

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10107 SENATE LABOR & COMMERCE

## Native Village Corporations

12548-D  
ATXAM CORPORATION  
DAVID NEVZUROFF  
4000 OLD SEWARD HIGHWAY STE 300  
ANCHORAGE AK 99503

12704-D  
TIHTEET AII, INC.  
ERNEST JAMES  
GENERAL DELIVERY  
BIRCH CREEK AK 99790

11921-D  
CULLY CORPORATION INC.  
SANDRA STUERMER C/O ASRC  
PO BOX 129  
BARROW AK 99723

12059-D  
OSCARVILLE NATIVE CORPORATION  
RUSSELL J GALLAHER  
425 G STREET SUITE 540  
ANCHORAGE AK 99501

12306-D  
LITNIK, INC.  
JEROME M SELBY  
PO BOX 1962  
KODIAK AK 99615

12328-D  
TULKISARMUTE INCORPORATED  
CALISTA CORPORATION  
516 DENALI ST  
ANCHORAGE AK 99503

12104-D  
MANOKOTAK NATIVES LIMITED  
NELS FRANKLIN  
MANOKOTAK  
MANOKOTAK AK 99628

12365-D  
ILIAMNA NATIVES LIMITED  
MYRTLE ANELON  
P O BOX 245  
ILIAMNA AK 99606

12568-D  
NEWTOK NATIVE CORPORATION, INC.  
MARLA GEORGE  
PO BOX 5528  
NEWTOK AK 99559

**Regional Native Corporations**

11039-D  
NANA REGIONAL CORPORATION, INC.  
JACQUELYN R LUKE  
1001 E BENSON BLVD  
ANCHORAGE AK 99508

11044-D  
COOK INLET REGION, INC.  
MARK W KROLOFF  
2525 C ST STE 500  
ANCHORAGE AK 99503

11051-D  
CALISTA CORPORATION  
ANDREW J GJY  
301 CALISTA CT STE A  
ANCHORAGE AK 99501

11058-D  
BRISTOL BAY NATIVE CORPORATION  
TOM HAWKINS  
800 CORDOVA STE 200  
ANCHORAGE AK 99501

11066-D  
SEALASKA CORPORATION  
SIMPSON TILLINGHAST SORENSEN & LORE  
ONE SEALASKA PLAZA SUITE 300  
JUNEAU AK 99801

11079-D  
THE ALEUT CORPORATION  
ROGER W DUBROCK ESQ  
900 WEST 5TH AVE SUITE 700  
ANCHORAGE AK 99501

11082-D  
ARCTIC SLOPE REGIONAL CORPORATION  
DELISIO MORAN GERAGHTY ZOBEL PC  
943 W SIXTH AVE  
ANCHORAGE AK 99501

11083-D  
CHUGACH ALASKA CORPORATION  
CT CORPORATION SYSTEM  
801 W 10TH ST STE 300  
JUNEAU AK 99801

11084-D  
AHTNA, INCORPORATED  
SUSAN L SHERMAN  
P O BOX 649  
GLENNALLEN AK 99588

11085-D  
BERING STRAITS NATIVE CORPORATION  
JACK CARPENTER  
P O BOX 1008  
NOME AK 99762

11086-D  
KONIAG, INC.  
KURT E MARTENS  
4300 B ST STE 407  
ANCHORAGE AK 99503

11093-D  
DOYON, LIMITED  
ALLEN M TODD  
201 1ST AVE STE 300  
FAIRBANKS AK 99701

15167-D  
THE 13TH REGIONAL CORPORATION  
ANN WHIPPLE  
3300 GLENN-DON DRIVE  
ANCHORAGE AK 99504

## Sectional Analysis of HB 357

### Section 1:

- Provides drafting style corrections to make specific reference to AS 10.06.325

### Section 2:

- Provides that a corporation may through its articles of incorporation, establish common shares that are redeemable either at the option of the corporation or on the happening of specified events.
- Provides that preferred shares are redeemable at the option of the corporation, on the happening of a specified event, at the option of the holder, or upon vote of the shareholders.

### Section 3:

- Eliminates the prohibition against share redemption at the option of the holder.
- Clarifies existing law as to share redemption involving an open-end investment company.

### Section 4:

- Establishes general guidelines to be followed in share redemption.
  - Clarifies that AS 10.06.325 is the only manner by which a corporation may issue redeemable shares notwithstanding the provisions of AS 10.06.375 which allow a corporation to impose additional restriction on share redemption.
-

STATEMENT OF TESTIMONY IN SUPPORT SHARE REDEMPTION BILL (HB 357)

Submitted Before the  
House Labor and Commerce Committee  
on  
February 25, 2000

Members of the committee, my name is Julius J. Brecht. I am an attorney and the managing shareholder of the law firm of Wohlforth, Vassar, Johnson & Brecht, A Professional Corporation having offices in Anchorage, Alaska. I am a past director of the Alaska Division of Banking, Securities and Corporations, serving from 1976 through 1980. Since then I have been in private practice in Anchorage, Alaska. My law practice is in the area of business law with a focus on securities, corporate and finance law.

I participated in the development and, later, the review of proposals for a new Alaska corporate code in the late-1970s and through the 1980s. That ten year effort resulted in a bill being enacted by the Alaska Legislature which became the Alaska Corporations Code, effective July 1, 1989. That code is codified at AS 10.06.

As comprehensive as was the effort to prepare and enact the Alaska Corporations Code, the needs of corporate law do change with time. For example, the Alaska Corporations Code provisions on redemption of shares found at AS 10.06.325 was based upon a similar provision of the California Corporation Code at that time. California law had, for some time, prohibited shares which are redeemable at the option of the holder, with limited exception. However, in 1983, the California Corporations Code was changed expressly to allow share redemption at the option of the holder.

HB 357 provides for amendment of the Alaska Corporations Code pertaining to share redemption of an Alaska corporation. The primary focus of the bill is on changes to AS 10.06.325. At present, Section 325 allows share redemption at the option of the

issuing corporation. However, it prohibits an Alaska corporation from selling stock that includes a right in the holder of the stock to require the corporation to redeem the stock.

The bill expands the circumstances under which share redemption may occur. The right to have stock redeemed under specific conditions is an important commercial term in a sale of stock to a holder. It is a provision commonly included in the issuance and sale of redeemable preferred stock. It gives the holder a mechanism for the return of the holder's investment under terms as negotiated with the corporation.

The changes to AS 10.06.325 proposed in HB 357, in major part, simply revise Alaska corporate law to reflect the same changes adopted in California relating to share redemption at the option of the holder. A number of other states, which have become commercial centers in this country, have similar provisions regarding share redemption at the option of the holder. Based upon my limited review of a small portion of those commercial states, I found that, in addition to California, the states of Michigan, Ohio, Connecticut, Delaware and New Jersey have similar provisions.

Even with enactment of HB 357, a share redemption right would continue to be subject to other provisions of the code which preclude the exercise of the redemption right under certain circumstances. A distribution to a corporation's shareholders, e.g., as a result of an exercise of share redemption rights, is prohibited unless certain conditions are met. Those conditions are that the amount of the corporation's retained earnings immediately before the proposed distribution equals or exceeds the amount of the proposed distribution or otherwise satisfies conditions on distributions set forth in the code. These restrictions on distributions are codified at AS 10.06.358.

In my view, the proposed changes to Section 325 do not lessen the provisions of the code protecting shareholders of the corporation. However, the proposed changes will

allow greater flexibility to a corporation's board of directors in addressing capital needs in present day financial markets.

The other provisions of HB 357 make other changes to the Alaska Statutes to accommodate these primary changes to Section 325. I have prepared a brief section-by-section outline of the provisions of the bill. It is attached to this statement of testimony.

In summary, the Alaska Corporations Code is, in my view, presently in need of amendment to recognize the needs of modern corporations, while retaining shareholder protection as already adopted in other commercial states. Specifically, that amendment is needed to incorporate changes to code provisions of California on which Section 325 is based.

Thank you for the opportunity to present this testimony before the committee.

STATEMENT OF TESTIMONY IN SUPPORT OF THE SHARE  
REDEMPTION BILL (HB 357)

Submitted Before the  
House Labor and Commerce Committee  
On  
February 25, 2000

Members of the committee, my name is John M. Lowber. I am a Senior Vice President and the Chief Financial Officer for General Communication, Inc. and its Subsidiaries and have been serving in that capacity for nearly fifteen years. I am also a certified public accountant in the state of Alaska. In my capacity as Chief Financial Officer, it is my responsibility to raise various types of debt and equity financing necessary to meet the requirements of GCI's continuously evolving business plans.

My interest in the proposed revision to the Alaska Corporations Code is based on my recent experience negotiating the terms of a preferred stock transaction.

During the spring of 1999, GCI became interested in raising a modest amount of additional capital in order to fully implement its business plan for the remainder of 1999. Our interest in raising additional capital led us to negotiate with a couple of investors willing to purchase convertible preferred stock of GCI. The company and the potential investors negotiated and executed a term sheet, and attorneys began preparing definitive agreements. It was during this process that it was brought to my attention that, unlike that of many other states, Alaska law does not allow the sale of securities that are redeemable at the option of the holder.

In a normal situation, an investor buys convertible securities that can be ~~exchanged for a fixed number of shares of common stock. As the value of~~ the underlying common stock increases, so does the likelihood that the convertible security will be converted into common stock. The investors' expected strategy is to convert to common stock, usually at a premium to the market price at the time of the initial investment, and then sell the common stock in order to realize the gain on the investment. Oftentimes, the security will provide for an interest element to go along with the conversion feature. The investor enjoys a current return on his or her investment while at the

same time sharing in the upside potential posed by an increase in the value of the common stock.

An investor will generally require protection in the event that the underlying stock does not appreciate or in fact, depreciates. This protection is usually in the form of a redemption option. Should things not materialize as planned, the investor would have the right, under previously negotiated conditions, to ask the Company to redeem the shares. The right to request redemption under certain circumstances provides comfort to the investor that the monies invested will be returned. Absent such a right, the investor would likely require an increased return to compensate for the perceived increase in risk. An increased return to the investor equates to a higher cost of capital to the issuer.

This bill will help Alaska companies raise capital in an increasingly competitive marketplace. Without that opportunity, Alaskan businesses will have an increasingly hard time raising capital to invest in their Alaskan business. Alternatively, businesses may find it necessary to incorporate in other states, driving the services which support incorporation to those states. It is my belief that the legislature should do what it can to eliminate any competitive disadvantages that might arise as a result of incorporating in Alaska

Thank you for your consideration.

Compliments of  
Senator Loren Leman

WOHLFORTH, VASSAR, JOHNSON & BRECHT  
A PROFESSIONAL CORPORATION

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March 28, 2000

Via Facsimile: 907.465.2293  
and U.S. Mail

Representative Lisa Murkowski  
State Capitol  
Room 406  
Juneau, Alaska 99801

Re: Certain Questions Regarding Consequences of Changes Proposed  
by HB 357, a Bill Relating to Share Redemption of Certain Alaska  
Corporations

Dear Representative Murkowski:

You have asked me to respond to two questions that have been raised in Senate floor discussion on HB 357. As you know, that bill changes the manner in which share redemption is allowed involving a domestic corporation, i.e., a corporation formed under Alaska corporate law.

It is my understanding that these questions are essentially as follows:

- Do the changes made by the bill allow management to subvert the best interests of holders of common stock of a corporation through the issuance of preferred stock to holders who might force the corporation into insolvency through a demand for redemption of the preferred stock?
- Are Alaska Native corporations at risk through those changes?

The short answer to both questions is no.

The primary focus of the bill is on changes to AS 10.06.325. At present, Section 325 allows share redemption at the option of the issuing corporation. However, it expressly prohibits an Alaska corporation from selling stock that includes a right in the holder of the stock to require the corporation to redeem the stock. The bill expands the circumstances under which share redemption may

Representative Lisa Murkowski  
State Capitol  
Re: Certain Questions Regarding Consequences  
of Changes Proposed by HB 357  
March 28, 2000  
Page 2

occur for preferred shares to the extent and upon the happening of one or more specified events, at the option of the holder, or upon the vote of at least a majority of the outstanding shares of the class or series to be redeemed.

In response to the first question, under the Alaska Corporations Code, management, i.e., officers and directors of a corporation, is subject to a duty of loyalty and a duty of care to the corporation and its shareholders. In other words, management is prohibited from subverting the best interest of holders of common stock of a corporation whether through the issuance of preferred stock or otherwise. More specifically, any action by management to cause a distribution to shareholders of a corporation is strictly limited through the provisions of AS 10.06.358 prohibiting a distribution that puts a corporation within a specified limit of insolvency. The use of the phrase "distribution to its shareholders" as used in Section 358 is defined in the code at AS 10.06.990(17) to expressly *include* a dividend in shares of the corporation or the purchase or redemption of its shares for cash or property.

The legislative history on the initial enactment of the Alaska Corporations Code in 1988 clearly states that both such dividends and redemption of shares are included within that definition and, therefore, subject to the provisions of Section 358. Even if management were to enter into terms and conditions for the issuance of shares of preferred stock, which included a right of redemption in the holders of that stock, the corporation would, in addition to the restrictions of Section 358, be prohibited under AS 10.06.360 from making a distribution to the shareholders if the corporation is or, as a result of that distribution, would be likely to be unable to meet its liabilities as they mature. Also note that shareholders receiving a prohibited distribution are subject to liability as set forth at AS 10.06.378, including the return of the distribution with interest.

In response to the second question, an Alaska Native corporation is subject to the Alaska Native Claims Settlement Act and is formed pursuant to and subject to Alaska corporate law, i.e., at present the Alaska Corporations Code. To the extent that an Alaska Native corporation is allowed, under the combination of these two laws, to issue preferred stock, the changes in the bill do not lessen the protection of shareholders. However, management of such a corporation is subject to the same duty of care and duty of loyalty to the corporation as any other domestic corporation under the Alaska Corporations Code. Such a corporation is also subject to the restrictions on a distribution by a

Representative Lisa Murkowski  
State Capitol  
Re: Certain Questions Regarding Consequences  
of Changes Proposed by HB 357  
March 28, 2000  
Page 3

corporation set forth under AS 10.06.358 as interpreted through AS 10.06.960(b), (g), and (h).

In summary, the bill expands the circumstances under which share redemption may occur. However, no fundamental change is made under the bill in treatment of preferred stock under the Alaska Corporations Code. The issuance of preferred stock remains subject to the same restriction on a distribution which would result in placing the corporation close to or in insolvency. The bill simply follows the lead of other commercial states, including California, Michigan, Ohio, Connecticut, Delaware and New Jersey, to provide a corporation the flexibility of raising capital under terms generally anticipated in the financial marketplace. Nevertheless, such share redemption is subject to the very strict limitations on a distribution as set forth in AS 10.06.358 and the further prohibitions set forth in AS 10.06.360-10.06.378.

I would be most pleased to respond to other questions which you may have concerning this legislation.

Sincerely,

WOHLFORTH, VASSAR  
JOHNSON & BRECHT



Julius J. Brecht

JJB/neb

**Subject: HB 357**

**Date: Tue, 28 Mar 2000 17:27:09 -0900**

**From: "Dan Branch" <Dan\_Branch@law.state.ak.us>**

**To: <Annette\_Kreitzer@legis.state.ak.us>**

**CC: <Shan\_Han@legis.state.ak.us>**

Dear Senator Leman:

You asked whether the passage of this bill would affect the transfer restrictions placed on settlement common stock issued by a corporation formed under the authority of the Alaska Native Claims Settlement Act (ANCSA). It will not.

