

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10354 HOUSE LABOR & COMMERCE

HJR

45



Representative Beth Kerttula

Alaska State Legislature, District 3
State Capitol • Juneau, Alaska 99801-1182 • (907) 465-4766 • Fax (907) 465-4748
E-mail: Representative_Beth_Kerttula@legis.state.ak.us • <http://www.kerttula.net>

Sponsor Statement

HJR 45

"Relating to the labeling of salmon food products."

As Alaskans, we know that wild salmon is superior to farmed salmon – both in taste and nutritional value. However, other Americans may not know all of the differences. House Joint Resolution 45 supports the efforts by the U.S Congressional Delegation to require that salmon and salmon food products be labeled as farmed or wild salmon. With the glut of farmed salmon from countries such as Chile, the Alaska seafood industry has been faced with market challenges. Labeling will give American consumers the information they need to make intelligent choices about the food they eat. Along with informational programs regarding the health benefits of wild salmon, the label could become a viable marketing tool.

Amendments to the national Agriculture Bill, introduced by Senators Murkowski and Stevens, call for both country-of-origin labeling and "organic" classifications. Senator Murkowski has stated that "for over 70 years we have recognized that consumers have an important interest in knowing the origin of the goods they buy, whether it be a Taiwanese radio, a Venezuelan T-shirt or a canned ham from Denmark." HJR 45 supports the Alaska delegation's efforts to give Americans the right to know about what is in their food and where it came from. Thank you for your consideration of HJR 45.



Wild Alaska Salmon

Voice of the Times

A CONSERVATIVE VOICE FOR ALASKANS

WILLIAM J. TOBIN
Senior editor

LABELING LAW BOOSTS CHANCES FOR ...

Alaska seafood

ALASKA'S WILD seafood will get a valuable boost in the marketplace under a bill introduced by Sen. Frank Murkowski and passed by the U.S. Senate.

The measure will require that any seafood product sold at retail in the United States be labeled with its country of origin. That should be easy when it comes to canned or frozen products, but it isn't quite clear how the labeling would work when it comes to buying a whole fish over the counter. No matter the details, however, the objective is good — to put Alaska's seafood on an equal or better footing with fish caught or processed in foreign countries.

Most fresh and frozen U.S. products already are labeled with the state of origin, and under Murkowski's proposal consumers also will be able to make intelligent choices at the seafood counter. The Alaska "mystique" will become a viable marketing tool.

The bill also clears the way for wild-caught Alaska fish products — such as salmon — to be labeled "organic." That heads off an expected ruling by the National Organic Standards Board classifying pen-reared fish as organic, but not wild salmon.

The board's thinking, if you could call it that, is that since wild salmon roam the world's oceans, you couldn't tell where they had been or what they had eaten. Murkowski scoffed at their concerns. "What could be more natural than fish swimming in the ocean?" he asked.

The labeling requirement corrects an inequity faced by seafood products. "American consumers have come to expect ready access to information about where the goods they buy come from," Murkowski said. "They already know whether a T-shirt comes from Venezuela, a radio from Taiwan, or a canned ham from Denmark."



Senate panel approves fish labeling

RETAIL: Consumers will know origin of salmon, other perishables if bill becomes law.

(Published: December 6, 2001)

Juneau -- Alaska fishermen won a victory Tuesday when the U.S. Senate Finance Committee approved a provision that would force retailers to label foreign seafood products to show country of origin.

If the measure becomes law, consumers in America would be able to distinguish Chilean salmon from fish harvested in the United States, said Sen. Frank Murkowski, R-Alaska, the sponsor of the provision.

The measure, which also applies to perishable agricultural goods, would give Alaska fishermen more tools to compete with seafood imports, which have undercut Alaska seafood sales, Murkowski said.

"For over 70 years we have recognized that consumers have an important interest in knowing the origin of the goods they buy, whether it be a Taiwanese radio, a Venezuelan T-shirt or a canned ham from Denmark," he said. "This will simply extend the concept to salmon steaks, tomatoes or grapes."

Under the provision, retailers would have to label, stamp or place a placard clearly identifying the country of origin at the time of retail sale, Murkowski said. Retailers would be allowed to identify the state of origin in American products, meaning a fillet labeled Chilean salmon might have to compete against a fillet labeled Alaska salmon.

The provision was added to a trade bill that still must pass the full Senate and House.

H.R.2646

Agriculture, Conservation, and Rural Enhancement Act of 2002 (Public Print)

SEC. 1001. COUNTRY OF ORIGIN LABELING.

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) is amended by adding at the end the following:

Subtitle D--Country of Origin Labeling

SEC. 281. DEFINITIONS.

In this subtitle:

(1) **BEEF**- The term beef means meat produced from cattle (including veal).

(2) **COVERED COMMODITY**-

(A) **IN GENERAL**- The term covered commodity means--

(i) muscle cuts of beef, lamb, and pork;

(ii) ground beef, ground lamb, and ground pork;

(iii) farm-raised fish;

(iv) wild fish;

(v) a perishable agricultural commodity; and

(vi) peanuts.

(B) **EXCLUSIONS**- The term covered commodity does not include--

(i) processed beef, lamb, and pork food items; and

(ii) frozen entrees containing beef, lamb, and pork.

(3) **FARM-RAISED FISH**- The term farm-raised fish includes--

(A) farm-raised shellfish; and

(B) fillets, steaks, nuggets, and any other flesh from a farm-raised fish or shellfish.

(4) **FOOD SERVICE ESTABLISHMENT**- The term food service establishment means a restaurant, cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, or other similar facility operated as an enterprise engaged in the business of selling food to the public.

(5) **LAMB**- The term lamb means meat, other than mutton, produced from sheep.

(6) **PERISHABLE AGRICULTURAL COMMODITY; RETAILER**- The terms perishable agricultural commodity and retailer have the meanings given the terms in section 1(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(b)).

(7) **PORK**- The term pork means meat produced from hogs.

(8) **SECRETARY**- The term Secretary means the Secretary of Agriculture, acting through the Agricultural Marketing Service.

(9) WILD FISH-

(A) IN GENERAL- The term wild fish means naturally-born or hatchery-raised fish and shellfish harvested in the wild.

(B) INCLUSIONS- The term wild fish includes a fillet, steak, nugget, and any other flesh from wild fish or shellfish.

(C) EXCLUSIONS- The term wild fish excludes net-pen aquacultural or other farm-raised fish.

SEC. 282. NOTICE OF COUNTRY OF ORIGIN.

(a) IN GENERAL-

(1) REQUIREMENT- Except as provided in subsection (b), a retailer of a covered commodity shall inform consumers, at the final point of sale of the covered commodity to consumers, of the country of origin of the covered commodity.

(2) UNITED STATES COUNTRY OF ORIGIN- A retailer of a covered commodity may designate the covered commodity as having a United States country of origin only if the covered commodity--

(A) in the case of beef, lamb, and pork, is exclusively from an animal that is exclusively born, raised, and slaughtered in the United States;

(B) in the case of farm-raised fish, is hatched, raised, harvested, and processed in the United States;

(C) in the case of wild fish, is--

(i) harvested in waters of the United States, a territory of the United States, or a State; and

(ii) processed in the United States, a territory of the United States, or a State, including the waters thereof; and

(D) in the case of a perishable agricultural commodities or peanut, is exclusively produced in the United States.

(3) WILD FISH AND FARM-RAISED FISH- The notice of country of origin for wild fish and farm-raised fish shall distinguish between wild fish and farm-raised fish.

(b) EXEMPTION FOR FOOD SERVICE ESTABLISHMENTS- Subsection (a) shall not apply to a covered commodity if the covered commodity is--

(1) prepared or served in a food service establishment; and

(2) (A) offered for sale or sold at the food service establishment in normal retail quantities; or

(B) served to consumers at the food service establishment.

(c) METHOD OF NOTIFICATION-

(1) IN GENERAL- The information required by subsection (a) may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers.

- (2) **LABELED COMMODITIES-** If the covered commodity is already individually labeled for retail sale regarding country of origin, the retailer shall not be required to provide any additional information to comply with this section.
- (d) **AUDIT VERIFICATION SYSTEM-** The Secretary may require that any person that prepares, stores, handles, or distributes a covered commodity for retail sale maintain a verifiable recordkeeping audit trail that will permit the Secretary to ensure compliance with the regulations promulgated under section 284.
- (e) **INFORMATION-** Any person engaged in the business of supplying a covered commodity to a retailer shall provide information to the retailer indicating the country of origin of the covered commodity.
- (f) **CERTIFICATION OF ORIGIN-**
- (1) **MANDATORY IDENTIFICATION-** The Secretary shall not use a mandatory identification system to verify the country of origin of a covered commodity.
- (2) **EXISTING CERTIFICATION PROGRAMS-** To certify the country of origin of a covered commodity, the Secretary may use as a model certification programs in existence on the date of enactment of this Act, including--
- (A) the carcass grading and certification system carried out under this Act;
- (B) the voluntary country of origin beef labeling system carried out under this Act;
- (C) voluntary programs established to certify certain premium beef cuts;
- (D) the origin verification system established to carry out the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766); or
- (E) the origin verification system established to carry out the market access program under section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623).

SEC. 283. ENFORCEMENT.

- (a) **IN GENERAL-** Except as provided in subsection (b), section 253 shall apply to a violation of this subtitle.
- (b) **WARNINGS-** If the Secretary determines that a retailer is in violation of section 282, the Secretary shall--
- (1) notify the retailer of the determination of the Secretary; and
- (2) provide the retailer a 30-day period, beginning on the date on which the retailer receives the notice under paragraph (1) from the Secretary, during which the retailer may take necessary steps to comply with section 282.
- (c) **FINES-** If, on completion of the 30-day period described in subsection (b)(2), the Secretary determines that the retailer has willfully violated section 282, after providing notice and an opportunity for a hearing before the Secretary with respect to the violation, the Secretary may fine the retailer in an amount determined by the Secretary.

SEC. 284. REGULATIONS.

- (a) **IN GENERAL-** The Secretary may promulgate such regulations as are necessary to carry out this subtitle.

- (b) **PARTNERSHIPS WITH STATES-** In promulgating the regulations, the Secretary shall, to the maximum extent practicable, enter into partnerships with States with enforcement infrastructure to carry out this subtitle.

SEC. 285. APPLICATION.

This subtitle shall apply to the retail sale of a covered commodity beginning on the date that is 180 days after the date of the enactment of this subtitle.

SEC. 1055. WILD FISH AND WILD SHELLFISH.

Section 2104 of the Organic Foods Production Act of 1990 (7 U.S.C. 6503) is amended-

- (1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and
- (2) by inserting after subsection (b) the following:

“(c) WILD FISH AND WILD SHELLFISH-

(1) IN GENERAL- Notwithstanding section 2107(a)(1), the Secretary may allow, through regulations promulgated after public notice and opportunity for comment, wild fish or wild shellfish harvested from salt water to be certified or labeled as organic.

(2) **CONSULTATION AND ACCOMMODATION-** In carrying out paragraph (1), the Secretary shall--

(A) consult with--

- (i) the Secretary of Commerce;
- (ii) the National Organic Standards Board established under section 2119;
- (iii) producers, processors, and sellers; and
- (iv) other interested members of the public; and

(B) to the maximum extent practicable, accommodate the unique characteristics of the industries in the United States that harvest and process wild fish and shellfish.”

**OFFICE OF THE GOVERNOR**
Press Releases**ALASKA IN THE NEWS**

May 17, 2000

Release 00129

ORGANIC LABEL FITS ALASKA WILD SALMON
Knowles Supports Certification in Letter to Agriculture Secretary

Touting Alaska's strict protection of water quality and sustainable fishery management system, Gov. Tony Knowles has again urged the U.S. Department of Agriculture (USDA) to certify Alaska wild salmon as organic. It's the latest effort by the governor to help the Alaska seafood industry participate in the fast growing market for organic foods.

"Up to 60 percent of the total U.S. production of seafood is from Alaska's clean, pristine waters," Knowles said in a letter today to Agriculture Secretary Dan Glickman. "Alaska is the only state in the nation with a constitutional mandate for conservation and sustainability of natural resources. Furthermore, the Alaska Department of Fish and Game's in-season fisheries management system is widely recognized as a model for sustainable fisheries worldwide."

Designation of Alaska wild salmon as organic is seen as important since the trade for certified organic protein products, including seafood, is growing at a rate of between 15 percent and 25 percent. Overall seafood consumption in the United States in 1998, nearly four billion pounds, has grown at an annual rate of just 1.9 percent since 1980.

The \$1.2 billion seafood industry is Alaska's largest private sector employer comprised of many small businesses, including over 50,000 fishermen and 700 processors.

Alaska opposed the USDA's first proposed organic regulations in 1998 because wild seafood was essentially excluded. Since then, the state has worked closely with USDA and members of the National Organic Standards Board to show how Alaska seafood fits the intent and approach of the Organic Food Production Act.

"In the intervening two years, respected private organic groups have certified two Alaska seafood processors, Prime Select Seafoods and Capiliano Pacific," Knowles said. "These certifications open up critical new markets for Alaskans living in rural and very isolated communities who participate in the sustainable harvest of wild seafood as their primary economic activity."

Knowles' letter to Glickman was submitted in response to a request from the USDA for public comment on the organic labeling of seafood, and was accompanied by 50 pages of technical comments prepared by various state agencies.

