

Equipment is for a desk, chair, etc., and is a one time item.

**Request For
New Position**

Agency Department of Labor
 BRU Labor Standards & Safety
 Component Occupational Safety & Health

Page 3 of 4
 Revised Date _____

FY 90

Position Title Clerk Typist II.		No. of Positions 1	Range/Step 8A	Barg. Unit GGU	
Time Status Full Time	Staff Months 6	Location Anchorage		Election District 8	
Type of Expenditure		Justification			
Amount		<p>This position will provide the necessary clerical support for this program.</p> <p>Contractual is for indirect costs associated with the position, space, and miscellaneous contractual services.</p> <p>Commodities are normal office supplies.</p> <p>Equipment is for a desk, chair, filing cabinet, etc., and is a one time item.</p>			
1	2				3
Salary	\$9,800				
Benefits	\$4,500				
Premium Pay					
Other					
Total Personal Services					\$14,300
Travel					
Contractual					\$2,500
Commodities					\$300
Equipment		\$1,500			
Other					
Total Cost		\$18,600			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004		\$18,600		
GF Program Receipts	1005				
Other					

**Request For
New Position**

Agency Department of Labor
 BRU Labor Standards & Safety
 Component Occupational Safety & Health

Page 4 of 4

Revised Date

FY 90



TESTIMONY
ON

SB 376: An Act relating to crane operator certification; and providing for and effective date.

THANK YOU MR. CHAIRMAN. FOR THE RECORD MY NAME IS RESA JERREL I AM THE DIRECTOR OF GOVERNMENTAL RELATIONS FOR THE A.G.C OF ALASKA REPRESENTING MORE THAN 600 MEMBER FIRMS.

WE ARE OPPOSED TO THIS LEGISLATION. WHAT THIS BILL ESSENTIALLY REQUIRES: IS A STATE LICENSE TO OPERATE A CRANE IN THE STATE OF ALASKA. BUT IS THERE A NEED FOR SUCH A LICENSE? WE THINK NOT.

ON THE AVERAGE IN 1988 THERE WERE APPROXIMATELY 212,080 PEOPLE EMPLOYED IN THE STATE. IN JULY OF 1989 THERE WERE 61 NONUNION AND 21 UNION CRANE AND TOWER OPERATORS IN THE STATE. THAT IS ONLY .04% OF THE TOTAL NUMBER OF PEOPLE STATEWIDE IN THE WORK FORCE.

ALASKA ALREADY HAS 74 PAGES OF REGULATIONS COVERING CRANES AND THERE ARE 5 DEPARTMENT OF LABOR BOOKLETS REFERRING TO CRANES. ALSO, IN THOSE REGULATIONS THE EMPLOYER IS REQUIRED TO COMPLY WITH THE:

"POWER CRANE AND SHOVEL ASSOCIATION, MOBILE HYDRAULIC CRANE STANDARD NO.2"

SIDE BOOM CRANES MOUNTED ON WHEEL OR CRAWLER TRACTORS HAVE TO MEET THE REQUIREMENTS OF THE "SAE J743a, 1964." AND,

"ANSI B30.5-1968, SAFETY CODE FOR CRAWLER, LOCOMOTIVE AND TRUCK CRANES"

OPERATORS ALREADY ARE REQUIRED TO MEET THE FOLLOWING

QUALIFICATIONS:

- A. PASS A PRACTICAL OPERATING EXAMINATION, LIMITED TO THE SPECIFIC TYPE OF EQUIPMENT HE WILL OPERATE;
- B. HAVE VISION, WITH OR WITHOUT GLASSES, AT LEAST 20/30 SNELLEN IN ONE EYE AND 20/50 IN THE OTHER EYE;
- C. BE ABLE TO DISTINGUISH RED, GREEN, AND YELLOW REGARDLESS OF THE POSITIONS OF THE COLORS;
- D. HAVE HEARING, WITH OR WITHOUT A HEARING AID, ADEQUATE FOR THE SPECIFIC OPERATION;
- E. HAVE NO HISTORY OF EPILEPSY OR DISABLING CONDITION; AND,

F. BE FAMILIAR AND CONVERSANT WITH SAFE OPERATING PROCEDURES, THE CAPACITY AND LIMITATIONS OF THE EQUIPMENT HE WILL OPERATE, UNDERSTAND THE PROVISIONS OF THESE REGULATIONS PERTAINING TO INSPECTION, OPERATION, LOAD LIMIT TESTS AND BOOM RADII.

