

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 86/2

10358 HOUSE LABOR & COMMERCE

203

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Alaska State Legislature

SENATOR
GENE THERRIAULT
Chair



SESSION ADDRESS
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Legislative Budget and Audit Committee

Senate Bill 243

"An Act extending the termination date of the
Board of Chiropractic Examiners."

Sponsor:

Senator Gene Therriault

Sponsor Statement

Under AS 08.20.010 the State Board of Chiropractic Examiners regulates qualified professionals by ensuring that the requirements laid out for licensure are met and adhered to. The Board was established in 1949 and currently regulates 204 chiropractors in the State of Alaska.

The Board consists of five members appointed by the governor. Four members shall be licensed chiropractic physicians who have practiced in Alaska for no less than two years. The fifth member shall be a person with no direct financial interest in the health care industry.

The regulation and licensing of qualified chiropractors continues to safeguard the public by promoting competence and integrity of those individuals who represent themselves as chiropractors to the public. The Board continues to do this by establishing standards for licensed professionals and monitoring the manner in which they practice.

The State Board of Chiropractic Examiners is set to expire June 30, 2002 under AS 08.03.010, Termination of State Boards and Commissions. If the Legislature does not act to extend the Board, it will have one year, until June 30, 2003, to administratively conclude its affairs. Senate Bill 243 will extend the Board for another four years and restore the Board's statutory authority to license by credentials.

Contact: Heather Brakes, Legislative Budget and Audit Committee Aide, 465-6590

INTERIM ADDRESS

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FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 243
(S) Publish Date: 2/1/02

Revision Date/Time (Note if correction): 1/30/2002 Dept. Affected: DCED
Title An Act extending the termination date of the BRU: Occupational Licensing (117)
Board of Chiropractic Examiners Component Occupational Licensing
Sponsor Senator Therriault
Requester Senate Labor & Commerce Component No. 2360

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	24.5	24.5	24.5	24.5	24.5	
Travel	10.8	10.8	10.8	10.8	10.8	
Contractual	8.9	8.9	8.9	8.9	8.9	
Supplies	0.0	0.0	0.0	0.0	0.0	
Equipment	0.0	0.0	0.0	0.0	0.0	
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	44.2	44.2	44.2	44.2	44.2	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	44.2	44.2	44.2	44.2	44.2	
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156-Receipt Supported Services	44.2	44.2	44.2	44.2	44.2	
TOTAL	44.2	44.2	44.2	44.2	44.2	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)

The bill extends the Board of Chiropractic Examiners to June 30, 2006. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the board to conclude its affairs. The information above identifies direct expenditure and revenue information included in the FY 2003 Operating Budget request. The bill also amends AS 08.20.180(a) to include license by credentials. New funds are not required to implement this amendment.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
Division Occupational Licensing Date/Time 1/30/02 10:58 AM
Approved by: Deborah B. Sedwick, Commissioner Date 1/30/2002
Agency Department of Community & Economic Development

Audit Report

DEPARTMENT OF COMMUNITY
AND ECONOMIC DEVELOPMENT
BOARD OF CHIROPRACTIC EXAMINERS
SUNSET REVIEW

September 13, 2001



Audit Control Number:

08-20009-0

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 the Senate and two from the House. 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/legaud/web/default.htm>.

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SUMMARY OF: A Special Report on the Department of Community and Economic Development, Board of Chiropractic Examiners, Sunset Review September 13, 2001.

PURPOSE OF THE REPORT

In accordance with the intent of Title 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Chiropractic Examiners. Under AS 44.66.050(a), the legislative committee of reference is to consider this report during the oversight process to determine whether the termination date of the board should be extended. Currently, AS 08.03.010(c)(5) requires the board to terminate on June 30, 2002. If the legislature takes no action to extend the termination date, the board will have one year from that date to conclude its operations.

REPORT CONCLUSIONS

In our opinion, the termination date for the Board of Chiropractic Examiners should be extended. The regulation and licensing of qualified chiropractors is beneficial to protect the public's health, safety, and welfare. The board assists in providing this public benefit by establishing minimum educational and work experience standards for licensure. Such standards provide reasonable assurance that persons licensed as chiropractors are qualified. Standards of practice are enforced through the active investigation of complaints and revocation or suspension of licenses when appropriate.

The Board of Chiropractic Examiners satisfies a public purpose and has demonstrated an ability to conduct its business satisfactorily. The board carries out its regulatory oversight function in a professional, competent, and efficient manner.

Alaska Statute 08.03.010(c)(5) requires the Board of Chiropractic Examiners be terminated on June 30, 2002. Under AS 08.03.020, the board has a one-year period to administratively conclude its operations. Based upon our review of the board's performance, we recommend the legislature extend the board's termination date to June 30, 2006.

FINDINGS AND RECOMMENDATIONS

1. The legislature should consider legislation clarifying the Board of Chiropractic Examiners' authority to license by credential.

The board is currently considering developing regulations establishing the manner by which chiropractors licensed in other states can become licensed in Alaska. This process is referred to as licensure by credentials. Providing for licensure by credentials is, in our view, good public policy and should generally be promoted whenever it serves the broader interest of the public – licensure of competent professionals who will practice in an ethical manner.

We have been advised by the Department of Law that the board may not have the authority to adopt regulations providing for licensure by credentials. The board's authority is made more uncertain due to the 1996 legislative action that specifically repealed the statute which gave the board the specific authority to grant licenses by credential. Accordingly, we recommend the legislature clarify the board's authority in this area by considering and adopting legislation that returns to the board the power to license applicants through a reasonable credential review process.

2. The Office of the Governor should expedite the appointment of vacant and expired board member positions. Additionally, the Office of the Governor should proactively recruit prospective board members from rural communities to attain broader representation.

During our review of board member terms and appointments it was noted that a member had reached the end of the appointed term and a replacement member had not been appointed. We recommend that the Board of Chiropractic Examiners and the Governor's office actively recruit new board members on a continual basis, so that the time between term expiration and new appointments is minimized.

Additionally, we noted adequate board representation by all of the major population areas: Anchorage, Juneau and Fairbanks. However, there is a lack of board representation from smaller urban communities around the state. We recommend the board solicit and encourage their colleagues living in and around smaller rural areas of the state to apply for board positions as they become vacated.

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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October 1, 2001

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
BOARD OF CHIROPRACTIC EXAMINERS
SUNSET REVIEW

September 13, 2001

Audit Control Number

08-20009-01

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)(5), the Board of Chiropractic Examiners is scheduled to terminate on June 30, 2002. The board would be allowed one year in which to conclude its administrative operations.

In our opinion, the termination date for the Board of Chiropractic Examiners should be extended. The regulation and licensure of chiropractors contributes to the protection of the public's welfare. We recommend the legislature extend the termination date of the Board of Chiropractic Examiners to June 30, 2006.

This 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 discussed in the Objective, Scope and Methodology section of this report.

A handwritten signature in cursive script that reads "Pat Davidson".

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 Responses:	
State of Alaska Board of Chiropractic Examiners	15
Department of Community and Economic Development.....	17

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Title 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Chiropractic Examiners. Under AS 44.66.050(a), the legislative committee of reference is to consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(5) requires the board to terminate on June 30, 2002. If the legislature takes no action to extend the termination date, the board will have one year from that date to conclude its operations.

Objectives

There are three 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.
3. To determine if the board has exercised appropriate regulatory oversight of licensed chiropractors.

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

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

Our audit reviewed the operations and activities of the Board of Chiropractic Examiners for the period of FY 99 through FY 01.

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

1. Applicable statutes and regulations
2. Tests of files and documentation of licensees
3. Investigation files
4. Minutes of board meetings and division correspondence files
5. Attorney general's opinions applicable to professional boards

We also conducted interviews with employees of the Department of Community and Economic Development, Division of Occupational Licensing.

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ORGANIZATION AND FUNCTION

The Board of Chiropractic Examiners was established under the provisions of Title 8, Chapter 20 of the Alaska Statutes. The board consists of five members appointed by the governor and subject to legislative confirmation. Four members must be chiropractors and one member must be appointed from the general public. Board members serve staggered terms of four years.

The board regulates chiropractic practice in the state by setting the following standards of practice:

1. Examining and issuing licenses to qualified applicants.
2. Establishing, amending, or eliminating regulations controlling the standards of professional chiropractic practice.
3. Revoking, annulling, or suspending licenses in accordance with the Administrative Procedures Act when an individual has violated chiropractic statutes or regulations.

<u>Board of Chiropractic Examiners</u>

<i>(As of June 30, 2001)</i>

Trevor Ireland, Chiropractor, Chair LeRoy Nordstrom, Chiropractor Carol Davis, Chiropractor Steven Messerschmidt, Chiropractor Sean Siegel, Public Member

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 Chiropractic Examiners. Administrative assistance includes budgetary services, 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 of Community and Economic Development, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, 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 act on its own initiative or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person engaged or is about to engage in a prohibited professional practice.
2. Bring an action in Superior Court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

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REPORT CONCLUSIONS

In our opinion, the Board of Chiropractic Examiners is operating in an efficient and effective manner and should continue to regulate and license chiropractors. We believe the board is serving the public interest by promoting competence and integrity of individuals holding themselves out to the public as chiropractors.

The Board of Chiropractic Examiners serves a public purpose by promoting the competent and safe practice of chiropractic therapy. The board does this through establishing standards for licensed professionals and monitoring the manner in which they practice. The board has carried out these responsibilities satisfactorily.

Alaska Statute 08.03.010(c)(5) requires that the Board of Chiropractic Examiners be terminated on June 30, 2002. Under AS 08.01.020, the board has a one-year period to administratively conclude its operations. Based upon our review, we recommend that the board's termination date be extended to June 30, 2006.

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FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The legislature should consider legislation clarifying the Board of Chiropractic Examiners' authority to license by credential.

The board is currently considering developing regulations establishing the manner by which chiropractors licensed in other states could become licensed in Alaska. This process is referred to as licensure by credentials. Providing for licensure by credentials is, in our view, good public policy and should generally be promoted whenever it serves the broader interest of the public – licensure of competent professionals who will practice in an ethical manner.

The board's legal authority to adopt such regulations is somewhat clouded by legislative action taken in response to our agency's last sunset report on the board. In that report we recommended the legislature repeal the statutory provisions related to the Board of Chiropractic Examiners' authority to license by credentials. Section 2 of Chapter 96, SLA 96 repealed AS 08.20.140. This statute allowed the board to license chiropractors without taking the State of Alaska chiropractic practical examination.

In this report, we are recommending the legislature reestablish the board's authority in this area. We make this recommendation because the board has changed the manner in which it considers Alaska licensure for prospective applicants licensed in another jurisdiction. The explanation of our change in position is as follows:

Previously, board actions were inconsistent with the implications of the credentialing statute

The recommendation in our 1995 report (Department of Commerce and Economic Development Board of Chiropractic Examiners 08-1434-96) was prompted by our concern that board practices at the time were not consistent with the statutes related to licensure by credentials. At that time the board was requiring all candidates for licensure to pass a practical examination, in front of the board, in order for the candidate to demonstrate they could physically perform the requirements of the profession. This was required even if the individual seeking an Alaska chiropractor license was already licensed and practicing in good standing in another jurisdiction – as long as that jurisdiction had licensing requirements that were **equivalent** to those established by the board.

The implication of the credentialing statute was that a practicing chiropractor, licensed in another state, only had to meet the equivalency standard to receive their Alaska license. There was no suggestion that further testing or examination may be required. In reality, the board always required such an applicant to pass the practical exam demonstrating they were physically able to practice chiropractic therapy.

We were concerned this incongruity between statute and procedure exposed the board to potential legal liability. To reduce this potential liability we recommended repeal of the credentialing statute because of two factors:

1. It seemed a practical examination confirming an applicant's physical capacity to practice was reasonable.
2. We saw no evidence the board was using the practical exam to unfairly exclude applicants from being licensed.

Currently, the board is phasing out the state practical examination requirement

The Board of Chiropractic Examiners requires applicants to pass all sections of the National Board of Chiropractic Examiners Examination (NBCEE). In recent years the NBCEE examination has added a practical section similar to that utilized for many years by the state board. The state board has informally decided that an applicant licensed by another jurisdiction, who has passed all of the NBCEE examination, should be eligible for licensure by credential.