##

Contact:Bob King, Press Secretary, (907) 465-3995Claire Richardson, Deputy Press Secretary, (907) 465-3996[Press Releases](#) | [Press Office](#) | [Contact the Governor](#) | [Webmaster](#) | [State of Alaska](#)**WWW.GOV.STATE.AK.US**

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Cordova District Fishermen United

Celebrating 65 Years of Service to Commercial Fishermen in Cordova, Alaska

P.O. Box 939 Cordova, Alaska 99574 / phone (907) 424-3447 / fax (907) 424-3430 /

e-mail cdfu@ptialaska.net

March 2, 2002

House Fisheries Committee
Alaska State Legislature
State Capitol (MS 3101)
Juneau, AK 99801-1182

SENT VIA FACSIMILE TO 907.465.3517

RE: HJR 45 - Relating to the Labeling of Salmon Food Products

Dear Members,

Cordova District Fishermen United represents the fishing fleets of Area E—the Copper River and Prince William Sound.

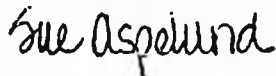
We are pleased to support HJR 45, which in turn supports the efforts of Alaska's Congressional delegation to require labeling of farmed fish products. The huge growth in the production and importation of farmed fish products that compete with Alaska's wild salmon is severely impacting the viability of Alaska's fishing families, our processors, and our fisheries-dependent communities, and the State economy.

Additionally, consumers have a right to know where the food they purchase comes from and what is in it.

An effort to require farmed fish producers to label their products as such will help differentiate farmed from wild for consumers, and support Alaskan's efforts to educate consumers about the benefits of buying healthy, sustainable, wild Alaskan salmon.

We appreciate your support of this resolution.

Sincerely,



Sue Aspelund
Executive Director

cc: Representative Beth Kerttula



P.O. Box 762 • Kodiak • AK • 99615

Phone: (907) 486-8899 • Fax: (907) 486-7058 • Email: kodiak@unitedsalmon.org

Alaska Fishermen Support Salmon Labeling

Kodiak - The United Salmon Association today voiced support for legislation that would require labeling of salmon that is farmed in floating net-cages. The bill would also require country of origin labeling for all retail fisheries products. These measures are contained in the Farm Bill recently passed by the U.S. Senate.

"Consumers have a right to see this information at the retail counter because it affects their health," said USA president and fisherman Bruce Schactler.

USA supports the proposed requirements because of the significant differences between Alaskan wild salmon and farmed salmon. Unlike farmed salmon, Alaska salmon are not fed color additives, or treated with antibiotics, pesticides or fungicides.

The group maintains that the consumer has the right to know what they are buying and that wild-caught Alaska salmon are a vastly superior product. Schactler cited numerous studies showing that farmed salmon have increasingly high levels of cholesterol, depending on ingredients in their feed pellets. The quality and composition of the feed also affects the amount of health-enhancing Omega-3 essential fatty acid levels in salmon. Levels of Omega-3s in farmed salmon are lower than their wild counterpart, and are expected to be reduced even further as grains and vegetables replace fish oil and meal in their feed pellets.

Schactler further pointed to a recently published study in the scientific journal *Chemosphere* showing that the manufactured feed pellets and flesh of farmed salmon contain unsafe levels of PCBs and organochlorine pesticides.

Currently most salmon is sold without differentiation between farmed and wild. This makes it almost impossible for educated consumers to distinguish wild salmon from farmed salmon in their supermarkets. Under the new law, all U.S. markets will be required to label seafood indicating whether it is farm-raised or wild-caught, as well as the country of origin.

"For salmon harvesters and their families, this identifies the products that they are proud to bring to the public. It is similar to organic vs. non-organic labeling," said Schactler. He scoffed at retailer claims that it is too expensive and inconvenient to properly label fish. "If they can stick on the price, they can stick on what it is and where it came from."

The United Salmon Association is a fishermen's marketing association representing nearly 1,000 Alaskan salmon fishermen.

Alaska Longline Fishermen's Association
403 Lincoln St., Ste. 237
Sitka, AK 99835

March 2, 2002

Representative Kerttula
Alaska State Legislature
State Capitol, Juneau, AK 99801-1182

Dear Representative Kerttula,

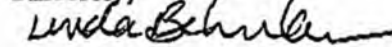
I am writing on behalf of the Alaska Longline Fishermen's Association's (ALFA) approximately 100 members to express our support for HJR 45, An Act relating to the labeling of salmon food products.

ALFA members recognize the health benefits of Alaska's seafood, and believe consumers will be well served by a labeling system that requires "farmed" and "wild" salmon to be identified as distinctly different. Farmed salmon do not provide the same health benefits as wild salmon, and pose both an environmental and a resource threat. As American consumers become more health conscious and better educated about the environmental impacts associated with farmed salmon, they will demand to know the origin of the seafood products they are purchasing. HJR 45 anticipates this demand, providing a valuable and essential service.

HJR 45 will also provide badly needed marketing assistance to Alaska's salmon industry. Given the current crisis in salmon marketing, the Act is extremely timely and should be approved expeditiously. Many ALFA members participate in the salmon fisheries, along with the sablefish and halibut fisheries, and will directly benefit from the enhanced market recognition offered by this Act. Although members support the Act as written, may we suggest that it be expanded, or a companion act introduced, requiring sablefish and halibut to be labeled as wild and organic. Although farmed sablefish and halibut are not yet a threat, they are likely to become one in the future. Building consumer recognition now would ensure that Alaska's wild fish retain market share despite expansion of the farmed seafood industry.

In closing, ALFA supports HJR 45, and appreciates your introduction of this Act. We will help in any way possible to ensure its approval during this Legislative session.

Sincerely,



Linda Behnken
(Executive director, ALFA)

4/15/02 4:17 PM



P.O. Box 762 • Kodiak • AK • 99615
Phone: (907) 486-8899 • Fax: (907) 486-7058 • Email: kodiak@unitedsalmon.org

March 1, 2002

Representative Beth Kerttula
State Capitol
Juneau, AK 99801-1182

Dear Beth,

Thank you for sponsoring HJR 45, supporting our U.S. Congressional Delegation in their efforts to procure labeling standards for salmon sold in the domestic market.

The United Salmon Association fervently supports this measure, which would give the Alaskan salmon industry a leg up as it works to educate salmon consumers about the differences between a wild-caught fish and a farm-raised fish. Consumer education about the benefits wild-caught fish will be an important cornerstone in successful marketing of Alaska salmon in the future, and the language contained in the U.S. Senate's Farm Bill will provide us with an invaluable tool in that effort.

By passing HJR 45, the Legislature would be placing the strength of the state of Alaska behind these efforts and sending a strong message of support to the fishermen and policymakers who are striving to assure that Alaska's salmon industry will flourish for years into the future.

Thank you for your support on this front.

Respectfully,

A handwritten signature in cursive script that reads "Thom Wischer".

Thom Wischer
Chairman
USA/Kodiak



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110
Juneau, Alaska 99801-1172
(907) 586-2820
(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

March 1, 2002

Representative Beth Kerttula
House of Representatives
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Dear Representative Kerttula,

Re: HJR 45 Salmon Labeling

United Fishermen of Alaska supports passage of this resolution to urge the U.S. Congress to require that finfish be labeled as having been farm raised using antibiotics, dyes, and or chemicals, or as wildfish. The U.S. Senate has passed a "Farm Bill" which contains the provisions we seek on labeling requirements. This labeling requirement will not only serve as a health and safety notice, it will also serve as a marketing tool to help distinguish wild Alaska salmon. This resolution could be very timely as the U.S. Senate and House of Representatives work out their "Farm Bill" differences in conference.

The twenty-nine members groups of UFA would appreciate your support in passing this bill.

If you have any questions about our position or if you need additional information, please feel free to contact me.

Sincerely,

Thomas M. Gemmell
Executive Director

MEMBER ORGANIZATIONS

Alaska Longline Fishermen's Association • Alaska Trollers Association • Alaska Processors Association • Bristol Bay Penner
Chignik Regional Aquaculture Association • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association
Copper River Salmon Producers Association • Cornova District Fishermen United • Douglas Island Penk and Chum
Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Seiners Association • North Pacific Fisheries Association
Northern Southeast Regional Aquaculture Association • Old Harbor Fisherman's Association • Petersburg Vessel Owners Association
Prince William Sound Aquaculture Corporation • Purses Seine Vessel Owners Association • Seafood Producers Cooperative
Southeast Alaska Regional Dive Fishermen's Association • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
Unalakleet Cook Inlet DNR Association • United Salmon Association • United Southeast Alaska Gillnetters

United Cook Inlet Drift Association
Kenai, Alaska

March 4, 2002

House Special Committee on Fisheries
House Labor and Commerce Committee
Alaska State Legislature
Juneau, Alaska

Chairman and committee members,

We at United Cook Inlet Drift Association would appreciate the full support of the Alaska legislature toward approval of HJR 45.

Country-of-origin labeling will serve an important purpose by allowing consumers world wide to make informed decisions as to what they are buying and where it came from. Such labeling will prevent unscrupulous jobbers and salesman from substituting inferior products for superior products and, thus, duping the uninformed consumer.

Product labeling will fit nicely with ours and ASMI's efforts to educate the public about the fact that Alaska produces only "wild salmon." If it says "Alaska" it has to be wild.

Thank you for your consideration.

Yours truly,



Bob Merchant
President UCIDA



Southeast Alaska Seiners

RECEIVED

MAR 04 2002

March 4, 2002

Representative Peggy Wilson
Chair, House Special Committee
On Fisheries
State Capital (MS 3100)
Juneau, Alaska 99801-1182

Dear Chairwoman Wilson,

I am writing on behalf of Southeast Alaska Seiners (SEAS), an organization representing over 300 commercial fishermen, to express support for House Joint Resolution 45.

HJR 45 puts the Alaska Legislature on record supporting the efforts of our congressional delegation to secure legislation requiring the labeling of farmed and wild salmon food products. At present the Alaska commercial salmon industry faces a serious downturn in its prospects largely due to intense competition from the salmon farming industry in Chile and Norway. The federal labeling legislation supported by HJR 45 will help the Alaskan commercial fishing community to differentiate our state's natural salmon from the domesticated fish produced by foreign salmon farmers and thereby help Alaskans market the advantages that our salmon offer to the consumer.

SEAS asks that you support HJR 45.

Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in cursive script that reads "David Bedford".

David Bedford
Executive Director



United Southeast Alaska Gillnetters
PO Box 22427
Juneau, Alaska 99802
(907) 586-5860
E-mail: usag@gci.net

March 2, 2002

Representative Beth Kerttula
Alaska State Legislature, District 3
State Capitol
Juneau, Alaska 99801-1182

RECEIVED

MAR 04 2002

Dear Representative Kerttula:

This letter is to offer the support of the United Southeast Alaska Gillnetters (USAG) for approval of House Joint Resolution 45, which you recently introduced.

From your letter to us and the included copy of HJR45, we understand that the main thrust of the resolution is to support the efforts by the Alaska congressional delegation to require labeling of farmed and wild salmon food products.

We applaud your efforts and those of law makers at the state and federal levels to inform and educate the consumer to the benefits of eating Alaska salmon.

Be assured that USAG will actively work with you to gain approval of HJR45. Thank you for letting us participate in your efforts to help the Alaska salmon industry.

Sincerely,

Jim Becker

USAG Board Secretary

HJR

49

ALASKA STATE LEGISLATURE

Representative Lisa Murkowski Chair
Representative Andrew Halcro Vice-Chair
Representative Pete Kott
Representative Kevin Meyer
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes



Alaska State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4954
Fax: (907) 465-2293
Representative_Lisa_Murkowski@legis.state.ak.us

HOUSE LABOR AND COMMERCE COMMITTEE

Sponsor Statement HJR 49 State-Federal Joint Research Plan

HJR 49 requests that state and federal agencies work together to develop a joint research and development plan to help expand and diversify Alaska's economy, strengthen and maintain state research institutions, and protect the health of Alaskans and the environment of Alaska.

Alaska's economy is heavily dependent on the research and development activities of public, private, and academic sectors to attract investment, jobs, and revenue to the state. Effective research and development apply knowledge toward efficient resource extraction, resource protection, provision of human health, and the export of intellectual property.

The goal of this joint effort is to develop and present to the legislature a plan to identify and assess areas of high economic potential for resource development and tourism on federal and state lands in Alaska.

Notes for legislators regarding SJR 44:

The Presidential Executive Order setting up the Arctic Research Commission and the IARPC is as follows:

<http://www.nara.gov/fedreg/codific/eos/e12501.html>

The State statutes note:

In January 1994, Governor Hickel issued Executive Order No. 90 stating that it would be in the best interests of efficient administration to move the Alaska Science and Technology Foundation from the Department of Revenue to the Department of Commerce and Economic Development, and to transfer the duties of the science and engineering advisory commission to the Alaska Science and Technology Foundation, thus integrating the state's science and technology activities within the state agency responsible for the comprehensive economic development of the State of Alaska.

The order adds a new Article to AS 37.17 entitled Science and Engineering Research; Science Education that is to take effect July 1, 1994. requires ASTF to (1) develop and recommend an integrated state research policy;

(2) provide policy information to the governor and the legislature on matters that have scientific and engineering significance;

(3) receive scientific and engineering information from the academic and industrial communities;

(4) act in an advocacy role for scientific and engineering issues and science education important to the state that might otherwise be overlooked;

(5) assist state agencies in assessing research needs and establishing priorities among them;

(6) facilitate cooperation between state agencies and the University of Alaska and other academic institutions and industry;

(7) recommend methods to improve logistical planning and support for scientific and engineering research conducted in the state by state, federal, or international agencies, private industry, the general public, or private research organizations;

(8) recommend methods for improving efficient acquisition, storage, transfer, and dissemination of scientific and engineering data and information among interested public and private institutions and the general public;

(9) promote science education and training for young scientists and engineers to pursue careers in the state and the Arctic;

(10) cooperate with the federal Arctic Research Commission in the formulation of the Arctic research policy; and

(11) not later than September 30 of each year, present to the governor recommended research priorities of the state for the next fiscal year.