At the current time, under ANCSA, a person holding voting shares in a corporation formed under ANCSA may not sell the stock or use it as security for a loan. Nothing in HB 357 will change that.

I understand there was also some concern expressed that HB 357 would increase the financial risk to ANCSA corporations by giving them authority to raise capital by issuing preferred stock.

It is true that the issuance of preferred stock, by any corporation, creates a financial risk to the corporation. However, the passage of HB 357 would not, for the first time, give the ANCSA corporations authority to issued preferred stock. The corporations already have that authority under Section 7(g)(2) of ANCSA. The shareholders of the corporation must first amend the articles of incorporation before issuing such stock.

I hope this answers your questions.

# ALASKA STATE LEGISLATURE

*Chair:*  
MILITARY AND VETERANS AFFAIRS

*Member:*  
JUDICIARY  
COMMUNITY AND REGIONAL AFFAIRS  
LABOR AND COMMERCE



**REPRESENTATIVE LISA MURKOWSKI**  
Government Hill • Elmendorf • East Anchorage

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## Sponsor Statement HB 357

“ An Act Relating to the redemption of shares of certain Alaska corporations.”

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House Bill 357 allows for the redemption of preferred stock at the discretion of the shareholder. By providing this option, Alaska corporations are given an alternative to raise funds and Alaskan investors are given an expanded investment opportunity. As the Alaska Corporate Code stands now, redemption of preferred shares is only at the option of the issuer.

The right to have stock redeemed under specific conditions is an important commercial term in a sale to a holder, a provision commonly included in the sale of redeemable preferred stock. This share redemption right gives the holder an avenue to get the holder's cash back under terms negotiated with the issuing corporation.

With the enactment of this bill, share redemption would continue to be subject to other provisions of the code. For example, redemption is prohibited if the amount of the corporation's retained earnings immediately before the proposed distribution does not equal or exceed the amount of the proposed distribution. These restrictions on distributions are codified as AS 10.06.358.

The Alaska Corporations Code is modeled, in part, after the California Corporations Code which has been amended and expanded to allow issuance of stock that is redeemable under circumstances other than at the option of the issuing corporation. For example, in the case of preferred stock, share redemption is allowed at the option of the holder. A number of other states allow issuance of stock under conditions as provided in the proposed changes to the Alaska Corporations Code. These proposed changes would bring Alaska law in line with these other states and promote commerce in Alaska.

I urge your support of HB 357.

HOUSE BILL NO. 357

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE MURKOWSKI

Introduced: 2/9/00

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the redemption of shares of certain Alaska corporations."

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

3 \* Section 1. AS 10.06.308 is amended to read:

4           Sec. 10.06.308. Issuance of preferred or special classes of shares. If  
5 authorized by the articles of incorporation, a corporation may issue preferred or special  
6 classes of shares

7                   (1) subject to [THE RIGHT OF THE CORPORATION TO REDEEM  
8 ANY OF THE SHARES AT THE PRICE FIXED BY THE ARTICLES FOR]  
9 redemption as provided under AS 10.06.325;

10                   (2) entitling the holders to cumulative, noncumulative, or partially  
11 cumulative dividends;

12                   (3) having preferences over another class or classes of shares for the  
13 payment of dividends;

14                   (4) having preference in the assets of the corporation over another class  
15 of shares upon the voluntary or involuntary liquidation of the corporation;

1 (5) convertible into shares of another class or into shares of a series of  
 2 the same or another class, except a class having prior or superior rights and  
 3 preferences as to dividends or distribution of assets upon liquidation.

4 \* Sec. 2. AS 10.06.325(a) is repealed and reenacted to read:

5 (a) A corporation may provide in the articles of incorporation for one or more  
 6 classes or series of

7 (1) common shares that are redeemable, in whole or in part,

8 (A) at the option of the corporation; or

9 (B) to the extent and upon the happening of one or more  
 10 specified events;

11 (2) preferred shares that are redeemable, in whole or in part,

12 (A) at the option of the corporation;

13 (B) to the extent and upon the happening of one or more  
 14 specified events;

15 (C) at the option of the holder; or

16 (D) upon the vote of at least a majority of the outstanding  
 17 shares of the class or series to be redeemed.

18 \* Sec. 3. AS 10.06.325(b) is amended to read:

19 (b) Notwithstanding the other provisions of this section, [A  
 20 CORPORATION MAY NOT ISSUE REDEEMABLE OR OTHER SHARES THAT  
 21 PURPORT BY THEIR TERMS TO GRANT TO A HOLDER OF THE SHARES THE  
 22 RIGHT TO COMPEL THE CORPORATION TO REDEEM THE SHARES, EXCEPT  
 23 THAT] an open-end investment company registered under the United States Investment  
 24 Company Act of 1940 may, if its articles of incorporation so provide, issue shares that  
 25 are redeemable at the option of the holder at a price approximately equal to the shares'  
 26 proportionate interest in the net assets of the corporation, and a shareholder may  
 27 compel redemption of the shares in accordance with their terms.

28 \* Sec. 4. AS 10.06.325 is amended by adding new subsections to read:

29 (d) Except as provided by AS 10.06.385, a redemption of shares shall be made  
 30 at the price, within the time, and upon the terms and conditions stated in the articles.

31 When the articles permit a partial redemption of a class or series of shares, the articles

1 must prescribe the method of selecting the shares to be redeemed. The method of  
2 selection may be

3 (1) pro rata;

4 (2) by lot;

5 (3) at the discretion of, or in a manner approved by, the board; or

6 (4) upon other terms and conditions stated in the articles.

7 (e) Notwithstanding the provisions of AS 10.06.375, a corporation may not  
8 issue redeemable shares unless the shares are redeemable as provided in this section.

**LEGAL SERVICES****DIVISION OF LEGAL AND RESEARCH SERVICES  
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
State Capitol  
Juneau, Alaska 99801-1182  
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**MEMORANDUM**

March 25, 2000

**SUBJECT:** HB 357 relating to the redemption of corporate shares  
(Work Order No. 21-LS1275\H)

**TO:** Representative Lisa Murkowski  
Attn: Shan

**FROM:**  Theresa Bannister  
Legislative Counsel

You have asked about the meaning of "certain corporations" in the title. It is basically a drafting tool to notify readers that not all corporations with shares are affected by the bill (without the necessity of identifying all of the covered or non-covered corporations in the title). As you can see from an examination of the bill sections, only sections from AS 10.06 (Alaska Corporations Code) are amended. AS 10.06 is one of the basic chapters for the organization of for-profit corporations.

Therefore, only those corporations organized under AS 10.06 or to which the amended sections of AS 10.06 apply (e.g. by cross-reference from another chapter) are affected by the amendment. For example, the bill's provisions do not apply to a foreign corporation that has been issued a certificate of authority under AS 10.06.735, to a business and development industrial corporation organized under AS 10.10, to a cooperative corporation organized under AS 10.15, or to a limited liability company organized under AS 10.50.295 (which resembles the traditional corporation).

If you would like further explanation of this matter or if I can be of further assistance, please advise.

TLB:lmb  
00-016.lmb

Tony Knowles, Governor

**Alaska** Department of Community  
and Economic Development

**Division of Banking, Securities, and Corporations**

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March 24, 2000

The Honorable Lisa Murkowski  
Alaska House of Representatives  
State Capitol Room 406  
Juneau, AK 99801-1182

Dear Representative Murkowski:

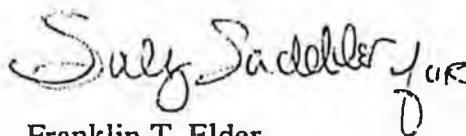
RE: HB 357

You have requested some information from our division on this bill. Specifically, you have asked if this bill only is relevant to telephone companies or to one company in particular. The answer to your inquiry is that the bill is relevant to all corporations that may contemplate raising investment money by issuing preferred shares. The bill amends AS 10.06.325 in particular to provide a corporation the option of issuing preferred shares that are redeemable at the option of the holder as well as preferred shares that are redeemable at the option of the corporation, as has always been allowed. The conditions controlling the redemption would have to be stated in the corporation's articles (see page 2, line 29-30). This applies to all corporations under AS 10.06.

A number of states allow this, including California on whose corporation code much of our current corporation code is based. This bill simply allows the corporations the option; it does not require that preferred shares be redeemable at the option of the holder. Further, AS 10.06 contains several provisions that protect existing shareholders and others from harmful distributions (see, for example) AS 10.06.358-365.

While this bill was not introduced at our request and so we have no official position on it, our division has no objection to the bill. We are not aware of any public policy issue that would cause us to argue that corporations should not at least have the option of issuing shares redeemable at the option of the holders. If you have any further questions, do not hesitate to ask.

Yours truly,



Franklin T. Elder  
Director



Official Business

# Alaska State Legislature

## SENATE LABOR & COMMERCE COMMITTEE

State Capitol  
Juneau, AK 99801-1182

(907)465-3844

### SPONSOR STATEMENT

#### SB 279

“An Act Relating to the redemption of shares of certain Alaska corporations.”

Senate Bill 279 allows for the redemption of preferred stock at the discretion of the shareholder. By providing this option, Alaska corporations are given an alternative method to raise funds and Alaskan investors are given an expanded investment opportunity. As the Alaska Corporate Code stands now, redemption of preferred share is only at the option of the issuer.

The right to have stock redeemed under specific conditions can be an important aspect of a stock sale or transaction. This share redemption right gives the holder an avenue to get the holder's cash back under terms negotiated with the issuing corporation.

Under this bill, preferred share redemption must also comply with other restrictive provisions of the corporation code. For example, redemption is prohibited if the amount of the corporation's retained earnings immediately before the proposed distributions does not equal or exceed the amount of the proposed distribution (AS 10.06.358).

The Alaska Corporations Code is modeled, in large part, after the California Corporations Code. This body of law has since been amended and expanded to allow issuance of stock that is redeemable under circumstances other than at the option of the issuing corporation. A number of other states also allow issuance of preferred stock similar to what is proposed in SB 279.

February 28, 2000

The following is a brief outline of the specific provisions of the share redemption bill (SB 279) as introduced by the Senate Labor and Commerce Committee:

- **Section 1 of the bill –**
  - *Provides* drafting style correction to make specific reference to AS 10.06.325
  
- **Section 2 of the bill –**
  - *Provides* a corporation may through its articles establish common shares that are redeemable, under either of the following –
    - At option of the corporate (present Alaska law)
    - On the happening of specific events (new separate provision follows California law)
  - *Provides* a corporation may through its articles establish preferred share that are redeemable under any of the following –
    - At the option of the corporation (present Alaska law)
    - On the happening of specified events (new separate provision, follows California law)
    - At the option of the holder (new provision, follows California law)
    - Upon vote of shareholders (new provision, follows California law)
  
- **Section 3 of the bill –**
  - *Eliminates* prohibition against share redemption at holder option (follows California law)

- *Clarifies* existing law as to share redemption involving an open-end investment company
  
- **Section 4 of the bill –**
  - *Establishes* guidelines for share redemption (Subsection (d), follows California law) –
    - Must state terms and conditions in articles
    - For partial share redemption, must state share selection method in articles
    - Exception – share redemption at option of corporate (covered by AS 10.06.385)
  
- *Clarifies* AS 10.06.325 is only way to issue redeemable shares (Subsection (e)) –
  
- Notwithstanding provisions of AS 10.06.375 allowing a corporation to impose “additional restriction” on share redemption

STATEMENT OF TESTIMONY IN SUPPORT OF THE SHARE  
REDEMPTION BILL (SB 279)

Submitted Before the  
Senate Labor and Commerce Committee  
On  
February 29, 2000

Members of the committee, my name is John M. Lowber. I am a Senior Vice President and the Chief Financial Officer for General Communication, Inc. and its Subsidiaries and have been serving in that capacity for nearly fifteen years. I am also a certified public accountant in the state of Alaska. In my capacity as Chief Financial Officer, it is my responsibility to raise various types of debt and equity financing necessary to meet the requirements of GCI's continuously evolving business plans.

My interest in the proposed revision to the Alaska Corporations Code is based on recent experience negotiating the terms of a preferred stock transaction.

During the spring of 1999, GCI became interested in raising a modest amount of additional capital in order to fully implement its business plan for the remainder of 1999. Our interest in raising additional capital led us to negotiate with a couple of investors willing to purchase convertible preferred stock of GCI. The company and the potential investors negotiated and executed a term sheet, and attorneys began preparing definitive agreements. It was during this process that it was brought to my attention that, unlike that of many other states, Alaska law does not allow the sale of securities that are redeemable at the option of the holder.

In a normal situation, an investor buys convertible securities that can be exchanged for a fixed number of shares of common stock. As the value of the underlying common stock increases, so does the likelihood that the convertible security will be converted into common stock. The investors' expected strategy is to convert to common stock, usually at a premium to the market price at the time of the initial investment, and then sell the common stock in order to realize the gain on the investment. Oftentimes, the security will provide for an interest element to go along with the conversion feature. The investor enjoys a current return on his or her investment while at the

same time sharing in the upside potential posed by an increase in the value of the common stock.

An investor will generally require protection in the event that the underlying stock does not appreciate or in fact, depreciates. This protection is usually in the form of a redemption option. Should things not materialize as planned, the investor would have the right, under previously negotiated conditions, to ask the Company to redeem the shares. The right to request redemption under certain circumstances provides comfort to the investor that the monies invested will be returned. Absent such a right, the investor would likely require an increased return to compensate for the perceived increase in risk. An increased return to the investor equates to a higher cost of capital to the issuer.

This bill will help Alaska companies raise capital in an increasingly competitive marketplace. Without that opportunity, Alaskan businesses will have an increasingly hard time raising capital to invest in their Alaskan business. Alternatively, businesses may find it necessary to incorporate in other states, driving the services which support incorporation to those states. It is my belief that the legislature should do what it can to eliminate any competitive disadvantages that might arise as a result of incorporating in Alaska.

Thank you for your consideration.

**WOHLFORTH, VASSAR, JOHNSON & BRECHT**  
A PROFESSIONAL CORPORATION

JULIUS J. BRECHT  
CHERYL RAWLS BROOKING  
SYNTHIA L. GARTLEDGE  
BARBARA J. DREYER  
ROBERT M. JOHNSON  
BRADLEY E. NEYEN  
KENNETH E. VASSAR  
MARSHALL T. WHITE  
ERIC C. WOHLFORTH

ATTORNEYS AT LAW  
940 WEST 8TH AVENUE, SUITE 600  
ANCHORAGE, ALASKA 99501-2048

TELEPHONE  
907.278.6401  
FACSIMILE  
907.278.6083

February 29, 2000

Via Facsimile: 907.465.3517  
and U.S. Mail

Senator Jerry Mackie, Chair  
Senate Labor and Commerce Committee  
Alaska Senate, State Capitol, Room 427  
Juneau, Alaska 99801-1182

Re: Statement in Support of SB 279 -- Share Redemption Bill

Dear Senator Mackie:

Please find enclosed a statement of testimony which I respectfully submit to the Senate Labor and Commerce Committee pertaining to SB 279, an act relating to the redemption of shares of certain Alaska corporations.

I am an attorney in private practice and managing shareholder of my firm in Anchorage. I am a past director of the Alaska Division of Banking, Securities and Corporations, serving from 1976 through 1980. Since then, I have been in private practice in Anchorage. My law practice is in the area of business law, with a focus on securities, corporate and finance law. In particular, I have represented General Communication, Inc. on corporate and securities matters for a number of years, including the present share redemption statutory amendment.