Discussion with the current chairman indicates the board is interested in both expanding the credentialing process and placing more reliability on the NBCEE examination as it is currently constructed. Toward this end, the board may be willing to explore licensure by credentials of individuals from other states, even if at the time the individual was licensed they did not pass a practical examination. That is, they were licensed in a manner not equivalent to that of Alaska. This would be done only if the individual could demonstrate they practiced for a specified period of time (at a minimum five years) and had done so in good standing with the board in their local jurisdiction.

The board's regulatory authority is uncertain due to the repeal of the credentialing statute

We have been advised by the Department of Law that the board may not have the authority to adopt regulations providing for licensure by credentials. The board's authority is made more uncertain due to the 1996 legislative action that specifically repealed the statute which gave the board the specific authority to grant licenses by credential. Accordingly, we recommend the legislature clarify the board's authority in this area by considering and adopting legislation that returns to the board the power to license applicants through a reasonable credential review process.

Recommendation No. 2

The Office of the Governor should expedite the appointment of vacant and expired board member positions. Additionally, the Office of the Governor should proactively recruit prospective board members from rural communities to attain broader representation.

During our review of board member terms and appointments, it was noted that a member had reached the end of the appointed term and a replacement member had not been appointed. We recommend that the Board of Chiropractic Examiners and the Governor's office actively recruit new board members on a continual basis, so that the time between term expiration and new appointments is minimized.

Additionally, we noted adequate board representation by all of the major population areas: Anchorage, Juneau and Fairbanks. However, there is a lack of board representation from smaller urban communities around the state. We recommend the board solicit and encourage their colleagues living in and around smaller rural areas of the state to apply for board positions as they become vacated.

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ANALYSIS OF PUBLIC NEED

The following analysis of the Board of Chiropractic Examiners (board) activities relates to the public need factors defined in the "sunset" review law, AS 44.66.050. 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, commission, or agency has operated in the public interest.

The board has improved its accessibility to the public and prospective applicants. The board has increased the number of meetings to three times a year. Additionally, the board now offers examinations three times a year.

The board has formed a peer review committee that has been instrumental in the establishment of minimal professional standards and guidelines that will be requirements for licensed chiropractors in the course of their practice.

The board has committed itself to raising domestic violence awareness among chiropractors and encouraging reporting of suspected cases they may become aware of in the course of their practice. They developed and distributed a pamphlet to chiropractors which discusses domestic violence and provides points of contact for further information and voluntary reporting of suspected domestic violence and child abuse.

Determine the extent to which the operations of the board 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.

The national licensing examination administered by the National Board of Chiropractic Examiners has in recent years adopted what is termed a "practical" section. Since the national examination now has such a section, the state board has determined it can reasonably rely on this examination when considering applicants for licensure. Accordingly, if individuals licensed in other states pass this examination as part of that jurisdiction's licensing requirements, the board wants to develop regulations to allow it to license such individuals by credential.

Due to past legislative actions, the board's current authority to adopt regulations permitting licensure by credentials is uncertain. As discussed in Recommendation No. 1, we suggest the legislature clarify the board's authority in this area by reestablishing the board's authority to license by credentials.

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

In recent years the board has supported the legislation concerning temporary and *locum tenens* permits to practice. The board has supported legislation that has served to clarify the statutes related to licensing by credential. In our view, these statutory changes have been in the best interest of the profession, and in the public's interest.

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 meetings and exams were advertised in Alaskan newspapers, as well as on the board's web page. Adequate time has been provided at public meetings for individuals to attend and testify or to submit written comment for review. The board's meeting agenda sets aside suitable time for public comment. Minutes from the meetings of the board reflect public participation at various meetings.

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

Public notices of proposed regulations are published in major newspapers. As noted above, meetings were adequately advertised, and time was set aside for public testimony.

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.

For the period between July 1, 1998 and June 30, 2001 (FY 99 – FY 01), the Division of Occupational Licensing opened 45 cases related to chiropractors. The cases can be summarized as follows:

1. Malpractice, incompetence, unlicensed practice, or advertisement of services beyond the scope of chiropractic practice. Nineteen of the cases involved allegations of malpractice, incompetence, or licensees providing services beyond the scope of chiropractic practice. All ten of the complaints received from the public during the period under the review fall into this category. The other nine complaints were generated by either by the Division of Occupational Licensing staff or other license holders. None of the complaints to date have been found serious enough to warrant action against an individual's license. The primary sanction utilized for complaints found to be valid has been a letter of warning. At the time of fieldwork in August 2001, the status of the complaints and cases were as follows:

Source of complaint	Total	Complaint Valid Warning Letter Sent	Invalid No Action	Case open
Public	10	3	3	4
License Holders	5	4	1	-0-
Occupation Licensing Staff	4	3	-0-	1

2. Untimely renewal of licenses. Eighteen of the opened cases involved situations where the Division of Occupational Licensing formally followed up on chiropractors who did not renew their licenses on a timely basis. The Division wanted assurance that all individuals holding themselves out to the public as chiropractors were licensed appropriately. The division brought all of the chiropractors into compliance either by prompting them to obtain a license or by confirming that the license holder no longer practiced in the state.
3. Insurance settlements. When insurance companies pay out large malpractice settlements on chiropractors, they notify the Division of Occupational Licensing. The insurance companies notify the division so the agency can conduct an investigation into the full scope of the insured professional's practice.

While such settlements may not be related to the general competency of a given practitioner, they may be a key indicator of a chiropractor who is acting in an unethical, improper, or dangerous manner. During our scope period, four such cases were reported. The cases involved settlements ranging from \$5,000 to \$110,000. A division investigation of the chiropractor with the largest settlement payment found no violation. The other three cases were open as of August 2001 pending further investigation.

4. Background Checks at Licensure. Two of the cases were opened on individuals where criminal background checks conducted at the time of initial licensure indicated the applicants did not disclose previous criminal activity when seeking licensure as chiropractors.
5. License Actions. Two cases were opened on individuals where action was taken on their licenses for activities beyond strict chiropractic practice. The first individual had signed a Memorandum of Agreement (MOA) regarding his abuse of alcohol, since it had an adverse impact on his practice. When he was arrested and pleaded *nolo contendere* to the charge of driving while intoxicated, he was in violation of the MOA, which resulted in the board suspending his license to practice. After the local district attorney declined prosecution of an individual whose license had been suspended when he faced possible prosecution on sexual misconduct charges, he sought reinstatement. The board sustained its earlier suspension and the individual did not pursue a formal hearing.

We have reviewed the nature and extent of complaints filed involving licensed chiropractors. In our view, the Division of Occupational Licensing, in conjunction with the board, took appropriate investigative actions, prioritized complaints in a reasonable manner, and

proceeded in a manner consistent with the potential threat the complaints posed to the public welfare.

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.

New Licenses Issued (Exclusive of Renewals)	FY 99	FY 00	FY 01	Issued to Date
License	14	10	9	205
Temporary permit	2	1	2	6
Locum Tenens permit	—	—	-0-	-0-

The board has some of the most stringent licensing requirements of any state. These requirements ensure that only those candidates who meet these specific requirements are licensed as chiropractors.

The board has started to issue temporary and *locum tenens* permits. These permits are valid for limited practice (sixty days) and are issued to professionals who are awaiting their licensure or are licensed in another state.

Continuing education requirements for renewal of a chiropractic examiner license appear to be sufficient when compared to other licensing jurisdictions. These requirements are reviewed by the Division of Occupational Licensing to ensure licensees met regulatory requirements intended to promote continued competence.

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.

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 instance 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.

As discussed in Recommendation No. 1, the legislature should consider specifically reestablishing the board's authority to license applicants by credential.



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Clinic of Chiropractic, LLC.

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October 1, 2001

Mr. Jim Griffin, Audit Manager
Alaska State Legislature
Legislative Budget and Audit Committee
Division of Legislative Audit
P. O. Box 113300
Juneau, AK 99811-3300

RE: Management Letter No. 1
Division of Occupational Licensing
Board of Chiropractic Examiners

Dear Mr. Griffin:

Thank you for providing me with an opportunity to comment on your letter of the 13th ultimo.

Your letter reflects accuracy, sensitivity, fairness and balance; and I, therefore, see no need for change. It is indeed an honor to work with you and other members of your division. Thank you.

Sincerely yours,

IRELAND CLINIC OF CHIROPRACTIC, LLC.

Trevor V. Ireland, D.C., (Hon) F.I.C.A., F.P.C.W., F.P.A.C., F.I.C.C.
President

Member, Board of Trustees, Palmer Chiropractic University System
President, Alaska Board of Chiropractic Examiners

TI:lmg

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Alaska Department of Community
and Economic Development

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LEGISLATIVE AUDIT

November 27, 2001

Pat Davidson, Legislative Auditor
Legislative Budget and Audit Committee
Division of Legislative Audit
PO Box 113300
Juneau, AK 99811

Dear Ms. Davidson:

Thank you for the opportunity to comment on the Board of Chiropractic Examiners preliminary audit.

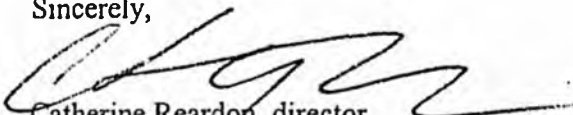
The division agrees that the board is operating in an efficient and effective manner and should continue.

Recommendation No. 1

The legislature should consider legislation clarifying the Board of Chiropractic Examiners' authority to license by credential.

The board has asked the division to issue public notice of proposed regulations establishing the manner by which chiropractors licensed in other states could become licensed in Alaska. If the board's legal authority to adopt regulations for licensure by credentials is unclear, then the division supports amending the statute.

Sincerely,


Catherine Reardon, director

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SB

244

Alaska State Legislature

SENATOR
GENE THERRIault
Chair



SESSION ADDRESS
State Capitol
Juneau, Alaska 99801-1182
(907) 465-4797
Fax: (907) 465-3884

Legislative Budget and Audit Committee

Senate Bill 244

"An Act extending the termination date of the Board of Examiners in Optometry."

Sponsor:

Senate Rules Committee by Request of the
Legislative Budget and Audit Committee

Sponsor Statement

Alaska Statute 03.72.010 established the State Board of Examiners in Optometry in 1949 to regulate and control the practice of optometry in Alaska. The Board is charged with protecting and promoting the public's health, welfare, and safety by ensuring the professionals it licenses have met and adhered to the requirements of licensure. The Board currently oversees 110 licensed optometrists.

The Board consists of five members appointed by the governor and are subject to legislative confirmation. Four board members shall be licensed, practicing optometrists who have been residents for at least three years. Statute requires one board member to be a member of the general public.

The Board regulates the practice of optometry in the state by setting education, training, and work experience standards necessary for an individual to be licensed. Such standards provide reasonable assurance that persons licensed as optometrists are qualified.

Under AS 08.03.010, Termination of State Boards and Commissions, the State Board of Examiners in Optometry is set to expire June 30, 2002. If the Legislature does not act to extend the Board, it will have one year, until June 30, 2003, to administratively conclude its affairs. Senate Bill 244 will extend the Board for another four years and make changes to its licensure requirements.

Contact: Heather Brakes, Legislative Budget and Audit Committee Aide

INTERIM ADDRESS

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FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 244
 (S) Publish Date: 2/8/02

Revision Date/Time (Note if correction): 01/30/2002 8:39 a.m. Dept. Affected: DCED
 Title An Act extending the termination date of the BRU: Occupational Licensing (117)
Board of Examiners in Optometry Component Occupational Licensing
 Sponsor Rules by Request
 Requester Senate Labor & Commerce Component No. 2360

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	8.4	8.4	8.4	8.4	8.4	
Travel	7.6	7.6	7.6	7.6	7.6	
Contractual	1.7	1.7	1.7	1.7	1.7	
Supplies	0.0	0.0	0.0	0.0	0.0	
Equipment	0.0	0.0	0.0	0.0	0.0	
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	17.7	17.7	17.7	17.7	17.7	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	17.7	17.7	17.7	17.7	17.7	
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156-Receipt Supported Services	17.7	17.7	17.7	17.7	17.7	
TOTAL	17.7	17.7	17.7	17.7	17.7	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)

The bill extends the Board of Examiners in Optometry to June 30, 2006. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the board to conclude its affairs. The information above identifies direct expenditure and revenue information included in the FY 2003 Operating Budget request. The bill also amends application for examination requirements; written exam content; and licensure by credentials. New funds are not required to implement these changes.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
 Division Occupational Licensing Date/Time 01/30/2002 8:30 a.m.
 Approved by: Deborah B. Sedwick, Commissioner Date 1/30/2002
 Agency Department of Community & Economic Development

Sectional Analysis

CS SB 244 (RLS)

"An Act Extending the termination date of the Board of Examiners in Optometry; and relating to optometrists."