THE OPERATION OF A CRANE IS NOT A ONE PERSON OPERATION. IT IS A TWO PERSON OPERATION WITH AN OPERATOR AND AN ATTENDANT. THE ATTENDANT IS REQUIRED TO PASS A PRACTICAL EXAMINATION DEMONSTRATING FAMILIARITY WITH CRANE OPERATIONS AND SAFE HOISTING PROCEDURES, INCLUDING STANDARD VISUAL AND AUDIBLE SIGNAL SYSTEMS, AND THE LOAD LIMIT CAPACITIES OF THE EQUIPMENT HE WILL ATTEND. THE ATTENDANT IS TO ATTEND ONLY TO THE MACHINE HE IS ASSIGNED AND IS NOT TO PERFORM UNRELATED CONCURRENT DUTIES.

IF IT BECOMES NECESSARY TO REPLACE AN OPERATOR OR ATTENDANT PREVIOUSLY ASSIGNED TO A MACHINE, THE WORK MAY NOT COMMENCE UNTIL THE REPLACEMENT HAS BEEN INSTRUCTED BY COMPETENT SUPERVISORY PERSONNEL AS TO THE HAZARDS INVOLVED IN THE PARTICULAR WORK AND WORK PLACE.

WE DO NOT SEE THE NEED TO CREATE A NEW LICENSE FOR A SMALL FRACTION OF WORKERS AND BELIEVE THERE ARE SUFFICIENT REGULATIONS ON THE BOOKS WHICH COVER THE QUALIFICATIONS OF CRANE OPERATORS.



Alaska Wage Rates 1989 For Selected Occupations

State of Alaska
Steve Cowper, Governor

Alaska Department of Labor
Jim Sampson, Commissioner

Research and Analysis Section
Chuck Caldwell, Chief

Prepared by:

Bruce McHardy, Labor Economist
Cristina Klein, Labor Economist
Shirley Vawter, Statistical Technician

In cooperation with:

Alaska Occupational Information Coordinating Committee

Published: December 1989

Table 1.1
Wage Data for Selected Occupations
ALASKA STATEWIDE
July 1989

Occupation	Nonunion				Union			
	High	Low	Avg.	No. of Firms	No. of Employees	Avg.	No. of Firms	No. of Employees
SERVICE (cont.)								
Guards & Watch Guards	\$17.14	\$ 5.00	\$ 7.14	17	249			
Hosts/Hostesses: Restaurant/Lounge/Coffee Shop	10.00	5.00	6.27	11	37			
Housekeepers	25.38	5.25	9.51	28	68	\$ 8.95	4	19
Janitors/Cleaners (except Maids/House Cleaners)	17.31	4.00	7.49	128	341	10.40	13	58
Maids & Housekeeping Cleaners	15.00	4.50	7.81	43	176	7.66	4	93
Medical Assistants	15.00	7.00	11.45	24	39			
Nursing Aides, Orderlies & Attendants	12.28	6.00	9.25	10	69			
Walters & Waitresses	10.00	3.85	4.78	42	404	5.45	5	79
AGRICULTURE, FORESTRY, and FISHING								
Choke Setters	\$14.50	\$10.55	\$12.04	5	50			
Fallers & Buckers	28.57	23.08	26.49	4	44			
Gardeners & Groundskeepers (except Farm)	13.50	4.50	7.69	11	22			
Hook Tenders	16.80	15.00	16.28	5	31			
Log Handling Equipment Operators	16.50	13.55	15.11	5	43			
PRODUCTION/CONSTRUCTION/OPERATING/ MAINTENANCE/MATERIAL HANDLING								
Aircraft Pilots & Flight Engineers	\$75.00	\$ 9.23	\$28.27	19	164			
Automotive Body & Related Repairers	19.80	5.00	13.49	15	56			
Baggers	7.00	4.00	4.93	8	21			
Bus Drivers	18.00	6.00	11.26	16	98			
Cannery & Cold Storage Workers	25.00	4.50	6.78	17	3,245	\$ 6.31	6	1,258
Carpenters	33.50	8.00	20.92	42	288	29.01	10	1,223
Concrete & Terrazzo Finishers	28.59	15.00	20.53	3	9			
Crane & Tower Operators	23.00	6.50	15.43	12	61	23.68	5	21
Earth Drillers (except Oil & Gas)	24.47	8.00	16.30	4	24			
Electrical Powerline Installers/Repairers						26.22	13	119
Electricians	33.40	7.00	19.95	32	115	23.24	20	175
Freight, Stock, & Material Movers: Hand	25.82	4.00	9.86	29	96	12.49	7	20
Glaziers	22.17	10.00	15.85	5	11	22.40	4	15
Hand Packers & Packers	15.50	5.00	8.65	13	166			
Heating, Air Conditioning, & Refrigeration Mechanics/Installers	25.18	7.60	15.38	11	43	19.34	4	13
Helpers, Laborers, & Material Movers: Hand	27.53	3.85	13.70	121	650	16.03	28	264
Hoist & Winch Operators	13.91	9.00	13.36	4	26	17.68	3	26
Industrial Truck & Tractor Operators	32.51	8.00	15.36	18	84	15.39	4	46
Laundry/Drycleaning Machine Operators (except Press)	11.67	4.50	7.75	18	45	7.85	3	13
Line Service Attendants	16.70	4.50	9.14	10	97			
Machinery Maintenance Workers	30.30	5.00	13.00	18	52	17.22	11	54
Machinists	23.10	5.50	15.67	19	53	14.88	7	46
Maintenance Repairers: General Utility	26.68	4.04	13.90	118	408	20.06	21	180
Mechanics: Aircraft	38.39	4.00	16.50	20	233			
Mechanics: Automotive	26.74	5.00	15.23	65	178	20.93	10	54
Mechanics: Bus/Truck & Diesel Engine Specialists	27.50	5.77	16.66	55	228	21.33	15	93
Operating Engineers	32.00	7.50	17.56	27	170	23.47	16	175
Painters/Paperhangers: Construction/Maintenance	24.50	5.00	16.07	9	54	22.52	3	20
Pasteup Workers	15.47	5.50	9.45	6	18			
Plumbers, Pipefitters & Steamfitters	25.20	6.00	14.26	9	16	24.40	18	135