It is my understanding that the committee intends to hold hearings on this bill on February 29, 2000. I request the opportunity to offer testimony to the committee via teleconference from Anchorage.

Sincerely,

WOHLFORTH, VASSAR  
JOHNSON & BRECHT



Julius J. Brecht

JJB/neb

Enclosure(s)

**STATEMENT OF TESTIMONY IN SUPPORT SHARE REDEMPTION BILL (SB 279)**

**Submitted Before the  
Senate Labor and Commerce Committee  
on  
February 29, 2000**

Chairman Mackle and members of the committee, my name is Julius J. Brecht. I am an attorney and the managing shareholder of the law firm of Wohlforth, Vassar, Johnson & Brecht, A Professional Corporation having offices in Anchorage, Alaska. I am a past director of the Alaska Division of Banking, Securities and Corporations, serving from 1976 through 1980. Since then I have been in private practice in Anchorage, Alaska. My law practice is in the area of business law with a focus on securities, corporate and finance law.

Thank you for the opportunity to appear before the committee to offer testimony on SB 279, a bill relating to share redemption.

I participated in the development and, later, the review of proposals for a new Alaska corporate code in the late-1970s and through the 1980s. That ten year effort resulted in a bill being enacted by the Alaska Legislature which became the Alaska Corporations Code. That code became effective July 1, 1989 and is codified at AS 10.06.

As comprehensive as was the effort to prepare and enact the Alaska Corporations Code, the needs of corporate law do change with time. For example, the code provisions on redemption of shares found at AS 10.06.325 was based upon a similar provision of the California Corporation Code at that time. California law had, for some time, prohibited shares which are redeemable at the option of the holder, with limited exception. However, in 1983, the California Code was changed expressly to allow share redemption at the option of the holder.

SB 279 provides for amendment of the Alaska Corporations Code pertaining to share redemption of an Alaska corporation. The primary focus of the bill is on changes to AS 10.06.325. At present, Section 325 allows share redemption at the option of the issuing corporation. However, it prohibits an Alaska corporation from selling stock that includes a right in the holder of the stock to require the corporation to redeem the stock.

The bill expands the circumstances under which share redemption may occur. The right to have stock redeemed under specific conditions is an important commercial term in a sale of stock to a holder. It is a provision commonly included in the issuance and sale of redeemable preferred stock. It gives the holder a mechanism for the return of the holder's investment under terms as negotiated with the corporation.

The changes to AS 10.06.325 proposed by the bill before the committee, in major part, simply revise Alaska corporate law to reflect similar changes adopted in California relating to share redemption at the option of the holder. A number of other states, which have become commercial centers in this country, have similar provisions regarding share redemption at the option of the holder. Based upon my limited review of a small portion of those commercial states, I found that, in addition to California, the states of Michigan, Ohio, Connecticut, Delaware and New Jersey have similar provisions.

Even with enactment of SB 279, a share redemption right would continue to be subject to other provisions of the code which preclude the exercise of the redemption right under certain circumstances. A distribution to a corporation's shareholders, e.g., as a result of an exercise of share redemption rights, is prohibited unless certain conditions are met. Those conditions are that the amount of the corporation's retained earnings immediately before the proposed distribution equals or exceeds the amount of the proposed distribution or otherwise satisfies conditions on distributions set forth in the code. These restrictions on distributions are codified at AS 10.06.358.

In my view, the proposed changes to Section 325 do not lessen the provisions of the code protecting shareholders of the corporation. However, the proposed changes will allow greater flexibility to a corporation's board of directors in addressing capital needs in present day financial markets.

The other provisions of SB 279 make other changes to the Alaska Statutes to accommodate these primary changes to Section 325. I have prepared a brief section-by-section outline of the provisions of the bill. It is included with this statement of testimony.

In summary, the Alaska Corporations Code is, in my view, presently in need of amendment to recognize the needs of modern corporations, while retaining shareholder protection as already adopted in other commercial states. Specifically, that amendment is needed to incorporate changes to code provisions of California on which Section 325 is based.

Again, thank you for the opportunity to present this testimony before the committee. I am available should you have questions about the bill.

The following is a brief outline of the specific provisions of the share redemption bill (SB 279) submitted to the Alaska legislature in January 2000:

- **Section 1 of the bill –**
  - *Provides* drafting style correction to make specific reference to AS 10.06.325
  
- **Section 2 of the bill –**
  - *Provides* a corporation may through its articles establish common shares that are redeemable, under either of the following –
    - At option of the corporation (present Alaska law)
    - On the happening of specific events (new separate provision follows California law)
  - *Provides* a corporation may through its articles establish preferred shares that are redeemable under any of the following –
    - At the option of the corporation (present Alaska law)
    - On the happening of specified events (new separate provision, follows California law)
    - At the option of the holder (new provision, follows California law)
    - Upon vote of shareholders (new provision, follows California law)
  
- **Section 3 of the bill –**
  - *Eliminates* prohibition against share redemption at holder option (follows California law)
  - *Clarifies* existing law as to share redemption involving an open-end investment company
  
- **Section 4 of the bill (new provisions) –**
  - *Establishes* guidelines for share redemption (Subsection (d), follows California law) –
    - Must state terms and conditions in articles
    - For partial share redemption, must state share selection method in articles
    - Exception – Share redemption at option of corporation (covered by AS 10.06.385)
  - *Clarifies* AS 10.06.325 is only way to issue redeemable shares (Subsection (e)) –
    - Notwithstanding provisions of AS 10.06.375 allowing a corporation to impose "additional restriction" on share redemption

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. SB279

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Community & Econ. Dev.  
 Title Redemption of shares of certain AK corporations BRU Banking, Securities, and Corporations  
 Component Banking, Securities, and Corporations  
 Sponsor Senate Labor and Commerce  
 Requester Senate Labor and Commerce Component Serial No. 1233

**Expenditures/Revenues** (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2001    | FY 2002    | FY 2003    | FY 2004    | FY 2005    | FY 2006    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

|                          |            |            |            |            |            |            |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts    |            |            |            |            |            |            |
| 1003 GF Match            |            |            |            |            |            |            |
| 1004 GF                  |            |            |            |            |            |            |
| 1005 GF/Program Receipts |            |            |            |            |            |            |
| 1037 GF/Mental Health    |            |            |            |            |            |            |
| Other (Specify Type)     |            |            |            |            |            |            |
| <b>TOTAL</b>             | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY00) cost: \_\_\_\_\_

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

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

The division does not anticipate any fiscal impact with this proposed legislation.

Prepared by Franklin T. Elder, Director Phone 465-2521  
 Division Banking, Securities and Corporations Date/Time 2/29/00 11:16 AM  
 Approved by Commissioner Deborah B. Sedwick Date 2/29/00  
 Agency Community and Economic Development

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**SB**

**280**



Official Business

# Alaska State Legislature

## SENATE LABOR & COMMERCE COMMITTEE

State Capitol  
Juneau, AK 99801-1183

(907)465-3844

April 11, 2000

### MEMORANDUM

To: Senator Torgerson, Co-chair  
Senator Parnell, Co-chair  
Senate Finance Committee

From: Senator Mackie

Re: Schedule for SB 280, Common Carrier Liquor License.

I would appreciate your scheduling SB 280 for a Finance Committee hearing at your earliest convenience. Attached is a sponsor statement for this legislation. If there is any questions or need for additional information, please contact my office or me.

Thank you for your attention to this request.



Official Business

# Alaska State Legislature

## SENATE LABOR & COMMERCE COMMITTEE

State Capitol  
Juneau, AK 99801-1

(907)465-3844

### SPONSOR STATEMENT

#### SB 280, Common Carrier Liquor License

Alaska Airlines has requested that the current licensing requirements for common carrier beverage dispensary licenses be modified for two reasons. First, to simplify the requirements so that adding additional aircraft will not require an entirely new application process, involving filling out the application, supplying supporting exhibits, and posting and publishing the application for a license. Alaska and the Board agree that modifying the statute to simplify obtaining additional common carrier licenses will reduce the clerical and administrative work for both Alaska Airlines and the Board and is therefore in the public interest.

Secondly, Alaska Airlines would like the fees reduced. Alaska currently has 89 and plans to add six or more aircraft each year. The growth of the Alaska Airlines fleet substantially exceeds the growth of its intrastate flying. Since every aircraft must be separately licensed, and every license costs Alaska Airlines \$450 a year (a \$700 biannual fee plus a \$200 license fee), the license fees have become quite high and will continue to escalate at a faster rate than its intrastate flying will escalate. Alaska Airlines only operates a small portion of its fleet on intrastate routes on any given day. In addition, it should be noted that none of the other major airlines serving Alaska, with the possible exception of Delta, obtain Alaska liquor license since they do not operate intrastate. Alaska Airlines believes that it pays substantially more for common carrier licenses than any other licensee in Alaska. It seems fair to reduce the fees to more accurately reflect the costs to the Board of issuing licenses and the intrastate presence that Alaska Airlines actually has. If the proposed bill becomes law, Alaska Airlines will still pay more in fees to Alaska than it pays in any other state.

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. SB280

|   |                                      |                |                                       |
|---|--------------------------------------|----------------|---------------------------------------|
| Revision Date/Time (Note if correction) |                                      | Dept. Affected | Revenue                               |
| Title                                   | <u>Common Carrier Liquor License</u> | BRU            | <u>Alcoholic Beverage Control Bd.</u> |
|   |                                      | Component      | <u>Alcoholic Beverage Control Bd.</u> |
| Sponsor                                 | <u>Senate Labor and Commerce</u>     |                |                                       |
| Requester                               | <u>Senate Labor and Commerce</u>     | Component No.  | <u>100</u>                            |

**Expenditures/Revenues** (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2001    | FY 2002    | FY 2003    | FY 2004    | FY 2005    | FY 2006    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                               |  |               |  |               |  |               |
|-------------------------------|--|---------------|--|---------------|--|---------------|
| <b>CHANGE IN REVENUES ( )</b> |  | <b>(47.0)</b> |  | <b>(47.0)</b> |  | <b>(47.0)</b> |
|-------------------------------|--|---------------|--|---------------|--|---------------|

**FUND SOURCE** (Thousands of Dollars)

|                          |            |            |            |            |            |            |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts    |            |            |            |            |            |            |
| 1003 GF Match            |            |            |            |            |            |            |
| 1004 GF                  |            |            |            |            |            |            |
| 1005 GF/Program Receipts |            |            |            |            |            |            |
| 1037 GF/Mental Health    |            |            |            |            |            |            |
| Other (Specify Type)     |            |            |            |            |            |            |
| <b>TOTAL</b>             | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2000) cost: 0.0

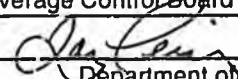
**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

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

Liquor licenses are issued for two years. This biennial licensing approach explains the loss of revenue on even numbered fiscal years only. SB280, as drafted, would apply only to two license holders: Alaska Airlines, which currently licenses all 87 aircraft in its fleet; and Holland America, which holds seasonal licenses for its 13 rail cars. Reducing the fee for common carriers with more than 10 licenses would result in a loss of \$47,000 in revenue to the state every two years. The companies would continue to pay the biennial fee of \$700 per license for the first 10 licenses, and then just \$100 for each additional license.

Because this bill would reduce only the licensing fee, this fiscal note assumes licensees with more than 10 licenses would still pay the \$200 filing fee for each renewal. If the filing fee is waived for licenses after the first 10 held by each licensee, an additional \$16,000 in revenue would be lost every two years.

|   |                                 |
|---|---------------------------------|
| Prepared by: <u>Doug Griffin</u>  | Phone <u>269-0351</u>           |
| Division <u>Alcoholic Beverage Control Board</u>  | Date/Time <u>4/3/00 9:17 AM</u> |
| Approved by Commissioner <u></u> | Date <u>03/31/2000</u>          |
| Agency <u>Department of Revenue</u>   |                                 |

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**SB**

**289**

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. SB 289

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title: Board of Technical and Vocational Education  
 Sponsor: Senate Finance  
 Requestor: Senate Labor and Commerce

Department Affected: Labor  
 BRU: Employment Security  
 Component: Unemployment Insurance  
 COMPONENT SERIAL NO. 2276

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

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

| OPERATING              | FY 2001      | FY 2002      | FY 2003      | FY 2004      | FY 2005      | FY 2006      |
|------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| PERSONAL SERVICES      |              |              |              |              |              |              |
| TRAVEL                 |              |              |              |              |              |              |
| CONTRACTUAL            | 310.0        | 280.0        | 280.0        | 280.0        | 280.0        | 280.0        |
| SUPPLIES               |              |              |              |              |              |              |
| EQUIPMENT              |              |              |              |              |              |              |
| LAND & STRUCTURES      |              |              |              |              |              |              |
| GRANTS & CLAIMS        |              |              |              |              |              |              |
| MISCELLANEOUS          |              |              |              |              |              |              |
| <b>TOTAL OPERATING</b> | <b>310.0</b> | <b>280.0</b> | <b>280.0</b> | <b>280.0</b> | <b>280.0</b> | <b>280.0</b> |

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| CAPITAL |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

|                                    |  |  |  |  |  |  |
|------------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUE<br>FUND SOURCE # |  |  |  |  |  |  |
|------------------------------------|--|--|--|--|--|--|

**FUNDING:** (Thousands of Dollars)

|                         |              |              |              |              |              |              |
|-------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts   |              |              |              |              |              |              |
| 1003 GF Match           |              |              |              |              |              |              |
| 1004 GF                 |              |              |              |              |              |              |
| 1005 GF/Program Receipt |              |              |              |              |              |              |
| 1006 GF/MHTIA           |              |              |              |              |              |              |
| 1007 Inter-Agency       | 310.0        | 280.0        | 280.0        | 280.0        | 280.0        | 280.0        |
| <b>TOTAL</b>            | <b>310.0</b> | <b>280.0</b> | <b>280.0</b> | <b>280.0</b> | <b>280.0</b> | <b>280.0</b> |

**POSITIONS:**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

Estimate of current year (FY00) impact: \$ 0.0

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

(See Attached)

Prepared by: Rebecca Gamez, Director *Rebecca Gamez* Phone: 465-2711  
 Division: Employment Security Division Date/Time: 3/24/00 1:31 PM

Approved by Commissioner: Ed Flanagan, Commissioner *Ed Flanagan*  
 Agency: Department of Labor Date: 3/24/00

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ATTACHMENT

Fiscal Note for SB289

Short Title: Board of Technical and Vocational Education

3/24/2000

SB289 realigns oversight and planning for vocational and technical education in Alaska by creating a new Board of Technical and Vocational Education. Additionally, the bill establishes a new supplementary grant program funded by employer contributions.

Specifically, section 23.15.835 of SB289 identifies the Department of Labor and Workforce Development as the entity that will collect from each employer an amount equal to one-tenth of the wages as set out in A.S.23.20.175, on which the employer is required to make contributions under A.S.23.20.290(c). The bill's effective date is July 1, 2000. In FY2001, the first year, collections are expected to be \$3,225,000. This is due to the lag in collections where revenues come in 30 days after the end of the calendar quarter. Therefore, the collections would occur for the quarters ending in September, December, and March. In FY2002 and subsequent years, \$4,300,000 in revenues are expected on an annual basis. The program is to be administered by the Department of Education and Early Development (DEED) and the collections are expected to be appropriated directly to that department.

