

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10624 SENATE LABOR & COMMERCE

required by other states, is prudent from a public safety standpoint and provides the revenue needed to offset associated expense.

- **Article 3** addresses uniform rules for franchise agreements. Here, manufacturers are required to file copies of franchise agreements with the commissioner and to follow uniform notification and appeal procedures when changes are proposed. Additionally, it establishes procedures for granting additional franchises and establishes fair and just compensation for termination, cancellation and non-renewal.

Article 3 also provides for uniform requirements for transfer of dealer ownership that protects a family's investment from arbitrary manufacturer intervention.

- **Article 4** addresses prohibited trade practices between the manufacturer and its Alaska dealer body. Most of these practices are prohibited in other states. However, situations arising from Alaska's unique geographic location and environment are also addressed in this Article. Warranty and Service Contract requirements, Transportation Damage requirements and unfair methods of competition are also addressed in this Article.
- **Article 5** addresses requirements for installment sales contracts and service contracts. Here, the Act cleans up what the Alaska Automobile Dealer Association believes are areas that require clear regulation in order to protect the buying public.
- **Article 6** addresses prohibited manufacturer trade practices and unlawful acts by dealerships and other licensees. The Act's strong pro-consumer approach is once again evident as it addresses subjects like advertising practices, odometer laws and titling practices.
- **Article 7** addresses miscellaneous provisions such as acts of officers, directors, salespersons and other representatives; related powers of the commissioner; hearing notices; and establishes a Motor Vehicle Dealers Advisory Board – common in many other states.
- **Article 8** addresses applicability of the Act and provides definitions for terms utilized therein.

This Act is filled with consumer friendly provisions. For example, by more clearly defining the dealer/manufacturer relationship, Alaska dealers can confidently invest the capital necessary to meet current and future consumer demand. A dealer can purchase the real estate, build the facilities and fill his or her inventory with the clear understanding that the manufacturer cannot arbitrarily terminate his or her franchise or encroach on his or her market area without a clear demonstration of good cause for that action. A stable dealer body more readily meets consumer need and demand.

Several other features reinforce the strong consumer orientation of the Act. For example:

- **Article 4** requires manufacturers to proactively work with their dealers through training and other manufacturer procedures to make sure vehicle owners receive high quality warranty or service contract repairs without unnecessary delay and that dealers are reimbursed fairly for providing that service.
- **Article 5** protects buyers who may take delivery of a vehicle before final financing is complete from any surprise changes in the financing term, interest rate or other provisions; provides new disclosure requirements for service contracts and clarifies when a dealer can or cannot disclaim or limit implied warranties.
- **Article 6** establishes a whole range of advertising guidelines (that exist in other states but have never before been established by Alaska law) that prohibit misleading or questionable advertising claims.

Clearly, anyone reading this Act will see how its provisions take the steps necessary to ensure the availability of motor vehicles and parts and dependable service for motor vehicles throughout the State and to protect and preserve the transportation system, the public safety and welfare, and the investments of Alaska residents.

## ALASKA MOTOR VEHICLE ACT

### Reasons for the Act

- Alaska is now the only State in the nation without a comprehensive motor vehicle act.
- Alaska's unique geographical location (far from the lower 48 States, large land mass and great distances between population centers) makes it necessary for the State to:
  1. ensure the availability of motor vehicles and parts and dependable service for motor vehicles throughout the State;
  2. protect and preserve the transportation system, the public safety and welfare; and
  3. protect the investments of its residents.
- In the process of drafting proposed legislation to meet the above objectives, the Alaska Automobile Dealers Association (AADA) addressed the need to regulate and license motor vehicle manufacturers, motor vehicle dealers and other persons engaged in the selling, repairing and purchasing of vehicles in this state in order to prevent fraud and other abuses against residents and to protect and preserve the economy, the transportation system, the public safety and welfare, and the investments of resident. AADA did so by suggesting legislation to address the following major areas of concern:
  1. Presently, disputes between a manufacturer and an Alaska dealer are routinely governed by and interpreted and adjudicated by courts in other states – an uncertain and expensive proposition. This Act brings those agreements under Alaska law and grants jurisdiction for such disputes to the Alaska Court System.
  2. Presently, not all manufacturers, dealers and others engaged in the Alaska automobile business are licensed by the State. The State doesn't know who all the players are. This Act mandates a fair and comprehensive licensing structure.
  3. Some franchise agreements are for short duration and require periodic renewal - even though a dealer may be required to invest millions of dollars in facilities and equipment in order to obtain or grow that franchise. With no clear, fair and uniform guidelines for franchise termination, cancellation or nonrenewal, dealers are many times understandably reluctant to expand to meet consumer demand. This Act (like similar legislation in most other states) sets forth clear and uniform processes regarding amending existing agreements, getting additional franchises and termination, cancellation or nonrenewal of existing franchises by the manufacturer. This will allow dealerships to