Statistical Quarterly 1st Quarter 1989

by Census Area

ALASKA DEPARTMENT OF LABOR, STEVE COWPER, GOVERNOR, STATE OF ALASKA

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NONAGRICULTURAL WAGE AND SALARY EMPLOYMENT AND EARNINGS BY CENSUS AREA- 1988

INDUSTRY	Nonagricultural Employment												Nonagricultural Earnings		
	Jan.	Feb.	March	April	May	June	July	August	Sept.	Oct.	Nov.	Dec.	Average Monthly Employment	Total Yearly Payroll	Average Monthly Wage
TOTAL	194,740	198,234	201,798	206,600	212,201	218,332	224,575	224,189	225,313	217,039	211,470	210,377	212,080	\$5,879,980,794	\$2,310
Aleutians East Borough	958	1,077	1,273	803	897	1,011	788	1,306	1,044	1,009	1,054	1,041	1,022	24,619,969	2,008
Aleutian Islands West C.A.	3,014	3,432	3,363	3,304	3,041	3,343	3,410	3,166	3,364	3,290	3,153	3,137	3,251	83,488,106	2,140
Anchorage Borough	95,550	96,462	97,248	97,503	98,958	100,229	100,900	99,380	100,391	101,700	100,051	100,375	99,062	2,831,261,961	2,382
Bethel Census Area	3,889	4,026	4,042	4,429	4,321	4,348	4,083	3,902	4,535	4,519	4,345	4,321	4,231	87,696,762	1,727
Bristol Bay Borough	743	751	792	870	1,108	1,313	2,058	1,279	1,085	850	823	806	1,041	24,606,096	1,970
Dillingham Census Area	1,561	1,666	1,611	2,001	2,385	2,958	3,573	2,052	2,486	1,993	1,905	1,986	2,256	50,091,968	1,850
Fairbanks North Star Borough	23,688	23,699	23,908	25,150	25,770	26,039	26,070	27,697	27,638	25,925	25,158	24,909	25,471	683,395,253	2,236
Haines Borough	777	885	1,087	1,155	1,191	1,341	1,529	1,573	1,407	1,249	1,228	1,193	1,218	34,687,253	2,373
Juneau Borough	11,798	12,032	12,243	12,724	12,837	12,746	12,998	13,017	13,476	13,102	12,855	13,038	12,747	357,847,278	2,339
Kenai Peninsula Borough	9,342	9,327	9,532	10,067	11,025	11,650	13,701	12,802	12,441	11,412	10,919	10,848	11,089	298,701,178	2,245
Ketchikan Gateway Borough	5,663	5,933	6,321	6,510	6,763	6,955	7,524	7,955	8,061	7,116	6,825	6,602	6,852	179,114,177	2,178
Kodiak Island Borough	4,354	4,527	4,721	4,268	4,454	4,670	5,284	5,496	5,567	5,078	4,854	4,651	4,835	104,860,236	1,807
Matanuska-Susitna Borough	5,722	5,806	5,867	6,098	6,269	6,077	6,083	6,082	6,502	6,293	6,238	6,107	6,095	139,129,733	1,902
Nome Census Area	2,697	2,801	2,649	2,724	2,752	2,858	2,832	2,893	2,945	3,067	2,943	2,885	2,837	68,903,916	2,024
North Slope Borough	6,025	6,323	6,556	6,632	6,684	7,227	6,658	7,178	7,216	6,735	6,721	6,686	6,723	326,978,646	4,053
Northwest Arctic Borough	1,761	1,739	1,794	1,665	1,682	1,527	1,629	1,707	1,942	2,076	1,980	1,914	1,785	45,438,750	2,122
Prince of Wales-Outer Ketchikan	1,488	1,549	2,064	1,911	2,080	2,173	2,258	2,343	2,293	2,006	1,977	1,912	2,005	50,249,724	2,089
Sitka Borough	3,350	3,354	3,480	3,667	3,747	3,712	3,950	3,953	4,070	3,810	3,610	3,470	3,681	90,337,628	2,045