The Unemployment Insurance (UI) program in the Employment Security Division of the Department of Labor and Workforce Development has an existing UI tax unit which collects unemployment insurance tax from Alaskan employers and workers. This tax unit and the infrastructure that currently exists to collect taxes from employers will be utilized to collect the new funds under SB289. The collection process is expected to be almost identical to the existing system required for the State Training and Employment (STEP) program. The STEP are funds collected from workers through employers in addition to those collected for UI. The STEP currently pays for their fair and reasonable share of the process costs as established by a federally negotiated shared cost agreement. This is required since the UI program operations are exclusively funded by federal dollars and cannot contribute to non-federal program activities. It is expected the same will be required for HB289. The estimated cost related to the collection and accounting of SB289 funds will be \$280,000. This is shown in the department's fiscal note as an interagency transfer from the new DEED Technical and Vocational Education program. Also, it is expected that a one time cost of \$30,000 will be required to accomplish any data processing development to allow the proper tracking and accounting for the tax collections.

The Administrative Services Division, Labor Management Information component expects to need \$85,000 from DEED to accomplish the required data analysis activities noted in SB289.

# FISCAL NOTE

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

**BILL NO.** SB 289

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title: Board of Technical and Vocational  
Education  
 Sponsor: Senate Finance  
 Requestor: Senate Labor and Commerce

Department Affected: Labor  
 BRU: Administrative Services  
 Component: \_\_\_\_\_  
Labor Management Information  
**COMPONENT SERIAL NO.** 336

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

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

| OPERATING              | FY 2001     | FY 2002     | FY 2003     | FY 2004     | FY 2005     | FY 2006     |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| PERSONAL SERVICES      |             |             |             |             |             |             |
| TRAVEL                 |             |             |             |             |             |             |
| CONTRACTUAL            | 85.0        | 85.0        | 85.0        | 85.0        | 85.0        | 85.0        |
| SUPPLIES               |             |             |             |             |             |             |
| EQUIPMENT              |             |             |             |             |             |             |
| LAND & STRUCTURES      |             |             |             |             |             |             |
| GRANTS & CLAIMS        |             |             |             |             |             |             |
| MISCELLANEOUS          |             |             |             |             |             |             |
| <b>TOTAL OPERATING</b> | <b>85.0</b> | <b>85.0</b> | <b>85.0</b> | <b>85.0</b> | <b>85.0</b> | <b>85.0</b> |

|                |  |  |  |  |  |  |
|----------------|--|--|--|--|--|--|
| <b>CAPITAL</b> |  |  |  |  |  |  |
|----------------|--|--|--|--|--|--|

|                          |  |  |  |  |  |  |
|--------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUE</b> |  |  |  |  |  |  |
| <b>FUND SOURCE #</b>     |  |  |  |  |  |  |

**FUNDING:** (Thousands of Dollars)

|                         |      |      |      |      |      |      |
|-------------------------|------|------|------|------|------|------|
| 1002 Federal Receipts   |      |      |      |      |      |      |
| 1003 GF Match           |      |      |      |      |      |      |
| 1004 GF                 |      |      |      |      |      |      |
| 1005 GF/Program Receipt |      |      |      |      |      |      |
| 1006 GF/MHTIA           |      |      |      |      |      |      |
| 1007 Inter-Agency       | 85.0 | 85.0 | 85.0 | 85.0 | 85.0 | 85.0 |
| <b>TOTAL</b>            |      |      |      |      |      |      |

**POSITIONS:**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

Estimate of current year (FY00) impact: \$ 0.0

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

(See Attached)

Prepared by Remond Henderson, Director *Remond Henderson* Phone: 465-2711  
 Division: Administrative Services Division Date/Time: 3/24/00 1:43 PM

Approved by Commissioner: Ed Flanagan, Commissioner *Ed Flanagan*  
 Agency: Department of Labor Date: 3/24/00

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ATTACHMENT

Fiscal Note for SB289

Short Title: Board of Technical and Vocational Education

3/24/2000

SB289 realigns oversight and planning for vocational and technical education in Alaska by creating a new Board of Technical and Vocational Education. Additionally, the bill establishes a new supplementary grant program funded by employer contributions.

Specifically, section 23.15.835 of SB289 identifies the Department of Labor and Workforce Development as the entity that will collect from each employer an amount equal to one-tenth of the wages as set out in A.S.23.20.175, on which the employer is required to make contributions under A.S.23.20.290(c). The bill's effective date is July 1, 2000. In FY2001, the first year, collections are expected to be \$3,225,000. This is due to the lag in collections where revenues come in 30 days after the end of the calendar quarter. Therefore, the collections would occur for the quarters ending in September, December, and March. In FY2002 and subsequent years, \$4,300,000 in revenues are expected on an annual basis. The program is to be administered by the Department of Education and Early Development (DEED) and the collections are expected to be appropriated directly to that department.

The Unemployment Insurance (UI) program in the Employment Security Division of the Department of Labor and Workforce Development has an existing UI tax unit which collects unemployment insurance tax from Alaskan employers and workers. This tax unit and the infrastructure that currently exists to collect taxes from employers will be utilized to collect the new funds under SB289. The collection process is expected to be almost identical to the existing system required for the State Training and Employment (STEP) program. The STEP are funds collected from workers through employers in addition to those collected for UI. The STEP currently pays for their fair and reasonable share of the process costs as established by a federally negotiated shared cost agreement. This is required since the UI program operations are exclusively funded by federal dollars and cannot contribute to non-federal program activities. It is expected the same will be required for HB289. The estimated cost related to the collection and accounting of SB289 funds will be \$280,000. This is shown in the department's fiscal note as an interagency transfer from the new DEED Technical and Vocational Education program. Also, it is expected that a one time cost of \$30,000 will be required to accomplish any data processing development to allow the proper tracking and accounting for the tax collections.

The Administrative Services Division, Labor Management Information component expects to need \$85,000 from DEED to accomplish the required data analysis activities noted in SB289.

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. SB 289

|   |  |
|---|--|
| Revision Date/Time (Note if correction) _____             | Dept. Affected <u>Education &amp; Early Dev.</u>   |
| Title <u>An Act establishing and relating to the</u>      | BRU <u>New component will be established</u>       |
| <u>Alaska Board of Technical and Vocational Education</u> | Component <u>Alaska Technical &amp; Vocational</u> |
| Sponsor <u>Senate Finance Committee</u>                   | <u>Education Board</u>                             |
| Requester <u>Senate Labor and Commerce</u>                | Component No. _____                                |

**Expenditures/Revenues** (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2001        | FY 2002        | FY 2003        | FY 2004        | FY 2005        | FY 2006        |
|------------------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Personal Services      | 104.0          | 104.0          | 104.0          | 104.0          | 104.0          | 104.0          |
| Travel                 | 7.6            | 7.6            | 7.6            | 7.6            | 7.6            | 7.6            |
| Contractual            | 70.0           | 70.0           | 70.0           | 70.0           | 70.0           | 70.0           |
| Supplies               | 20.0           | 15.0           | 15.0           | 15.0           | 15.0           | 15.0           |
| Equipment              |                |                |                |                |                |                |
| Land & Structures      |                |                |                |                |                |                |
| Grants & Claims        | 3,225.0        | 4,300.0        | 4,300.0        | 4,300.0        | 4,300.0        | 4,300.0        |
| Miscellaneous          |                |                |                |                |                |                |
| <b>TOTAL OPERATING</b> | <b>3,426.6</b> | <b>4,496.6</b> | <b>4,496.6</b> | <b>4,496.6</b> | <b>4,496.6</b> | <b>4,496.6</b> |

|                      |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES |  |  |  |  |  |  |
|----------------------|--|--|--|--|--|--|

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

**FUND SOURCE** (Thousands of Dollars)

|                          |                |                |                |                |                |                |
|--------------------------|----------------|----------------|----------------|----------------|----------------|----------------|
| 1002 Federal Receipts    |                |                |                |                |                |                |
| 1003 GF Match            |                |                |                |                |                |                |
| 1004 GF                  | 201.6          | 196.6          | 196.6          | 196.6          | 196.6          | 196.6          |
| 1005 GF/Program Receipts |                |                |                |                |                |                |
| 1037 GF/Mental Health    |                |                |                |                |                |                |
| Other (Specify Type)     | 3,225.0        | 4,300.0        | 4,300.0        | 4,300.0        | 4,300.0        | 4,300.0        |
| <b>TOTAL</b>             | <b>3,426.6</b> | <b>4,496.6</b> | <b>4,496.6</b> | <b>4,496.6</b> | <b>4,496.6</b> | <b>4,496.6</b> |

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

|           |   |  |  |  |  |  |
|-----------|---|--|--|--|--|--|
| Full-time | 2 |  |  |  |  |  |
| Part-time |   |  |  |  |  |  |
| Temporary |   |  |  |  |  |  |

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

See attached three (3) pages.

|   |                                   |
|---|-----------------------------------|
| Prepared by: <u>Barbara Thompson</u>                          | Phone <u>465-8727</u>             |
| Division <u>Teaching &amp; Learning Support</u>               | Date/Time <u>3/27/00 12:00 AM</u> |
| Approved by Commissioner <u><i>[Signature]</i></u>            | Date <u>3/27/00</u>               |
| Agency <u>Department of Education &amp; Early Development</u> |                                   |

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## SB 289 Fiscal Note Narrative

SB 289 establishes a new Alaska Board of Technical and Vocational Education to provide educational opportunities in the areas of vocational education and training. Planning and coordination activities for the federal Carl D. Perkins Vocational and Applied Technology Education Act (Perkins III) and the Tech Prep Program are moved from the Alaska Human Resource Investment Council (AHRIC) to this new board. The bill also establishes the Alaska technical and vocational education program account (Sec. 23.15.830), new supplementary grant program funded by employer contributions.

### Alaska Technical and Vocational Education Program Account

It is estimated that in FY2001, additional employer contributions to establish this account will total \$3,225,000. In subsequent years, it is estimated that \$4,300,000 will be collected annually. These amounts are reflected on page one of this fiscal note in the Operating Expenditures, under the grant line and in the "Other" category of the Fund Source. These funds will be generated by the Department of Labor and Workforce Development and will be transferred to the new Board.

### New Costs Related to the Establishment and Operation of the Board (ABTVE)

The ABTVE would consist of five members and would meet at the call of the chair to conduct its business, either face-to-face, by audio or teleconferences. Members of the board serve without compensation but are entitled to per diem and travel expenses. New, general fund costs related to the establishment and ongoing operation of this board are reflected below. These costs are reflected on page one of this fiscal note under the Operating Expenditures section. Costs reflect new duties and expenses above and beyond any existing resources available for this Board.

### Personal Services = \$103,996

- ✓ 1 FTE Secretary for the Board, salary and benefits, range 14 A = \$49,000
- ✓ 1 FTE Grants Administrator II, range 17 A = \$54,996

### Travel = \$7,600

- ✓ Travel and per diem for 5 Board Members, two trips per year for 2 days each, meeting in Anchorage - \$766 per member, per meeting = \$7,660

### Contractual = \$70,000

- ✓ Rental of Copier = \$100 per month x 12 months = \$1,200
- ✓ Costs for using phone, copier, postage, fax, \$400 per month x 12 months = \$4,800
- ✓ Four (4) audio or teleconferences per year to conduct business = \$4,000
- ✓ Printing and dissemination (related to publications generated by the Board) = \$10,000
- ✓ Consultants/contractors to assist board in developing standards, data collection requirements, and program evaluation = \$50,000

## SB 289 Fiscal Note Narrative

### Supplies - \$20,000

- ✓ Computer, printer, office furniture, phone, fax machine, file cabinets, paper products, etc. = \$20,000 in year one. Costs will be less in outgoing years.

## SB 289 Fiscal Note Narrative

### Existing Resources in the Department of Education & Early Development

#### Federal Vocational Education and Tech Prep Grant Funding

If an Alaska Board of Technical and Vocational Education (ABTVE) is established, it is expected to manage the non-k-12 portions of the department's vocational technical education programs. Non K-12 portions of the federal Perkins III and Tech Prep grants that are related to postsecondary vocational technical education would transfer to the ABTVE. The amounts to be transferred, dependent upon the FY2001 federal grant award amounts, are reflected below. These amounts include the administrative funds related to each grant that will be needed to carry out these federal grant programs and the .75% management assessment fee to be paid to the Board, as per Section 25.15.825 of the bill. The funding below reflects existing federal resources and is not reflected on page one of this fiscal note.

#### Tech Prep Grant

|                                |                  |
|--------------------------------|------------------|
| Tech Prep Grant Funds          | \$356,750        |
| Tech Prep Administrative Funds | <u>\$ 18,776</u> |
| Total                          | \$375,526        |

#### Carl D. Perkins Basic Grant (Perkins III)

|                                       |                  |
|---------------------------------------|------------------|
| Postsecondary Grant Funds             | \$483,662        |
| Corrections Postsecondary Grant Funds | \$ 10,000        |
| Vocational Leadership Funds           | \$ 29,747        |
| Administrative Funds                  | <u>\$ 55,000</u> |
| Total                                 | \$578,409        |

#### Alaska Vocational Technical Center (AVTEC)

The Alaska Vocational Technical Center (AVTEC) currently pays the Alaska Human Resource Investment Council (AHRIC) a management assessment fee of .75% of its total program costs. If SB 289 becomes law, this fee will go to the newly established Technical Vocational Education Board.

# FISCAL NOTE



STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. SB 289

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: Establishing Board of Technical and Vocational Education BRU: Public Assistance Admin  
 Sponsor: Senate (FIN) Component: Work Services  
 Requestor: Senate (L&C) COMPONENT SERIAL NO. 2337  
 See also (SN#): \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

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

| OPERATING               | FY2001      | FY2002      | FY2003      | FY2004      | FY2005      | FY2006      |
|-------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| PERSONAL SERVICES       |             |             |             |             |             |             |
| TRAVEL                  |             |             |             |             |             |             |
| CONTRACTUAL             | 27.3        | 27.3        | 27.3        | 27.3        | 27.3        | 27.3        |
| SUPPLIES                |             |             |             |             |             |             |
| EQUIPMENT               |             |             |             |             |             |             |
| LAND & STRUCTURES       |             |             |             |             |             |             |
| GRANTS, CLAIMS          |             |             |             |             |             |             |
| MISCELLANEOUS           |             |             |             |             |             |             |
| <b>TOTAL OPERATING</b>  | <b>27.3</b> | <b>27.3</b> | <b>27.3</b> | <b>27.3</b> | <b>27.3</b> | <b>27.3</b> |
| CAPITAL EXPENDITURES    |             |             |             |             |             |             |
| CHANGES IN REVENUES ( ) |             |             |             |             |             |             |

FUND SOURCE (Thousands of Dollars)

|                          |             |             |             |             |             |             |
|--------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts    |             |             |             |             |             |             |
| 1003 GF Match            |             |             |             |             |             |             |
| 1004 GF                  | 27.3        | 27.3        | 27.3        | 27.3        | 27.3        | 27.3        |
| 1005 GF/Program Receipts |             |             |             |             |             |             |
| 1037 GF/Mental Health    |             |             |             |             |             |             |
| Other (please specify)   |             |             |             |             |             |             |
| <b>TOTAL</b>             | <b>27.3</b> | <b>27.3</b> | <b>27.3</b> | <b>27.3</b> | <b>27.3</b> | <b>27.3</b> |

Estimate of any current year (FY2000) cost: \$0.0

**POSITIONS:**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

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

This legislation creates a new five-member "Board of Vocational and Technical Education" charged with the planning and coordination of all technical and vocational education in Alaska. The Board will be funded through a "management assessment fee" charged to a state agency that operates or contracts for employment-related technical and vocational education training programs in the amount of .75% of a program's operating budget. For the purpose of determining this fee, only those funds used to provide Work Search services are considered.