comfortably expand to meet consumer needs and expectations in a growing economy.

4. Some franchise agreements have no provision for a dealer to designate his or her successor in case of death or incapacity. Therefore, an Alaska-owned family business may end up on the auction block for no good reason. This Act provides clear, fair and uniform rules for succession.
5. Dealers are generally dependent on manufacturers as their "sole-source" supplier. Such dependent relationships give rise to unilateral policies that are otherwise of no value to the dealer – commonly called "franchise insurance." The dealer has no choice but to pass those unfair costs on to the consumer. This Act prohibits certain common manufacturer abuses and puts dealerships on a more level playing field.
6. Presently, the trend is for manufacturers to reduce their warranty expense by requiring dealerships to increasingly perform certain administrative and other functions without reasonable reimbursement. The dealer has no choice but to pass those non-reimbursed expenses on to the consumer. This bill clearly defines areas of manufacturer responsibility and mandates fair payment for all incurred expenses relating to warranty and extended service contract repairs.
7. Because Alaska has no comprehensive motor vehicle act, certain functions of the retail automobile business are subject to abuse by unscrupulous dealers – franchised and (most frequently) non-franchised. This Act identifies the problem areas and provides clear guidelines designed to protect consumers from such potential abuses.
8. Because, unlike most other states, Alaska does not have a Motor Vehicle Advisory Board, many issues requiring attention by state enforcement officers become unnecessarily argumentative and disruptive. The Act creates a non-compensated Motor Vehicle Advisory Board designed to advise the commissioner regarding: appeals or other disputes between manufacturers and dealers; a manufacturer's proposed changes to its new vehicle franchises; proposed regulations; and violations of the Act by any licensee.

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 189  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
 Title "An Act relating to motor vehicles; and BRU Civil Division  
providing for an effective date." Component Fair Business Practices  
 Sponsor Senate Labor and Commerce by Request  
 Requester Senate Labor and Commerce Component No. 2206

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

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	60.6	60.6	60.6	60.6	60.6	60.6
Travel	0.2	0.2	0.2	0.2	0.2	0.2
Contractual	9.4	9.4	9.4	9.4	9.4	9.4
Supplies	0.8	0.8	0.8	0.8	0.8	0.8
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>77.4</b>	<b>70.9</b>	<b>70.9</b>	<b>70.9</b>	<b>70.9</b>	<b>70.9</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	77.4	70.9	70.9	70.9	70.9	70.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>77.4</b>	<b>70.9</b>	<b>70.9</b>	<b>70.9</b>	<b>70.9</b>	<b>70.9</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

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

SB 189 provides for regulation of conduct between automobile dealers and manufacturers by the Department of Administration.

The fiscal impact on the Department of Law will arise primarily from participation on the Motor Vehicle Dealers Advisory Board, and assisting the commissioner of the Department of Administration with any actions that result from charges of unfair methods of competition, unfair and deceptive acts or practices, or other violations of the act. In addition, the department will advise the commissioner on any license disputes. We anticipate the services of one-half of a full-time equivalent attorney position will be needed to handle this new workload. The position will be located in the Fair Business Practices section of the Civil Division.