Section 1. This section extends the Board to June 30, 2006, the standard four-year extension as recommended by the audit report released on December 5, 2001 by the Division of Legislative Audit.

Section 2. This section is intended to allow the division to keep a photo of licensed applicants on file for verification of identity. However, it does not allow the board to view photographs of applicants while considering licensure. It is currently the practice of the division to keep photos of some professions on file, although because no statutory authority exists for the request and retention of the photo, it will continue to be a subject of future audits.

Section 3. This section implements Recommendation No. 4 of the audit report. It eliminates the reference to the state exam, and gives the board authority to administer an Alaska jurisprudence examination.

Section 4. This section addresses Recommendation No. 2 of the audit report implementing full licensure by credentials by repealing AS 08.72.170 and reenacting it with requirements such as acceptable education, current licensure, active clinical practice, and no pending disciplinary actions.

Section 5. This amendment implements Recommendation No. 3 of the audit report reducing the number of continuing education hours required by an applicant for license renewal to bring it into compliance with current licensing cycles and requirements under regulation. The statute was written when the board was on a four-year renewal cycle; it has since gone to a two-year cycle.

Section 6. This section helps to implement the new licensure by credentials by acknowledging it in the fee structure.

Audit Report

DEPARTMENT OF COMMUNITY
AND ECONOMIC DEVELOPMENT
BOARD OF EXAMINERS IN OPTOMETRY
SUNSET REVIEW

September 12, 2001



Audit Control Number:

08-20011-01

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 the Senate and two from the House. 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/legaud/web/default.htm>.

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Pat Davidson, CPA
Legislative Auditor

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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October 1, 2001

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
BOARD OF EXAMINERS IN OPTOMETRY
SUNSET REVIEW

September 12, 2001

Audit Control Number

08-20011-01

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)(14), the Board of Examiners in Optometry is scheduled to terminate on June 30, 2002. The board would be allowed one year in which to conclude its administrative operations.

In our opinion, the termination date for the Board of Examiners in Optometry should be extended. The regulation and licensure of optometrists contributes to the protection of the public welfare. We recommend the legislature extend the termination date of the Board of Examiners in Optometry to June 30, 2006.

This 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 discussed in the Objectives, Scope and Methodology section of this report.

A handwritten signature in cursive script that reads "Pat Davidson".

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.....	15

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Title 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Examiners in Optometry. Under AS 44.66.050(a), the legislative committee of reference is to consider this report during the legislative oversight process to determine whether the board should be reestablished. Currently, AS 08.03.010(c)(14) requires the board to terminate on June 30, 2002. If the legislature takes no action to extend the termination date, the board will have one year from that date to conclude its operations.

Objectives

There are three 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 interest.
3. To determine if the board has exercised appropriate regulatory oversight of licensed optometrists.

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

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

Our audit reviewed the operations and activities of the Board of Examiners in Optometry for the period of FY 99 through FY 01.

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

1. Compliance with statutes and regulations related to the licensing of optometrists. Our evaluation addressed consideration of applications, testing of candidates, and continuing education necessary for an individual to maintain his/her optometry license in good standing.
2. Minutes of meetings of the Board of Examiners in Optometry.
3. Annual reports issued by the board.
4. Complaints filed with the Division of Occupational Licensing.

We also conducted interviews with employees of the Department of Community and Economic Development, Division of Occupational Licensing.

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ORGANIZATION AND FUNCTION

The Board of Examiners in Optometry was established under the provisions of Title 8, Chapter 72 of the Alaska Statutes. The board consists of five members appointed by the Governor and subject to legislative confirmation. Four board members must be licensed, practicing optometrists who have been residents in the State for at least three years. The statute also requires one member of the general public to sit on the board.

The board regulates the practice of optometry in the state by setting education, training, and work experience standards necessary for an individual to be licensed as an optometrist.

Alaska Statute (AS 08.72) defines the practice of optometry as the examination, diagnosis, and treatment of conditions of the human eyes and visual system, other than by use of laser, x-rays, surgery, or pharmaceutical agents.¹

Board of Examiners in Optometry
(As of June 30, 2001)

Aharon Sternberg, Optometrist, Chairman
Erik Christianson, Optometrist, Secretary
John Cobbett, Optometrist
William Faulkner, Optometrist
Thomas Carter, Public Member

The board's duties and responsibilities under statute include:

1. Holding a minimum of one meeting per year.
2. Examining and issuing licenses to qualified applicants.
3. Holding hearings in order to impose disciplinary sanctions on persons who violate optometry licensing statutes and/or regulations.
4. Adopting regulations necessary to enforce the statutes relating to the Board.
5. Adopting a code of ethical practice for optometry.

Applicants must be a high school graduate or equivalent in addition to having graduated from a recognized college or school of optometry. Additionally, all applicants must pass all parts of the National Board of Examiners in Optometry (NBEO) examination, the Treatment and Management of Ocular Disease (TMOD) examination and all sections of the state board examination (written, practical and oral). Licensed optometrists are required to obtain various amounts of continuing education every year depending on the endorsements to their license.

To become licensed in Alaska, optometrists licensed in other states must provide the board with official documentation verifying Alaskan optometry educational requirements have been met. They must also apply for and pass all parts of the state optometry examination, pay all examination and application fees, and fulfill all other licensing requirements. Optometrists must submit completed applications and pay all the required fees to the Division of Occupational Licensing biennially.

¹ Optometrists practicing in the State of Alaska may apply for one of two types of endorsements. One type permits optometrists to administer topical pharmaceutical agents (DPA Endorsement) and the other permits optometrists to administer and prescribe pharmaceutical agents (TPA Endorsement.) Currently there is not an endorsement whereby an optometrist may use or prescribe internal pharmaceutical agents either by oral or injection; however, the Board has drafted legislation which is before the Alaska State Legislature which will allow them to use and prescribe either oral or injectable pharmaceutical agents.

The board grants license endorsements for optometrists to prescribe and use pharmaceutical agents. The board also grants endorsements for practitioners to only use pharmaceutical agents. Currently, all applicants graduating from optometry schools automatically qualify for pharmaceutical prescription and use license endorsement, after meeting all other licensing requirements.

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 Examiners in Optometry. Administrative assistance includes budgetary services, 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 of Community and Economic Development, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, 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 act on its own initiative or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person engaged or is about to engage in a prohibited professional practice.
2. Bring an action in Superior Court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

REPORT CONCLUSIONS

In our opinion, the termination date for the Board of Examiners in Optometry should be extended. The regulation and licensing of qualified optometrists is necessary to protect the public's health, safety, and welfare. The board assists in providing this public benefit by establishing minimum educational and work experience standards for licensure. Such standards provide reasonable assurance that persons licensed as optometrists are qualified. Standards of practice are enforced through the active investigation of complaints and revocation or suspension of licenses when appropriate.

The Board of Examiners in Optometry has been found to satisfy a public purpose and has demonstrated its ability to conduct its business in a satisfactory manner. The board carries out its regulatory oversight function in a professional, competent, and efficient manner.

Alaska Statute 08.03.010(c)(14) requires the State Board of Examiners of Optometry be terminated on June 30, 2002. Under AS 08.03.020, the board has a one-year period to administratively conclude its operations. Based upon our review of the board's performance, we recommend the legislature extend the board's termination date to June 30, 2006.

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FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The Division of Occupational Licensing should rescind the licensing application requirement that is unreasonable.

In the prior sunset audit of the Board of Examiners in Optometry (Department of Commerce and Economic Development Board of Examiners in Optometry 08-1436-96), we identified two application requirements that were unreasonable. These requirements were (1) a 3"x3" photograph of the applicant, and (2) submission of official transcripts from all colleges and universities that the applicant attended prior to graduating from an accredited school of optometry.

The Division of Occupational Licensing has dropped the requirement for the extraneous official transcripts from colleges and universities other than from the accredited school of optometry. However, the photograph is still required to accompany the application. It is our understanding the photo requirement grew out of a concern regarding examination security and verifying the identity of the applicants at the test site.

Identification with an individual's photograph such as a driver's license, passport, or state identification is currently required by examination candidates when entering the examination site, and should be sufficient to maintain examination security.

We continue to believe the application photograph is unnecessary and recommend the Division of Occupational Licensing eliminate that requirement from the application.

Recommendation No. 2

The Board of Examiners in Optometry should develop statutory amendments for legislative consideration which will allow the board to license optometrists by credentials.

Issuing a license based on past performance and licensure in another jurisdiction, in place of licensure by examination, is termed licensure by credentials. The standards adopted by the board for licensure to practice optometry in the State of Alaska are equivalent to standards in the majority of states and territories of the United States and virtually identical to standards of the National Board of Examiners in Optometry (NBEO).

Currently under AS 08.72.170(a), the board may waive the written portion of the state examination for an individual who holds a current license (received by examination in another state or Canadian province), has been practicing for at least three years in good standing, and otherwise meets the educational requirements for licensure in Alaska. However, under AS 08.72.170(b) the board is prohibited from waiving the practical examination requirement. As a result, the state does not have full licensure by credential. In our view, this provides an unreasonable impediment to entry into the profession.

We recommend the board develop proposed specific statutory language related to allowing full licensure by credentials. As is done elsewhere in statute, we suggest a provision permitting licensing by credentials in instances where the applicant can provide satisfactory documentation that they are licensed in another jurisdiction where requirements and standards are essentially equivalent to those of Alaska. In our view, developing a proposed statutory amendment for consideration by the legislature would not negatively impact the

public's protection, and would allow less restrictive entry into the optometrist profession in the state.

Recommendation No. 3

The Legislature should consider amending optometry licensing statutes related to continuing education requirements for optometrists licensed in Alaska.

Alaska Statute 08.72.181(d), which relates to license renewal, states that:

Before a license may be renewed the licensee shall submit to the board evidence of 48 hours of postgraduate continuing education instruction as prescribed by regulations of the board. The board may specify by regulation those circumstances under which the requirements of this subsection may be waived. [emphasis added]

The board adopted regulation 12AAC48.210(a) requires the following:

An applicant for renewal of an optometry license is required to document an average of 12 contact hours for continuing education credit that meets the requirements of 12AAC48.200, for each complete calendar year that the applicant has been licensed in the concluding licensing period. [emphasis added]

As is apparent, state law requires optometrists renewing their license to obtain 48 hours of continuing education, while the regulations only require 24 hours for each standard two year licensing period. From our discussions with the Division of Occupational Licensing staff, the statute was developed based on a previous four-year licensing cycle rather than the current two year-cycle. Accordingly, when the legislature considers extending the termination date of the board, it may want to consider amending this statute to come into agreement with current regulation and practice.

Recommendation No. 4

The Board of Examiners in Optometry should revise regulation 12AAC48.015 to require the National Board of Examiners in Optometry (NBEO) examination and a State jurisprudence examination, eliminating the practical portion of the State examination.

State regulation (12 AAC 48.015) requires that applicants for licensure as an optometrist in the State of Alaska pass both the NBEO and the State examinations. The nationwide NBEO examination consists of four parts: 1) Basic Science, 2) Clinical Science, 3) Clinical Skills and 4) Treatment and Management of Ocular Diseases.

The State examination consists of eight parts: 1) Biomicroscopy, 2) Goldmann Applanation Tonometry, 3) Gonioscopy, 4) Contact Lenses and Spectacles, 5) Patient Examination, 6) Visual Fields, 7) Binocular Indirect Ophthalmoscopy and 8) Written Examination on Alaska Optometry Statutes and Regulations.

A current licensee wrote to the board in May 1999 stating that he believed the NBEO clinical skills examination was comparable to the State of Alaska's practical examination, and could be used in lieu of it. He noted that many state licensing boards accept the clinical skills portion of the NBEO examination in lieu of a separate state test.

From our review of the requirements of the NBEO examination compared with the state examination, it appears the NBEO examination mirrors the state examination with the exception of Part 6 (Visual Fields) and Part 8 (Written Examination on Alaska Optometry Statutes and Regulations).