The Board will develop standards for the evaluation of vocational and technical training programs operated or contracted by DCED, DEED, DOLWD, DHSS and the University of Alaska. These agencies must then collect data on employment outcomes and trainee and employer satisfaction. The data will then provided to DOLWD which will perform the evaluations.

DPA currently has a performance measurement system in place that gauges the success of welfare to work services. This system is capable of accommodating the majority of evaluation standards defined by this legislation. (cont.)

Prepared by: Jim Nordlund Phone: 465-2680  
 Division: Public Assistance Date/Time: 3/21/00 9:12 AM  
 Approved by Commissioner: Karen Perdue, Commissioner Date: 3/22/00  
 Agency: Department of Health & Social Services

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**ANALYSIS (cont.):**

Full compliance with the evaluation standard will require funding to support post-employment tracking of welfare recipients and program evaluation. While all DPA contacts and grants are performance-based, post-employment tracking is not currently required. Under this legislation, grantees and contractors will be required to participate in post-employment tracking and conduct trainee and employer satisfaction surveys.

**Assumptions:**

1. Work Search is the only employment-related "training" funded by DPA.
2. Organizations that receive RSA's or grants and contracts from DPA to provide Work Search will include these revenues in their calculation of the proposed management assessment fee.
3. There will be additional costs associated with evaluating program performance via trainee tracking and customer satisfaction surveys.
4. Work services grants and contracts will be increased by 1 percent to fund costs associated with the required evaluation.
5. Fiscal note is based on authorized FY00 funds.

**Calculation:**

Management Assessment fee

FY 00 funds authorized for Work Search services =  $\$1,555.2 \times .01 \times .075 = \$11.7$

Increase in Work Services grants and contracts to cover evaluation and survey costs.

$\$1,555.2 \times .01 = \$15.6$



# Teleconference Participants

TCN: 10600

## Participant Lists

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ALL

Testifiers

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## Participants

Unidentified Testifiers: 0

Unidentified Observers: 0

### ANCHORAGE (ANC)

1 Name: Mrs. Susan Daniels Ans ?s

Phone:

Address:

Affiliation: A.G. offic

City /St /Zip:

Type: Testifier

Bill: SB 289: BOARD OF TECHNICAL AND VOCATIONAL EDUC

*Answer Questions if needed*

2 Name: Ms. Toby Steinberge Ans ?

Phone:

Address:

Affiliation: A.G. Office

City /St /Zip:

Type: Testifier

Bill: SB 289: BOARD OF TECHNICAL AND VOCATIONAL EDUC

*Answer Questions if needed*

3 Name: Ms. Ruth Decampi

Phone:

Address:

Affiliation: Muni of An

City /St /Zip:

Type: Testifier

Bill: SB 289: BOARD OF TECHNICAL AND VOCATIONAL EDUC

### KOTZEBUE (KOT)

1 Name: Mr. Pete Schaeffer

Phone: 907-442-3467

Address: PO Box 296

Affiliation: Kotzebue I

City /St /Zip: Kotzebue AK 99752

Type: Testifier

Bill: SB 240: CHARGE FOR COMMUNITY DEVELOPMENT QUOTA

2 Name: Mr. Gordon Ito

Phone: 907-442-3680

Address: PO Box 307

Affiliation: Self

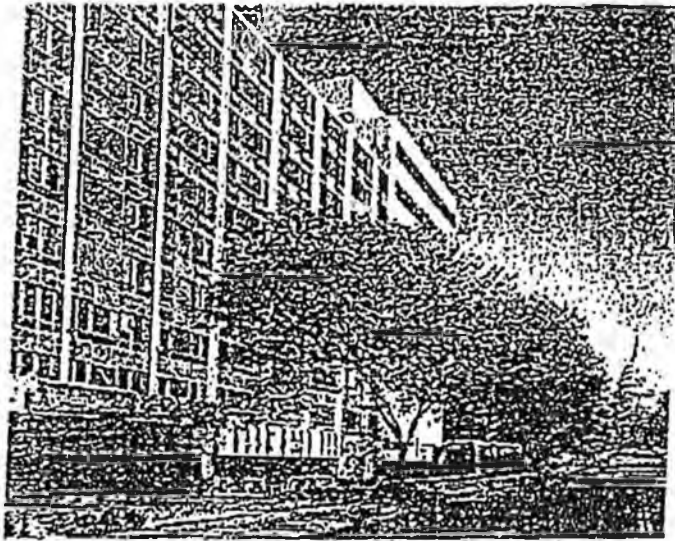
City /St /Zip: Kotzebue AK 99752

Type: Testifier

Bill: SB 240: CHARGE FOR COMMUNITY DEVELOPMENT QUOTA

### MATSU (MAT)

*289*



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Date: 3/27/00

To: Dave Gray

Senate Labor & Commerce

Phone: \_\_\_\_\_

Fax phone: 907 465 3517

NUMBER OF PAGES: 3

From: Mike Andrews  
AHRIC

\_\_\_\_\_

Holiday Inn  
Washington, DC on The Hill

\_\_\_\_\_

415 New Jersey Avenue, NW

\_\_\_\_\_

Washington, D.C. 20001

\_\_\_\_\_

Phone: 202-638-1616

Fax phone: 202-638-0707

REMARKS:     Urgent     For your review     Reply ASAP     Please comment

2 page written testimony on Senate Bill 289  
in L+C committee today for Committee members

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 Director of Sales: Claire Goodwin    [cgoodwin@holinnhill.com](mailto:cgoodwin@holinnhill.com)

Testimony before the Alaska Senate Labor and Commerce Committee on SB #289  
Submitted on behalf of the Alaska Human Resource Investment Council by Mike Andrews,  
Executive Director. March 28, 2000.

Dear Members of the <sup>Senate</sup>~~House~~ Labor & Commerce <sup>Committee</sup>

The Alaska Human Resource Investment Council appreciates the efforts of the Senate Finance Committee to develop legislation that provides a new resource for job training to help close Alaska's skills gap, and for a coordinated state plan across all levels of vocational and technical education. Grants that strengthen vocational-technical education in partnership with employers will increase the state's skill and technical knowledge base while helping meet current and future occupational demand in high-skill, high-wage jobs. This is an appropriate role for government that will directly benefit employers, workers, vocational education programs, students, and the state economy.

However, these two important activities (resources and plan) can be accomplished by legislation without creating a new board, separating vocational education away from AHRIC oversight, or requiring duplicative reporting and accounting functions in two departments. These actions completely reverse the policy and fiscal direction established by the Alaska Legislature and Congress through four new laws reforming the workforce system over the past five years.

- 1995 AHRIC legislation - consolidating three separate boards and their roles into one (AHRIC) which included the Governor's Council on Vocational Education
- 1998 Senate Bill 334 - created performance measures and accountability standards for programs in the workforce system, increased AHRIC oversight over workforce and adult employment education programs, provided for an annual evaluation report to the Legislature on program performance, reduced administration costs, and other changes to streamline and improve the workforce system
- 1999 House Bill 40 - consolidated seventeen federal-state workforce investment and adult education programs from three departments (DOL, DOE, DCRA) to one new department (AKDOLWD).
- 1998 federal Workforce Investment Act - repeals the Job Training Partnership Act, consolidates over sixty federal programs for developing America's workforce and established the AHRIC as the State's Workforce Investment Board.

SB 289 in its present form would create duplicative administrative tasks, costs and processes by:

- moving funds from one department to another and making both account for funds,
- moving data from vendors through one department to another for evaluation and reporting,
- supporting the expense of a new board that must consult with the AHRIC,
- requiring separate reports to the Legislature.

The AHRIC has proven to be effective in providing a forum for industry and employers, the University of Alaska, vocational education, organized labor, Alaska Native organizations, and private sector training providers to work together. The AHRIC has helped develop win-win relationships among partners that promotes academic and applied learning, work experience, career pathways, and industry skills training. Some recent results of these partnerships are:

- Business Learning Consortia – formal partnerships between post-secondary schools, apprenticeship programs and employers to provide skills training and education for current and future workers in Health Care, the Processing Industries (oil, gas, power), Information Technology, Transportation, and the Seafood Processing industry;
- Alaska's Business Education Compact – providing technical assistance and models for employers, school and students to develop school-to-work and Career Pathways initiatives;
- Recent award of \$8 million annually over four years (\$32 M total) for Youth Opportunities to the Alaska Native Coalition for Employment and Training by the US DOL to provide education and programs for out-of-school and at risk youth in rural Alaska;
- \$650,000 federal Regional Skills grant for the Health and Processing Industry Consortia to develop instructors, curriculum, articulated agreements between secondary and post secondary schools for credit transfer and acceptance, and industry standard training.

Other concerns the AHRIC has with SB 289 are:

- no eligibility requirements for persons being trained,
- Employers have not had time to provide a position regarding the use of employer contributions from the U.I. trust fund for such purpose,
- consultation requirements between the AHRIC and the new vocational board are advisory only and blur current oversight roles of the AHRIC, the State Board of Education, and the University of Alaska Board of Regents,
- U. I. money will be used irresponsibly to offset general fund support for vocational and technical education improvements.

As the lead state entity for strategic workforce planning and as advisor to the Governor and Legislature on workforce investment issues, we strongly recommend that:

- the legislature develop the new grant program and provide a panel from among AHRIC's business, education and labor representatives to provide oversight and a resource allocation plan
- initiate the new program as a three year pilot to test and demonstrate the effectiveness of the program to train workers to meet occupational demand in good jobs, and to evaluate actuarial benefits of using employer contributions to the Unemployment Insurance account
- provide for a state vocational and technical education plan covering grades K-16 that identifies the strengths, weaknesses, needs, opportunities, improvements and investment strategies to modernize Alaska's vocational and technical education system.

By amending SB 289 to reflect these changes, the Legislature can increase the progress already made by Alaska's workforce investment and vocational education system with employers to close Alaska's skills gap and prepare future workers. The Legislature and the Administration can and have worked together to reform Alaska's employment education and job training programs. A significantly modified SB 289 can provide a vehicle from which to build a more technically educated and skilled workforce that supplies Alaskan employers with qualified workers and provides Alaska's workforce greater opportunity for success in careers and life.

On behalf of the Council, I thank you for the opportunity to provide testimony on SB 289, and I look forward to answering your questions or providing more information.



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### **SB 289 – Board of Technical and Vocational Education Sponsor Statement**

Oversight of the technical and vocational education programs in Alaska is currently being performed by two groups - the Alaska State Board of Education (BOE) and the Alaska Human Resource Investment Council (AHRIC). (The Alaska Commission on PostSecondary Education also has some peripheral involvement.)

This bill focuses Alaska's technical and vocational education into one new board, making it the authority for:

- ◆ Certification of accredited vocational and technical programs
- ◆ Establishing an Alaskan plan for technical and vocational education
- ◆ Awarding grants to technical and vocational education entities

The bill establishes a new employer fee of the wages paid by employers for unemployment compensation. The annual revenue from this source is expected to be about \$4.25 million annually.

The ATV will establish the guidelines for the grant awards for the new funds as well as other identified funds specific to vocational and technical education.

Passage of this bill will ensure that Alaska is appropriately planning for the technical and vocational education of its people. The state will then be in position to receive funds from the federal government for technical and vocational education programs.



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

DATE: March 27, 2000

RE: Work Draft CS – version \H – 3/24/00 to SB 289 – Board of  
Technical and Vocational Education

---

Page 5 line 30

New subsection (B) which places the STEP under the jurisdiction of the  
ATV

Page 8 line 22

Corrects typographical error – places a "." to accurately show a .75 percent.

Page 9 lines 9 through 20

Section which increases rate paid into the program from  $1/10^{\text{th}}$  from  
employer to  $1.5/10^{\text{th}}$  from employer and employee – totaling  $3/10^{\text{th}}$  of one  
percent.

Page 12 lines 18-26

Transitional language for the first year of operation showing fund  
disbursement.

**CS FOR SENATE BILL NO. 289( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIRST LEGISLATURE - SECOND SESSION**

BY

Offered:  
Referred:

Sponsor(s): **SENATE FINANCE COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act establishing and relating to the Alaska Board of Technical and  
2 Vocational Education; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* Section 1. AS 14.07.020(a)(12) is amended to read:

5 (12) provide educational opportunities in the areas of vocational  
6 education and training, through the Alaska Board of Technical and Vocational  
7 Education, and basic education to individuals over 16 years of age who are no longer  
8 attending school;

9 \* Sec. 2. AS 14.35.020(a) is amended to read:

10 (a) The Alaska [STATE] Board of Technical and Vocational Education  
11 serves as the state board for the purposes of any of the Acts described in  
12 AS 14.35.010.

13 \* Sec. 3. AS 14.35.020(b) is amended to read:

14 (b) When required by any of the Acts described in AS 14.35.010, the Alaska

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**Board of Technical and Vocational Education [BOARD] shall**

(1) prepare, submit, and supervise the administration of the plans for vocational education;

(2) select a state director of vocational education;

(3) establish the minimum qualifications for teachers, supervisors, or directors;

(4) determine the prorated basis on which money shall be available for the salary and necessary travel expenses of the state director of vocational education;

(5) consider the advice of the Alaska Human Resource Investment Council established by as 23.15.550 regarding employment training needs [AND ADVISE THAT COUNCIL IN THE DEVELOPMENT OF VOCATIONAL EDUCATION PROGRAMS].

\* Sec. 4. AS 14.48.040 is amended to read:

**Sec. 14.48.040. Commission and Alaska Board of Technical and Vocational Education to administer chapter. Except as provided in (b) of this section, the** [THE] Alaska Commission on Postsecondary Education shall administer this chapter and may hire necessary personnel. The commission may obtain from departments, commissions, and other state agencies information and assistance needed to carry out the provisions of this chapter.

\* Sec. 5. AS 14.48.040 is amended by adding new subsections to read:

(b) The Alaska Board of Technical and Vocational Education shall administer this chapter with respect to institutions that offer only technical and vocational education programs. In administering this chapter with respect to those institutions, the Alaska Board of Technical and Vocational Education shall exercise the powers and has the duties of the commission under this chapter.

(c) The Alaska Board of Technical and Vocational Education, with the advice of the commission, shall adopt regulations identifying the institutions that fall within its jurisdiction.

\* Sec. 6. AS 16.43.340(a) is amended to read:

(a) In addition to entry permits and interim-use permits, the commission may issue educational entry permits to public, private, or denominational educational

1 institutions accredited by the Department of Education and Early Development or  
2 accredited institutions, career, or vocational programs approved by the Alaska  
3 Commission on Postsecondary Education or the Alaska Board of Technical and  
4 Vocational Education, or full-time nonprofit residential child care facilities licensed  
5 by the Department of Health and Social Services, division of social services, if

6 (1) the program is offered to students at the junior high school level or  
7 above;

8 (2) the issuance of an educational entry permit is reasonably necessary  
9 to the instruction of students under courses offered by the applicant for the educational  
10 entry permit;

11 (3) the program is offered by an institution that is located in the state  
12 and has been in operation for at least two years; and

13 (4) the institution offering the program is not a correspondence  
14 institution.

15 \* Sec. 7. AS 18.63.040(a) is amended to read:

16 (a) The department shall in cooperation with the Alaska Board of Technical  
17 and Vocational Education, as appropriate,

18 (1) establish requirements for basic and supplemental hazardous  
19 painting certificate programs;

20 (2) review, and approve or disapprove, programs proposed by  
21 contractors, labor organizations, public and private schools, vocational education  
22 institutions, and others;

23 (3) assist persons who propose programs to meet requirements for  
24 approval.