Skagway-Yakutat-Angoon C.A.	1,038	1,125	1,173	1,388	1,689	2,011	1,990	2,030	2,038	1,555	1,414	1,358	1,573	34,106,204	1,807
Southeast Fairbanks C.A.	1,233	1,238	1,266	1,351	1,395	1,449	1,408	1,426	1,486	1,366	1,279	1,245	1,345	30,505,951	1,890
Valdez-Cordova Census Area	2,825	2,961	3,018	3,556	3,833	4,971	5,293	5,510	5,021	3,578	3,501	3,709	3,999	115,982,048	2,417
Wade Hampton Census Area	1,295	1,323	1,324	1,335	1,395	1,181	1,343	1,375	1,514	1,558	1,506	1,468	1,385	24,127,691	1,452
Wrangell-Petersburg C.A.	2,135	2,326	2,473	2,821	2,911	2,977	3,415	3,372	3,196	2,943	2,692	2,534	2,816	69,794,984	2,065
Yukon-Koyukuk Census Area	2,083	2,174	2,150	2,453	2,521	2,572	2,630	2,718	2,861	2,706	2,332	2,288	2,457	61,408,442	2,082
Undetermined Locations	1,661	1,698	1,843	2,305	2,377	2,993	3,157	3,076	2,724	2,003	1,912	1,894	2,304	62,656,940	2,267

CONSTRUCTION CODE

VOLUME II



OCCUPATIONAL SAFETY AND HEALTH STANDARDS

ALASKA DEPARTMENT OF LABOR
DIVISION OF LABOR STANDARDS AND SAFETY

CONSTRUCTION CODE
VOLUME II

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JIM SAMPSON, COMMISSIONER

STEVE COWPER, GOVERNOR

(A) The employer shall comply with the manufacturer's specifications and limitations applicable to the operation of any and all cranes and derricks. Where manufacturer's specifications are not available, the limitations assigned to the equipment shall be based on the determinations of a qualified engineer competent in this field and such determinations will be appropriately documented and recorded. Attachments used with cranes shall not exceed the capacity, rating, or scope recommended by the manufacturer.

(B) Rated load capacities, and recommended operating speeds, special hazard warning, or instruction, shall be conspicuously posted on all equipment. Instructions or warnings shall be visible to the operator while he is at his control station.

(C) Maximum safe working loads

(i) The maximum manufacturer's rated safe working loads for the various radii at which the boom may be safely used with and without outriggers shall be conspicuously posted near the controls and shall be visible to the operator. The same chart shall be posted outside the cab to be visible to the attendant or signal man.

(ii) A radius indicator (boom-indicating device) shall be provided.

(iii) The posted safe working loads under conditions of use shall not be exceeded.

(D) Hand signals to crane and derrick operators shall be those prescribed by the applicable ANSI standard for the type of crane in use. An illustration of the signals shall be posted at the jobsite.

(E) The employer shall designate a competent person who shall inspect all machinery and equipment prior to each use, and during use to make sure it is in safe operating condition. Any deficiencies shall be repaired, or defective parts replaced, before continued use.