Also, from research performed through the National Board of Examiners in Optometry (<http://www.optometry.org>), it was noted that the majority of states and licensing boards have decided to utilize the NBEO testing process and provide licenses based on certified scores received from that national organization.

From our review of all the US licensing jurisdictions utilizing the NBEO testing process in whole or part, 37 of them (70%) have dropped the requirement of a state optometry examination and are accepting the NBEO examination. Of those 37 jurisdictions, 14 are requiring only the NBEO examination with no further state examination and 23 are requiring a state jurisprudence examination.

We recommend the Board of Examiners in Optometry revise regulation 12AAC 48.015 requiring only the NBEO examination along with the State jurisprudence examination. This would remove redundancies in testing that currently require optometrists to pass two exams that are virtually identical.

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ANALYSIS OF PUBLIC NEED

The following analysis of the Board of Examiners in Optometry (board) activities relates to the public need factors defined in the "sunset" review law, AS 44.66.050. 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, commission, or agency has operated in the public interest.

The board has kept to a reasonable meeting schedule, has consistently considered ways to make the licensing process more efficient, and has continued licensing qualified applicants through the use of a valid and relevant examination process.

Determine the extent to which the operations of the board 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.

As discussed in Recommendation No. 2, the board has not been able to establish a process whereby individuals can be licensed solely by credentials. Such constraints serve to unduly restrict access into the profession.

The board has also been impeded in the licensing of qualified optometrists by the requirement to administer a state practical exam. The state practical exam is similar to the exam offered by the National Board of Examiners in Optometry. For further discussion see Recommendation No. 4.

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

The board has recommended statutory changes which would permit licensure by credential, licensure by endorsement, and substituting the use of recognized national examinations with an appropriate national board equivalent.

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 meetings and exams were advertised in Alaskan newspapers, as well as on the board's web page, with adequate time for interested individuals to attend or to submit written comment for review. The board's meeting agenda sets aside suitable time for public comment. Board minutes reflect public participation at various meetings.

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

Public notice was given for all proposed regulations in major Alaskan newspapers. The board meeting minutes document that unlimited time was allotted for the scheduled public comment period. All proposed regulation changes are submitted to the public participation process.

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.

For the period between July 1, 1998 and June 30, 2001 (FY 99 – FY 01) the Division of Occupational Licensing opened six cases involving optometrists. The complaints involved:

1. Practice without a license. Two of the complaints were made by optometrists regarding the activities and alleged practice of optometry without a license carried out by representatives of Lasik Vision USA. The division sent out warning letters to the company, stating that any optometric work carried out in the future in conjunction with their commercial activities would have to be performed by individuals licensed in Alaska.
2. Inadequate supervision. In a shop visit conducted by the Division of Occupational Licensing investigators, unlicensed individuals were conducting or assisting in examinations without the appropriate supervision. The optometrist involved entered into a memorandum of agreement with the board and paid a fine.
3. Inappropriate and improper practice. Three complaints were received regarding the inappropriate practice or malpractice of optometry. In one instance no violation was found, the other two were pending further investigation as of August 2001.

We have reviewed the nature and extent of complaints filed involving examiners in optometry. In our view, the Division of Occupational Licensing, in conjunction with the board, took appropriate investigative actions, prioritized complaints in a reasonable manner, and proceeded in a manner consistent with the potential threat the complaints posed to the public welfare.

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.

New Licenses Issued (Exclusive of Renewals)	FY 99	FY 00	FY 01	Total	Issued to Date
Optometrists with No Endorsement	1	0	0	1	5
Optometrists with Therapeutic Endorsement	9	2	0	11	95
Optometrists with Diagnostic Endorsement	1	0	2	3	5

The Board of Examiners in Optometry has adequate procedures and policies in place regarding the examination process. Applicants for the practice of optometry in Alaska must take all parts of the written and practical examination administered by the NBEO. Board members administer, proctor and grade the state examination while national examinations are graded and proctored by separate organizations. We noted that there are some redundancies with the state practical examination and the practical examination administered by the NBEO. See Recommendation No. 4 for further discussion.

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.

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.

There are four changes involving statutes, regulations or procedures that are necessary so the board can better operate in the public interest.

1. Eliminate the unnecessary element currently required in the licensing application. (See Recommendation No. 1.)
2. Develop statutes and regulations that provide for licensure by credentials. (See Recommendation No. 2.)
3. Eliminate the conflict between the board's statutes and regulations related to continuing education. (See Recommendation No. 3)
4. Revise regulations related to the practical portion of the state examination. (See Recommendation No. 4.)

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**Department of Community
and Economic Development**

Division of Occupational Licensing

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NOV 28 2001

LEGISLATIVE AUDIT

November 27, 2001

Pat Davidson, Legislative Auditor
Legislative Budget and Audit Committee
Division of Legislative Audit
PO Box 113300
Juneau, AK 99811

Dear Ms. Davidson:

Thank you for the opportunity to comment on the Board of Examiners in Optometry preliminary audit.

The division agrees that the board is operating in an efficient and effective manner and should continue. The board will meet November 30 and will have an opportunity to comment on the preliminary audit recommendations. The following are department comments.

Recommendation No. 1

The Division of Occupational Licensing should rescind licensing application requirements that are unreasonable and have no basis in occupational licensing statutes or regulations.

The preliminary audit recommends elimination of the requirement that an applicant photograph be included in the application for licensure. The division will ask the board to review the need for the photograph during its meeting later this week. In Alaska and in other states individuals have assumed the identities of other professionals and attempted to obtain licensure. Photographs are useful in determining which individual submitted an application.

Recommendation No. 2

The Board of Examiners in Optometry should develop statutory amendments for legislative consideration which will allow the board to license optometrists by credentials.

The board sent a letter to its licensees on September 12, 2001 identifying licensure by credentials as a board goal. The letter stated that the board was soliciting input on statutory language from the American Optometric Association and the Alaska Optometric Physicians Association.

Recommendation No. 3

The Alaska State Legislature should consider amending optometry licensing statutes related to continuing education requirements for optometrists licensed in the State of Alaska.

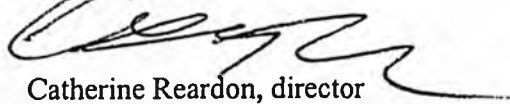
The division agrees that it would be helpful to amend this statute to conform to current regulation and practice.

Recommendation No. 4

The Board of Examiners in Optometry should revise regulation 12 AAC 48.015 to require the NBEO examination and a State jurisprudence examination, eliminating the practical portion of the State examination.

The division supports this recommendation. The board has asked the division to issue public notice of the proposal to revise the examination regulations. The board announced its desire to eliminate the practical exam in its September 12, 2001 letter to licensees.

Sincerely,



Catherine Reardon, director

SB

252

Journal Text



01-22-2002

Senate Journal

2003

SB 252

SENATE BILL NO. 252 BY THE SENATE RULES COMMITTEE
BY REQUEST OF THE GOVERNOR, entitled:

"An Act renaming the Alaska Human Resource Investment Council as the Alaska Workforce Investment Board and relating to its membership; repealing the termination date of the state training and employment program; relating to employment and training activities; and providing for an effective date."

was read the first time and referred to the Labor and Commerce and Finance Committees.

The following fiscal information was published today:

Fiscal Note No. 1, Department of Labor and Workforce Development

Fiscal Note No. 2, Department of Labor and Workforce Development

Fiscal Note No. 3, Department of Labor and Workforce Development

Governor's transmittal letter dated January 21:

Dear President Halford:

Training of our workforce is key to keeping the Alaska economy competitive in the future and making our state an attractive place for new business development. The State Training and Employment Program (STEP) has proven to be a valuable player in helping Alaskans find and retain jobs. The STEP is due to sunset on June 30. This bill I transmit today continues and makes permanent the STEP and its vital work.

01-22-2002

Senate Journal

2004

Since 1989 the STEP has successfully served more than 10,000 eligible Alaskans. The training and employment program is financed by employee contributions to the unemployment compensation fund and has actually reduced claims against the fund by bringing unemployed Alaskans back into the workforce.

The STEP is under the oversight of the Alaska Human Resource Investment Council, renamed the Alaska Workforce Investment Board under this bill. The STEP was first established as a pilot program, but its success has led to its continued reauthorization through the years. It supplements and compliments federal employment and training programs, providing services when many other programs cannot.

Renaming the oversight board the Alaska Workforce Investment Board clearly signifies the important role that body plays in guiding the development of our workforce. The name change also is in line with terminology under the federal Workforce Investment Act of 1998. In addition, the bill removes the limitation on the number of times the board could meet in a year. It also proposes miscellaneous amendments to update the statutes regarding employment and training activities.

I urge your prompt and favorable action on this measure.

Alaska's Workforce Investment Boards

Alaska Human Resource Investment Council

Anchorage/Mat-Su WIB

Balance of State WIB

February 13, 2002

The Honorable Lisa Murkowski
Chair, House Labor & Commerce Committee
Alaska House of Representatives
Capitol Building, Room 408
Juneau, AK 99801-1182

Dear Representative Murkowski:

As Chairs of Alaska's two Local Workforce Investment Boards, we would like to strongly endorse passage House Bill 353, which has a provision to eliminate the sunset date for the State Training and Employment Program (STEP).

STEP was created in 1989 as a pilot project and because of its success has been re-authorized every two years by the Alaska Legislature.

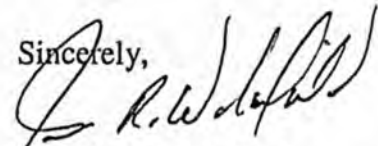
The Local Workforce Investment Programs recognize STEP as a unique and flexible state funded program that supplements other training programs and offers Alaska workers the help they need to become or remain employed.

STEP reduces demand on the Unemployment Insurance Trust Fund by helping to reduce claims for future unemployment benefits. It fosters new jobs by encouraging businesses to locate in Alaska based on the availability of a skilled labor force and minimize unemployment insurance costs for employers. It increases training opportunities for workers severely affected by fluctuations in the economy or technological changes in the workplace. Further, Alaska Department of Labor and Workforce Development evaluation shows that STEP clients worked more, received less unemployment, and had gains in their wages.


The Local Workforce Investment Boards recognize the State Training and Employment Program's unique contribution to the workforce of Alaska and encourage your consideration of HB 353.

Thank you.

Sincerely,



Jim Wakefield, Chair
Balance of State
Workforce Investment Board
PO Box 25511
Juneau, AK 99801



Mary Shields, Chair
Anchorage/Mat-Su
Workforce Investment Board
235 East 8th, First Floor
Anchorage, AK 99501

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 252
(S) Publish Date: 1/22/02

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: An Act renaming the AHRIC & BRU: Employment Security
repealing the termination date of STEP Component: Employment Services
Sponsor: Rules Committee
Requester: Governor Component Number: 2275

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	217.5	217.5	217.5	217.5	217.5	217.5
Travel	5.5	5.5	5.5	5.5	5.5	5.5
Contractual	31.5	31.5	31.5	31.5	31.5	31.5
Supplies	0.8	0.8	0.8	0.8	0.8	0.8
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	255.3	255.3	255.3	255.3	255.3	255.3

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (1054)	255.3	255.3	255.3	255.3	255.3	255.3

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1054 State Employ & Training	255.3	255.3	255.3	255.3	255.3	255.3
TOTAL	255.3	255.3	255.3	255.3	255.3	255.3

Estimate of any current year (FY2002) cost: None

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)

This bill would rename the Alaska Human Resource Investment Council (AHRIC) as the Alaska Workforce Investment Board (AWIB) and repeal the termination or "sunset" date of the State Training and Employment Program (STEP).

The above Expenditures and projected Revenues are contained in the proposed FY 2003 operating budget.

Prepared by: Ronald Hull, Director Phone: 465-5933
Division: Employment Security Division Date/Time: 11/15/01 10:19 AM
Approved by: Ed Flanagan, Commissioner Date: 11/15/01
Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 252
(S) Publish Date: 1/22/02

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: An Act renaming the AHRIC & BRU: Employment Security
repealing the termination date of STEP Component: Unemployment Insurance
Sponsor: Rules Committee
Requester: Governor Component Number: 2276

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	80.0	80.0	80.0	80.0	80.0	80.0
Travel	4.0	4.0	4.0	4.0	4.0	4.0
Contractual	35.0	35.0	35.0	35.0	35.0	35.0
Supplies	3.0	3.0	3.0	3.0	3.0	3.0
Equipment	3.0	3.0	3.0	3.0	3.0	3.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	125.0	125.0	125.0	125.0	125.0	125.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1054)	125.0	125.0	125.0	125.0	125.0	125.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1054 State Employ & Training	125.0	125.0	125.0	125.0	125.0	125.0
TOTAL	125.0	125.0	125.0	125.0	125.0	125.0

Estimate of any current year (FY2002) cost: None

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)

This bill would rename the Alaska Human Resource Investment Council (AHRIC) as the Alaska Workforce Investment Board (AWIB) and repeal the termination or "sunset" date of the State Training and Employment Program (STEP).