Cost estimates are based on the department's FY 2002 standard attorney schedule, which includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. Estimates also include an additional \$6,500 for one-time equipment purchases, costs that cannot be included in the rate as overhead.

Prepared by: Joan M. Kasson Phone 465-5370  
 Division Attorney General's Office Date/Time 4/17/01 1:00 PM  
 Approved by: Kathryn Daughhete for Bruce M. Botelho, Attorney General Date 4/17/01  
 Agency Department of Law

For distribution information, call the Governor's Legislative Office

**SB**

**191**

CS FOR SENATE BILL NO. 191( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATORS TAYLOR, Austerman, Cowdery, Olson, Leman

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to insurance pooling by air carriers."

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

3 \* Section 1. AS 21 is amended by adding a new chapter to read:

4 Chapter 77. Joint Aviation Insurance Arrangements.

5 Sec. 21.77.010. Authority to establish joint aviation insurance  
6 arrangements. (a) Air carriers may enter into cooperative agreements with each  
7 other for the purpose of establishing, operating, or participating in joint aviation  
8 insurance arrangements through which the participating members agree to pool  
9 contributions in order to either assume risks from losses to the participants on a group  
10 basis or purchase coverage for the participants on a group basis.

11 (b) A joint aviation insurance arrangement

12 (1) may be for any kind of insurance defined by this title except for  
13 health insurance, life insurance, and title insurance; and

14 (2) shall be considered an alternative or supplement to any other policy  
15 or contract of insurance authorized or required by law, including insurance under

1 AS 21.75.

2 (c) For purposes of AS 23.30.075, a joint aviation insurance arrangement is  
3 considered to be an association duly authorized to transact workers' compensation  
4 insurance in the state.

5 **Sec. 21.77.020. Regulation by division of insurance and annual report.**

6 (a) A joint aviation insurance arrangement may not be considered insurance for the  
7 purpose of any other law of the state and is not subject to regulations adopted by the  
8 director.

9 (b) By October 1 of each year, the administrator of a joint aviation insurance  
10 arrangement shall prepare and deliver to the Legislative Budget and Audit Committee  
11 and the director a report showing the true and correct financial condition of the joint  
12 aviation insurance arrangement. The report must

13 (1) be attested to by the administrator and the board of directors;

14 (2) include an analysis, certified by a member of the American  
15 Academy of Actuaries, of the sufficiency of the loss reserves; and

16 (3) be certified by a certified public accountant.

17 **Sec. 21.77.030. General provisions of cooperative agreements.** (a) A  
18 cooperative agreement must provide for the proper operation of the joint aviation  
19 insurance arrangement and include provisions for

20 (1) administration of the arrangement by a board of directors,  
21 specifying the number of members of the board and other requirements necessary for  
22 the proper functioning of the board;

23 (2) appointment of an administrator and other persons as necessary for  
24 the proper functioning of the arrangement;

25 (3) organization of the arrangement, including a roster of participating  
26 members and the names of the members of the board of directors;

27 (4) procedures to establish and promote an aggressive risk  
28 management program among the members of the arrangement, including procedures  
29 for identifying and reducing the risks that can be reduced through implementing better  
30 safety technologies and improved work techniques and procedures;

31 (5) enforcing the collection of contributions or payments in default

1 from members of the arrangement;

2 (6) the addition of new members to the arrangement or the withdrawal  
3 of members from the arrangement;

4 (7) the method of apportioning costs and disposition of excess  
5 contributions;

6 (8) transmission of financial statements and audit reports of the  
7 arrangement to participating members;

8 (9) terminating the arrangement and disposing of its assets; and

9 (10) establishing and administering a joint aviation insurance fund.

10 (b) A cooperative agreement may

11 (1) authorize the board of directors to enter into contracts for services  
12 necessary to perform the functions of a joint aviation insurance arrangement; a person  
13 contracting to perform functions under this paragraph is subject to the licensing  
14 requirements of this title;

15 (2) delegate to the board of directors, or authorize delegation by the  
16 board to another person or group, the power to compromise, arbitrate, or otherwise  
17 settle claims on behalf of the arrangement;

18 (3) authorize the board of directors to adopt rules not inconsistent with  
19 law for the fair and equitable administration of the joint aviation insurance  
20 arrangement and the joint aviation insurance fund.