(F) A thorough, annual inspection of the hoisting machinery shall be made by a competent person, or by a government or private agency recognized by the department. The employer shall maintain a record of the dates and results of inspections for each hoisting machine and piece of equipment.

(G) Wire rope shall be taken out of service when any of the following conditions exist:

(i) In running ropes, six randomly distributed broken wires in one lay or three broken wires in one strand in one lay;

(ii) Wear of one-third the original diameter of outside individual wires. Kinking, crushing, birdcaging, or any other damage resulting in distortion of the rope structure;

(iii) Evidence of any heat damage from any cause;

(iv) Reductions from nominal diameter of more than 1/64 inch for diameters up to and including 5/16 inch, 1/32 inch for diameters three-eighths inch to and including three-fourths inch, one-sixteenth inch for diameter seven-eighths inch to one and one-eighths inches inclusive, 3/32 inch for diameters one and one-fourth to one and one-half inches inclusive.

(v) In standing ropes, more than two broken wires in one lay in sections beyond end connections or more than one broken wire at an end connection;

(vi) Wire rope safety factors shall be in accordance with ANSI B.30.5-1968 or SAE J959-1966.

(H) Belts, gears, shafts, pulley, sprockets, spindles, drums, fly wheels, chains, or other reciprocating, rotating or other moving parts or equipment shall be guarded if such parts are exposed to contact by employees, or otherwise create a hazard. Guarding shall meet the requirements of the ANSI B.15.1-1958 Rev., Safety Code for Mechanical Power Transmission Apparatus.

(I) Accessible areas within the swing radius of the rear of the rotating superstructure of the crane, either permanently or temporarily mounted, shall be barricaded in such a manner as to prevent an employee from being struck or crushed by the crane.

(J) All exhaust pipes shall be guarded or insulated in areas where contact by employees is possible in the performance of normal duties.

(K) Whenever internal combustion engine powered equipment is used in enclosed spaces, an exhaust system shall be installed to vent exhaust gases to the outside air.

(L) All windows in cabs shall be of safety glass, or equivalent, that introduces no visible distortion interfering with the safe operation of the machine. Windows shall be in the front and on both sides to give the operator full visibility on both sides and forward. Visibility forward shall provide a vertical range adequate to cover the boom point at all times. The front window shall have a section which can be removed or held open.

(M) Where necessary for rigging or service requirements, a ladder, or steps, shall be provided to give access to a cab roof.

(i) Guardrails, handholds and steps shall be provided for easy access to the car and cab conforming to ANSI B30.5.

(ii) Platforms and walkways shall have anti-skid surfaces.

(N) Fuel tank filler pipe shall be located in such a position, or protected in such manner, as to not allow spill or overflow to run onto the engine, exhaust, or electrical equipment of any machine being fueled.

(i) An accessible fire extinguisher of 5BC rating, or higher, shall be available at all operator stations or cabs of equipment.

(ii) All fuels shall be transported, stored, and handled to meet the rules of sec. 60 of this subchapter. When fuel is transported by vehicles on public highways, U. S. Department of Transportation rules contained in 49 CFR Parts 177 and 393 concerning such vehicular transportation are considered applicable.

(O) Except where electrical distribution and transmission lines have been deenergized and visibly grounded at point of work or where insulating barriers, not a part of or an attachment to the equipment or machinery, have been erected to prevent physical contact with the lines, equipment or machines shall be operated proximate to power lines only in accordance with the following:

(1) For lines rated 50KV. or below, minimum clearance between the lines and any part of the crane or load must be 10 feet;

(ii) For lines rated over 50 kV., minimum clearance between the lines and any part of the crane or load must be 10 feet plus 0.4 inch for each 1kV. over 50 kV., or twice the length of the line insulator, but never less than 10 feet;

(iii) In transit with no load and boom lowered, the equipment clearance must be a minimum of 4 feet for voltages less than 50 kV., and 10 feet for voltages over 50 kV., up to and including 345kV., and 16 feet for voltages up to and including 750 kV.

(iv) A person shall be designated to observe clearance of the equipment and give timely warning for all operations where it is difficult for the operator to maintain the desired clearance by visual means;

(v) Cage-type boom guards, insulating links, or proximity warning devices may be used on cranes, but the use of such devices must not alter the requirements of any other regulation of this subchapter even if such device is required by law or regulation;

(vi) Any overhead wire must be considered to be an energized line unless and until the person owning the line or the electrical utility authorities indicate that it is not an energized line and it has been visibly grounded.