The above Expenditures and projected Revenues are contained in the proposed FY 2003 operating budget.

Prepared by: Ronald Hull, Director Phone: 465-5933
Division: Employment Security Division Date/Time: 11/15/01 10:21 AM
Approved by: Ed Flanagan, Commissioner Date: 11/15/01
Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: SB 252
 (S) Publish Date: 1/22/02

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: An Act renaming the AHRIC & BRU: Employment Security
repealing the termination date of STEP Component: Job Training Programs
 Sponsor: Rules Committee
 Requester: Governor Component Number: 2556

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	440.2	440.2	440.2	440.2	440.2	440.2
Travel	20.0	20.0	20.0	20.0	20.0	20.0
Contractual	546.5	546.5	546.5	546.5	546.5	546.5
Supplies	5.5	5.5	5.5	5.5	5.5	5.5
Equipment	21.0	21.0	21.0	21.0	21.0	21.0
Land & Structures	3,752.0	3,752.0	3,752.0	3,752.0	3,752.0	3,752.0
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	4,785.2	4,785.2	4,785.2	4,785.2	4,785.2	4,785.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1054)	4,785.2	4,785.2	4,785.2	4,785.2	4,785.2	4,785.2
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1054 State Employ & Training	4,785.2	4,785.2	4,785.2	4,785.2	4,785.2	4,785.2
TOTAL	4,785.2	4,785.2	4,785.2	4,785.2	4,785.2	4,785.2

Estimate of any current year (FY2002) cost: None

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)

This bill would rename the Alaska Human Resource Investment Council (AHRIC) as the Alaska Workforce Investment Board (AWIB) and repeal the termination or "sunset" date of the State Training and Employment Program (STEP).

The above Expenditures and projected Revenues are contained in the proposed FY 2003 operating budget.

Prepared by: Ronald Hull, Director Phone: 465-5933
 Division: Employment Security Division Date/Time: 11/15/01 10:20 AM
 Approved by: Ed Flanagan, Commissioner Date: 11/15/01
 Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSSB 252(L&C)
 (S) Publish Date: 5/6/02

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: Employment and Training Program/Board BRU: Employment Security
 Component: Employment Services
 Sponsor: Rules Committee
 Requester: Senate Finance Component Number: 2275

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	220.2	220.2				
Travel	5.0	5.0				
Contractual	29.3	29.3				
Supplies	0.8	0.8				
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	255.3	255.3	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1054)	255.3	255.3				
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1054 State Employ & Training	255.3	255.3				
TOTAL	255.3	255.3	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: None

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)

This bill would rename the Alaska Human Resource Investment Council (AHRIC) as the Alaska Workforce Investment Board (AWIB) and extend the termination or "sunset" date of the State Training and Employment Program (STEP) to June 30, 2004.

The above Expenditures and projected Revenues are contained in the proposed FY 2003 operating budget.

Prepared by: Ronald Hull, Director Phone: 465-5933
 Division: Employment Security Division Date/Time: 5/1/02 8:43 AM
 Approved by: Ed Flanagan, Commissioner Date: 05/01/02
 Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 5
 Bill Version: CSSB 252(L&C)
 (S) Publish Date: 5/6/02

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: Employment and Training Program/Board BRU: Employment Security
 Component: Unemployment Insurance
 Sponsor: Rules Committee
 Requester: Senate Finance Component Number: 2276

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	4.0	4.0				
Contractual	115.0	115.0				
Supplies	3.0	3.0				
Equipment	3.0	3.0				
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	125.0	125.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1054)	125.0	125.0				
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FUNC SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1054 State Employ & Training	125.0	125.0				
TOTAL	125.0	125.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: None

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)

This bill would rename the Alaska Human Resource Investment Council (AHRIC) as the Alaska Workforce Investment Board (AWIB) and extend the termination or "sunset" date of the State Training and Employment Program (STEP) to June 30, 2004.

The above Expenditures and projected Revenues are contained in the proposed FY 2003 operating budget.

Prepared by: Ronald Hull, Director Phone: 465-5933
 Division: Employment Security Division Date/Time: 5/1/02 8:42 AM
 Approved by: Ed Flanagan, Commissioner Date: 05/01/02
 Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 6
Bill Version: CSSB 252(L&C)
(S) Publish Date: 5/6/02

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: Employment and Training Program/Board BRU: Employment Security
Component: Job Training Programs
Sponsor: Rules Committee
Requester: Senate Finance Component Number: 2556

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	57.8	43.4				
Travel	11.5	8.0				
Contractual	16.4	7.1				
Supplies	3.0	0.5				
Equipment	2.5	0.0				
Land & Structures						
Grants & Claims	0.0	0.0				
Miscellaneous						
TOTAL OPERATING	91.2	59.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1054)	35.0	35.0				
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1054 State Employ & Training	91.2	59.0				
TOTAL	91.2	59.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: None

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time	1	1				
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: Ronald Hull, Director Phone: 465-5933
Division: Employment Security Division Date/Time: 5/1/02 8:45 AM
Approved by: Ed Flanagan, Commissioner Date: 05/01/02
Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. CSSB 252(L&C) #6

ANALYSIS: (continued)

This bill would rename the Alaska Human Resource Investment Council (AHRIC) as the Alaska Workforce Investment Board (AWIB) and extends the termination or "sunset" date of the State Training and Employment Program (STEP) to June 30, 2004. This CS also makes substantial changes to STEP and we are commenting on two sections of the CS that we believe will have the most fiscal impact. The Job Training Programs component already contains \$4,785.2 of the STEP expenditures and revenues in the proposed FY2003 Operating budget (Governor, Senate and House versions).

Section 12 requires the Department of Labor and Workforce Development (DOLW&D) to collect monies from participants, who received necessary tools, work related clothing, safety gear or other necessities to obtain employment. We would be required to establish collection procedures, track repayments and seek attachment of the individual's permanent fund dividend (PFD) check if repayment is not satisfied.

Based upon previous usage and demand, we estimate STEP collections from participants would not exceed 35.0 annually for up to 80 clients. We would need to establish a program recovery system as little capacity currently exists. Based upon prior experience in Unemployment Insurance collections, the levy of client's PFD check is a labor intensive manual paperwork process. We believe that the new collection monies would not offset the increased costs. We would require a new PFT position and we assume the following additional STEP administrative costs to the State. There may be additional subgrantees (i.e. Municipality of Anchorage) STEP administrative costs not shown below:

New PFT Employment Security Specialist IB Range 14A in Juneau 43.4
Required travel around Alaska to various client locations for small claims court appearances 10.0
Contractual RSA to the Dept. of Law for legal advice on collections 2.5
Required Contractual 7% indirect, 4.5% DP operations and 4% ESD management costs 6.7
Related supplies .5
Basic new equipment for position 2.5

Total annual FY2003 cost: 65.6 (reduced to 59.0 in FY2004)
Total annual revenues: 35.0
Total annual FY2003 net loss: <30.6> (reduced to <24.0> in FY2004)

We assume some of the FY2003 travel, contractual and equipment operating costs are startup costs and will be reduced by 10 percent in FY2004.

Section 48 requires the DOLW&D to prepare one-time additional information for an annual written STEP report to the Legislature due in January 2003. We assume that the new reporting would increase STEP administrative costs in FY2003 only by the following:

25% of an existing Employment Security Analyst II Range 17 A in Anchorage 14.4
Minor travel to Juneau 1.5
Contractual RSA to Research and Analysis for employer information 5.0
Required Contractual 7% indirect, 4.5% DP operations and 4% ESD management costs 2.2
Related supplies & copying 2.5

Total FY2003 annual cost: 25.6

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 7
Bill Version: CSSB 252(L&C)
(S) Publish Date: 5/6/02

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: Employment and Training Program/Board BRU: Employment Security
Component: Job Training Programs
Sponsor: Rules Committee
Requester: Senate Finance Component Number: 2556

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	418.6	418.6				
Travel	20.0	20.0				
Contractual	568.1	568.1				
Supplies	5.5	5.5				
Equipment	21.0	21.0				
Land & Structures						
Grants & Claims	3,752.0	3,752.0				
Miscellaneous						
TOTAL OPERATING	4,785.2	4,785.2	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1054)	4,785.2	4,785.2				
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1054 State Employ & Training	4,785.2	4,785.2				
TOTAL	4,785.2	4,785.2	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: None

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)

This bill would rename the Alaska Human Resource Investment Council (AHRIC) as the Alaska Workforce Investment Board (AWIB) and change the termination or "sunset" date of the State Training and Employment Program (STEP) to June 30, 2004.

The above Expenditures and projected Revenues are contained in the proposed FY 2003 operating budget.

Prepared by: Ronald Hull, Director Phone: 465-5933
Division: Employment Security Division Date/Time: 5/1/02 8:44 AM
Approved by: Ed Flanagan, Commissioner Date: 05/01/02
Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

Audit Report

DEPARTMENT OF LABOR AND WORKFORCE
DEVELOPMENT
STATE TRAINING AND EDUCATION
PROGRAM

March 6, 2002



Audit Control Number:

07-30005-02

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 the Senate and two from the House. 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/legaud/web/default.htm>.

BUDGET AND AUDIT COMMITTEE

Senator Gene Therriault, Chair
Senator Dave Donley
Senator Lyman Hoffman
Senator Randy Phillips
Senator Jerry Ward
Senator Gary Wilken (alternate)

Representative Hugh Fato, Vice Chair
Representative John Harris
Representative Reggie Joule
Representative Ken Lancaster
Representative Eldon Mulder
Representative Bill Williams (alternate)
Representative John Davies (alternate)

DIVISION OF LEGISLATIVE AUDIT

Pat Davidson, CPA
Legislative Auditor

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

(907)465-3830, Juneau
(907)561-1445, Anchorage
(907)465-2347, Juneau Fax
(907)561-1452 Anchorage 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

March 15, 2002

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 LABOR
AND WORKFORCE DEVELOPMENT
STATE TRAINING AND EMPLOYMENT PROGRAM

March 6, 2002

Audit Control Number

07-30005-02

One of the main objectives of this audit was to review administration of the state training and employment program (STEP) by the Alaska Human Resource Investment Council and ascertain compliance with state law. We were also asked to review the impact of STEP on the solvency of the unemployment compensation fund and the calculation of employer unemployment insurance tax rates. Further, we were requested to provide detail STEP expenditure information.

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 discussed in the Objectives, Scope, and Methodology section.

Handwritten signature of Pat Davidson in cursive.

Pat Davidson, CPA
Legislative Auditor

TABLE OF CONTENTS

	<u>Page</u>
Objectives, Scope, and Methodology	1
Organization and Function	3
Background Information	5
Report Conclusions	13
STEP Expenditure Analysis.....	23
Findings and Recommendations	29
Appendices	35
Appendix A - Summary STEP Expenditures	37
Appendix B – Summary Vendor/Grantee Expenditures by Entity Type.....	47
Appendix C – Detail Vendor/Grantee Expenditures by Entity Type.....	57
Appendix D – Detail Vendor/Grantee Expenditure by Service Delivery Area	85
Appendix E – Detail Vendor/Grantee Expenditures by Amount.....	117
Agency Response:	
Department of Labor and Workforce Development.....	149
Legislative Auditor’s Additional Comments	159

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 of the Alaska Statutes and a special request by the Legislative Budget and Audit Committee, we reviewed the Alaska Human Resource Investment Council's (AHRIC) administration of the state training and employment program (STEP) and other programs with which it is involved, including compliance with state laws and regulations. Additionally, we evaluated the impact of diverting employee unemployment insurance (UI) contributions on the solvency of the unemployment compensation fund and the calculation of employer/employee UI tax rates. Further, we have provided detail STEP expenditure information.