25 \* Sec. 8. AS 23.15.575 is amended to read:

26 Sec. 23.15.575. Council as state planning entity. The Alaska Human  
27 Resource Investment Council shall act as the lead state planning and coordinating  
28 entity for state human resource programs administered under

29 (1) 29 U.S.C. 1501 - 1792b (Job Training Partnership Act);

30 (2) [20 U.S.C. 2301 - 2471 (CARL D. PERKINS VOCATIONAL AND  
31 APPLIED TECHNOLOGY EDUCATION ACT)];

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(3) 20 U.S.C. 1201 - 1213d (Adult Education Act);

(3) [(4)] 29 U.S.C. 49 - 491-1 (Wagner - Peyser Act);

(4) [(5)] 42 U.S.C. 681 - 687 (Job Opportunities and Basic Skills Training Program) for needy families with children under the Social Security Act;

(5) [(6)] the employment program established under 7 U.S.C. 2015(d)(4) (Food Stamp Act of 1977);

(6) [(7)] all federal programs designated as successors to the programs listed in (1) - (5) [(1) - (6)] of this section; and

(7) [(8)] all state laws involving [EMPLOYMENT TRAINING, VOCATIONAL EDUCATION,] workforce development [,] and community service other than those involving technical and vocational education.

\* Sec. 9. AS 23.15.580(d) is amended to read:

(d) The council shall provide oversight for the planning and coordination of employment-related education training programs operated by the state or operated under contract with the state that are described in (f) of this section. The council shall require a training program listed in (f) of this section to meet the requirements of this subsection. The council shall, by regulation, establish appropriate penalties for programs that fail to meet the requirements of this subsection. The council may recommend to the legislature changes to enhance the effectiveness of the training programs it oversees under this section. A training program described in (f) of this section funded with money appropriated by the legislature must

- (1) meet the standards adopted by the council concerning the percentage of a grant that may be spent on administrative costs;
- (2) be operated by an institution that holds a valid authorization to operate issued under AS 14.48 [BY THE ALASKA COMMISSION ON POSTSECONDARY EDUCATION] if the program is a postsecondary educational program operated by a postsecondary educational institution subject to regulation under AS 14.48;
- (3) provide to the Department of Labor and Workforce Development the information required by the department for the preparation of the statistical information necessary for the council to evaluate programs by the standards set out in

1 (e) of this section.

2 \* **Sec. 10.** AS 23.15 is amended by adding new sections to read:

3 **Article 7. Alaska Technical and Vocational Education.**

4 **Sec. 23.15.820. Alaska Board of Technical and Vocational Education.** (a)

5 The Alaska Board of Technical and Vocational Education is established in the  
6 Department of Education and Early Development. The board consists of five  
7 members, appointed by the governor and confirmed by the legislature in joint session.  
8 The governor shall appoint each member on the basis of interest in public affairs, good  
9 judgment, knowledge, and ability in the field of action of the board, and with a view  
10 to providing diversity of interest and points of view in the membership.

11 (b) Members of the board serve for staggered terms of three years and may  
12 serve until a successor is appointed. A member appointed to fill a vacancy serves for  
13 the balance of the unexpired term.

14 (c) The board shall meet at the call of the chair to conduct its business. The  
15 board may meet by teleconference. A majority of the members of the board  
16 constitutes a quorum.

17 (d) Members of the board serve without compensation but are entitled to per  
18 diem and travel expenses authorized by law for boards and commissions under  
19 AS 39.20.180.

20 (e) The board shall elect a chair and a vice-chair and other officers considered  
21 necessarily by the board from among the members. The elected officers serve in their  
22 positions at the pleasure of the board.

23 **Sec. 23.15.825. Powers and duties of the board.** (a) The board shall

24 (1) act as the lead state planning and coordinating entity for, and  
25 assume the duties and functions of the state councils described under the laws relating  
26 to, the programs administered under

27 (A) 20 U.S.C. 2301 - 2471 (Carl D. Perkins Vocational and  
28 Applied Technology Education Act) and any federal program designated as  
29 successor to it;

30 (B) AS 23.15.620 - 23.15.660 (state training and employment  
31 program); and

1 (C) all state laws involving technical and vocational education;

2 (2) administer the Alaska technical and vocational education program  
3 established in AS 23.15.820 - 23.15.850;

4 (3) facilitate the development of a statewide policy for a coordinated  
5 and effective technical and vocational education training system in this state and, to  
6 the extent authorized by federal and state law, plan and coordinate federal, state, and  
7 local efforts in technical and vocational education programs;

8 (4) carry out its powers and duties under AS 14.48 with respect to  
9 technical and vocational institutions as described in AS 14.48.040;

10 (5) adopt regulations under AS 44.62 (Administrative Procedure Act)  
11 to carry out the purposes of AS 23.15.820 - 23.15.850, including regulations that set  
12 standards for the percentage of a grant that may be used for administrative costs; the  
13 regulations must clearly identify and distinguish between expenses that may be  
14 included in administrative costs and those that may not be included in administrative  
15 costs; the percentage allowed for administrative costs may not exceed the lesser of five  
16 percent or the amount permitted under the requirements of a federal program, if  
17 applicable;

18 (6) administer the grant program under 23.15.840 and establish grant  
19 administration requirements including accounting procedures that apply to qualified  
20 entities and their grantees;

21 (7) report to the legislature, by the 30th day of each regular legislative  
22 session, on the performance and evaluation of training programs in the state subject  
23 to review under (e) of this section.

24 (b) The board may receive money designated for technical and vocational  
25 education programs and may disburse money, including grants, to technical and  
26 vocational education projects in accordance with AS 37.07 (Executive Budget Act).  
27 The board may enter into partnership agreements through appropriate administrative  
28 agencies with private industry training entities within the state in order to facilitate the  
29 coordination of training opportunities.

30 (c) The board shall provide oversight for the planning and coordination of  
31 employment-related technical and vocational education training programs operated by

1 the state or operated under contract with the state. The board may recommend to the  
2 legislature changes to enhance the effectiveness of the training programs it oversees  
3 under this section. A training program funded by the board must

4 (1) meet the standards adopted by the board concerning the percentage  
5 of a grant that may be spent on administrative costs;

6 (2) be operated by an institution that holds a valid authorization to  
7 operate issued under AS 14.48 if the program is a postsecondary educational program  
8 operated by a postsecondary educational institution subject to regulation under  
9 AS 14.48;

10 (3) provide to the Department of Labor and Workforce Development  
11 the information required by the department for the preparation of the statistical  
12 information necessary for the board to evaluate programs by the standards set out in  
13 (d) of this section.

14 (d) The board shall develop standards that encourage agencies to contract for  
15 training programs that maximize the program's class size. The board shall adopt  
16 standards for the evaluation of training programs listed in (e) of this section with  
17 regard to the following:

18 (1) the percent of former participants who have a job one year after  
19 leaving the training program;

20 (2) the median wage of former participants seven to 12 months after  
21 leaving the program;

22 (3) the percent of former participants who were employed after leaving  
23 the training program who received training under the program that was related to their  
24 jobs or somewhat related to their jobs seven to 12 months after leaving the training  
25 program;

26 (4) the percent of former participants of a training program who  
27 indicate that they were satisfied with or somewhat satisfied with the overall quality of  
28 the training program;

29 (5) the percent of employers who indicate that they were satisfied with  
30 the quality of the work of new employees who had recently completed the training  
31 program.

1 (e) The following training programs are subject to the provisions of (c) and (d)  
2 of this section:

3 (1) in the Department of Community and Economic Development or  
4 operated by the department:

5 (2) in the Department of Education and Early Development or operated  
6 by the department, the non-public-school portions of the following programs:

7 (3) in the Department of Health and Social Services:

8 (4) in the Department of Labor and Workforce Development:

9 (f) The University of Alaska shall evaluate the performance of its training  
10 programs using the standards set out in (d) of this section and shall provide a report  
11 on the results to the board for inclusion in the board's annual report to the legislature.

12 (g) The board shall review each program listed in (e) of this section to  
13 determine whether it is in compliance with the standards set out in (c) and (d) of this  
14 section. If the board finds that a program has failed to comply with the standards set  
15 out in (c) and (d) of this section, it shall notify the program director of the failure. If  
16 the program director fails to improve the performance of the program within a  
17 reasonable time, the board shall notify the governor and the Legislative Budget and  
18 Audit Committee that the program is out of compliance. A contract entered into by  
19 a state agency relating to a training program set out in (e) of this section must contain  
20 terms consistent with this section.

21 (h) A department that operates or contracts for a training program listed in (e)  
22 of this section shall pay to the board a management assessment fee not to exceed .75  
23 percent of the program's annual operating budget. The total amount received as  
24 management assessment fees may not exceed the board's authorized budget for the  
25 fiscal year. The board shall, by regulation, establish a method to determine annually  
26 the amount of the management assessment fee. If the amount the board expects to  
27 collect under this subsection exceeds the authorized budget of the board, the board  
28 shall reduce the percentage so that the total amount of the fees collected approximately  
29 equals the authorized budget of the board for the fiscal year. The board shall adopt  
30 regulations under AS 44.62 (Administrative Procedure Act) necessary to administer  
31 this subsection.

1           **Sec. 23.15.830. Alaska technical and vocational education program**  
2 **account.** The Alaska technical and vocational education program account is  
3 established in the general fund. The commissioner of administration shall separately  
4 account for money collected under AS 23.15.835 that the Department of Labor and  
5 Workforce Development deposits in the general fund. The legislature may appropriate  
6 the annual estimated balance in the account to the board to implement AS 23.15.820 -  
7 23.15.850. The legislature may appropriate the lapsing balance of the account to the  
8 unemployment compensation fund established in AS 23.20.130.

9           **Sec. 23.15.835. Special employer and employee unemployment**  
10 **contributions for program.** (a) In the manner provided in AS 23.20, the Department  
11 of Labor and Workforce Development shall collect from each employer an amount  
12 equal to .0015 percent of the wages, as set out in AS 23.20.175, on which the  
13 employer is required to make contributions under AS 23.20.290(c). The Department  
14 of Labor and Workforce Development shall remit to the Department of Revenue, in  
15 accordance with AS 37.10.050, money collected under this subsection.

16           (b) In the manner provided in AS 23.20, the department shall collect from each  
17 employee an amount equal to .0015 percent of the wages, as set out in AS 23.20.175,  
18 on which the employee is required to make contributions under AS 23.20.290(d). The  
19 department shall remit to the Department of Revenue, in accordance with  
20 AS 37.10.050, money collected under this subsection.

21           (c) The Department of Labor and Workforce Development shall assess and  
22 collect, under AS 23.20.185 - 23.20.275, interest and penalties for delinquent reports  
23 and payments due under this section. Interest and penalties collected shall be handled  
24 in accordance with AS 23.20.130(d).

25           **Sec. 23.15.840. Grants for technical and vocational education.** (a) The  
26 board shall award grants, in accordance with the priority list adopted under (f) of this  
27 section, to technical and vocational education entities. A technical and vocational  
28 entity is eligible for a grant under this section if the entity meets program requirements  
29 and can demonstrate that

30           (1) the entity's accounting systems include controls adequate to check  
31 the accuracy and reliability of accounting data, promote operating efficiency, and

1 assure compliance with program requirements and generally accepted accounting  
2 principles;

3 (2) the entity's activities do not replace or compete in any way with a  
4 federally approved, jointly administered apprenticeship program or any other existing  
5 training programs; and

6 (3) the entity has secured commitments from the private sector to  
7 contribute to the program for which the grant is requested an amount equal to or  
8 greater than the amount of the grant request.

9 (b) The board may not award a grant if the grant would displace money  
10 available through existing public or private technical and vocational education  
11 programs.

12 (c) Subject to the limits of its grant, an entity receiving a grant under this  
13 section shall provide one or more program elements. The program elements include

14 (1) industry-specific training;

15 (2) on-the-job training; and

16 (3) institutional or classroom job-linked training.

17 (d) A technical or vocational educational institution that receives a grant from  
18 the board shall give appropriate state agencies full access to accounting records  
19 concerning the grant to assure compliance with program standards.

20 (e) In making a grant under this section, the board shall require that the  
21 qualified entity and grantees of the qualified entity limit the amount of the grant  
22 proceeds spent on administration so that the total spent on administration from the  
23 proceeds of the technical and vocational education program account, including amounts  
24 spent by the board itself, does not exceed five percent.

25 (f) To the extent that funding is available, grants shall be awarded to entities  
26 that apply for funding by the deadline established by the department by regulation.  
27 The board shall give priority to grant applications from qualified entities whose  
28 purpose is listed first on the list of priorities adopted by the board under this  
29 subsection. If money remains after grants for the first priority have been awarded, the  
30 board may make grants to entities whose purpose is listed next on the list of priorities.  
31 The board shall proceed in this fashion until it has exhausted the money available for

1 granting for the year. The board shall adopt a priority list each year based on  
2 economic, employment, and other relevant data in order to maximize employment  
3 opportunities for participants.

4 **Sec. 23.15.850. Definitions.** In AS 23.15.820 - 23.15.850,

5 (1) "board" means the Alaska Board of Technical and Vocational  
6 Education;

7 (2) "program" means the Alaska technical and vocational education  
8 program established in AS 23.15.820 - 23.15.850.

9 \* **Sec. 11.** AS 23.20.110(a) is amended to read:

10 (a) Except as provided in (h) and (i) of this section, the department shall hold  
11 information obtained from an employing unit or individual in the course of  
12 administering this chapter and determinations as to the benefit rights of an individual  
13 confidential and may not disclose them or open them to public inspection in a manner  
14 that reveals the identity of the individual or employing unit. A claimant or an  
15 employing unit, or the legal representative of the claimant or the employing unit, is  
16 entitled to information from the records of the department to the extent necessary to  
17 properly present or protest a claim or determination under this chapter. Subject to  
18 restrictions that the department prescribes by regulation, the information may be made  
19 available to an agency of this state or another state or federal agency charged with the  
20 administration of an unemployment compensation law or the maintenance of a system  
21 of public employment offices, or, for the purposes of the Federal Unemployment Tax  
22 Act, to the Internal Revenue Service of the United States, or, for tax purposes, to the  
23 Department of Revenue. Information obtained in the course of administering this  
24 chapter or in connection with the administration of the employment service may be  
25 made available to persons or agencies for purposes appropriate to the operation of a  
26 public employment service or the administration of employment and training programs  
27 planned or coordinated by the Alaska Human Resource Investment Council under  
28 AS 23.15.550 - 23.15.585 or by the Alaska Board of Technical and Vocational  
29 Education under AS 23.15.820 - 23.15.850.

30 \* **Sec. 12.** AS 39.25.110(11) is amended to read:

31 (11) the officers and employees of the following boards, commissions,

1 and authorities:

- 2 (A) [REPEALED.
- 3 (B)] Alaska Permanent Fund Corporation;
- 4 (B) [(C)] Alaska Industrial Development and Export Authority;
- 5 (C) [(D)] Alaska Commercial Fisheries Entry Commission;
- 6 (D) [(E)] Alaska Commission on Postsecondary Education;
- 7 (E) [(F)] Alaska Aerospace Development Corporation;
- 8 (F) Alaska Board of Technical and Vocational Education:

9 \* Sec. 13. AS 39.50.200(b) is amended by adding a new paragraph to read:

10 (56) Alaska Board of Technical and Vocational Education.