21 (c) The board of directors shall file a copy of the cooperative agreement with  
22 the director at least 60 days before the effective date of the agreement. The agreement  
23 shall be available for public inspection.

24 **Sec. 21.77.040. Financial provisions of agreements.** (a) A joint aviation  
25 insurance arrangement formed in accordance with the provisions of this chapter shall

26 (1) have and maintain a surplus no less than an amount equal to the  
27 total of the capital and one-half of the surplus that would be required of a domestic  
28 stock insurer writing the same lines as the joint aviation insurance arrangement; or

29 (2) post a bond for an amount equal to the capital that would be  
30 required of a domestic stock insurer writing the same lines of insurance as the joint  
31 aviation insurance arrangement and maintain a surplus of \$250,000 in admitted assets

1 or a surplus sufficient to operate the joint aviation insurance arrangement for one year,  
2 whichever is greater.

3 (b) A cooperative agreement must include a provision requiring an annual  
4 determination by a casualty actuary who is a member of the American Academy of  
5 Actuaries that procedures for establishing reserves for losses of the joint aviation  
6 insurance arrangement are actuarially sound.

7 (c) A joint aviation insurance arrangement shall be subject to an annual  
8 independent audit. The audit shall be conducted in accordance with generally  
9 accepted auditing standards and must include a review of the actuarial assumptions  
10 used for establishing the reserves under (b) of this section. The audit report must  
11 include certification from a casualty actuary who is a member of the American  
12 Academy of Actuaries that the actuarial assumptions continue to be sound and the  
13 level of the reserves is adequate.

14 (d) A cooperative agreement may authorize the board of directors to purchase  
15 excess or catastrophic insurance on behalf of the joint aviation insurance arrangement.  
16 The cost of the insurance shall be apportioned in the manner specified in the joint  
17 aviation insurance agreement. The board may purchase insurance under this  
18 subsection only from an insurer authorized to do business in the state, except  
19 insurance under this subsection may be purchased from a risk-sharing pool established  
20 by a national association of similar entities if the risk-sharing pool meets the  
21 qualifications for an unauthorized insurer under AS 21.34.040(b) and (d) and  
22 21.34.220 and has capital and policyholders surplus in an amount at least as great as  
23 would be required if the association were a domestic multiple line insurer. An  
24 arrangement may purchase insurance under this subsection for property and liability  
25 risks from unauthorized insurers allowed for use by licensed Alaska surplus lines  
26 brokers.

27 Sec. 21.77.050. Joint aviation insurance fund. (a) A joint aviation  
28 insurance arrangement shall establish a joint aviation insurance fund. The fund  
29 consists of money

30 (1) contributed by members of the joint aviation insurance  
31 arrangement through budgetary appropriations or transfers from a self-insurance

1 reserve;

2 (2) contributed by officers and employees of members of the joint  
3 aviation insurance arrangement under an employee benefit plan; and

4 (3) collected by the joint aviation insurance arrangement through  
5 subrogation of a claim paid from the fund to a member of the arrangement.

6 (b) An expenditure may be made from a joint aviation insurance fund only to

7 (1) pay claims, losses, or benefits, including interest on claims, losses,  
8 or benefits, and the administrative and adjustment expenses incurred in connection  
9 with claims, losses, or benefits, involving the types of protection for which the fund  
10 provides coverage as specified in the joint aviation insurance agreement; and

11 (2) purchase insurance coverage for members of a joint aviation  
12 insurance arrangement on a group basis.

13 (c) The administrator shall keep the fund separate from other funds of a  
14 member of a joint aviation insurance arrangement.

15 (d) For each type of protection offered by the joint aviation insurance  
16 arrangement, the method of accounting must show the order, source, date, and amount  
17 of each payment from the fund.

18 (e) Within 150 days of the end of the fiscal year, the administrator shall  
19 furnish a detailed report of the operation and condition of the fund to the board of  
20 directors and the director.