Objectives

The specific audit objectives were:

- Determine whether diversions of employee UI contributions impact the solvency of the unemployment compensation fund.
- Determine whether diversions of employee UI contributions impacted employer UI tax rates.
- Determine whether the practice of diverting employee UI contributions jeopardizes federal funding.
- Evaluate administration of AHRIC and STEP for compliance with statutes.
- Evaluate the STEP grant award process and ascertain whether abuses, such as favoritism, are occurring.
- Provide detail expenditure information giving emphasis to the six statutorily defined program elements.

Scope

We obtained an understanding of STEP administration since the program's creation in FY 90, and focused our review on the five-year period FY 97 through FY 01. Review of AHRIC covered the period FY 97 through FY 01. We also reviewed the newly created Alaska technical and vocational education program's impact on UI trust fund solvency. This review encompassed FY 01.

Methodology

Our evaluation of AHRIC and STEP involved reviewing, analyzing, and testing the following:

- State statutes and regulations

- AHRIC board minutes, committee reports and various publications
- Selected reimbursable service agreements, grant awards, and contracts
- STEP-related request for proposals and scoring/evaluation documentation
- STEP expenditure and budget documentation maintained by the State and service delivery area (SDA) administrative agencies
- STEP client files
- Alaska Training and Vocational Education expenditure documentation
- Attorney General opinions and memorandums of understanding
- Department of Labor and Workforce Development (DLWD) job training promotional materials

Additionally, we interviewed the following individuals:

- DLWD internal auditors
- Alaska Workforce Investment Office program coordinator and staff involved with STEP grants
- AHRIC executive director and program staff
- Municipality of Anchorage and Balance of State job training program coordinators and program staff
- DLWD, Division of Employment Security director and assistant director
- DLWD deputy commissioner
- Attorney with the Legislative Legal and Research Services office

ORGANIZATION AND FUNCTION

The Department of Labor and Workforce Development

Under the provisions of Title 23 of the Alaska Statutes, the Department of Labor and Workforce Development (DLWD) is charged with fostering and promoting the welfare of the wage earners of the State, improving working conditions, and advancing opportunities for profitable employment. The department is responsible for:

- administering employment services, unemployment insurance, and workers' compensation programs,
- enforcing laws and regulations dealing with job safety, hours of work, wages, work conditions, and public employer/employee labor relations, and
- collecting, analyzing, and disseminating labor and population statistics.

Included in the provisions of Title 23 is the Employment Security Division Act.

Employment Security Division

DLWD's Employment Security Division promotes employment, economic stability, and growth by operating a no-fee labor exchange that meets the needs of employers, job seekers, and veterans. By statute, the division's mission is to promote employment and economic stability by responding to the needs of employers and job seekers.

To ensure that job ready workers are available to meet employer needs, the Employment Security Division administers three complementary programs: Employment Services, Unemployment Insurance, and job training through a network of Alaska Job Centers throughout the state. Employment Services includes job placement, job matching and referral, vocational counseling, and job search assistance. Unemployment Insurance provides for the payment of temporary benefits to eligible, unemployed workers while they are seeking employment. Job training services are designed to meet the unique needs of individuals who wish to enter or re-enter the job market, with particular assistance for unemployed workers, low-income adults, youth and others who need help finding stable employment.

Alaska Human Resource Investment Council

Alaska Human Resource Investment Council (AHRIC) is a Governor-appointed council which is organizationally associated with DLWD's commissioner's office. AHRIC provides policy oversight to the Governor and legislature regarding state and federally funded job training and vocational education programs. AHRIC's mission is to facilitate the process necessary to create and maintain an efficient, effective, and integrated human resource investment system. Members of AHRIC represent stakeholder groups in workforce

development, bringing together public and private sector training providers with employers, so people are being trained for appropriate employment. Council members look at employment trends and emerging occupations to customize training and prepare Alaskans for high demand jobs.

Job Training Programs

State administration of job training programs is organizationally located within DLWD's Alaska Workforce Investment Office. Job training programs are guided by business and community leaders throughout the state. These leaders are represented on the Alaska Workforce Investment Board, and through local workforce investment boards. For purposes of providing services, the state is divided up into two workforce investment areas (referred to in this report as service delivery areas (SDAs)):

- The Municipality of Anchorage and communities within the Mat-Su Borough.
- The Balance of State – areas of the state outside the Municipality of Anchorage and the Mat-Su Borough.

Job training provides help to eligible persons with the ultimate goal of moving them into permanent, self-sustaining employment. Grants are available for state vocational education coordination; older worker training; youth employment and training; a program for dislocated workers, and adult and youth training. The main funding source for job training programs is the Federal Workforce Investment Act program and the State's Training and Employment program.

Training providers may be state and local governments, public and private nonprofit agencies, Native organizations, community-based organizations, educational agencies, labor organizations, and for-profit businesses.

BACKGROUND INFORMATION

State training and employment program (STEP) created in FY 90

STEP was created to address a finding by the legislature that an inadequate number of jobs existed in Alaska to meet the needs of those seeking employment. Alaskans were having difficulty finding jobs, a situation which was exacerbated by the changing technological needs of employers. Since its initial authorization in 1989 as a two-year pilot program, STEP has been reauthorized several times. Authorization for the program ends June 30, 2002, unless legislation is approved to continue the program. Legislation was introduced during January 2002 to reauthorize STEP and make it a permanent program.

Original legislative intent language specified three main program objectives:

- To help prevent future claims against unemployment benefits
- To foster new jobs by encouraging businesses to locate in the state due to availability of a skilled labor force and by minimizing employers' unemployment costs
- To increase training opportunities to those workers severely affected by the fluctuations in the state economy or technological changes in the workplace in the state

Not all residents of Alaska are eligible to participate in STEP. Exhibit 1 shows the statutory definition of people to be served by STEP. Eligibility is limited to three main groups:

- unemployed individuals eligible to receive unemployment insurance benefits or who have exhausted the right to receive benefits within the past three years,

Exhibit 1

Eligibility Criteria

AS 23.15.635 limits STEP services to residents who

- (1) are unemployed and*
 - (a) are receiving unemployment insurance benefits; or*
 - (b) have exhausted the right to unemployment insurance benefits within the past three years;*
- (2) are employed, but liable to be displaced within the next six months because of*
 - (a) reductions in overall employment within a business;*
 - (b) elimination of the worker's current job; or*
 - (c) a change in conditions of employment requiring that, to remain employed, the employee must learn substantially different skills that the employee does not now possess; or*
- (3) have worked in a position covered by AS 23.20 at any time during the last three years, and are not currently eligible for unemployment insurance benefits because*
 - (a) their employment has been seasonal, temporary, part-time, or marginal;*
 - (b) their qualifying wages are insufficient because of limited job opportunity; or*
 - (c) they are employed but, because they are underemployed, they are in need of employment assistance and training to obtain full employment.*

- people currently employed but liable to be displaced within the next six months for specific reasons, and
- people who have contributed to the employment security program during the past three years but are not eligible to receive benefits for specific reasons.

AS 23.15.640 specifies that an entity receiving STEP funding shall provide at least one of the following six program elements:

- Industry-specific training
- On-the-job training
- Institutional/classroom job-linked training
- Support services (including allowances)
- Relocation assistance
- Tools, work-related clothing, safety gear, or other items necessary to obtain or retain employment

Alaska Human Resource Investment Council (AHRIC) formed in FY 97

AHRIC is the lead state planning and coordinating entity for state human resource programs. Additionally, AHRIC acts as the lead planning agency for several federal programs. The federal program that has occupied most of AHRIC's resources is the Job Training Partnership Act (JTPA) program. In FY 01, JTPA was replaced by the federal Workforce Investment Act (WIA) program. AHRIC played a major role in planning for the transition from JTPA to WIA and continues as the lead planning agency for WIA.

According to AS 23.15.645, DLWD is required to award AHRIC a grant to administer STEP and make subgrants to qualified training entities. AHRIC works with DLWD's Alaska Workforce Investment Office (AWIO) to determine the amount of STEP funding to allocate for training. AWIO assists AHRIC with issuing the STEP grant awards and monitoring use of the funds.

Administration of STEP tied closely to administration of JTPA/WIA

Since its creation in FY 90, STEP administration has mirrored the procedures already in place to administer the federal JTPA program. As was customary for the JTPA program, the training portion of STEP funding was transferred to the state's Job Training Partnership Office (AWIO's predecessor). Using information prepared by DLWD's research and analysis office¹, JTPO would award grants for providing services in the three service delivery areas (SDAs): Fairbanks, Statewide, and the Anchorage/Mat-Su area.

In each SDA, private industry councils (PICs) had been formed under JTPA to serve as its policy/program arm. Their purview was extended to encompass STEP. These entities

¹ Information included a non-resident hire report, unemployment statistics, unemployment insurance claims, occupational and industrial projections and other relevant data. The information was used to prepare a prioritized list of targeted projects or services.

solicited and awarded grants to other entities to provide STEP services, provided services themselves or contributed funds for individualized training. The City of Fairbanks served as the Fairbanks SDA administrative agency. In Anchorage, the Municipality of Anchorage (MOA) served as the administrative agency. The state employed a statewide SDA coordinator and also served as the administrative agency for the statewide SDA.

When JTPA was replaced by WIA, the SDAs were restructured into two main areas; the Anchorage Mat-SU area and the Balance of State (BOS) area. PICs were replaced by local workforce investment boards and the JTPO was renamed the Alaska Workforce Investment Office (AWIO). The change in SDA names can be seen by comparing FY 99 to FY 00 summary STEP expenditure tables in appendix A of this report.

STEP funding reaches clients in one of two ways. One is the referral process in which the state or municipal employment coordinators work directly with clients to assess their need for training or support services. This process determines which vendor or training institution would best meet a client's needs. The other is through the SDA grant award process. Grantees are often required to recruit STEP eligible individuals and assist with the placement of trainees.

The unemployment compensation fund and the unemployment insurance (UI) tax rates

Unemployment compensation is a self-supporting insurance program. Over the long run, employer and employee UI tax contributions must be enough to pay benefits to claimants. All states have an unemployment insurance program. However, Alaska is one of only two states that tax employees. In other states, employers bear the full cost of the UI program.

Employers make payments to the UI system in two different ways. Employers are either taxable or reimbursable. In order to become reimbursable, an employer must apply to DLWD. Taxable employers make quarterly tax payments, determined by their assigned tax rate and the amount of taxable payroll. Reimbursable employers repay the UI trust fund for the amount of UI benefits paid to their former employees. Reimbursable employers are generally large organizations with stable workforces, such as state and municipal governments, but also include private, non-profit organizations. Employees working for reimbursable employers do not contribute to the UI program but are eligible for STEP services.

DLWD's article in the July 2001 Alaska Economic Trends publication entitled *Financing UI Benefits*, gives a thorough explanation of the UI tax structure. According to this article, Alaska's tax structure is self adjusting. The tax base automatically adjusts to changes in average earnings, and the tax rate automatically adjusts to changes in benefit costs, payroll, and the trust fund reserve ratio.

The article further states that tax rates have three essential components: the average benefit cost rate, individual employer experience factors, and the trust fund solvency adjustment. Exhibit 2 (page 8) summarizes the formulas for calculating the employer and employee tax rates. The employee tax rate is simpler, involving only the average benefit cost rate. The

employer tax rate incorporates all three components. Exhibit 3 on page 9 shows DLWD's calculation of the 2002 tax rate.

The average benefit cost rate is defined as the cost of benefits over the most recent three-year period ending June 30, divided by the total taxable payroll of contributing employers over the first three of the last four years ending June 30. According to DLWD, basing the calculation on three-year periods makes the system "counter-cyclical." This means that contribution rates increase slowly or even decrease during recessions as the trust fund is drawn down, then increase more rapidly during periods of economic stability or growth to replenish the fund.

Exhibit 2

Tax Rate Formulas

Employer tax rate = the trust solvency adjustment plus eighty percent of the average benefit cost rate adjusted for experience

Employee tax rate = twenty percent of the average benefit cost rate

Prior to January 1, 1997, employers paid 82 percent of the average benefit cost rate and employees paid 18 percent. Beginning in 1997, employees began paying 20 percent and employers' contribution declined to 80 percent.

The experience factor also impacts employer rates. Experience factors are designed to require employers that have a high rate of layoffs to contribute more to cover the extra costs of benefits. Experience factors are assigned by DLWD and are based on employers' wage history and the timeliness of reports and payments.