11 \* Sec. 14. AS 44.62.330(a)(43) is amended to read:

12 (43) Alaska Commission on Postsecondary Education or the Alaska  
13 Board of Technical and Vocational Education under AS 14.48 as to denial of  
14 applications and revocation of authorizations and permits;

15 \* Sec. 15. AS 23.15.580(f)(1)(C) is repealed.

16 \* Sec. 16. The uncodified law of the State of Alaska is amended by adding a new section  
17 to read:

18 PROVISIONS FOR FIRST-YEAR OPERATION. Notwithstanding AS 23.15.840(a),  
19 enacted by sec. 10 of this Act, for the fiscal year ending June 30, 2001, the money collected  
20 under AS 23.15.835, enacted by sec. 10 of this Act, or otherwise appropriated to the Alaska  
21 Vocational and Technical Education Commission shall be allocated directly in the following  
22 percentages to the following institutions for programs consistent with AS 23.15.820 -  
23 23.15.850, enacted by sec. 10 of this Act, and capital improvements:

|    |                                    |             |
|----|------------------------------------|-------------|
| 24 | University of Alaska Anchorage     | 65 percent  |
| 25 | Kotzebue Technical Center          | 12 percent  |
| 26 | Alaska Vocational Technical Center | 23 percent. |

27 \* Sec. 17. The uncodified law of the State of Alaska is amended by adding a new section  
28 to read:

29 VALIDATION OF ACCREDITATIONS ISSUED BY THE POSTSECONDARY  
30 EDUCATION COMMISSION. Notwithstanding the amendments to AS 14.48 made by secs.  
31 4 and 5 of this Act, an authorization to operate issued to a technical or vocational educational

- 1 institution before the effective date of this Act by the Alaska Commission on Postsecondary
- 2 Education under AS 14.48 remains valid until it expires or is revoked under AS 14.48.

3 \* Sec. 18. This Act takes effect July 1, 2000.

**SB**

**297**

## SENATE L&C CHANGES

### SB 297, Chiropractors

The Senate Labor and Commerce committee made three changes to SB 297 that were recommended by the AG's office and the Division of Occupational Licensing.

The first two changes occur in new Section 08.20.165 beginning on page 2. It *replaces* the phrase "hold an inactive license" on line 30 with, "convert a license to inactive status when renewing the license". This change better describes the renewal of an inactive license that remains in an inactive status.

The other change in this section deletes unnecessary references to 24 month limits on the inactive status. This is because a holder of an inactive license must complete all ongoing education requirements in order activate the license.

The final change occurring on page 3, line 21 deleting the phrase "after a hearing" is recommended by the Department of Law to resolve practical legal problems for the board. The license applicant's entitlement to a hearing on an adverse board decision is already provided by the Administrative Procedures Act. Dept. of Law maintains that by also requiring a hearing before any board action would seriously impinge of the board's authority to operate effectively.

AMENDMENT

# 1

OFFERED IN THE SENATE

Sponsor: Sen. Ellis

TO: CS for SB 297 (L&C)

page 2, line 22

After:

“board,”

Delete:

“the”

page 2, line 23

Delete:

“Physiotherapy Examination”

Insert:

“a physiological therapeutic examination”

page 2, line 23

After:

“Examiners”

Insert:

“required by the board”

# Alaska State Legislature

Senator Mike Miller, Chairman  
Senator Pete Kelly, Vice Chairman  
Senator Drue Pearce  
Senator Gary Wilken  
Senator Kim Elton



State Capitol, Rm 119  
Juneau, Alaska 99801-1182  
(907) 465-3762

## Senate Committee on Health, Education and Social Services

### SB 297 SPONSOR STATEMENT

" An Act relating to the licensing of chiropractors."

SB 297 amends the licensing statute for Alaska Chiropractors.

Section 1 allows for a temporary permit to practice chiropractic in Alaska. The temporary license initially is for 60 days and may be extended by the Board of Chiropractic Examiners. It is subject to the same terms and conditions of a regular license. This section also provides for a licensee who does not practice in the state to hold an inactive license. This section finally provides for a retired licensee. A person holding a retired license may not practice chiropractic in the state. A person holding a retired license may apply for an active license subject to terms and conditions set by the board.

Section 2 provides for new reasons why the Board of Chiropractic Examiners may refuse to issue a license in the state. These include conviction of a felony or other crimes that would affect the person's ability to practice competently and safely. Conviction of crime involving the unlawful procurement, sale, prescription, or dispensing of drugs, and attempting to practice after becoming unfit due to an infectious or contagious disease.

Your consideration of this bill is appreciated.



Tony Knowles, Governor

**Division of Occupational Licensing**

P.O. Box 110806, Juneau, AK 99811-0806

Telephone: (907) 465-2534 • Fax: (907) 465-2974 • Text Telephone: (907) 465-6437

Email: License@dced.state.ak.us • Website: www.dced.state.ak.us/occ/

April 3, 2000

The Honorable Jerry Mackie  
State Senate  
State Capitol  
Juneau, AK 99801

Dear Senator Mackie:

The Division of Occupational Licensing strongly supports SB 297, an act relating to the licensing of chiropractors. This bill would allow the Board of Chiropractic Examiners to issue temporary permits, inactive licenses and retired licenses. Most importantly, SB 297 would close a public protection loophole by allowing the Board to deny a license to an applicant for the same reasons that a license holder can be disciplined. The Board requested these changes in its FY99 annual report.

The division requests the following amendments to SB 297:

- 1) page 3, line 2, Delete "after a hearing"  
The actions of the Board are governed by the Administrative Procedures Act, which provides an appeal hearing *after* denial of a license.
- 2) page 2, line 28, Delete "hold an inactive license."  
Insert "renew the license in inactive status, providing the licensee satisfies all the renewal requirements including continuing education."
- 3) page 3, line 1, Following "fees," delete all remaining language on lines 1-5.  
It is necessary for the holder of an inactive license to complete ongoing continuing education in order to be prepared to practice when he or she returns to active status. If continuing education is completed, there is no need for a 24-month limit on inactive status.

Thank you for your consideration of these amendments and for your interest in chiropractic issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Catherine Reardon". The signature is fluid and cursive, written over a horizontal line.

Catherine Reardon, Director

*"Promoting a healthy economy and strong communities"*



# ALASKA PHYSICAL THERAPY ASSOCIATION, INC.

A CHAPTER OF THE AMERICAN PHYSICAL THERAPY ASSOCIATION  
 P.O. BOX 140351 ANCHORAGE, AK 99514-0351  
 PHONE (907) 566-3749

April 3, 2000

State of Alaska  
 Senate Labor and Commerce Committee  
 Juneau, AK 99811

Dear Senator Jerry Mackie, Chair  
 Senator Tim Kelly, Vice-Chair  
 Senator Dave Donley  
 Senator Loren Lemen  
 Senator Lymen Hoffman

The Alaska Physical Therapy Association has some concerns regarding lines 21 and 22 of SB 297 "An Act Relating to the Licensing of Chiropractors." The language in question is *'or have passed, to the satisfaction of the board, the Physiotherapy Examination of the National Board of Chiropractors.'* We do not have an objection to the current statute, however this is new language in the proposed locum tenens temporary permit section 08.20.163. We respectfully ask that this language be omitted from the proposed SB 297.

Physical Therapy and Physical Therapists are defined in the Physical Therapy and Occupational Therapy Statutes section 08.84.190. Section 08.84.130 prohibits false claim of licensure.

At the April 8-9, 1999 State of Alaska Physical Therapy and Occupational Therapy Board Meeting it was resolved that the Board declare its unanimous opinion that "physical therapy" and "physiotherapy" are identical in meaning and that "physical therapists" and "physiotherapists" are identical in meaning.

World wide, physical therapists are known as physiotherapists. Australia, Great Britain, Germany, Italy, and Austria are just a few of the countries where physical therapists are known as physiotherapists. There is a great potential to cause confusion to the consumers of physical therapy with SB 297 lines 21 and 22 as written.

To protect the consumers of both physical therapy and chiropractic care, please omit the language in question of lines 21 and 22 of SB 297. Thank you.

Sincerely,

Karen Grafton M.S.P.T.  
 President  
 Alaska Physical Therapy Association

**Return-Path:** <mveale@gci.net>

**Received:** from amukta.gci.net (amukta.gci.net [208.138.130.216]) by jnu-unix.legis.state.ak.us (8.9.1/8.9.1) with ESMTP id WAA19990 for <Senator\_Jerry\_Mackie@legis.state.ak.us>; Sun, 2 Apr 2000 22:36:31 -0800

**Received:** from computer ([208.138.133.236]) by amukta.gci.net (Netscape Messaging Server 4.05) with SMTP id FSFGYY01.GIZ for <Senator\_Jerry\_Mackie@legis.state.ak.us>; Sun, 2 Apr 2000 22:35:22 -0800

**Message-ID:** <003901bf9d37\$1ab9a780\$ec858ad0@computer>

**From:** "Mary Veale" <mveale@gci.net>

**To:** <Senator\_Jerry\_Mackie@legis.state.ak.us>

**Subject:** SB 297

**Date:** Sun, 2 Apr 2000 22:37:36 -0800

✓ C

**MIME-Version:** 1.0

**Content-Type:** multipart/alternative;  
boundary="-----\_NextPart\_000\_0036\_01BF9CF4.0B9AA260"

**X-Priority:** 3

**X-MSMail-Priority:** Normal

**X-Mailer:** Microsoft Outlook Express 5.00.2919.6600

**Disposition-Notification-To:** "Mary Veale" <mveale@gci.net>

**X-MimeOLE:** Produced By Microsoft MimeOLE V5.00.2919.6600

PO Box 240286  
Douglas, AK 99824  
April 2,2000

Senator Jerry Mackie  
Chairman, Senate Labor and Commerce Committee  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Senator:

I am a Physical Therapist in Juneau. I represent the Alaska Chapter of the American Physical Therapy Association.

We are quite concerned about one word in SB 297. In page one, line 22 a new term is introduced into legislation effecting Chiropractors. This is "Physiotherapy." This would be the first time that this word is introduced to any legislation that does not relate to Physical Therapists. The term "Physiotherapy" is not in the Practice Act of the Chiropractors.

The State of Alaska Board of Physical and Occupational Therapists ruled on April 8-9, 1999 that the term "Physiotherapy" equals the term "Physical Therapy." "Physical Therapy" is protected in the Practice Act for Physical Therapists. Introduction of the term "Physiotherapy" to the Chiropractic Bill could cause confusion to consumers, Chiropractors are not Physical Therapists.

As this language is not currently in the requirements for licensing for Chiropractors, we ask that this term "Physiotherapy" please be removed from the requirements for a temporary permit for locum tenens practice. We could then support this Bill.

Thank you for taking this into consideration.

Sincerely,

**CS FOR SENATE BILL NO. 297(L&C)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE SENATE LABOR AND COMMERCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the licensing of chiropractors and to disciplinary actions  
2 against chiropractors."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* Section 1. AS 08.20 is amended by adding new sections to read:

5 **Sec. 08.20.163. Temporary permit for locum tenens practice.** (a) The  
6 board may grant a temporary permit to a chiropractor for the purpose of the  
7 chiropractor's substituting for another chiropractor licensed in this state. The permit  
8 is valid for 60 consecutive days. If circumstances warrant, an extension of the permit  
9 may be granted by the board.

10 (b) A chiropractor applying under (a) of this section shall pay the required fee  
11 and shall meet the

12 (1) requirements of AS 08.20.120; or

13 (2) following requirements:

14 (A) submit evidence of a current license in good standing,

1 including

2 (i) no action reported in the national licensee database  
3 of the Federation of Chiropractic Licensing Boards;

4 (ii) not having been, within the five years preceding the  
5 date of application, the subject of an unresolved review or an adverse  
6 decision based upon a complaint, investigation, review procedure, or  
7 disciplinary proceeding undertaken by a state, territorial, local, or  
8 federal chiropractic licensing jurisdiction, chiropractic society, or law  
9 enforcement agency that relates to criminal or fraudulent activity,  
10 chiropractic malpractice, or negligent chiropractic care and that  
11 adversely reflects on the applicant's ability or competence to engage in  
12 the practice of chiropractic or on the safety or well-being of patients;  
13 and

14 (iii) no conviction for a felony within the five years  
15 preceding the date of application;

16 (B) submit evidence of five years of active licensed clinical  
17 practice;

18 (C) be a graduate of a school or college of chiropractic that is  
19 accredited by or a candidate for accreditation by the Council on Chiropractic  
20 Education or a successor accrediting agency recognized by the board;

21 (D) have completed 120 hours of formal training in  
22 physiological therapeutics or have passed, to the satisfaction of the board, the  
23 Physiotherapy Examination of the National Board of Chiropractic Examiners;

24 (E) have passed, to the satisfaction of the board, Parts I and II  
25 of the examination of the National Board of Chiropractic Examiners; and

26 (F) pass an examination given by the board.

27 (c) Permits and extensions of permits issued under this section to an individual  
28 are not valid for more than 240 days during any consecutive 24 months.

29 **Sec. 08.20.165. Inactive license status.** (a) A licensee who does not practice  
30 in the state may convert a license to inactive status when renewing the license. A  
31 person who practices in the state, however infrequently, shall hold an active license.

1 A person renewing an inactive license shall meet the same renewal requirements that  
2 would be applicable if the person were renewing an active license.

3 (b) A person who has an inactive license certificate under (a) of this section  
4 may reactivate the license by applying for an active license and paying the required  
5 fees. *Deletion*

6 **Sec. 08.20.167. Retired license status.** (a) Upon retiring from practice and  
7 upon payment of an appropriate one-time fee, a licensee in good standing with the  
8 board may apply for the conversion of an active or inactive license to a retired status  
9 license. A person holding a retired status license may not practice chiropractic in the  
10 state. A retired status license is valid for the life of the license holder and does not  
11 require renewal. A person holding a retired status license is exempt from continuing  
12 education requirements adopted by the board under AS 08.20.170(d).

13 (b) A person with a retired status license may apply for active licensure.  
14 Before issuing an active license under this subsection, the board may require the  
15 applicant to meet reasonable criteria, as determined under regulations of the board, that  
16 may include submission of continuing education credits, reexamination requirements,  
17 physical and psychiatric examination requirements, an interview with the board, and  
18 a review of information in the national licensee database of the Federation of  
19 Chiropractic Licensing Boards.

20 \* **Sec. 2.** AS 08.20.170(a) is amended to read:

21 (a) The board may [, AFTER A HEARING,] impose a disciplinary sanction  
22 on a person licensed under this chapter or refuse to issue a license under this  
23 chapter when the board finds that the person [LICENSEE]

24 (1) secured or attempted to secure a license through deceit, fraud, or  
25 intentional misrepresentation;

26 (2) engaged in deceit, fraud, or intentional misrepresentation in the  
27 course of providing professional services or engaging in professional activities;

28 (3) advertised professional services in a false or misleading manner;

29 (4) has been convicted, including a conviction based on a guilty plea  
30 or plea of nolo contendere, of

31 (A) a felony or other crime that [WHICH] affects the person's

1 [LICENSEE'S] ability to [CONTINUE TO] practice competently and safely;

2 or

3 (B) a crime involving the unlawful procurement, sale,  
4 prescription, or dispensing of drugs;

5 (5) intentionally or negligently engaged in or permitted the performance  
6 of patient care by persons under the licensee's supervision that [WHICH] does not  
7 conform to minimum professional standards established by regulation regardless of  
8 whether actual injury to the patient occurred;

9 (6) failed to comply with this chapter, with a regulation adopted under  
10 this chapter, or with an order of the board;

11 (7) continued or attempted to practice after becoming unfit due to

12 (A) professional incompetence;

13 (B) addiction or severe dependency on alcohol or a drug that  
14 [WHICH] impairs the person's [LICENSEE'S] ability to practice safely;

15 (C) physical or mental disability or an infectious or  
16 contagious disease;

17 (8) engaged in lewd or immoral conduct in connection with the delivery  
18 of professional service to patients; or

19 (9) failed to satisfy continuing education requirements adopted by the  
20 board.