21 (f) Money held by a fund as reserves and money not needed for daily  
22 operations may be invested by the board of directors.

23 (g) A fund may not be terminated unless the administrator certifies that an  
24 amount of money sufficient to pay accrued and contingent expenditures has been  
25 placed in a fully collateralized escrow account.

26 **Sec. 21.77.250. Definitions.** In this chapter,

27 (1) "adjustment expenses" means expenses for investigative,  
28 processing, legal, actuarial, arbitration, and settlement services incurred in the  
29 adjustment of losses, claims, or benefits;

30 (2) "administrator" means a person or group appointed by the board of  
31 directors to administer a joint aviation insurance arrangement or a joint aviation

1 insurance fund;

2 (3) "board" or "board of directors" means the board of directors  
3 provided for in a cooperative agreement;

4 (4) "cooperative agreement" means a written agreement entered into  
5 by two or more air carriers described in AS 21.77.010 for the purpose of establishing,  
6 operating, or participating in a joint aviation insurance arrangement;

7 (5) "fund" or "joint aviation insurance fund" means a fund established  
8 under AS 21.77.050;

9 (6) "joint aviation insurance arrangement" means a joint aviation  
10 insurance arrangement authorized under AS 21.77.010.

Alaska Independent Insurance Agents & Brokers, Inc.  
PO Box 241846  
Anchorage, AK 99524-1846  
(907) 349-2500 FAX 349-1300



April 19, 2001

In the Legislature of the State of Alaska  
Twenty-Second Legislature – First Session  
Senate Bill No. 191  
Senators Taylor, Austerman, Cowdery, Olson, & Leman  
Labor & Commerce Committee  
Judiciary Committee

Dear Sirs,

The legislative committee of the Alaska Independent Insurance Agents & Brokers, Inc., an association representing the vast majority of property & casualty insurance producers in Alaska, would like to offer the following public protective language amendment to: Senate Bill 191 "An Act relating to insurance pooling by members of an airline employers association."

**AS 21.76.020 Regulation by Division of Insurance and Annual Report.**

(a). A joint insurance arrangement [may not be] is considered insurance for the purposes of any other law of the state and is [not] subject to regulations adopted by the director. (bracket – delete, underline – add)

Our association has long opposed any expansion of the membership authorized under AS 21.76 and with the legislation presented to add "members of an airline employers association" to the eligibility, we must request that the members be afforded a higher degree of regulatory oversight than is currently in place for joint insurance arrangements.

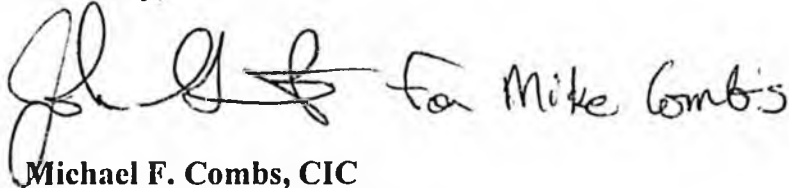
Current members are municipalities and school districts. They have sophisticated risk management and finance departments that are well suited to monitor the performance and solvency of their joint insurance arrangement.

New members may not have access to this level of expertise.

The division of insurance is prohibited from enforcing the insurance statutes and regulations that could protect members of a joint insurance arrangement under AS 21.76. Financial solvency is not regulated, claims service is not regulated, and unfair trade practices are not regulated.

Insurance statutes and regulations have been established to protect the insurance public. Premiums are required to be reasonable, yet actuarially sound to insure solvency and to provide for claims payments to the insured. Currently these safeguards do not exist under AS 21.76 language. Please protect the insurance buying public and amend AS 21.76.020(a). as requested.

Sincerely,

A handwritten signature in black ink, appearing to read "M. F. Combs" followed by "for Mike Combs". The signature is written in a cursive style.