Courtesy of Mead Treadwell, Commissioner, U.S. Arctic Research Commission



National Archives and Records Administration
Federal Register

Executive Order 12501--Arctic research

Source: The provisions of Executive Order 12501 of Jan. 28, 1985, appear at 50 FR 4191, 3 CFR, 1985 Comp., p. 328, unless otherwise noted.

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Arctic Research and Policy Act of 1984 (Title I of Public Law 98-373) ("the Act"), it is hereby ordered as follows:

Section 1. *Establishment of Arctic Research Commission.* There is established the Arctic Research Commission.

Sec. 2. *Membership of the Commission.*

(a) The Commission shall be composed of five members appointed by the President, as follows:

- (1) three members appointed from among individuals from academic or other research institutions with expertise in areas of research relating to the Arctic, including the physical, biological, health, environmental, social, and behavioral sciences;
- (2) one member appointed from among indigenous residents of the Arctic who are representative of the needs and interests of Arctic residents and who live in areas directly affected by Arctic resources development; and
- (3) one member appointed from individuals familiar with the Arctic and representative of the needs and interests of private industry undertaking resource development in the Arctic.

The Director of the National Science Foundation shall serve as a nonvoting *ex officio* member of the Commission. The President shall designate a Chairperson from among the five voting members of the Commission.

(b) In making initial appointments to the Commission, the President shall designate one member to serve for a term of two years, two members to serve for terms of three years, and two members to serve for terms of four years as provided by Section 103(c) of the Act. Upon the expiration of these initial terms of office, the term of office of each member of the Commission shall be four years.

(c) Each of the Federal agencies represented on the Interagency Committee established by Section 7 of this Order may designate a representative to participate as an observer with the Commission. These representatives shall report to and advise the Commission on the activities of their agencies relating to Arctic research.

Sec. 3. *Meetings of the Commission.*

The Commission shall meet at the call of the Chairman or a majority of its members. The Commission annually shall conduct at least one public meeting in the State of Alaska.

Sec. 4. *Functions of the Commission.*

(a) The Commission shall:

- (1) develop and recommend an integrated national Arctic research policy;
- (2) assist, in cooperation with the Interagency Arctic Research Policy Committee established by Section 7 of this Order, in establishing a national Arctic research program plan to implement the Arctic research policy;

- (3) facilitate cooperation between the Federal government and State and local governments with respect to Arctic research;
 - (4) review Federal research programs in the Arctic and suggest improvements in coordination among programs;
 - (5) recommend methods to improve logistical planning and support for Arctic research as may be appropriate;
 - (6) suggest methods for improving efficient sharing and dissemination of data and information on the Arctic among interested public and private institutions;
 - (7) offer other recommendations and advice to the Interagency Arctic Research Policy Committee as it may find appropriate; and
 - (8) cooperate with the Governor of the State of Alaska, and with agencies and organizations of that State which the Governor may designate, with respect to the formulation of Arctic research policy.
- (b) Not later than January 31 of each year, the Commission shall:
- (1) submit to the President and Congress a report describing the activities and accomplishments of the Commission during the immediately preceding fiscal year; and
 - (2) publish a statement of goals and objectives with respect to Arctic research to guide the Interagency Arctic Research Policy Committee in the performance of its duties.

Sec. 5. Responsibilities of Federal Agencies.

- (a) The heads of Executive agencies shall, to the extent permitted by law, and in accordance with Section 105 of the Act, provide the Commission such information as it may require for purposes of carrying out its functions.
- (b) The heads of Executive agencies shall, upon reimbursement to be agreed upon by the Commission and the agency head, permit the Commission to utilize their facilities and services to the extent that the facilities and services are needed for the establishment and development of an Arctic research policy. The Commission shall take every feasible step to avoid duplication of effort.
- (c) All Federal agencies shall consult with the Commission before undertaking major Federal actions relating to Arctic research.

Sec. 6. Administration of the Commission. Members of the Commission who are otherwise employed for compensation shall serve without compensation for their work on the Commission, but may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service. Members of the Commission who are not otherwise employed for compensation shall be compensated for each day the member is engaged in actual performance of duties as a member, not to exceed 90 days of service each calendar year, at a rate equal to the daily equivalent of the rate for GS-16 of the General Schedule.

Sec. 7. Establishment of Interagency Arctic Research Policy Committee. There is established the Interagency Arctic Research Policy Committee (the "Interagency Committee"). The National Science Foundation shall serve as lead agency on the Interagency Committee and shall be responsible for implementing Arctic research policy.

Sec. 8. Membership of the Interagency Committee.

The Interagency Committee shall be composed of representatives of the following Federal agencies or their designees:

- (a) National Science Foundation;
- (b) Department of Commerce;
- (c) Department of Defense;

- (d) Department of Energy;
- (e) Department of the Interior;
- (f) Department of State;
- (g) Department of Transportation;
- (h) Department of Health and Human Services;
- (i) National Aeronautics and Space Administration;
- (j) Environmental Protection Agency;
- (k) Office of Science and Technology Policy; and
- (l) any other Executive agency that the Director of the National Science Foundation shall deem appropriate. The Director of the National Science Foundation or his designee shall serve as Chairperson of the Interagency Committee.

Sec. 9. *Functions of the Interagency Committee.* (a) The Interagency Committee shall:

- (1) survey Arctic research conducted by Federal, State, and local agencies, universities, and other public and private institutions to help determine priorities for future Arctic research, including natural resources and materials, physical and biological sciences, and social and behavioral sciences;
 - (2) work with the Commission to develop and establish an integrated national Arctic research policy that will guide Federal agencies in developing and implementing their research programs in the Arctic;
 - (3) consult with the Commission on:
 - (a) the development of the national Arctic research policy and the 5-year plan implementing the policy;
 - (b) Arctic research programs of Federal agencies;
 - (c) recommendations of the Commission on future Arctic research; and
 - (d) guidelines for Federal agencies for awarding and administering Arctic research grants;
 - (4) develop a 5-year plan to implement the national policy, as provided in section 109 of the Act;
 - (5) provide the necessary coordination, data, and assistance for the preparation of a single integrated, coherent, and multi-agency budget request for Arctic research, as provided in section 110 of the Act;
 - (6) facilitate cooperation between the Federal government and State and local governments in Arctic research, and recommend the undertaking of neglected areas of research;
 - (7) coordinate and promote cooperative Arctic scientific research programs with other nations, subject to the foreign policy guidance of the Secretary of State;
 - (8) cooperate with the Governor of the State of Alaska in fulfilling its responsibilities under the Act; and
 - (9) promote Federal interagency coordination of all Arctic research activities, including:
 - (a) logistical planning and coordination; and
 - (b) the sharing of data and information associated with Arctic research, subject to section 552 of title 5, United States Code.
- (b) Not later than January 31, 1986, and biennially thereafter, the Interagency Committee shall submit to the Congress through the President a report concerning:
- (1) its activities and accomplishments since its last report; and
 - (2) the activities of the Commission, detailing with particularity the recommendations of the Commission with respect to Federal activities in Arctic research.

Sec. 10. *Public Participation.* The Interagency Committee will provide public notice of its meetings and an opportunity for the public to participate in the development and

implementation of national Arctic research policy.

Sec. 11. *Administration of Interagency Committee.* Each agency represented on the Committee shall, to the extent permitted by law and subject to the availability of funds, provide the Committee with such administrative services, facilities, staff, and other support services as may be necessary for effective performance of its functions.



Federal Register [home page](#)

Codification [home page](#)

Codification [list of chapters](#)

Federal Register inquiries: info@fedreg.nara.gov

[National Archives and Records Administration home page](#)

URL: <http://www.nara.gov/fedreg/codific/eos/e12501.html>

inquire@nara.gov

Last updated December 10, 2001

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Appendix C: Arctic Research and Policy Act, As Amended

PUBLIC LAW 98-373 - July 31, 1984; amended as
PUBLIC LAW 101-609 - November 16, 1990

An Act

To provide for a comprehensive national policy dealing with national research needs and objectives in the Arctic.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

TITLE I-ARCTIC RESEARCH AND POLICY

SHORT TITLE

SEC. 101. This title may be cited as the "Arctic Research and Policy Act of 1984, as amended".

FINDINGS AND PURPOSES

SEC. 102(a) The Congress finds and declares that—

(1) the Arctic, onshore and offshore, contains vital energy resources that can reduce the Nation's dependence on foreign oil and improve the national balance of payments;

(2) as the Nation's only common border with the Soviet Union, the Arctic is critical to national defense;

(3) the renewable resources of the Arctic, specifically fish and other seafood, represent one of the Nation's greatest commercial assets;

(4) Arctic conditions directly affect global weather patterns and must be understood in order to promote better agricultural management throughout the United States;

(5) industrial pollution not originating in the Arctic region collects in the polar air mass, has the potential to disrupt global weather patterns, and must be controlled through international cooperation and consultation;

(6) the Arctic is a natural laboratory for research into human health and adaptation, physical and psychological, to climates of extreme cold and isolation and may provide information crucial for future defense needs;

(7) atmospheric conditions peculiar to the Arctic make the Arctic a unique testing ground for research into high latitude communications, which is likely to be crucial for future defense needs;

(8) Arctic marine technology is critical to cost-effective recovery, and transportation of energy resources and to the national defense;

(9) the United States has important security, economic, and environmental interests in developing and maintaining a fleet of icebreaking vessels capable of operating effectively in the heavy ice regions of the Arctic;

(10) most Arctic-rim countries, particularly the Soviet Union, possess Arctic technologies far more advanced than those currently available in the United States;

(11) Federal Arctic research is fragmented and uncoordinated at the present time, leading to the neglect of certain areas of research and to unnecessary duplication of effort in other areas of research;

(12) improved logistical coordination and support for Arctic research and better dissemination of research data and information is necessary to increase the efficiency and utility of national Arctic research efforts;

(13) a comprehensive national policy and program plan to organize and fund currently neglected scientific research with respect to the Arctic is necessary to fulfill national objectives in Arctic research;

(14) the Federal Government, in cooperation with State and local governments, should focus its efforts on the collection and characterization of basic data related to biological, materials, geophysical, social, and behavioral phenomena in the Arctic;

(15) research into the long-range health, environmental, and social effects of development in the Arctic is necessary to mitigate the adverse consequences of that development to the land and its residents;

(16) Arctic research expands knowledge of the Arctic, which can enhance the lives of Arctic residents, increase opportunities for international cooperation among Arctic-rim countries, and facilitate the formulation of national policy for the Arctic; and

(17) the Alaskan Arctic provides an essential habitat for marine mammals, migratory waterfowl, and other forms of wildlife which are important to the Nation and which are essential to Arctic residents.

(b) The purposes of this title are—

(1) to establish national policy, priorities, and goals and to provide a Federal program plan for basic and applied scientific research with respect to the Arctic, including natural resources and materials, physical, biological and health sciences, and social and behavioral sciences;

(2) to establish an Arctic Research Commission to promote Arctic research and to recommend Arctic research policy;

(3) to designate the National Science Foundation as the lead agency responsible for implementing Arctic research policy; and

(4) to establish an Interagency Arctic Research Policy Committee to develop a national Arctic research policy and a five year plan to implement that policy.

ARCTIC RESEARCH COMMISSION

SEC. 103(a) The President shall establish an Arctic Research Commission (hereinafter referred to as the "Commission").

(b)(1) The Commission shall be composed of seven members appointed by the President, with the Director of the National Science Foundation serving as a nonvoting, ex officio member. The members appointed by the President shall include—

(A) four members appointed from among individuals from academic or other research institutions with expertise in areas of research relating to the Arctic, including the physical, biological, health, environmental, social and behavioral sciences;

(B) one member appointed from among indigenous residents of the Arctic who are representative of the needs and interests of Arctic residents and who live in areas directly affected by Arctic resource development; and

(C) two members appointed from among individuals familiar with the Arctic and representative of the needs and interests of private industry undertaking resource development in the Arctic.

(2) The President shall designate one of the appointed members of the Commission to be chairperson of the Commission.

(c)(1) Except as provided in paragraph (2) of this subsection, the term of office of each member of the Commission appointed under subsection (b)(1) shall be four years.

(2) Of the members of the Commission originally appointed under subsection (b)(1)—

(A) one shall be appointed for a term of two years;

(B) two shall be appointed for a term of three years; and

(C) two shall be appointed for a term of four years.

(3) Any vacancy occurring in the membership of the Commission shall be filled, after notice of the vacancy is published in the Federal Register, in the manner provided by the preceding provisions of this section, for the remainder of the unexpired term.

(4) A member may serve after the expiration of the member's term of office until the President appoints a successor.

(5) A member may serve consecutive terms beyond the member's original appointment.

(d)(1) Members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. A member of the Commission not presently employed for compensation shall be compensated at a rate equal to the daily equivalent of the rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day the member is engaged in the actual performance of his duties as a member of the Commission, not to exceed 90 days of service each year. Except for the purposes of chapter 81 of title 5 (relating to compensation for work injuries) and chapter 171 of title 28 (relating to tort claims), a member of the Commission shall not be considered an employee of the United States for any purpose.

(2) The Commission shall meet at the call of its Chairman or a majority of its members.

(3) Each Federal agency referred to in section 107(b) may designate a representative to participate as an observer with the Commission. These representatives shall report to and advise the Commission on the activities relating to Arctic research of their agencies.

(4) The Commission shall conduct at least one public meeting in the State of Alaska annually.