21 \* Sec. 3. AS 08.20.180(a) is amended to read:

22 (a) An applicant for an examination, reexamination, issuance of a temporary  
23 permit under AS 08.20.160, issuance of a locum tenens permit under AS 08.20.163,  
24 one-time issuance of a retired status license, or initial issuance or renewal of an  
25 active or inactive [A] license shall pay a fee established under AS 08.01.065.

## MEMORANDUM

State of Alaska  
Department of Law

TO: Dave Gray  
The Office of the Honorable  
Jerry Mackie

DATE: April 3, 2000

FILE NO: 663-99-0210

TEL NO: 465-3600

SUBJECT: SB 297

FROM:   
G. Ken Truitt  
Assistant Attorney General  
Commercial Section - Juneau

Section 2 of this bill will create some practical legal problems for the Board of Chiropractic Examiners if it is adopted as currently written. The bill proposes to add the language "or refuse to issue a license under this chapter" to subsection (a) (page 3, line 22). This is a good idea from a policy standpoint, however, existing subsection (a) contains the clause "after a hearing" (page 3, line 21). The combination of the two would significantly change the way the Board is able to review routine applications for licensure.

This Board, and all boards established in AS 08, reviews and acts on a voluminous number of applications each time the Board meets as a part of its existing statutory duties. See AS 08.20.055; .110; .120. The Board must deny applicants that do not meet the requirements for licensure. *Id.* Currently, under the Administrative Procedure Act (APA) (AS 44.62.370) an applicant for licensure is entitled to an administrative hearing after the Board denies the applicant's application. This bill, in its current form, would require the Board to hold a hearing before it could deny a license. This would seriously impinge on the Board's authority to operate effectively if it had to convene a hearing to review applications.

This office recommends keeping the proposed language to section 2, line 22 ("or refuse to issue a license under this chapter"), but striking the clause found on line 21: "after a hearing". This will not deny any licensee of a hearing as the APA still would require a hearing before a person's license could be revoked or subject to other discipline. AS 44.62.360. If you have further questions, please do not hesitate to ask.

GKT

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| Post-It* Fax Note | 7671      | Date    | # of pages 1 |
| To                | Dave Gray | From    | Ken Truitt   |
| Co./Dept.         |           | Co.     | AG's Office  |
| Phone #           |           | Phone # |              |
| Fax #             | 3517      | Fax #   |              |

**WRITTEN TESTIMONY  
SENATE LABOR AND COMMERCE COMMITTEE**

**Regarding: SB 297**

Senator Mackey, Chair  
Senator Kelly, Vice Chair  
Senator Donley  
Senator Hoffman  
Senator Lemau

SB 297 "An Act Relating to the Licensing of Chiropractors" is a concern to the Alaska Chapter of the Physical Therapy Association. The area of concern are the lines 21 and 22 which states 'or has passed, to the satisfaction of the board, the Physiotherapy Examination of the National Board of Chiropractors. We oppose this language as it makes a reference to physiotherapy.

Having worked abroad and throughout the United States, as well as involvement statewide and nationwide with our American Physical Therapy Association, have known that physical therapists are synonymous with physiotherapists and physical therapy the same as physiotherapy. The State of Alaska Physical Therapy and Occupational Therapy Board declares that 'physical therapy' and 'physiotherapy', 'physical therapist' and 'physiotherapist' are synonymous in meaning as was noted during an April 8-9, 1999 meeting.

This terminology as stated in lines 21 and 22 may be confusing to our consumers. Who is the physiotherapist, the chiropractor or the physical therapist? Physical Therapy and Physical Therapists are defined in the Physical Therapy and Occupational Therapy Statutes section 08.84.190. Section 08.84.130 and prohibits false claim of licensure.

Please omit the language in question of lines 21 and 22 of SB 297. Thank you very much.

Sincerely,

*Rebecca Byerley, PT*  
Rebecca Byerley  
Vice President  
Alaska Physical Therapy Association  
P.O. Box 2741  
Soldotna, AK 99669

## MEMORANDUM

State of Alaska  
Department of Law

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The Office of the Honorable  
Jerry Mackie


DATE: April 3, 2000

FILE NO: 663-99-0210

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This office recommends keeping the proposed language to section 2, line 22 ("or refuse to issue a license under this chapter"), but striking the clause found on line 21: "after a hearing". This will not deny any licensee of a hearing as the APA still would require a hearing before a person's license could be revoked or subject to other discipline. AS 44.62.360. If you have further questions, please do not hesitate to ask.

GKT

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|-------------------|-----------|---------|-------------|
| Post-It® Fax Note | 7671      | Date    | # of pages  |
| To                | Dave Gray | From    | Ken Truitt  |
| Co./Dept.         |           | Co.     | AG's Office |
| Phone #           |           | Phone # |             |
| Fax #             | 3517      | Fax #   |             |

#HB296

HB 296-UNIFORM PARTNERSHIP ACT

CHAIRMAN MACKIE called the Senate Labor and Commerce Committee meeting to order at 1:40 p.m. and announced HB 296 to be up for consideration.

#SB297

SB 297-BOARD OF CHIROPRACTIC EXAMINERS

CHAIRMAN MACKIE announced SB 297 to be up for consideration.

MS. SHARON CLARK, Aide to Senator Miller, said this bill was introduced on behalf of the chiropractors. She said that SB 297 is an act relating to licensing of chiropractors. It amends the licensing statute for Alaskan chiropractors.

Section 1 allows for a temporary permit to practice chiropractic in Alaska. It is for fifty days initially and may be extended by the Board of Chiropractic Examiners. It is subject to the same terms and conditions of a regular license

This section also provides for a licensee who does not practice in the State to hold an inactive license. It also provides for a retired licensee. A person holding a retired license may not practice chiropractic in the State. They may apply for an active license subject to terms and conditions set by the Board.

Section 2 provides new reasons why the Board of Chiropractic Examiners may refuse to issue a license in the State. These include a conviction of a felony or other crime that would affect the person's ability to practice competently and safely. Commission of crime involving the unlawful procurement, sales, prescription or dispensing of drugs, and attempting to practice after becoming unfit due to an infectious or contagious disease.

Ms. Mary Vaele, American Physical Therapy Association, said the bill is fine. They don't have any complaints with registering local chiropractors, but have one question on the first page on lines 21 - 22 and the use of the term "physiotherapy." She explained that many other English speaking countries a physiotherapist is a physical therapist. So they would like to keep that terminology out of the chiropractic legislation.

She said that she understands that this is an optional exam for the chiropractors. She doesn't think it is required for the rest of the chiropractors in the State.

MS. CATHERINE REARDON, Director, Division of Occupational Licensing, explained the exams are set in regulation (under statute) for the regular full licenses. Therefore, the Board has the authority to chose the exam. There are five parts to the chiropractic exam; the physical therapy exam is one of those parts.

The current regulations on exams do require for people who passed after a certain date..."12 AC16.037: An applicant must pass each subject of the following parts of the examination: the National Board of Chiropractic Examiners and the elected physiotherapy examination." Her understanding is that it is not regulation that they are requiring that physiotherapy examination section now. It doesn't appear in the statute because that just says, "The Board can adopt by regulation...."

CHAIRMAN MACKIE asked if that should be in the proposed statute or not.

MS. REARDON said her personal opinion was that it should appear as it appears in the bill.

SENATOR KELLY asked what physiotherapy was. He asked if it was addressed in statute.

MS. REARDON responded that it is addressed in statute in that the definition of the practice of chiropractic in AS 08.20.900 includes the employment of physiological therapeutic procedures preparatory to and complimentary with the correction of the subluxation. A further definition defines physiological therapeutic goes on for several paragraphs. She said it looks like it is the pushing, massaging, and maneuvering of someone to result in the subluxation, which is out of alignment, being corrected.

SENATOR KELLY asked Ms. Veale if she has training in this area.

MS. VEALE said yes and added that her definition of physical therapy is different from a chiropractic definition of physical therapy. It's semantics, but the terminology concerns her.

Number 2306

DR. LORAN MORGAN, President, Chiropractic Society, said there is concern with the use of the word "physiotherapy." In AS 08.20.120 the term "physiotherapy" is used by the National Board of

Chiropractic Examiners as the name of the test. To be synonymous across the board, they use the same terminology so when someone from Washington D.C., for instance, comes to Alaska and takes the test, they know what exact test they need to take. It's being consistent with the Board of Chiropractic Examiners terminology.

He said it is now in Alaska statutes as a National Board of Examiners requirement - 12AAC16.037.

CHAIRMAN MACKIE asked him if he supports the bill.

DR. MORGAN said yes.

CHAIRMAN MACKIE asked Ms. Clark if the proposed CS in their packet was the one that Senator Miller was offering.

MS. CLARK responded that it is the CS that came about this morning on behalf of the Department. She said that Senator Miller has no problem with it.

**TAPE 00-13, SIDE B**  
Number 2300

MR. DAVE GRAY, Aide to Senate Labor and Commerce, informed the Committee that a letter from Catherine Reardon suggested "clean-up" language. There was also a letter from the Attorney General suggesting taking out one phrase. The CS deals with those concerns which seemed legitimate.

SENATOR LEMAN moved to adopt the CS version G/Lauterbach4/4. There were no objections and it was so ordered.

MS. KAREN GRAFTON, President, Alaska Physical Therapy Association, said one of their main concerns is line 21 which says "physiotherapy examination." In April 1999, the State of Alaska Physical Therapy Board and Occupational Therapy Board resolved that the Board declared its unanimous opinion that physical therapy and physiotherapy were identical in meaning and that physical therapist and physiotherapist are identical in meaning.

To name an exam "physiotherapy examination" within the chiropractic statutes opens up the door to confusion for the public. Worldwide, physiotherapy is physical therapy. The United State is the only country where they are titled physical therapists. Austria, Australia, New Zealand, Germany, and Italy are all physiotherapists. She asked that the word "physiotherapy" be removed.

In addition, AS 18.20.120, qualifications for a license, says "to have completed the exam by the National Board of Chiropractors". Her concern is that the locumpentum section is different than the permanent licensure section. She asked that the word "physiotherapy" be removed from line 21.

SENATOR LEMAN noted that it was line 23 on the current version.

SENATOR KELLY commented that they were getting caught up in semantics and asked if this door hadn't been open for years already. Haven't we been referring the physiotherapy examinations for several years in statute.

CHAIRMAN MACKIE responded that was what the Department tells them.

SENATOR KELLY asked Ms. Reardon if this wasn't just a status quo.

MS. REARDON said it wasn't.

MS. GRAFTON responded that she didn't see the word "physiotherapy examination" in the Chiropractic Practice Act. Currently, in her book page 3, says "the exam from the National Board of Chiropractors" which she has no problem with. She asked if the National Association changes the name of their exam, are they going to have to reopen the Practice Act to retitile the exam.

MS. REARDON responded that what the previous witness said about the standard license - "the exam of the National Association in regulation". So the word does not appear in statute, but it appears in regulations. But sprinkled through the actual statute, there are references to physiologic therapy. All that they achieve by removing this reference, is leaving the other four references to physiological therapy that are in the core definition of what is chiropractic. It doesn't full resolve the issue.

Also, if you choose to eliminate the term in this bill, she asked that they not just take out the exam, because she thought the committee would want them to pass the exam, but to once again say "the exams identified by the Board in regulations."

SENATOR KELLY asked how long regulations have required that they pass a physiotherapy exam.

MS. REARDON replied said she thought that was relatively new, but the other references in statute have been there for years.

MS. GRAFTON inserted that they have no problem with physiologic therapeutics as written in the current Practice Act. They have a problem with the term "physiotherapy" which our State Board has stated and resolved is the same thing as physical therapy.

SENATOR LEMAN said the examination of the National Board of Chiropractic Examiners probably has within it part of it as physiologic therapeutics. The next section says, "...has passed to the satisfaction of the Board parts 1 and 2 of the examination." He asked whether a part of that examination deals with physiological therapeutics and, if so, could that part of the examination be referenced.

MS. REARDON explained the problem is that part is called the physiotherapy examination. That is why it is capitalized on line 23. There are five parts of the National Board. Part 1 covers basic science subjects, part 2 covers clinical subjects, part 3 is the written competency exam, part 4 is the practical exam, and the physiotherapy exam.

SENATOR LEMAN asked if part 5 is the physiotherapy exam.

MS. REARDON replied the information she has does not refer to the physiotherapy exam as a part. Again, that is why it is capitalized because they do not have a good name for it.

SENATOR LEMAN asked what she thought of suggesting to them that they call it part 5.

SENATOR TIM KELLY asked who had the name first, the chiropractors or the physical therapists. He said he thought the chiropractors did, and that seems to be the problem.

CHAIRMAN MACKIE asked if it changes the scope of the work anyone does.

MS. REARDON said it does not but the very important concept that anyone else can call him/herself a physical therapist or physiotherapist still holds. This bill does not allow chiropractors to call themselves physiotherapists.

CHAIRMAN MACKIE asked if that issue was addressed a few years ago.

MS. REARDON said she does not remember but she thinks that was the origin of the Alaska Boards of Physical Therapy and Occupational Therapy's positions but those terms are synonymous to make sure nobody could call themselves a physiotherapist who was not a licensed physical therapist. She pointed out that is important to

the Board.

BERNADETTE GILLET, representing the Providence Medical Center, made the following comment. "Just speaking in terms of differences between physiotherapy - physical therapy, that we have resolved that two are synonymous and, in speaking directly about that statement, it says the physiotherapy examination, as Karen just discussed, can be congruent with our language that describes about our profession of physical therapy. You ask who came first - the chiropractor or the physical therapist - but pt's came up in 1926 with the term 'physical therapist'. Chiropractic medicine started in 1895 with the 'chiropractor.' Those two differences split us and it maintains that with the way that this is stated. That's why we prefer to have this wording struck from that line."

CHAIRMAN MACKIE asked the two groups if they could get together to resolve the differences.

MS. GILLET replied yes.

SENATOR TIM KELLY asked if he was referring to the physical therapists and the chiropractors.

CHAIRMAN MACKIE said yes. He didn't think anyone wanted to change the scope of what they do, but they need to have consistency in our statutes.

Number 2006

MR. GEORGE SALMON, Fairbanks Physical Therapist, agreed with Ms. Grafton's testimony that "physiotherapy" wording be deleted. He said there is a lot of confusion in the public about what physical therapists and chiropractors do. It opens the door for the public to start thinking of chiropractors and physical therapists. He thought they should call that part of the test "part 5."

MS. CHERYL SACKETT, Fairbanks, agreed with Mr. Salmon and the need to remove "physiotherapy" and label the exam "part 5."

SENATOR LEMAN said he had additional concerns. One on page 2, lines 4 - 13, the disqualification section, that they should consider being consistent throughout with health care providers as they update statutes. They have similar standards for dentistry, but he likes the wording in this bill better. It's a little shorter and has less repetition.

His other concern was on page 3, line 21 where it appears to him that by deleting "after a hearing" the Board may impose a