Michael F. Combs, CIC  
Vice President AIA&B, Inc.  
Legislative Committee Member

**SENATE BILL NO. 191**

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

**BY SENATORS TAYLOR, Austerman, Cowdery, Olson, Leman**

**Introduced: 4/12/01**

**Referred: Labor and Commerce, Judiciary**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to insurance pooling by members of an airline employers association."**

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

3 **\* Section 1.** AS 21.76.010(a) is amended to read:

4 (a) Municipalities and their public corporations, city and borough school  
5 districts, [AND] regional educational attendance areas, and members of an airline  
6 employers association may enter into cooperative agreements with each other for the  
7 purpose of establishing, operating, or participating in joint insurance arrangements  
8 through which the participating members agree to pool contributions in order to either  
9 assume risks from losses to the participants on a group basis or purchase coverage for  
10 the participants on a group basis.

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 191  
 () Publish Date: \_\_\_\_\_  
 Dept. Affected: DCED  
 BRU: Insurance  
 Component: Insurance-Operations  
 Component Number: 354

Revision Date/Time (Note if correction): 04/13/2001 4:35p.m.  
 Title: An Act relating to insurance pooling by  
members of an airline employers association.  
 Sponsor: Senator Taylor  
 Requester: Senate Labor & Commerce

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

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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 (Specif, Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

AS 21.76.020(a) provides: "A joint insurance arrangement may not be considered insurance for the purpose of any other law of the state and is not subject to regulations adopted by the director."

Therefore, this legislation will have no fiscal impact on the department.

Prepared by: Robert A. Lohr, Director  
 Division: Insurance  
 Approved by: Commissioner Deborah B. Sedwick  
 Agency: Department of Community & Economic Development

Phone 907-269-7900  
 Date/Time 04/13/2001 4:35p.m.  
 Date 4/13/2001

For distribution information, call the Governor's Legislative Office

**SB**

**2022**

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB 202  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Department: Labor and Workforce Development  
Title: Employment of Persons Under BRU: Labor Standards and Safety  
Age 19 Component: Wage and Hour Admin  
Sponsor: Senate L&C  
Requester: Senate L&C Component Number: 345

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

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

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

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2002) cost: None

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

**POSITIONS**

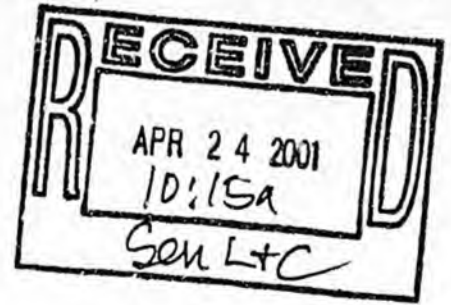
Full-time						
Part-time						
Temporary						

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

This bill would amend AS 04.16.049 to allow employment of persons 14 years of age or older and under 19 years of age on licensed premises, under certain restrictions. This is a change from the current limit of 16 years of age. The Department of Labor and Workforce Development would be notified when such hires were made, but departmental approval is not required. The department does not anticipate any significant financial impact from this legislation.

Prepared by: Richard Mastriano, Director Phone: 269-4900  
Division: Labor Standards & Safety Date/Time: 2/14/02 6:51 PM  
Approved by: Ed Flanagan, Commissioner Date: 02/14/02  
Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office




ALASKA STATE LEGISLATURE  
REPRESENTATIVE JOHN HARRIS  
STATE CAPITOL 513, JUNEAU, ALASKA 99801-1182 (907) 465-4859

MEMORANDUM

April 24, 2001

To: Senator Randy Phillips, Chair  
Senate Labor and Commerce Committee

From: Representative John Harris 

Subject: Hearing request for SB 202

Please schedule a Labor and Commerce Committee hearing on SB 202 as soon as your committee calendar will allow. This bill makes changes to statutes regulating the employment of youth between the ages of 14 and 21, in hotels and restaurants that are licensed premises.

Attached are background materials for the bill. If you have questions or need additional information, please contact John Manly of my staff at 465-4859. Thank you for your consideration of this request to hear SB 202.