DUTIES OF THE COMMISSION

SEC. 104(a) The Commission shall--

- (1) develop and recommend an integrated national Arctic research policy;
- (2) in cooperation with the Interagency Arctic Research Policy Committee established under section 107, assist in establishing a national Arctic research program plan to implement the Arctic research policy;
- (3) facilitate cooperation between the Federal Government and State and local governments with respect to Arctic research;
- (4) review Federal research programs in the Arctic and recommend improvements in coordination among programs;
- (5) recommend methods to improve logistical planning and support for Arctic research as may be appropriate and in accordance with the findings and purposes of this title;
- (6) recommend methods for improving efficient sharing and dissemination of data and information on the Arctic among interested public and private institutions;
- (7) offer other recommendations and advice to the Interagency Committee established under section 107 as it may find appropriate;
- (8) cooperate with the Governor of the State of Alaska and with agencies and organizations of that State which the Governor may designate with respect to the formulation of Arctic research policy;
- (9) recommend to the Interagency Committee the means for developing international scientific cooperation in the Arctic; and
- (10) not later than January 31, 1991, and every 2 years thereafter, publish a statement of goals and objectives with respect to Arctic research to guide the Interagency Committee established under section 107 in the performance of its duties.

(b) Not later than January 31 of each year, the Commission shall submit to the President and to the Congress a report describing the activities and accomplishments of the Commission during the immediately preceding fiscal year.

COOPERATION WITH THE COMMISSION

SEC. 105(a)(1) The Commission may acquire from the head of any Federal agency unclassified data, reports, and other nonproprietary information with respect to Arctic research in the possession of the

agency which the Commission considers useful in the discharge of its duties.

(2) Each agency shall cooperate with the Commission and furnish all data, reports, and other information requested by the Commission to the extent permitted by law; except that no agency need furnish any information which it is permitted to withhold under section 522 of title 5, United States Code.

(b) With the consent of the appropriate agency head, the Commission may utilize the facilities and services of any Federal agency to the extent that the facilities and services are needed for the establishment and development of an Arctic research policy, upon reimbursement to be agreed upon by the Commission and the agency head and taking every feasible step to avoid duplication of effort.

(C) All Federal agencies shall consult with the Commission before undertaking major Federal actions relating to Arctic research.

ADMINISTRATION OF THE COMMISSION

SEC. 106. The Commission may--

- (1) in accordance with the civil service laws and subchapter III of chapter 53 of title 5, United States Code, appoint and fix the compensation of an Executive Director and necessary additional staff personnel, but not to exceed a total of seven compensated personnel;
- (2) procure temporary and intermittent services as authorized by section 3109 of title 5, United States Code;
- (3) enter into contracts and procure supplies, services and personal property;
- (4) enter into agreements with the General Services Administration for the procurement of necessary financial and Administrative services, for which payment shall be made by reimbursement from funds of the Commission in amounts to be agreed upon by the Commission and the Administrator of the General Services Administration; and
- (5) appoint, and accept without compensation the services of, scientists and engineering specialists to be advisors to the Commission. Each advisor may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Except for the purposes of chapter 81 of title 5 (relating to compensation for work injuries) and chapter 171 of

title 28 (relating to tort claims) of the United States Code, an advisor appointed under this paragraph shall not be considered an employee of the United States for any purpose.

LEAD AGENCY AND INTERAGENCY ARCTIC RESEARCH POLICY COMMITTEE

SEC. 107(n) The National Science Foundation is designated as the lead agency responsible for implementing Arctic research policy, and the Director of the National Science Foundation shall insure that the requirements of section 108 are fulfilled.

(b)(1) The President shall establish an Interagency Arctic Research Policy Committee (hereinafter referred to as the "Interagency Committee").

(2) The Interagency Committee shall be composed of representatives of the following Federal agencies or offices:

- (A) the National Science Foundation;
- (B) the Department of Commerce;
- (C) the Department of Defense;
- (D) the Department of Energy;
- (E) the Department of the Interior;
- (F) the Department of State;
- (G) the Department of Transportation;
- (H) the Department of Health and Human Services;

(I) the National Aeronautics and Space Administration;

(J) the Environmental Protection Agency; and

(K) any other agency or office deemed appropriate.

(3) The representative of the National Science Foundation shall serve as the Chairperson of the Interagency Committee.

DUTIES OF THE INTERAGENCY COMMITTEE

SEC. 108(a) The Interagency Committee shall—

(1) survey Arctic research conducted by Federal State, and local agencies, universities, and other public and private institutions to help determine priorities for future Arctic research, including natural resources and materials, physical and biological sciences, and social and behavioral sciences;

(2) work with the Commission to develop and establish an integrated national Arctic research policy that will guide Federal agencies in

developing and implementing their research programs in the Arctic;

(3) consult with the Commission on—

(A) the development of the national Arctic research policy and the 5-year plan implementing the policy;

(B) Arctic research programs of Federal agencies;

(C) recommendations of the Commission on future Arctic research; and

(D) guidelines for Federal agencies for awarding and Administering Arctic research grants;

(4) develop a 5-year plan to implement the national policy, as provided in section 109;

(5) provide the necessary coordination, data, and assistance for the preparation of a single integrated, coherent, and multiagency budget request for Arctic research as provided for in section 110;

(6) facilitate cooperation between the Federal Government and State and local governments in Arctic research, and recommend the undertaking of neglected areas of research in accordance with the findings and purposes of this title;

(7) coordinate and promote cooperative Arctic scientific research programs with other nations, subject to the foreign policy guidance of the Secretary of State;

(8) cooperate with the Governor of the State of Alaska in fulfilling its responsibilities under this title;

(9) promote Federal interagency coordination of all Arctic research activities, including—

(A) logistical planning and coordination; and

(B) the sharing of data and information associated with Arctic research, subject to section 552 of title 5, United States Code; and

(10) provide public notice of its meetings and an opportunity for the public to participate in the development and implementation of national Arctic research policy.

(b) Not later than January 31, 1986, and biennially thereafter, the Interagency Committee shall submit to the Congress through the President, a brief, concise report containing—

(1) a statement of the activities and accomplishments of the Interagency Committee since its last report; and

(2) a statement detailing with particularity the recommendations of the Commission with respect to Federal interagency activities in Arctic research

and the disposition and responses to those recommendations.

5-YEAR ARCTIC RESEARCH PLAN

SEC. 109(a) The Interagency Committee, in consultation with the Commission, the Governor of the State of Alaska, the residents of the Arctic, the private sector, and public interest groups, shall prepare a comprehensive 5-year program plan (hereinafter referred to as the "Plan") for the overall Federal effort in Arctic research. The Plan shall be prepared and submitted to the President for transmittal to the Congress within one year after the enactment of this Act and shall be revised biennially thereafter.

(b) The Plan shall contain but need not be limited to the following elements:

(1) an assessment of national needs and problems regarding the Arctic and the research necessary to address those needs or problems;

(2) a statement of the goals and objectives of the Interagency Committee for national Arctic research;

(3) a detailed listing of all existing Federal programs relating to Arctic research, including the existing goals, funding levels for each of the 5 following fiscal years, and the funds currently being expended to conduct the programs;

(4) recommendations for necessary program changes and other proposals to meet the requirements of the policy and goals as set forth by the Commission and in the Plan as currently in effect; and

(5) a description of the actions taken by the Interagency Committee to coordinate the budget review process in order to ensure interagency coordination and cooperation in (A) carrying out Federal Arctic research programs, and (B) eliminating unnecessary duplication of effort among these programs.

COORDINATION AND REVIEW OF BUDGET OF BUDGET REQUESTS

SEC. 110(a) The Office of Science and Technology Policy shall--

(1) review all agency and department budget requests related to the Arctic transmitted pursuant to section 108(a)(5), in accordance with the national Arctic research policy and the 5-year program under section 108(a)(2) and section 109, respectively; and

(2) consult closely with the Interagency Committee and the Commission to guide the Office of Technology Policy's efforts.

(b)(1) The Office of Management and Budget shall consider all Federal agency requests for research related to the Arctic as one integrated, coherent, and multiagency request, which shall be reviewed by the Office of Management and Budget prior to submission of the President's annual budget request for its adherence to the Plan. The Commission shall, after submission of the President's annual budget request, review the request and report to Congress on adherence to the Plan.

(2) The Office of Management and Budget shall seek to facilitate planning for the design, procurement, maintenance, deployment and operations of icebreakers needed to provide a platform for Arctic research by allocating all funds necessary to support icebreaking operations, except for recurring incremental costs associated with specific projects, to the Coast Guard.

AUTHORIZATION OF APPROPRIATIONS: NEW SPENDING AUTHORITY

SEC. 111(a) There are authorized to be appropriated such sums as may be necessary for carrying out this title.

(b) Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this title shall be effective for any fiscal year only to such extent or in such amounts as may be provided in appropriation Acts.

DEFINITION

SEC. 112. As used in this title, the term "Arctic" means all United States and foreign territory north of the Arctic Circle and all United States territory north and west of the boundary formed by the Porcupine, Yukon, and Kuskokwim Rivers; all contiguous seas, including the Arctic Ocean and the Beaufort, Bering and Chukchi Seas; and the Aleutian chain.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HJR 49
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title State-Federal Joint Research Plan BRU _____
 Component _____
 Sponsor House Labor and Commerce Component No. _____
 Requester _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Amy Erickson, Committee Aide Phone 465-4954
 Division HL&C Date/Time 4/18/02 12:00 AM
 Approved by: Representative Murkowski Date 4/18/2002
 Agency _____



RECORDS CERTIFICATION



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

William J. Carter

Signature of Camera Operator

10/14/2003

Date

SB

10

Alaska State Legislature

SENATOR
GENE THERRIALT

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax: (907) 488-4271



Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884

Senate District Q

Senate Bill 10

"An Act extending the termination date of the
Board of Public Accountancy."

Sponsor:

Senator Gene Therriault

A handwritten signature in cursive script, appearing to read "Gene T.", written over the printed name of the sponsor.

Sponsor Statement

Under AS 08.04.010 the State Board of Public Accountancy regulates the professions of certified public accountants and public accountants by ensuring that the requirements laid out for licensure are met and adhered to.

The Board consists of seven members appointed by the governor. Each member shall be a resident of this state for at least one year. Five members shall be certified public accountants or public accountants and two members shall be public members.

The regulation and licensing of qualified certified public accountants safeguards the public by ensuring the competence and integrity of those who represent themselves as being certified public accountants.

The State Board of Public Accountancy is set to expire June 30, 2001 under AS 08.03.010, Termination of State Boards and Commissions. If the Legislature does not act to extend the Board, it would have one year, until June 30, 2002 to administratively conclude its affairs. Senate Bill 10 will extend the Board for another four years.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 10
 (S) Publish Date: 1/24/01

Revision Date/Time (Note if correction): 01/19/2001 3:30pm Dept. Affected: DCED
 Title: An Act extending the termination date of the BRU: Occupational Licensing
Board of Public Accountancy. Component: Occupational Licensing
 Sponsor: Senator Therriault
 Requester: Senate Labor & Commerce Component Number: 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005		
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0		

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0		
-------------------------------	------------	------------	------------	------------	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill extends the Board of Public Accountancy to June 30, 2005. Funding for the board is included in the FY 2002 Operating Budget request and new funds are not required. For informational purposes, the attached page shows expenditure and revenue information for the last two fiscal years.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
 Division: Occupational Licensing Date/Time 1/19/2001 3:30pm
 Approved by: Commissioner, Deborah B. Sedwick Date 1/19/2001
 Agency: Dept. of Community and Economic Development

For distribution information, call the Governor's Legislative Office

ANALYSIS: (continued)

SB 10: An Act extending the termination date of the Board of Public Accountancy

Page 2 of 2

FY 1999 Expenditures

FY 2000 Expenditures

Personal Services:

Direct	32,189.06	42,786.55
Indirect	28,317.15	23,533.78

Travel:

Direct	14,880.13	13,262.86
Indirect	400.01	223.89

Contractual Services:

Direct	49,354.63	51,956.93
Indirect	15,818.07	15,629.16

Supplies:

Direct	0.35	57.02
Indirect	1,999.85	1,335.18

Equipment

Direct	0.00	0.00
Indirect	<u>1,428.07</u>	<u>589.29</u>

TOTAL:	144,387.32	149,374.66
---------------	-------------------	-------------------

REVENUE:	63,117.59	279,515.14
-----------------	------------------	-------------------

Walsh Kelliher & Sharp

A Professional
Corporation



January 19, 2001

Certified Public
Accountants

ADVISORS
to Business

Senator Gene Therriault
State Capitol
Juneau, AK 99801-1182

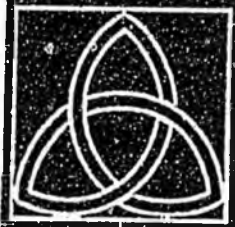
Dear Senator Therriault:

I am writing you in support of SB 10 which extends the termination date of the State Board of Public Accountancy to June 2005. I believe this board continues to serve the public interest by ensuring those licensed as Certified Public Accountants meet the qualifications specified in the statutes and regulations.

Please don't hesitate to contact me if you have any questions.

Best regards,

Michael M. Kelliher, CPA





ALASKA SOCIETY OF CPAs
341 W. TUDOR #105
ANCHORAGE, AK 99503
(907) 562-4334
800-478-4334
FAX (907) 562-4025

January 19, 2001

Senator Gene Therriault
State Capitol
Juneau, AK 99801-1182

Dear Senator Therriault:

As the current president of the Alaska Society of Certified Public Accountants, I am writing to you in support of SB 10 which extends the termination date of the State Board of Public Accountancy to June 30, 2005. This board is not only important to certified public accountants' throughout Alaska, but it is important to all Alaskans. The public has a vested interest in the reliability of financial information and that this financial information is presently fairly. The board meets the public interest by making sure that not only new applicants for licensure meet certain standards, but all of those licensed continue to meet standards in professional conduct and continuing education. The Board of Directors of the Alaska Society of Certified Public Accountants has asked me to contact you in support of SB 10.

If we can be of any further assistance, please don't hesitate to contact us.