(vii) Before working near transmitter towers where an electrical charge can be induced in the equipment or materials being handled, the transmitter must be de-energized or tests must be made to determine if electrical charge is induced on the crane. The following precautions must be taken when necessary to dissipate induced voltages:

a. The equipment must be provided with an electrical ground directly to the upper rotating structure supporting the boom; and

b. Ground jumper cables must be attached to materials being handled by boom equipment when an electrical charge is induced while working near energized transmitters. Crews shall be provided with nonconductive poles having large alligator clips or other similar protection to attach the ground cable to the load.

c. Combustible and flammable materials must be removed from the immediate area before any operations are begun.

(P) No modification or additions which affect the capacity or safe operation of the equipment shall be made by the employer without the manufacturer's written approval. If such modifications or changes are made, the capacity, operations and maintenance instruction plates, tags, or decals, shall be changed accordingly. In no case shall the original safety factor of the equipment be reduced.

(Q) The employer shall comply with Power Crane and Shovel Association, Mobile Hydraulic Crane Standard No. 2. *

(R) Side boom cranes mounted on wheel or crawler tractors shall meet the requirements of the SAE J743a-1964. * (

(7) Crawlers, Locomotive and Truck Cranes.

(A) All jibs shall have positive stops to prevent their movement of more than five degrees above the straight line of the jib and boom on conventional type crane booms. The use of cable type belly slings does not constitute compliance with this rule.

(B) All crawler, truck, or locomotive cranes in use must meet the applicable requirements for design, inspection, construction, testing, maintenance and operation as prescribed in ANSI B30.5-1968, Safety Code for Crawler, Locomotive and Truck Cranes. However, the written, dated, and signed inspection reports and records of the monthly inspection of critical items prescribed in Section 5-2.1.5 of the ANSI B30.5-1968 standard are not required. Instead, the employer shall prepare a certification record which includes the date the crane items were inspected; the signature of the person who inspected the crane items; and a serial number, or other identifier, for the crane inspected. The most recent certification record must be maintained on file until a new one is prepared. *

(C) Cranes shall be equipped with boom stops.

(D) Operating crew.

(i) Cranes equipped with a rotating working unit shall have a minimum crew of one operator and one attendant

(ii) Only employees qualified by training and/or experience may operate and attend power cranes.

(iii) Operators and attendants assigned to specific equipment in a workplace shall be formally instructed by competent supervisory personnel as to the hazards involved in the particular work and workplace.

(iv) If it becomes necessary to replace an operator or attendant previously assigned to a machine, the work may not commence until the replacement has been instructed by competent supervisory personnel as to the hazards involved in the particular work and workplace.

(v) The operating crew shall consist of the designated operator plus an attendant who shall act only as a safety observer when the crane is in operation if any one of the following criteria exists:

a. If any employee working in the proximity concludes that a danger exists and requests the employer or his representative to assign a safety observer;

b. If the equipment is operating where any part is capable of reaching within 15 feet of an overhead power line;

c. If the equipment can swing in an arc of 360 degrees and the equipment is not accompanied by an oiler, who functions as a safety observer when the equipment is in operation; or

d. If a compliance officer of the Alaska Department of Labor concludes that a danger exists.

(vi) Operators shall be required to meet the following qualifications:

a. Pass a practical operating examination, limited to the specific type of equipment he will operate;

b. Have vision, with or without glasses, at least 20/30 Snellen in one eye and 20/50 in the other eye;

c. Be able to distinguish red, green, and yellow, regardless of the position of the colors;

d. Have hearing, with or without a hearing aid; adequate for the specific operation;

e. Have no history of epilepsy or disabling heart condition; and

f. Be familiar and conversant with safe operating procedures, the capacity and limitations of the equipment he will operate, understand the provisions of these regulations pertaining to inspection, operation, load limit tests and boom radii.

(E) Operating practices.

(i) The operator shall be responsible for operations under his direct control. Whenever there is any doubt as to safety, the operator shall have the authority to stop and refuse to handle loads until safety has been assured.

(ii) The operator shall respond to signals only from the designated attendant (signal man), but shall obey a "stop" signal no matter who gives it.

(iii) The operator shall engage in no practice which will divert his attention while actually engaged in operating the crane.

(iv) Before leaving his crane unattended, the operator shall

a. Land any attached load, bucket, lifting magnet, or other device;

b. Disengage the clutch;