The trust fund solvency adjustment is the final component of employer tax rates. Its purpose is to ensure that the unemployment compensation fund balance is sufficient to provide benefits during recessions. According to DLWD, the benefit cost rates are not always adequate to do this. Therefore, a surcharge is added to employers' tax rates if the trust fund reserve rate falls below 3 percent. A credit is provided to reduce employers' tax rates if the reserve rate equals or exceeds 3.3 percent. The trust fund solvency adjustment is applied uniformly to all employers at a rate between negative .4 percent to positive 1.1 percent, depending on the trust fund reserve rate, in accordance with schedule in AS 23.20.290(f). The solvency adjustment may be increased or decreased by only a maximum of .3 percent from one year to the next. Exhibit 3 (page 9) shows the tax rate calculation for 2002. After the employer rates are calculated, they are adjusted for each employer based on their experience rating.

Establishment of Alaska Technical and Vocational Education (ATVE) program

In FY 01, AS 23.15.820 through AS 23.15.850 created the ATVE program to award grants to technical and vocational entities. ATVE grants must be used for industry-specific training, on-the-job training, or institutional or classroom job-linked training. AHRIC is charged with administering the program and developing regulations to carry out its purpose.

During the first year of the program, ATVE proceeds were not awarded through the grant award process. Proceeds of approximately \$4 million were directly appropriated to the following entities for programs consistent with the ATVE program and capital improvements: University of Alaska (\$2,215,386), Kotzebue Technical Center (\$681,657) and the Alaska Vocational Technical Center (\$1,363,315). According to the sponsor statement for the initial legislation, funds were appropriated directly to these entities because AHRIC would not have the opportunity to develop regulations and solicit grant applications. Our review found that almost all of the FY 01 ATVE appropriation was used for capital projects.

Exhibit 3			
Tax Rate Calculations for 2002 (\$ in millions)			
	(A) Benefit Cost	(B) Total Payroll	(C) Taxable Payroll ²
FY 1998		\$6,125	
FY 1999	\$107	\$6,310	
FY 2000	\$101	\$6,631	
FY 2001	\$99	\$6,998	\$4,528
(D) Benefit Cost for 3 Previous FY			\$307
(E) Total Payroll, First 3 of Last 4 FY			\$19,066
(F) 3-Yr Benefit Cost/Total Payroll (D)/(E)			0.016
(G) Taxable/Total Payroll, Last FY (C)/(B)			0.647
(H) Average Benefit Cost Rate (F)/(G)			0.025
(I) UI Trust Fund Balance, Sept. 30			\$223
(J) Total Payroll, Last FY			\$6,998
(K) UI Trust Fund Reserve Rate (I)/(J)			0.032
(L) Solvency Adjustment (per table in AS 23.20.290(f))			0.000
(M) Average Employer Tax Rate as a Percent of Taxable Payroll (Eighty percent of (H) plus (L))			1.99%
(N) Average Employee Tax Rate (Twenty percent of (H))			0.50%
<i>Provided by DLWD, Division of Employment Security</i>			

² State taxes are assessed on wages up to a set taxable wage base. The tax base is defined in AS 23.20.175(c) as 75% of the average annual earnings in covered employment for the immediately preceding year ending June 30. The state taxable wage base in 2001 was \$25,500.

Funding for the STEP and ATVE programs

Both STEP and ATVE are funded through employee UI contributions. Per statute, employee UI contributions to the unemployment compensation fund (referred to in this report as the UI trust fund) are transferred into the STEP and ATVE accounts within the General Fund. The amount of the transfer for each program is equal to one tenth of one percent of wages subject to the UI tax. Based on the tax rate calculations for 2002 (Exhibit 3, page 9), a total of 40% of employee contributions will be diverted for the STEP and ATVE programs.

UI trust fund balance statistics

During our review, we compiled UI trust fund statistics: average fund balance, total benefits paid, total STEP diversions, total ATVE diversions and the amount transferred from the STEP account to the UI trust fund. The information in Exhibit 4 is provided from FY 90 through FY 01.

Exhibit 4

Fiscal Year	Average UI trust fund balance	Total UI Claims Paid	STEP Diversions	ATVE Diversions	Transfers from STEP to UI
90	\$177,134,283	\$101,860,000	\$2,162,860	\$ 0	\$ 0
91	218,703,292	120,518,789	3,103,325	0	1,743,618
92	226,616,664	166,375,690	3,800,144	0	1,271,061
93	220,606,153	187,717,936	3,860,988	0	1,807,305
94	211,899,005	184,655,582	3,477,874	0	512,538
95	197,568,757	137,395,057	3,550,270	0	577,698
96	186,785,877	141,281,857	3,727,263	0	836,022
97	182,195,243	132,590,356	3,695,470	0	793,470
98	191,341,143	128,184,905	3,880,418	0	306,428
99	198,438,373	133,604,579	4,317,506	0	0
00	195,979,350	126,674,515	3,852,417	0	0
01	208,201,423	122,342,638	4,262,856	4,260,358	0

Special status as a dedicated revenue source

Employer and employee UI tax contributions are dedicated sources of revenue under the "grandfather clause" contained in Art. IX, Sec. 7 of the Alaska Constitution. This means that the taxes can be collected and used for a specific purpose rather than deposited into the State's General Fund and made subject to the legislative appropriation process. Our review of STEP raised concerns that diverting a portion of employee contributions may compromise its special status as a dedicated revenue source.

An attorney general's opinion dated August 19, 1983 states:

Consequently, the intent of the drafters of the Constitution of the State of Alaska was to permit the continuance of existing dedications at the then existing rates until the legislature saw fit to exercise the only power retained in relation to them: that is, the power to repeal.

It goes on to state:

A dedication must be continued, if at all, in exactly the same form. Any attempted alteration short of repeal is a nullity. A dedication encompasses (1) proceeds or part of the proceeds of a tax or license (2) set aside at a certain rate (3) for a particular purpose. The legislature has no power to raise or lower the dedication by increasing or decreasing the tax or license fee or the rate thereof which is set aside. Also there is no power to broaden or reduce the purposes for which an existing dedication is made, for to do so is to alter the dedication itself.

We contacted the Legislative Legal and Research Services office regarding this issue. They provided, in part, the following guidance:

The funding mechanism of the STEP and ATVE programs do not violate the constitution in and of themselves but they could readily be seen as modifications to the dedicated fund of employee contributions to the UI fund. This could in turn threaten the continued existence of the employee contributions as a dedicated fund. The court might find that the two diversions were in reality a change in the purpose of the original dedicated fund and thus cause the entire dedication to be ended. Alternately the court might find that the dedication rate was lowered by these diversions to the STEP and ATVE programs, and that the dedication continues in its diminished state, but that it cannot be increased again to its former level without destroying the grandfathered dedication. This interpretation would be difficult to explain in light of the constant fluctuation in the rate of employee contributions as required by the UI fund to sustain itself.

In summary, it is difficult to determine how courts would rule on the diversions of employee contributions. As such, attorneys can only guess as to the impact of the STEP and ATVE diversions on UI's special status as a dedicated revenue source. If employee contributions have lost their dedicated funding status, then it would be necessary for the legislature to appropriate the employee contributions to the UI fund. Regardless of the employee contribution dedication status, the revenues being diverted for STEP and ATVE programs should be appropriated to those accounts within the State's General Fund.

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REPORT CONCLUSIONS

In recent years, AHRIC has taken more of a leadership role for the STEP program

AHRIC played a minimal role in guiding the STEP program during FYs 97 through 99. Review of committee minutes and other AHRIC documentation showed that the council focused its efforts on gathering information from stakeholders regarding the training and employment needs of Alaskans. However, until FY 00 this important information was not translated into formal guidance for DLWD regarding target areas for the use of STEP funding.

In May 1999, AHRIC created and approved a STEP plan. Exhibit 5 summarizes its main action steps. A more comprehensive STEP plan was also created by AHRIC for inclusion in the WIA unified plan in April 2000.

Exhibit 5

STEP Plan Action Steps May 21, 1999

- Market STEP to employers
- Support Job Center employment assistance activities
- Create a Governor's Discretionary Fund for statewide activities (15% of total)
- Reduce administrative reporting by eliminating certain unnecessary reports
- Develop a uniform STEP grant and grant process
- Develop a full STEP plan for inclusion in the WIA Unified Plan.

AHRIC has generally complied with statutes:

We reviewed actions taken by AHRIC to comply with its enabling statutes. Alaska statutes list numerous duties and functions that AHRIC must perform. Many of the statutory requirements were effective in FY 99.

In general, our review concluded that AHRIC had taken action to comply with its statutory requirements. The council created a statewide policy for a coordinated and effective employment training and education system in the state (also referred to as its strategic plan). It participated in forming business learning consortia in Alaska for the health care; oil, gas and mineral processing; information technology; and transportation industries. AHRIC reviewed the provision of services and the use of money and resources by human resource programs. Additionally, it developed performance standards to be used to evaluate results of workforce training programs and recommend areas for improvement. Further, statutes require that AHRIC review specific programs administered by various state departments to determine whether the programs fall within its oversight. AHRIC accomplished this review and concluded none of the programs were within its oversight authority.

However, AHRIC has not taken timely action to comply with AS 23.15.580(b)(11). This statute required AHRIC adopt regulations to carry out its duties. AHRIC finished the draft regulations in FY 01. At the time of this review, the regulations were still being reviewed by the Attorney General's office.

Improvement needed in the administration of STEP in order to comply with statutes

We were asked to evaluate whether STEP was being administered in accordance with statutes and regulations. Generally, we found that STEP was being administered in accordance with statutes, with five main exceptions.

Only a portion of people eligible for STEP are served by the program

Statutes have made STEP services available to many Alaskan residents. (See Background Information for the statutory eligibility guidelines for STEP.) However, only a portion of the people eligible for STEP know about the program's services. This is due to the way STEP has been administered.

Under its current administration, there is no systematic marketing effort to make eligible people aware of the STEP program. People may learn about the availability of services while working with state or municipal employment coordinators. According to MOA employment coordinators, word-of-mouth is the most common way people learn about the availability of STEP. STEP grantees may recruit through the media for individuals to attend specific training. However, recruitment is generally limited to individuals interested in a specific industry.

The scope of services in MOA's STEP grants limits eligibility to the unemployed. Since approximately 80 percent of MOA's STEP expenditures are incurred by its grantees, we conclude that most of MOA's STEP funds are serving unemployed individuals. MOA stated that its one-stop centers adequately serve other STEP eligible individuals (such as individuals expecting to be laid off or displaced and those that are underemployed). We disagree with that statement based on a general lack of outreach for the STEP program to currently employed Alaskans.

In summary, SDAs and DLWD are failing to reach all those eligible for STEP. This is further discussed under Recommendation No. 1 in the Findings and Recommendations section of this report.

STEP is displacing federal and possibly private training funds

STEP was created to assist those individuals who failed to meet JTPA's strict eligibility requirements, and to provide training services for people who needed training but weren't being served through other federal, private or public training programs. STEP was intended to augment existing services, and to be used only after federal, private or public training funds have been exhausted. See Exhibit 6 (page 15) for the statutory prohibition against displacing other training programs/funds.

As part of our review of client files, we found SDAs were not consistently requiring federal JTPA/WIA programs be utilized before STEP funds were authorized. As discussed in Recommendation No. 7, we tested 50 client files at MOA. We found that in 11 of the 50

cases (22%), MOA employment coordinators used STEP funds when clients were potentially eligible for JTPA/WIA.

Of the ten FY 00 HRC client files tested (MOA's contractor that serves the Mat-Su area), we found that three clients should have been eligible for JTPA. July 2000 was the first time HRC staff were made aware of the requirement to use STEP only after other funding sources were exhausted. We did not find similar errors when testing HRC's FY 01 client files.

Our review of BOS³ client files found no such errors. However, we did detect that both BOS and MOA grantees were funded with STEP funds even though WIA

funding had not been exhausted. Per the BOS state coordinator, STEP grantees are not required to ascertain each person's eligibility for WIA when recruiting. This type of determination would require a thorough knowledge of WIA federal regulations which STEP grantees often do not have. Both MOA and BOS carried forward federal WIA funding into FY 02. MOA carried forward over \$676,000 of adult and dislocated worker funding, and BOS carried forward approximately \$2 million in adult and dislocated worker funding. Using STEP funds before exhausting federal funds violates AS 23.15.651.