Sincerely,

Michael M. Kelliher, CPA
President

Audit Report



DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
STATE BOARD OF ACCOUNTANCY
SUNSET REVIEW

October 20, 2000



Audit Control Number:

08-20000-00

Division of Legislative Audit
P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$6 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed as mandated by Alaska Statutes or at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Juneau, Anchorage, or our web site <http://www.legis.state.ak.us/lcgaud/web/default.htm>.

BUDGET AND AUDIT COMMITTEE

Representative Gail Phillips, Chair
Representative Con Bunde
Representative Eric Croft
Representative Gary Davis
Representative Gene Therriault
Representative Eldon Mulder (alternate)

Senator Randy Phillips, Vice Chair
Senator Al Adams
Senator Rick Halford
Senator Sean Parnell
Senator Gary Wilken
Senator Drue Pearce (alternate)

DIVISION OF LEGISLATIVE AUDIT

Pat Davidson, CPA
Legislative Auditor

P.O. Box 113300
Juneau, Alaska 99811-3300

(907) 465-3830, Juneau
(907) 561-1445, Anchorage
(907) 465-2347, Juneau Fax

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P.O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347
Internet e-mail address:
legaudit@legis.state.ak.us

October 20, 2000

Members of the Legislative Budget
and Audit Committee:

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

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
STATE BOARD OF ACCOUNTANCY
SUNSET REVIEW

October 20, 2000

Audit Control Number

08-20000-00

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(1), the Board of Public Accountancy is scheduled to terminate on June 30, 2001. The board would be allowed one year in which to conclude its administrative affairs.

Article IX, Section 14 of the Alaska Constitution, requires that the position of Legislative Auditor be filled by a certified public accountant (CPA). Likewise, the professional staff at the Division of Legislative Audit are either licensed or are pursuing licensure as CPAs. Since the board is responsible for licensing and regulating CPAs, our agency may be perceived as not being independent. As required by generally accepted government auditing standards, we are disclosing this perceived lack of independence.

In our opinion, the Board of Public Accountancy should be reestablished. The regulation and licensure of public accountants is necessary to the protection of the public's welfare. We recommend the legislature extend the Board of Public Accountancy until June 30, 2005.

Except for the issue related to the independence standard discussed above, the audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are set out on page one of this report.



Pat Davidson, CPA
Legislative Auditor

TABLE OF CONTENTS

	<u>Page</u>
Objectives, Scope, and Methodology.....	1
Organization and Function	3
Report Conclusions.....	5
Findings and Recommendations	7
Analysis of Public Need	11
Agency Response:	
Board of Accountancy	17

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Public Accountancy. As required by AS 44.66.050(a), the committee of reference shall consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, under AS 08.03.010(c)(1) the board will terminate on June 30, 2001, and will have one year from that date to conclude its affairs.

Objectives

There are two central, interrelated, objectives of our report. They are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public's interest. The assessment of the operations and performance of the board, was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

Scope and Methodology

Another auditor at our direction, and under our supervision, conducted a majority of this review. The auditor is subject to the licensing and regulatory oversight of the Board of Public Accountancy. We are satisfied that the contractor's work was competent and sufficient. However, the auditor, as is our agency,¹ is not independent as to the licensing and oversight of the board. Government audit standards require that any time the auditor is not independent, either in reality or perception, the "...impairment should be reported in the scope section of the audit report." This lack of perceived independence is so noted.

Our audit reviewed the operations and activities of the Board of Public Accountancy for the period of FY 98 through FY 00.

During the course of our examination, we reviewed and evaluated the following:

1. Compliance with statutes and regulations related to the certification of public accountants. Our evaluation addressed considerations of applications, testing of candidates, and continuing education necessary for an individual to maintain his/her license in good standing.
2. Minutes of meetings of the Board of Public Accountancy.

¹ Article IX, Section 14 of the Alaska Constitution, requires that the position of Legislative Auditor be filled by a certified public accountant (CPA). Likewise, the professional staff at the Division of Legislative Audit are either licensed or are pursuing licensure as CPAs. Since the board is responsible for licensing and regulating CPAs, our agency may be perceived as not being independent, under the requirements of generally accepted government auditing standards.

3. Annual reports issued by the board.
4. Complaints filed with the Division of Occupational Licensing and the Department of Law.
5. Office of the Ombudsman closed case file.
6. Other documents deemed pertinent.

We also conducted interviews with employees of the Division of Occupational Licensing within the Department of Community and Economic Development, and the chair of the Board of Public Accountancy.

ORGANIZATION AND FUNCTION

The Board of Public Accountancy is established under the authority of AS 08.04.010. The seven member board is appointed by the governor to four-year staggered terms.

Five of the members must be certified public accountants or public accountants currently licensed in the State of Alaska. Two members represent the general public. See the listing to the right for current board members.

The board is responsible for safeguarding the public interest by ensuring the competence and integrity of those who hold themselves out to the public as certified public accountants.

The board evaluates the qualifications of candidates, administers examinations, issues certificates and licenses to practice, promulgates rules of professional conduct, and takes disciplinary action.

The board is charged by statute with granting a certificate of "Certified Public Accountant" (CPA) to individuals at least 19 years of age and of good moral character that:

1. have satisfied the applicable education requirements;
2. have passed written examination requirements; and
3. have provided evidence of satisfactory work experience.

Department of Community and Economic Development, Division of Occupational Licensing

The Department of Community and Economic Development, Division of Occupational Licensing provides administrative and investigative assistance to the Board of Public Accountancy. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065, mandates the department, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of fees for applications, examinations, licenses, registration, permits, investigations, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the Division of Occupational Licensing with the authority to conduct an investigation on its own initiative or in response to a complaint.

Board of Public Accountancy
as of October 1, 2000

Professional Members

Dean W. Nelson, Chair, CPA
Marjorie J. Kaiser, CPA
Steven R. Tarola, CPA
Sandra R. Wilson, CPA
Linda Thomas, CPA

Public Members

Kathleen B. Shreiber
Lottie C. Fleeks

(Intentionally left blank)

REPORT CONCLUSIONS

In our opinion, the Board of Public Accountancy is operating in an efficient and effective manner and should continue to regulate certified public accountants and public accountants. We believe the board is safeguarding the public interest by ensuring the competence and integrity of those who hold themselves out to the public as certified public accountants or public accountants.

The Board of Public Accountancy has been found to serve a public purpose and has demonstrated an ability to conduct its business in a satisfactory manner. The board continues to propose changes to regulations to improve the effectiveness of the board and ensure that certified public accountants and public accountants licensed in the State of Alaska are competent and capable of maintaining the integrity of the profession.

Alaska Statute 08.03.010(c)(1) requires the Board of Public Accountancy be terminated on June 30, 2001. Under AS 08.03.020, the board has a one-year period to administratively conclude its affairs. We recommend the legislature extend the board's termination date to June 30, 2005.

(Intentionally left blank)

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Board of Public Accountancy should revoke regulations specifying the continuing education requirements for practitioners who "vouch" for the experience of license applicants.

In order to be licensed as a certified public accountant (CPA) an applicant must work a minimum of 500 hours performing what is termed "the attest function." The attest function refers to a certain type of work a CPA must do in order to issue a formal opinion on a given set of financial statements. Such work is a specialty of CPAs, distinct from other types of work a CPA may do such as tax preparation, bookkeeping, and management advisory services. An applicant must work these hours under the direct supervision of an individual already licensed as a CPA.

Making distinctions between CPAs based on continuing education requirements is faulty

In November 1996, the board amended its regulations that placed additional requirements on the supervising CPA. The board adopted 12 AAC 04.183(e) which stated

Effective January 1, 1998, the board will only consider an applicant's work performing the attest function if the applicant gained the experience under the direct supervision of a certified public accountant who has completed a minimum of 24 hours of auditing and accounting continuing education during the calendar year immediately before supervising the applicant and during each calendar year after 1996 that the certified public accountant supervised the applicant. [Emphasis added.]

By adopting such a requirement the board effectively makes a distinction between licensed CPAs based on the nature and extent of their continuing professional education (CPE). Adoption of this regulation suggests that only practicing CPAs that have taken CPE related to auditing and accounting are permitted to act as supervisor and, accordingly, vouch for the hours worked by a CPA applicant performing the attest function. The board seems to be saying that it cannot rely on the "quality" of the attest function hours unless the supervising CPA has the right kind of continuing education hours.

By extension, if a CPA isn't qualified to supervise a CPA candidate, it implies the board should not allow such a CPA to offer their services to the public.

Reliance should be placed on quality control requirements for validity of attest experience

There are better alternative controls in place to assure the quality of an applicant's attest function hours. Since attest function hours are those related to the issuance of a formal opinion on a set of financial statements, the work of the supervising CPA, who vouches for the applicant, must satisfy other quality control regulations that must be followed by professionals issuing financial statement opinions.

Currently, a CPA must indicate on their license renewal application whether they "*issued a report on audited or reviewed financial statements*" – that is, performed the attest function – over the previous two years. If such a report was issued, then the CPA must certify that, within the last three years they had "*undergone a quality review that is acceptable to the board.*" The board then goes on to specify in regulation its requirements for an acceptable quality review. Accordingly, since all attest function experience was presumably gained on work subject to these quality review requirements, it seems this process provides more assurance such experience was appropriate and of sufficient quality than the nature of the supervisor's CPE.

We recommend that the Board of Public Accountancy revoke this licensing regulation, and place more reliance on the quality control program requirement that it has put in place for engagements being worked on by the supervising CPAs who are vouching for the attest function experience of license applicants.

Recommendation No. 2

The Board of Public Accountancy should exercise due care in licensing professionals.

Current state regulation at 12 AAC 04.181(a) and (b) requires that an applicant applying for license as a CPA earn at least a minimum number of what are termed "experience points." These points are awarded based on the applicant's educational and work experience background. Work related experience points must be earned by performing the attest function under the direct supervision of a CPA for the entire experience period.

An applicant was issued a license in January 1999 based on the work experience in a public accounting firm working directly under the supervision of a certified public accountant for the period of January 2, 1996 through January 2, 1999. The accountant that was named as the applicant's direct supervisor for the period, however, was not licensed as a CPA until October 1998. Under the requirements of 12 AAC 04.181 the applicant that applied for licensure is not qualified for licensure since the supervisor only had two months of experience as a CPA.

While the individual who applied for licensure in this instance may be qualified for licensure under the statutes and regulations of the State of Alaska, that qualification was not evident upon review of the applicant's file. We recommend that the Board of Public Accountancy revise its procedures related to issuing licenses to ensure that the supervising official

maintained a current CPA license for the entire supervisory period. This will ensure that future licenses are issued appropriately and in accordance with regulatory requirements.

Recommendation No. 3

The Office of the Governor should ensure that appointments to the board are made in a timely manner.

The Board of Public Accountancy is a seven-member board with two public members and five licensed CPAs appointed by the Office of the Governor.

State law requires vacancies on the board be filled within 60 days. Over the three-year period covered by this review, there were two vacancies that did not receive appointments for over nine months.

We recommend the Office of the Governor fill vacancies in accordance with statute.

(Intentionally left blank)

ANALYSIS OF PUBLIC NEED

The following analysis of board activities relate to the "public need factors" set out in the "sunset" review law, AS 44.66.050. The *italicized, shaded, and bold face phrases* are taken from AS 44.66.050 (c) (1) – (9). These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

Determine the extent to which the board, commissions, or program has operated in the public interest.

The Board of Public Accountancy has operated in the public interest. The board adopted or revised regulations regarding quality review of CPAs offering audit and review attestation services, cheating on the Uniform CPA examination, and continuing education requirements for applicants renewing their existing licenses.

The board has served the public by adopting quality review regulations² similar to those of other states. These are regulations the board originally considered in 1991 and tabled at that time due to logistics of implementation and concern from the professional community of the cost of implementation.

These regulations provide more assurance that Certified Public Accountants practicing in the State of Alaska and issuing attestation reports, independent audits and reviews, on financial statements are providing their audit and review services in accordance with American Institute of Certified Public Accountants (AICPA) guidelines regarding attestation services. The quality review program requires certified public accountants, who are providing audit and review services, to be reviewed in accordance with the American Institute of Certified Public Accountants standards regarding quality review audits.

In protecting the welfare of the public and ensuring a high level of professionalism, competence and moral character the board has served the public through its examination and licensing of qualified applicants. The board changed regulations involving applicants who are caught cheating on the Uniform CPA examination.³

The board has protected the public by ensuring that the State's practicing certified public accountants meet the continuing education requirements. The board adopted changes in the current regulations mandating that professionals obtain an additional eight hours of

² Alaska Statute 08.04.426 states that the board may by regulation require, on either a uniform or random basis, as a condition to issuance and renewal of permits under this chapter, that applicants undergo a quality review conducted in a manner the board may specify.

³ State regulation 12 AAC 04.235 states that if the board determines that an applicant has cheated on or breached security provisions of the examination for certified public accountant, the board will:

- (1) void the examination score;
- (2) prohibit the candidate from sitting for future examination;
- (3) refuse to issue a certificate or permit to that applicant based on that examination score; and
- (4) revoke or suspend a certificate or permit issued to that applicant based on that examination score.

continuing education when they fail to meet their continuing education requirements on the renewal date of their license.

Determine the extent to which the operations of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices, which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

In 1998, legislation was adopted allowing the board to adopt additional disciplinary regulations for acts of cheating and other unauthorized acts related to the Uniform Certified Public Accountant Examination. This legislation ensures the continued ethical and moral character of future applicants applying for licensure in the State of Alaska.

In 1997, legislation was adopted establishing quality review requirements which became effective January 1, 1998. This legislation ensured that CPAs practicing in the State and issuing attestation reports on financial statements are providing their audit and review services in accordance with AICPA guidelines regarding attestation services. The quality review program requires CPAs, who are providing audit and review services, to be audited themselves in accordance with standards issued by AICPA.

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

The board supported legislation, which was introduced in 1997 that expands the mandate of the board to effect disciplinary action on applicants suspected of cheating on the Uniform CPA examination. The legislation is consistent with the current statute for public accountancy and allows the board to regulate the profession with the same consistency and in the same manner in which it currently oversees the other license-holders and examination applicants under its purview. The legislation was adopted by the legislature in 1998.

The board supported additional legislation that was originally introduced in 1991 allowing the board to adopt quality review regulations. Other jurisdictions have similar quality review standards making this legislation consistent with not only current statutes and regulations, but other jurisdictions' statutes and regulations as well. These statutory provisions were adopted by the legislature in 1997.

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

The location, date and time of upcoming board meetings and notices of proposed changes in regulations are published in the *Anchorage Daily News*, the *Fairbanks Daily News-Miner* and the *Juneau Empire*. The board's meeting agenda sets aside adequate time for the board to take public comment. Minutes of the board's meetings reflect public participation throughout the meeting. Proposed regulations are circulated to those affected by the proposed regulations

through professional trade journals, public notice advertisement, or direct mail correspondence from the Division of Occupational Licensing.

On one occasion the board failed to provide proper notice of a teleconference meeting. While the Division of Occupational Licensing initiated the purchase for advertising on November 22, 1999 (Monday) for a meeting being held on November 30, 1999 (Tuesday), the order did not arrive at any of the local newspapers in time to be published until November 27, 1999 (Saturday). This provided public notice of only one day. This is not sufficient under AS 08.01.050 or internal Division of Occupational Licensing policy. Additionally, there is only a record of the advertising in one publication. Publications of the notice should occur in all three major population centers of the State.

While the board properly noticed proposed changes in quality review standards for CPAs licensed in the State, many of the affected license holders did not receive notice of the formal regulatory change. As a result, the board issued a significant number of memorandums of agreement allowing practitioners to renew their licenses on the condition they meet the requirements of the regulations within a specified period.

Determine the extent to which the board has encouraged public participation in the making of its regulations and decisions.

Public notice of proposed regulations are published in major newspapers. Meetings, on an overall basis, are adequately advertised, and time is set aside for public testimony.

Major proposed regulation changes were circulated throughout the professional community by either direct response mailing to the affected license holders, or providing the proposed changes to the State's accounting organizations. Feedback resulted in changes to the proposed regulations addressing the profession's concerns. The Alaska Society of Certified Public Accountants has requested board support for legislation sought by the society.

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

During the past three years (FY 98 through FY 00) the Division of Occupational Licensing opened up 28 investigative cases involving activities regulated by the Board of Public Accountancy. Of these 28 investigations, the division has completed and closed 27 cases.

Eight of these 27 cases were resolved by the division without involvement by the board – through the use of a warning letter, 4 instances of voluntary compliance, and 3 determinations of no violation.

For the 19 cases requiring board action, 15 involved the necessity of the practitioner involved to obtain a qualified peer review. The board closed 14 cases by directing the license holder to obtain a qualified peer review as required by regulation, and in the other instance determined that a peer review requirement was not applicable. In the other four cases the board: reinstated two licenses; denied one individual appealing the administrative denial of their license; and directed one licensee to obtain necessary continuing education while fining and reprimanding them. No licenses were revoked, suspended, or placed on probation.

Determine the extent to which the board regulates entry into an occupation or profession and whether it has presented qualified applicants to serve the public.

Listed below is a summary of new licenses and permits issued by the board for the period under review.

New Licenses and Permits Issued (Exclusive of Renewals)	FY 98	FY 99	FY 00	Total	Active as of June 30, 2000
Certified Public Accountants	48	49	51	148	766
Resident Partnerships, Corporations and Limited Liability Companies	5	7	8	20	85
Non-resident General Permits	3	5	4	12	11

Overall the application process for licensing appears reasonable and appropriate. The licensing process is neither unduly restrictive nor too lax. Continuing education is required and adequately monitored by the board to promote a high level of quality performance and to help ensure the integrity of the profession.

Each applicant is required to satisfy the requirements for licensing. Board meeting minutes reflect that the board considers each application and verifies the licensing requirements are satisfied prior to issuing a license.

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

The Office of the Ombudsman received no complaints regarding the Division of Occupational Licensing or the Board of Public Accountancy. We did not find any evidence that the board was not complying with the state personnel practices, including affirmative action in qualifying applicants. In no instances has the board denied an applicant a license based on personal attributes.

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

The board continues to recognize the need to evaluate the Americans with Disabilities Act, to determine its impact on the profession. The board will consider whether any statutory or regulatory changes are needed to ensure compliance.

The board, with the assistance of the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy (NASBA), recognized the need to evaluate and explore implementation of a "substantial equivalency" concept to simplify the licensing of applicants from other jurisdictions by reciprocity. This will allow certified public accountants to practice across state lines in states that meet Uniform Accountancy Act Standards.

The board recognized the need to evaluate standards to ensure that applicants for licensure are qualified and distinguish between qualification standards required of both public and non-public accountants. The board continues to evaluate the existence of business entities that provide public accounting services but are not CPA firms. The board may propose future regulations as needed based upon the actions of other state boards of accountancy and national organizations.

Nationally, the public accounting profession continually considers issues that may have an impact on industry standards. The board continues to be active in addressing these issues ensuring that certified public accountants licensed in the State of Alaska are represented.

(Intentionally left blank)



**Department of Community
and Economic Development**

Division of Occupational Licensing

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

Telephone: (907) 465-2534 • Fax: (907) 465-2974 • Text Telephone: (907) 465-5437

Email: license@dced.state.ak.us • Website: www.dced.state.ak.us/occl/

November 22, 2000

Legislative Budget and Audit Committee
Division of Legislative Audit
PO Box 113300
Juneau, AK 99811-3300

Dear Ms. Davidson,

Thank you for this opportunity to comment on the Preliminary Audit Report (#08-20000-00). We concur that the Board of Public Accountancy should be continued through June 30, 2005.

Our comments regarding recommendations in the audit are as follows:

Recommendation No. 1. Board of Public Accountancy should revoke regulations specifying the continuing education requirements for practitioners who "vouch" for the experience of license applicants.

Through the chair, the board has stated that the intent of the regulation was to ensure that those who supervised candidates claiming attest hours were, in fact, currently informed of appropriate practices and standards. However, the board does understand the basic issue of the audit recommendation. The board chair stated the board is in the process of reviewing all forms for licensing and renewal, including the processes related thereto and will most certainly consider this recommendation as part of that process review.

Recommendation No. 2. The Board of Public Accountancy should exercise due care in licensing professionals.

The division and the board believe the board has exercised due care. The Board has, in fact, reviewed all candidates' applications using checklists and a second board member has reviewed the work. However, to improve the process, the board chair has stated the board will modify the application form to request of the Supervisory CPA the date of issuance of his or her license.

Recommendation No. 3. The Office of the Governor should ensure that appointments to the board are made in a timely manner.

Through its chair, the board has stated that the board will facilitate in any way possible in assisting the Office of the Governor in finding qualified board members, as need arises in the future.

Sincerely,

Catherine Reardon
Director

SB

37

Alaska State Legislature

Session:
State Capitol
Juneau, AK 99801
Phone: (907) 465-2327
Fax: (907) 465-5241



Interim:
119 N. Cushman
Fairbanks, AK 99701
Phone: (907) 456-8161

Senator Pete Kelly
District P

CSSB 37 (FIN) Version 22-LS0323\R

“An Act relating to collective negotiation by competing physicians with health benefit plans, to health benefit plan contracts, to the application of anti-trust laws to agreements involving providers and groups of providers affected by collective negotiations, and to the effect of the collective negotiation provisions on health care providers.”

Senate Bill 37 attempts to level the playing field for Alaska’s patients and the physicians who care for them.

In a perfect world, equal bargaining power would exist between the medical care providers and the health insurers. Big hospitals have more equal bargaining power with the health insurers than the typical Alaskan physician in a solo or small group practice. Obviously, a gross inequity in bargaining power exists and there is no conceivable way any health insurer will bargain with an individual doctor regarding individual contract provisions other than on a take it or leave it basis. The resultant effect is physician service contracts heavily weighted in favor of the insurance company. The bottom line is that, in many respects, this adversely affects the care that patients receive. For example, requiring a physician to use lower cost treatment when a higher cost treatment may be medically necessary or preventing a physician from discussing alternative treatments.

Independent, competing physicians are prevented from any collective action by the federal anti-trust laws to which, ironically, the insurers are not subject. This fact plus the market concentration of health insurers causes the imbalance in bargaining power. With insurers having such a high degree of leverage, a balance of interest no longer exists in the market for health care delivery and finance.

Senate Bill 37 can permit independent, competing physicians to collectively negotiate with health insurers in regard to the provisions of physician services contracts to provide quality health care to Alaskans. When the provisions set forth by SB 37 are met, behavior that would otherwise violate the anti-trust laws will be exempt from anti-trust scrutiny. The test for qualifying exemption varies depending on the identity of the party performing the action in question. However, SB 37 will still prohibit a group of independent competing physicians from striking or otherwise engaging in activities that would result in a boycott.

**CS for Senate Bill 37 (FIN)
Version (22-LS0323\R)
Summary**

What is SB 37?

Senate Bill 37 levels the playing field for Alaska's patients and the physicians who care for them. It allows independent, competing physicians to jointly negotiate contract provisions with insurance companies without violating federal anti-trust laws. However, it includes a clearly established process to be followed for these joint negotiations to occur and involves active state oversight as required for a State Action Doctrine. By allowing joint negotiations to occur, a more fair and equitable negotiation process between doctors and insurance companies is created, and doctors are given the ability to better protect their patients.

What SB 37 is not:

It is not a union-creating device. It is not mandatory for either doctor or an insurance company.

Why SB 37 is needed?

Although Health Management Organizations (HMOs) do not yet exist in Alaska, it is likely that they will be established here in the future. Currently there are Preferred Providers Organization (PPO) plans that, while not as restrictive as HMOs, can limit which specialists a doctor may refer a patient to, or the treatments a doctor may prescribe. SB 37 would allow doctors to negotiate with insurers on these limitations.

Currently patients have no advocates other than their doctors. By allowing doctors to discuss and jointly negotiate definitions such as "medical necessity," patients can receive better care. Physicians could use their own judgement in determining medical emergencies and would not be required to rely on the insurance company's interpretation of undefined contract terms.

For example, if a patient visits the doctor to have an injured knee examined, the doctor may recommend a MRI. Next the doctor must contact the insurance company for approval. If the insurance company does not approve this treatment, but instead recommends physical therapy for 2

weeks, the doctor must relay that to the patient. In order for the insurance company to pay for the patients care, the doctor must follow the insurance company's idea of good medicine, one that is based on the bottom line. If doctors could negotiate contractual terms, that patient could receive the MRI and the course of treatment could follow the doctor's recommendations, not costs to the insurer.

How does SB 37 benefit consumers?

Passage of SB 37 will allow physicians to discuss and agree to definitions and terms used in service agreements with insurers. Doctors will have more say when it comes to the specific guidelines of the health plans their patients must live with. They will have more say about which treatments and medications they can recommend. They will have more say about which specialist they can refer patients to.

Participation is voluntary, not mandatory.

Why bother with SB 37?

This will make it easier for a new health insurance plan to enter the Alaskan market. New insurance carriers find it too expensive and time-consuming to attempt to penetrate the Alaskan market without assurances that they can sign up a significant number of doctors from the start. A new health insurer desiring to build a network of doctors would find it more cost effective to negotiate with a group of physicians rather than a single doctor at a time.

Will SB 37 raise health care or insurance costs?

Insurance companies say yes, doctors say no. Both sides can cite studies. The truth is, no one knows, there are only guesses. Although a similar law has already passed in Texas and legislation has been proposed in numerous other states, nothing has been in place long enough to examine the effects on cost.

This legislation gives the Attorney General some control over costs. The negotiations can be rejected if the Attorney General decides that "the terms (1) provide for excessive payments; or (2) contribute to the escalation of the cost of providing health care services." Furthermore, nothing in the bill is mandatory. Neither doctors nor insurers *must* negotiate.

To emphasize the fact that rising costs are unlikely, a sunset clause has been included in SB 37. Instead of listening to the "what if" and "how much" scenarios from groups opposed to this legislation, we will see what the

actual impact of this legislation is. If costs increase too dramatically as a result of SB 37, the legislature can simply renew this law after 60 months.

Can't physicians already discuss non-fee issues?

No. Doctors may not discuss the terms of the service contracts with any colleague within the same geographic service area. In some cases, that may be the entire state. Two FTC rulings have been issued that explicitly state that "exchanging or facilitating the exchange of information among physicians concerning the terms of conditions" of a contract is prohibited.

Why include fees? Remember fees are optional!

Fees must be included in this bill; the FTC has linked fees and quality making them inseparable. A situation in Fairbanks illustrates this. A group of Fairbanks doctors got together to discuss quality issues – specifically emergency room care. The FTC got wind of this when a complaint was filed. A letter from the FTC ordered the doctors to "cease and desist," saying that discussing quality issues constituted discussing fees.

Why can fees be discussed if so desired?

SB 37 limits the discussion of fees to health insurers with more than a 15% share of the *insured market*. The base of this calculation is not the population of the state; it is the insured population. This does not include Medicare or Medicaid recipients, it does not include the military, it does include Indian Health participants, and it does not include the uninsured. When you remove those people from the denominator, that 15% goes up. It is only in these limited circumstances that dollar figures may be discussed. And even then, the AG has the power to say no.

Can all of Alaska's doctors form one big group to negotiate?

When there are more than 40 doctors in a geographic service area, *up to 30% of them may form a group to negotiate*. If a community has 40 doctors or fewer, 100% of those physicians may participate. When you're dealing with small populations, percentages don't work – you have to deal in numbers.