STEP also potentially displaced private funding through union training programs. STEP funding of union-sponsored training programs has increased dramatically. In FY 97, unions received approximately \$277,000 of STEP funds. In FY 01, unions received approximately \$759,000. Both AHRIC's executive director and AWIO's program coordinator praise the partnership between STEP and unions, stating that STEP money is leveraged with union funding which allows for more people to be trained with less STEP funding. Further, unions are credited with placing trainees in good paying jobs.

We acknowledge that unions are a valuable partner in training Alaskans. However, given that unions have a funding source for training through their dues collection process, we question how DLWD and AHRIC ensure that STEP funding is not being used by unions to supplant rather than to leverage.

Exhibit 6

Prohibition against displacing other training programs/funds

AS 23.15.651. Duties of Alaska human resource investment council; grant; eligible entities.

Section (a)(2) states

Its activities do not replace or compete in any way with a federally approved, jointly administered apprenticeship program or any other existing training programs.

Section (a)(2)(b) states

The council may not award a grant if the grant would displace money available through existing public or private training programs.

³ BOS refers to Balance of State, the service delivery area not covered by MOA.

Requirement to reimburse department not actively enforced

Effective in FY 01, AS 23.15.640(c) required that STEP clients, to the extent it is economically feasible, reimburse the state for the receipt of tools, work-related clothing, safety gear or other items necessary to obtain or retain employment. It also required DLWD implement this requirement by regulation.

In response, AWIO created a promissory note that STEP clients are required to sign prior to the receipt of such items. It also codified reimbursement requirements in draft regulation 8 AAC 87.135. Under this regulation, only people who meet *all* of the following conditions are required to repay the cost of provisions.

- The participant has exited STEP.
- The participant has been continuously employed for a minimum of six months.
- The participant, following exit of the program, has earned an income which is at least twice the federal lower income level during the six month period (approximately \$20,500 for a single person and \$45,000 for a family of four).
- The participant has no financial circumstances that prevent repayment.

We question the effectiveness of this regulation. In our view, limiting application of the reimbursement statute to those STEP graduates who enter continuous employment and receive a minimum of \$20,500 in wages within six months is unduly restrictive. At the time of our review, no repayments had been received by DLWD or its grantees.

We also found that DLWD has no procedures in place to enforce the promissory notes signed by STEP participants. Staff working with STEP clients did not know which agency was responsible for collecting the repayments. The database is not collecting the detailed financial information necessary to identify STEP clients that meet the conditions specified in regulation.⁴ Further, no procedures are in place to notify clients when reimbursement is expected.

Statutory program elements do not include employment assistance

As discussed in the STEP Expenditure Analysis section of this report, one of the activities funded by STEP is employment assistance. Employment assistance includes assessment, counseling, resume preparation, and similar activities to help a person obtain employment without providing specific training. Much of employment assistance expenditures go toward paying wages and benefits for state and municipal employment coordinators. These costs are a significant category of STEP expenditures.

AS 23.15.640 specifies that an entity receiving STEP funding shall provide at least one of six program elements: industry-specific training, on-the-job training, institutional/classroom job-linked training, support services (including allowances), relocation assistance, or tools, work-

⁴ The shortcomings of STEP's database and format for financial reporting are discussed in Recommendation No. 6 in the Findings and Recommendations section of this report.

related clothing, safety gear, or other item necessary to obtain or retain employment. Employment assistance is not covered under any of the six program elements. Therefore, it is questionable whether these costs are considered allowable under STEP.

DLWD contends that employment assistance is a type of support service, which is an allowable program element. We disagree. STEP was created to fill the training gap left by JTPA and was intended to be used as a last resort. DLWD employment assistance activities funded, in part, by the federal Wagner Peyser program were available to clients prior to the creation of STEP. If STEP was intended to be used for such activities, we believe it would have been a specifically allowable program element in statute. However, we do agree with DLWD that assessment and counseling activities are essential to the determination of training needs, and that resume preparation and similar activities are often the most cost effective means of moving a client into employment. As such, DLWD should consider pursuing legislation to specifically identify employment assistance as an allowable STEP program element.

Administrative costs exceed maximums defined in statute

Alaska statutes provide two separate methods of calculating allowable STEP administrative expenditures. AHRIC and DLWD must comply with both. The first, AS 23.15.645(e), became effective in FY 97. It defined maximum administrative costs as 20 percent of STEP proceeds (revenue). AS 23.15.645 (e) states:

In making a grant under this section, the council shall require that the qualified entity and grantees of the qualified entity limit the amount of the grant proceeds spent on administration so that the total spent on administration from the proceeds of the employment assistance and training program account, including amounts spent by the council itself, does not exceed 20 percent. The amount collected and remitted in accordance with the shared cost requirements of the federal office of Management and Budget Circular A-87 entitled "Cost Principles for State and Local Governments" is not considered an amount spent on administration under this subsection.

The second, AS 23.15.580(b)(8), became effective in FY 99. It defined maximum administrative expenses as 15 percent of STEP expenditures. AS 23.15.580(b)(8) states:

[the council shall] adopt regulations that set standards for the percentage of a grant that may be used for administrative costs; the regulations must clearly identify and distinguish between expenses that may be included in administrative costs and those that may not be included in administrative costs; the percentage allowed for administrative costs may not exceed the lesser of 15% or the amount permitted under the requirements of a federal program, if applicable.

In order to comply with the administrative maximum in statute, DLWD began budgeting for administrative costs by multiplying the STEP authorization by 20 percent. Our review found that STEP administrative expenditures were 14 percent of STEP proceeds in FY 97 and 13 percent in FY 98, well within the 20 percent maximum defined in statute.

When AS 23.15.580(b)(8) became effective in FY 99, DLWD failed to recognize that compliance now limited administrative costs as a percentage of STEP expenditures rather than STEP proceeds. DLWD lapsed significant amounts of training funds, yet spent most of its budget for STEP administration. Consequently, administrative costs were 24 percent of STEP expenditures in FY 99, 23 percent in FY 00 and 21 percent in FY 01. These percentages are far in excess of the 15 percent statutory maximum. See Recommendation No. 4 in the Findings and Recommendations section of this report for further discussion.

Testing found no indication of favoritism in awarding grants or referring clients to vendors

We reviewed the procedures used by SDA administrative agencies when awarding STEP funds to grantees. Both MOA and BOS used a request for proposal (RFP) process whereby a notice is published soliciting grant proposals. Proposals are then reviewed and scored by a committee using standard criteria. Proposals with the highest scores are awarded grants within the limits of available funding.

We conclude that membership on the proposal review committee represented various interests (such as private industry, state agencies, unions, Native organizations, and training organizations) with no interest having more than one vote. Proposals were evaluated using objective criteria and scoring instruments. Further, the RFP and/or grant notification letters informed respondents of the appeal process.

We also tested over 70 client case files and found no indication of favoritism in referring clients to specific vendors. According to employment coordinators, STEP is following in the path of WIA and moving toward client selection. Making the choice the client's responsibility will help reduce the potential for fraudulent dealings between employment coordinators and vendors.

Need and purpose of STEP should be reevaluated in light of changing federal law

The need for STEP was generated by the failure of the federal JTPA program to meet the training needs of Alaskans. Our review found that STEP mainly provided employment assistance and training for individuals determined ineligible for the federal JTPA program. Many people were found ineligible for JTPA because of its restrictive eligibility requirements. For example, in order for an individual with no spouse or dependents to be found eligible for JTPA, he/she could not have earned more than \$5,000 in the past six months and had to possess a barrier to employment. Additionally, JTPA would not pay for industry-specific training. STEP was needed to fill the training void created by JTPA's restrictive eligibility requirements and its prohibition against funding industry-specific training.

In FY 01, WIA replaced JTPA. WIA has much more inclusive eligibility requirements than JTPA and allows funding for industry-specific training. Under WIA, an individual with no spouse or dependents could earn up to \$12,000 and still be eligible. This is over twice

JTPA's income threshold. Further, WIA eliminated the eligibility requirement that an individual also possess a barrier to employment.

Exhibit 7 summarizes the impact of WIA on STEP caseloads. As expected, employment coordinators enrolled fewer clients in STEP due to the availability of WIA. However, clients served by grantees increased. SDAs were not requiring STEP grantees to determine whether clients are eligible for WIA prior to providing STEP funded services. See Recommendation No. 7 in the Findings and Recommendations section of this report for additional discussion regarding STEP displacing federal training funds.

In summary, WIA has addressed many of the reasons STEP was created. In our view, the purpose of STEP should be reevaluated and the program restructured in order to more fully serve to the state's current training and employment needs.

Exhibit 7

STEP Caseloads Decrease in FY 01

We compared STEP caseloads in FY 00 (under JTPA) to FY 01 (under WIA) for BOS and HRC which administers STEP in the Mat-Su area. The comparison shows a dramatic decrease in STEP clients served by employment coordinators.

MOA activity is not included because they did not keep client data that identified whether the client was served by an employment coordinator or a grantee/vendor. MOA's total STEP caseload remained stable (387 in FY 00 and 388 in FY 01). HRC does not pass through STEP funding to grantees, therefore, its entire caseload is served by employment coordinators.

	BOS			HRC		
	FY 00	FY 01	Percent Change	FY00	FY01	Percent Change
Employment Coordinators	677	323	(52%)	149	45	(70%)
Grantees/Vendors	434	707	63%	0	0	0%

Since WIA's eligibility requirements are more inclusive, we expected employment coordinators to find fewer clients eligible for STEP during FY 01 than in FY 00. We also expected to see a similar decline in STEP clients served by grantees. However, this was not the case in FY 01.

There are two main reasons that STEP clients served by grantees increased rather than decreased. First, BOS administrative staff anticipated a decrease in clients served by its employment coordinators and made more of its STEP funding available to grantees. The additional funding allowed grantees to perform more recruitment and outreach for the program thus, STEP clients increased. Secondly, STEP grantees were not required to determine whether clients were eligible for WIA. New clients were therefore funded through STEP, thus increasing the number of clients served by STEP.

No precise measurement available for STEP and ATVE benefits

The STEP program is based on the premise that training turns UI claimants into UI contributors. Each year DLWD's Research and Analysis (R&A) section produces an annual evaluation of the STEP program as required by statute. One of the report's measures of program success is the extent STEP reduces future claims against unemployment. In order to calculate the reduction of claims, R&A compares the amount of claims paid to STEP clients in the five quarters preceding training to the five quarters post-training.

This methodology may be helpful to DLWD for program management. However, it does not provide a precise measurement of the impact of STEP on the UI trust fund which is needed to ascertain whether STEP savings to the UI trust fund equal or exceed the cost of the program. DLWD's methodology has several shortcomings. It includes all individuals exiting from the STEP program regardless of whether they received training from other training programs. In FY 99, approximately 25 percent of people exiting from STEP also exited other training programs during the year. DLWD's method of calculating the reduction of UI claims does not take other training programs into consideration and attributes all of the savings to the STEP program. This potentially overstates savings.

We also question DLWD's methodology of comparing the five quarters pre-training to the five quarters post-training. This practice produces biased results since people may exhaust their eligibility for UI claims and return to the workforce regardless of training.

Another shortfall to DLWD's methodology is that the reduction in claims is calculated for only one year. However, benefits from training may continue for more than one year. Limiting the review to one year understates the resulting savings.

R&A staff stated that the only way to provide a true measurement of UI trust fund savings would be to have a control group for comparison. However, in order to obtain a control group, eligible Alaskans would have to be assigned to the STEP program randomly while others were denied services. R&A staff also stated that the reduction of UI claims is not the only impact to the fund that could be attributed to STEP. Another of STEP's objectives is to attract Alaskan employers through the availability of a skilled workforce. If successful, this would increase the taxable wage base and increase both employee and employer contributions into the fund.

In summary, it is not possible to precisely measure the impact of STEP on the UI trust fund balance. DLWD's method for calculation does not demonstrate that savings equal or exceed the STEP related diversions from the UI trust fund. As discussed below, unless diversions from the fund are recouped through savings, employers' tax rates will eventually increase.

The purpose of ATVE is similar to STEP, yet the magnitude of the financial impact on UI trust fund balance is much different. ATVE is funded in the same manner as STEP, a portion of employee UI contributions are diverted from the UI trust fund and deposited in to an ATVE account. In FY 01, activities funded by ATVE did not result in any direct or measurable benefit to the UI trust fund's balance. This is in contrast to STEP, where at least a