- Kenai has 5 doctors. All five may negotiate – 100% of them.
- Soldotna has 41 doctors. Only 30% of those 41 doctors may negotiate.
- Ketchikan has 29 doctors. 100% may negotiate.

Senator Pete Kelly
Capitol Room 518

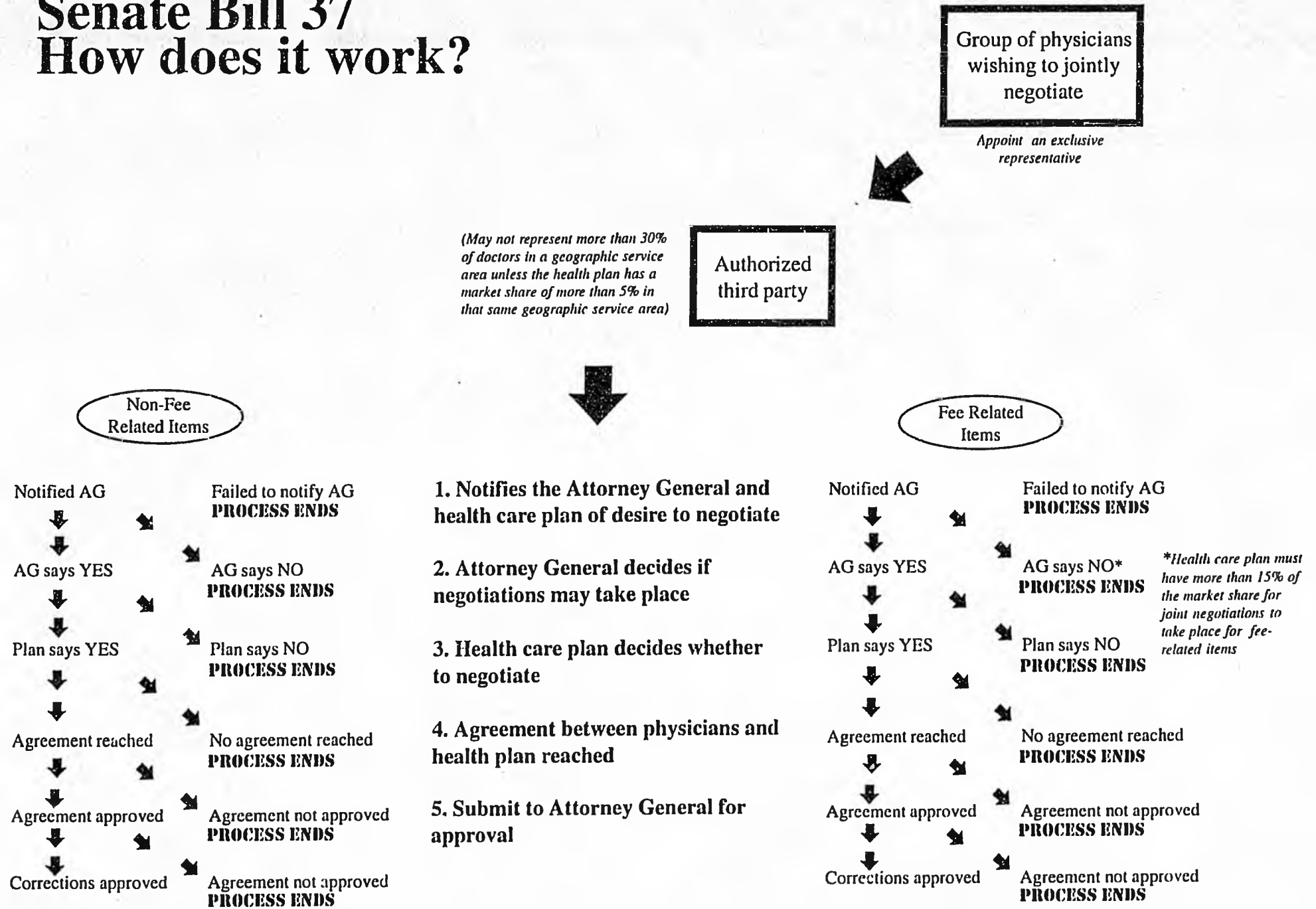
This 30% / 40 doctor figure also applies to specialties. Alaska has an under-supply of medical specialists. The geographic service area of a specialist may include the whole state. For example, there are 12 cardiologists serving in Alaska, all based in Anchorage. Allowing only 30% of just 12 cardiologists is just 3.6 doctors who may negotiate. This is ridiculous. If there are 40 or fewer specialists serving in the state, 100% may negotiate.

Why 40 doctors?

The doctors who are involved in the negotiating process have substantial fees to cover. They have to pay for the AG's involvement. They have to hire an attorney to review the contracts. They have to hire a third party to negotiate for them. If there are fewer than 40 doctors involved, they may not be able to afford to negotiate.

Senate Bill 37

How does it work?



SB37
"State Action Doctrine"

Alaska has never had a great number of health insurance companies competing in the market place. The prospect of even fewer players exists not only here but nationwide. On January 13, 1999, the New York Times reported that since 1994 the leading 18 health insurance companies have combined into 6.

Health insurance plans have increasingly incorporated practices and procedures to manage health care in order to keep costs down. One mechanism used is for a health insurer to contract with different types of providers of health care to provide care for its insureds. Theoretically, the health insurer negotiates discounted fees for health care for the promise of a more guaranteed stream of patients.

In a perfect world, equal bargaining power would exist between the medical care providers and the health insurers. Large group medical practices (none of which exist in Alaska) and big hospitals have more equal bargaining power with the health insurers than the typical Alaskan physician in a solo or small group practice. Obviously, a gross inequity in bargaining power exists. There is no conceivable way any health insurer will bargain with an individual doctor regarding individual contract provisions. The health insurer will only offer a contract on a take it or leave it basis. The resultant effect is physician service contracts heavily weighted in the favor of the insurance company. The bottom line is that, in many respects, this adversely affects the care that patients receive. For example, requiring a physician to use a lower cost treatment when a higher cost treatment may be medically necessary.

Independent, competing physicians are prevented from any collective action by the federal anti-trust laws to which, ironically, the insurers are not subject. This fact plus the market concentration of health insurers causes the imbalance in bargaining power. With insurers having such a high degree of leverage, a balance of interest no longer exists in the market for health care delivery and finance.

A mechanism, however, is available that can permit independent, competing physicians to collectively negotiate with health insurers in regard to the provisions of physician services contracts. That mechanism is an act of the legislature which would create a "state action doctrine" exception which was first set forth in a 1943 U.S. Supreme Court decision in *Parker v. Brown*. In general, the state action doctrine states that the anti-trust actions do not apply to actions by a state operating in its sovereign capacity, or to private conduct compelled or approved by the state. In other words, where the requirements of the state action doctrine are met, behavior that would otherwise violate the anti-trust laws will be exempt from antitrust scrutiny. The test for qualifying for exemption varies depending on the identity of the party performing the action in question.

If the party is a state legislature or a state court, the exemption is complete and no further inquiry is required. Where the party is a state agency or local government official, further inquiry is required with respect to whether the action in question followed a "clearly articulated and affirmatively expressed state policy." However, when the party is a private party, the test for

qualifying for the state action exemption is the strictest. In addition to having to comport with the "clearly articulated and affirmatively expressed state policy," the action must also be subject to active state supervision. In other words, the state must, in practice, exercise some degree of independent judgement or control over the activity in question. Passive or theoretical power of a state to review a private action in question is insufficient to meet this standard.

Physicians fall into the category of a private party. Therefore, collective actions taken by physicians would ordinarily be illegal under anti-trust laws. In the instance of independent, competitive physicians engaging in collective negotiations with a health insurer, such actions would only be exempt from anti-trust scrutiny if the requirements above for a private party are met.

The most obvious way for a state to lay out those requirements is through legislation. SB37 is a bill that lays out the "clearly articulated and affirmatively expressed state policy" and provides for active state supervision through oversight by the Attorney General. Important to note is that this bill will still prohibit a group of independent competing physicians from striking or otherwise engaging in activities that would result in a boycott.

Please help level the playing field for Alaska's patients and the physicians who care for them by supporting SB37.

CS for Senate Bill 37 (FIN)
Version: 22-LS0323R
Sectional Analysis

“An Act relating to collective negotiation by competing physicians with health benefit plans, to health benefit plan contracts, to the application of antitrust laws to agreements involving providers and groups of providers affected by collective negotiations, and to effect of the collective negotiation provisions on health care providers.”

***Section 1.** AS 23 is amended by adding a new chapter to read:
Chapter 50. Collective Negotiation by Physicians.

AS 23.50.010

AS 23.50.010 articulates the reasons for the Legislature to set policy to allow joint negotiations between a group of competing physicians and a health insurance company.

AS 23.50.020

AS 23.50.020 (a) enumerates those items which may be the subject of joint negotiations. Those items include clinical practice guidelines and coverage criteria; respective liability of physicians and health care insurers; administrative procedures that include methods and timing of payments to physicians; resolution dispute procedures; patient referral procedures; application of the reimbursement methodologies to be used; quality assurance programs; utilization review procedures; and criteria for the selection and termination of participating physicians. Note that this subsection does not allow for negotiation for that fee or payment related items unless the conditions of AS 21.50.020 (c) are met.

AS 21.050.020 (b) prohibits joint negotiations involving fees or prices for services; the conversion factor in a RBRVS type payment methodology; amounts of discount on the physician services; and dollar amounts for a “captivation” basis of payment. However, it still allows physicians to jointly and collectively petition government for a change in law that provides for payment to doctors under a governmental program (e.g., Medicaid).

AS 21.050.020(c) requires an authorized third party that intends to negotiate with a health benefit plan provide written notification to the Attorney General of when the process is to commence. This section also notes if fees are to be negotiated, medical services must be negotiated first and concluded in (b) of this section.

AS 21.050.020 (d) states that physicians within a service area of a health benefit plan may collectively negotiate if “substantial market power” is present. The Attorney General shall then notify parties of the intent of the negotiations.

The exception is made to allow for joint negotiation for those fee items listed in AS 21.050.020 (d) when a health insurer has "substantial market power." AS 21.050.020 (s)(4) defines a substantial market power when an insurer has more than 15% of the market place as measured by the number of people covered are those covered under Medicaid and Medicare if an insurer provides any claim payment services for the government for those programs. The concept is based in that all "bodies" covered and threats of not contracting with a certain physician are based on the deleterious effect on a physician's practice by removing those patients from his/her practice. Enumerating the persons covered may be difficult for the Division of Insurance. In fact, it is impossible for the Division of Insurance to compel self-insureds to provide it with those data. In one state currently addressing the State Action Doctrine exemption issue (California), it is being considered to just require all health plans to negotiate with physicians without having to prove the "substantial market power" percentage. (Obviously this would allow physicians to still jointly negotiate under active state oversight). The reason for this is that it is clear in California that less than 6 health plans dominate Alaska's marketplace. In (1) of this section, substantial market power is calculated by the number of covered lives per calendar year or number of consumers of prepaid health services divided by the total population of a geographic service area from the most recent census.

AS 21.050 (g) sets out the criteria for those collective rights to be carried out by the physicians jointly negotiating. The core provision is that negotiations are to be conducted through an "authorized third party" that will negotiate on behalf of the physicians who have joined together for that purpose. Conceivably, that person acting as the authorized third party representative could be an IPA, a lawyer, a physician, a specialty medical society, a local medical association, a state medical association, etc. It is presumed a contractual relationship will exist between the represented physicians and the authorized third party that memorializes the obligations and requirements of the parties. This subsection states that the physician who have joined for the purpose of negotiation may communicate with their authorized third party about terms and conditions, which are to be negotiated. The authorized third party is the sole person who is to negotiate on behalf of the doctors. Subsection (5) of this section may provide some confusion in that it would appear to defeat the purpose of the joint negotiations. The intent of subsection (5) is to provide, for example, for different rates of reimbursement to be included for different specialties. (For example, anesthesiologists are typically reimbursed in a different manner than a surgeon and both may be in the same group of physicians engaged in joint negotiations.) Generally, an authorized third party may not represent more than 30% of the physicians. Obviously, the concern would be that physicians represented in great numbers would dictate the terms of a contract to an insurer or health plan. By the same token, for example, it would be unfair for a specialist, who is the only one in a particular area, not be able to join with other physicians to jointly negotiate. This is an area that active state oversight would be necessary so that a fair result for the general public would be the outcome.

AS 21.050.020 (h) sets out what a person desiring to act as an authorized third party needs to do in order to act in that capacity. In short, the authorized third party needs to

register with the Commissioner of Labor and Workforce Development. That registration requires an identification of the authorized third party and how that person intends to operate. It is presumed that this would include a detailed plan of operation along with the contract that it has entered into with the group of physicians to be represented. This must be done for each of the physician service contracts that the authorized third party wishes to jointly negotiate on behalf of the physicians represented. The efficiencies or benefits that are expected to be achieved must be identified. The authorized third party is required to report to the Commissioner of Labor if health care insurer or health plan declines to negotiate or terminates a negotiation within 14 days of receiving that decision. Also, if an insurer or health plan fails to respond within 14 days of a request for negotiation, that fact also needs to be reported to the Commissioner.

AS 21.050.020 (i) requires the Commissioner, with the advice of the Attorney General, to either approve or disapprove a negotiated contract within 30 days of when it was presented. If it is disapproved, the Commissioner must give a written explanation of the deficiencies and how they could be corrected.

AS 21.050.020 (j) explains the Attorney General shall approve a collective negotiation if a competitive aspects outweigh any anti-competitive effects. Also, that the contract terms must be consistent with other applicable laws and regulations.

AS 21.050.020 (k) states the terms of the contracts may include a competitive balance in the market: protections for access to quality patient care; promotion of health care infrastructure and medical advancement; and improved communications between the providers and insurers.

AS 21.050.020 (l) explains the Attorney General may examine possible anti-competitive effects in the terms. Under that consideration the AG examines the possibility of excessive payment; or contributes to the escalation of cost in providing health care services.

AS 21.050.020 (m) prohibits the physicians represented from acting together in response to a report from their authorized third party regarding its discussion or negotiation with a health care insurer or health plan. The authorized third party has a duty to warn the physicians represented of the potential legal action under state and federal anti-trust laws for exceeding the authority granted by this measure.

AS 21.050.020 (n) limits the terms of any contract negotiated to 5 years. It is expected that terms of actual contracts will be for less than 5 years.

AS 21.050.020 (o) keeps all documents relating to joint negotiations, that would come from both physicians and insurers or health plans, confidential and not subject to public inspection.

AS 21.050.020 (p) does not exempt from to exclude the services provided by a provider or group of providers or that limits the participation or scope of services provided within

the scope of certain occupational licenses. This portion of the legislation was amended to meet concerns of the nurse practitioners and midwives. They were concerned their services could be negotiated out of the agreements. This reaffirms AS 21.36.090(d) which prohibits an insurer, HMO, hospital, or medical service-corporation from unfairly discriminating in its benefits between different types of medical care providers.

AS 21.050.020 (s) defines the terms "covered lives", "geographic service area", and "provider", and "substantial market power".

***AS 23.50.030**

AS 23.50.030 creates a fee mechanism to Cover State's cost of providing its active oversight of the joint negotiation authorized by this bill. The fee is to be reflective of the actual costs that the State incurs. The Commissioner sets the fees by regulation and must report on the fees each year to the Office of Management and Budget. At least one other state in dealing with a "State Action Doctrine" exception (California) charges the regulatory costs to health care insurers and health plans on a pro-rata share based on their market share. Theoretically, the cost should be the same without regard to who pays it. If the physicians pay it via their authorized third party, then they will negotiate sufficient payment levels to cover that cost. Conversely, if the insurers and health plans pay it, then they will negotiate sufficient payment levels to cover that cost. The issue is what is the most efficient and fair method of payment to cover the cost. Obviously, the physician community will not be supportive of a fee mechanism that requires a payment up-front only to have an insurer decline to negotiate and not receive any refund.

***AS 23.50.040**

AS 23.50.040 allows the Commissioner of Labor and Workforce Development to adopt regulations to implement this law.

***AS 23.50.099**

AS 23.50.099 is the definition section and contains the definition of the terms "authorized third party", "health benefit plan". The definition of "health benefit plan" in this section excludes those self-insured health benefit plans. These definitions are straightforward and unambiguous.

***Section 2.** AS 45.50.572 is amended by adding a new subsection to read:

This section is needed to provide for joint negotiation by physicians under the "State Action Doctrine" exemption under Alaska's laws pertaining to competitive practices and regulation of competition.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

ALASKA STATE MEDICAL ASSOCIATION

4107 Laurel Street Anchorage, Alaska 99508 (907) 562-0304 (907) 561-2063 (fax)

March 28, 2001

Honorable Pete Kelly
State Senate
Co- Chairman Senate Finance Committee
State Capitol, Room 518
Juneau, AK 99801-1182

RE: SB 37

Dear Senator Kelly:

The Alaska State Medical Association (ASMA) represents Alaska's patients and the physicians who care for them. Thank you for this opportunity to again provide you testimony on this important matter.

ASMA continues to support a strong physician joint negotiation bill. We have already provided you with a great deal of information relating to our support of SB 37. Today, I would like to provide you with a slightly different perspective.

ASMA is pursuing legislation like SB 37 because it views enactment of this and other physician friendly legislation as important in creating an environment that will attract physicians to practice in Alaska. Why is this important? A few numbers will serve to illustrate. It has been reported that there are over 2000 physicians licensed to practice in Alaska. That is correct but not all of those physicians practice and reside in Alaska. ASMA maintains a database of those physicians practicing and residing in Alaska and at December 20, 2000 that number was 1,036 physicians. But this is only part of the story. Below is an extract from physician workforce data compiled by Dr. Sam Cullison, an AMA delegate from Washington.

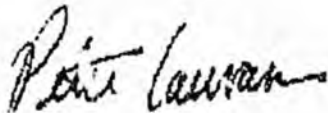
<u>State</u>	<u>Number of Physicians</u>	<u>Per Capita Physicians/100K</u>
Alaska	1,036	171
California	89,153	282
Hawaii	3,399	286
Washington	14,759	271
Oregon	8,333	265
U.S.	-	282

It would appear that Alaska is either "underserved" or the other states are "over served". We suspect the former.

Finally, in an analysis done last year of ASMA's data base, over one-half of the physicians in private practice are over the age of 51. (This was estimated using the year of graduation from medical school and assuming an age of 26 at the time of graduation and anyone with an indeterminate year of graduation was assumed to be under 51.) We are facing a serious recruiting effort in order to replace those leaving practice in Alaska. Idaho is facing a similar situation in that a little over 40% of its physician workforce is over the age of 50. Idaho is seeking 10 more slots per year in the WWAMI program to help meet its future recruitment needs.

Access to timely and appropriate care is already an issue in Alaska for certain specialties. Alaska, in the foreseeable future, will continue to be a "net importer" of physicians. We believe it is critical that an environment is created and maintained that will attract well trained physicians in sufficient numbers to adequately and expediently care for Alaska's patients. Passage of bills like SB 37 help to create that favorable environment. Thank you for your continued support in this endeavor.

Sincerely,



By: Peter Lawrason, MD, President
For: Alaska State Medical Association

c.c. Senate Finance Committee Members.

Harbir S. Makin, M.D.

3300 PROVIDENCE DR., SUITE 114
ANCHORAGE, ALASKA 99508
TELEPHONE (907) 261-3171

DIPLOMATE AMERICAN BOARD OF INTERNAL MEDICINE

March 29, 2001

The Honorable Pete Kelly
Co-Chairman Senate Finance Committee
State Capitol Building
Juneau, AK 99801

Re: SB37 – Physician Negotiation Bill

Dear Senator Kelly:

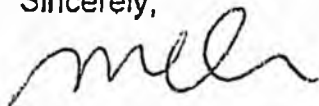
I am a private practice physician in Anchorage, Alaska. I am writing to ask for your and your Senate colleagues support to pass SB37 into law. I feel that passage of the Physician Negotiation Bill will allow me and my colleagues to be better advocates for patients when dealing with third party payors over contracting issues.

As you know, without passage of the bill Alaska physicians are currently barred from collectively discussing a host of issues with third party payors, which directly and indirectly affect patient care. SB37 would allow groups of independent physicians to negotiate with health benefit plans; so long there is "active state oversight" of the process. It should be noted that all negotiations are voluntary, and any party can withdraw at any time.

And finally, the Alaska Attorney General has veto power over the final contracts, including the fee schedule. This veto power should go a long way toward ameliorating the concerns of those who claim that passage of this bill will simply allow physicians to ratchet up the cost of medicine.

I've been told that the bill is up for a Senate floor vote on Monday, April 2nd or Tuesday April 3rd, and again ask for you and your colleague's support of the vote.

Sincerely,





Summit
Family
Practice

1200 Airport Heights Drive, Suite 278
Anchorage, Alaska 99508
Telephone: 907-272-3366

March 29, 2001

The Honorable Pete Kelly
Co-Chairman Senate Finance Committee
State Capital Building
Juneau, AK 99801

Re: SB37-Physician Negotiation Bill

Dear Senator Kelly:

I am a family physician in private practice in Anchorage, Alaska. I am writing to ask you and your Senate colleagues to support the passage of SB37 into law. I feel that passage of the Physician Negotiation Bill will allow me and my colleagues to be better advocates for our patients when dealing with third party payors over contracting issues.

As you know, without passage of the bill Alaskan physicians are currently barred from collectively discussing a host of issues with third party payors, which directly and indirectly affect patient care. SB37 would allow groups of independent physicians to negotiate with health benefit plans, so long there is "active state oversight" of the process. It should be noted that all negotiations are voluntary, and any party can withdraw at any time.

I understand that the Alaska Attorney General has veto power over the final contracts, which should reassure those who claim that passage of this bill will simply allow physicians to ratchet up the cost of medicine.

I've been told that the bill is up for a Senate floor vote on Monday, April 2nd or Tuesday, April 3rd, and again ask for you and your colleague's support of the vote.

Sincerely,

S. Lynn Hornbein, MD

GRIFFITH C. STEINER, M.D.

OPHTHALMOLOGY

3340 Providence Drive, Suite 565
Anchorage, Alaska 99508
Tel. (907) 561-1167
Fax (907) 561-7051

March 29, 2001

The Honorable Pete Kelly
Co-Chairman Senate Finance Committee
State Capitol Building
Juneau, AK 99801

RE: SB37 – Physician Negotiation Bill

Dear Senator Kelly:

I am a private practice physician in Anchorage, Alaska. I am writing to ask for you and your Senate colleague's support to pass SB37 into law. I feel that passage of the Physician Negotiation Bill will allow me and my colleagues to be better advocates for patients when dealing with third party payors over contracting issues.

As you know, without passage of the bill Alaska physicians are currently barred from collectively discussing a host of issues with third party payors, which directly and indirectly affect patient care. SB37 would allow groups of independent physicians to negotiate with health benefit plans so long as there is "active state oversight" of the process. It should be noted that all negotiations are voluntary, and any party can withdraw at any time.

And finally, the Alaska Attorney General has veto power over the final contracts, including the fee schedule. This veto power should go a long way toward ameliorating the concerns of those who claim that passage of this bill will simply allow physicians to ratchet up the cost of medicine.

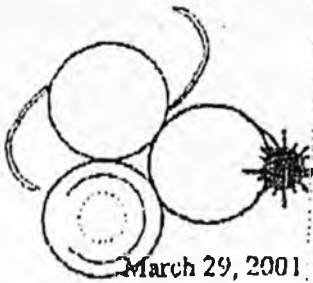
I've been told that the bill is up for a Senate floor vote on Monday, April 2nd or Tuesday April 3rd, and again I ask for you and your colleague's support.

Sincerely,



Griffith C. Steiner, MD
Glaucoma, Cornea/External Disease, Cataracts and
Refractive Surgery

GCS:jes



Grendahl Eye Associates

3500 La Touche, Suite 240 - Anchorage, Alaska 99508
907-561-1917 800-478-4502

March 29, 2001

The Honorable Pete Kelly
Co-Chairman Senate Finance Committee
State Capitol Building
Juneau, AK 99801

Re: SB37 - Physician Negotiation Bill

Dear Senator Kelly:


I am an ophthalmologist in private practice in Anchorage, Alaska. I am writing to ask for your support to pass SB37 into law. The passage of the Physician Negotiation Bill would allow my colleagues and I to become better patient advocates when dealing with third party payors with respect to contracting issues.

As you know, without the bill, Alaska physicians are currently barred from collectively discussing a host of issues with third party payors, which directly and indirectly affect patient care. SB37 would allow groups of independent physicians to negotiate with health benefit plans. All negotiations would be voluntary, and any party could withdraw at any time.

The Alaska Attorney General has veto power over the final contracts, including the fee schedule. This veto power should go a long way toward ameliorating concerns of those who claim that passage of this bill will simply allow physicians to ratchet up the cost of medicine.

I understand that the bill is up for a Senate floor vote on Monday, April 2nd or Tuesday April 3rd. Again, I ask for your support as well as your colleague's support of the vote.

Sincerely,


Marvin Grendahl, MD

Michael D. Manuel, M.D., P.C.
Plastic and Reconstructive Surgery
Certified by the American Board of Plastic Surgery
PROVIDENCE MEDICAL OFFICE BLDG.-SUITE 360-3340 PROVIDENCE DR.-ANCHORAGE-ALASKA-99508

April 11, 2001

Representative Lisa Murkowski
Chair-House, Labor and Commerce Committee
State Capitol Building
Juneau, Alaska 99801

Re: SB37 Physician Negotiation Bill

Dear Representative Murkowski,

Your colleagues in the Senate have recently passed SB37 and it is now before your committee in the House. I write at this time to ask for your consideration of this bill at the earliest opportunity, as I'm sure you are counting the days until the end of the session.

This bill will enable private physicians, such as myself, to discuss contract matters (as a group) with insurance companies and other third party payors. These discussions involve matters apart from fees and include definitions of medical necessity and what may constitute a true emergency. These are issues we face every day and wish to represent ourselves in order to improve patient care and accessibility. *This negotiation will be voluntary on behalf of each of the parties and will have full overview and final veto authority designated to the State Attorney General.* This will ensure that no price fixing is possible and this counters the claims of this bill's opponents who worry about the effect of this bill on medical costs.

Your prompt consideration of this bill will help in the passage of this all-important addition to a patient's arsenal against unneeded and costly insurance company delay and avoidance tactics.

Sincerely,
Michael Manuel, M.D.

March 30,2001

The Honorable Pete Kelly
Co-Chair Senate Finance Committee
State Capitol Building
Juneau, AK 99801

Re: SB37 Physician Negotiation Bill

Dear Senator Kelly,

Current legislation prevents private physicians, such as myself, from collectively bargaining with insurance companies or other third party payors. SB37 would allow such negotiation. This bill would allow doctors to discuss **benefit plan features** that directly affect patient care. Without this ability to communicate our patient's concerns in an open and *voluntary* format, the insurance companies will continue to dictate unreasonable and often "unhealthy" policy issues.

Opposition concerns regarding an increased cost of health care are unfounded. Protections within the SB37 include completely voluntary participation and active state oversight of the process. The State AG will have final veto authority over all final contracts.

I ask that you give consideration to support of SB37 as it makes its way to the floor on April 2nd or 3rd. Thank you.

Sincerely,

Michael D. Manuel, M.D.