## ALASKA STATE LEGISLATURE

### Sponsor Statement

#### SB 202 – Employment of minors on licensed premises

Senate Bill 202 was introduced with the objective of making it easier for minors to obtain summer and after school employment, especially in hotels, restaurants and other eating establishments. Many more kids could get jobs as dishwashers, hotel maids, busboys, etc., if not for the fact that most of the businesses where they might be employed have beverage dispensary licenses.

Current state law also makes it unnecessarily difficult for employers, as well as the job-seeking youth. Finding workers willing to take jobs that typically are not high-paying becomes more difficult if high school-age kids are not eligible. And it becomes a real problem during the short but intense tourist season when kids on summer vacation are required to get their parents' permission before they can start working. This is a process that can take days or weeks, during which time the youth lose income and employers go without help.

SB 202 seeks to streamline this process by allowing youth 16-20 years of age to work in these jobs without having to obtain their parents' permission. Provisions in current law are retained that prevent minors from serving, mixing, delivering or dispensing alcoholic beverages, and requiring the employer to notify the Department of Labor and Workforce Development of the fact that a minor is working for them. SB 202 also extends state law to allow 14- and 15-year-olds to work in these hotels, restaurants, resorts, and other eating places, with their parents' permission. The bill also reworks a prohibition on minors' "selling" alcoholic beverages so minors will be able to run the cash register in a restaurant when the tab includes alcoholic beverages.

The bill also makes minor changes to state law governing the number of hours and time of day a minor can work, while school is in session and when it is not, mainly to align Alaska law with current federal limits.



## ALASKA STATE LEGISLATURE

### Sectional Summary

#### SB 202 – Employment of minors on licensed premises

Sec. 1 - rewrites a portion of the "Regulation of Sales and Distribution" section of the Alcoholic Beverages title (AS 04.16) to allow persons 14-20 years old to work at a business that includes a licensed premises, so long as their employment does not have anything to do with alcoholic beverages. The business owner would be required to report to the Department of Labor and Workforce Development (DLWD) the fact that underage persons are working there. Minors who are 14 or 15 years old would have to obtain their parent's or guardian's written permission. Under current law, 14- and 15-year-olds are not allowed to work at licensed premises; and 16- to 18-year-olds must obtain permission.

Sec. 2 – makes a technical change to allow minors to "control" alcoholic beverages under the change made in section 1, so that a minor can operate the cash register in a restaurant that serves alcoholic beverages.

Sec. 3 – amends the "definitions" section of the Amusements and Sports title (AS 05.15) to conform the definition of a pull-tab vendor to changes made in section 1 of the bill.

Sec. 4 – rewrites the "Employment of Children" portion of the Labor and Worker's Compensation title (AS 23.10) to regulate what times and for how many hours per week minors under the age of 16 may work. This change is to conform to federal limits.

Sec. 5 – adds a new subsection to AS 23.10 to allow minors between 14 and 16 years old to work at certain sporting events and at school-supervised work programs.

Sec. 6 – makes a conforming amendment to AS 23.10.355 to require that the employer notify the DLWD if a minor between 14 and 20 years old is employed at a licensed premises.

Sec. 7 – adds a new subsection to AS 23.10.355 to clarify that the employer has 10 days after employing a minor at a licensed premises to notify DLWD, and that the employer has the option to notify DLWD when the minor is no longer employed.

Sec. 8 – repeals a section of current statute which includes a prohibition on minors "selling" alcoholic beverages; rendered unnecessary by changes made above.

ALASKA STATE LEGISLATURE

HB 128  
check

Interim:

600 East Railroad Avenue  
Wasilla, Alaska 99654  
(907) 376-3370  
(907) 376-3157 Fax



Session:

State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-6600  
Fax (907) 465-3805

SENATOR LYDA GREEN

SENATE DISTRICT N

DATE: February 26, 2002  
TO: Senator Ben Stevens  
Senate Labor and Commerce Committee  
FROM: Senator Lyda Green  
RE: SB 202

Thank you for hearing SB 202, regarding the hiring of minors.

Attached is the letter that I received regarding this bill. Larry is a farmer in Mat-Su who would greatly benefit by being able to hire young people as seasonal workers. Many other operators in the agriculture community would benefit by this as well.

Please give this your favorable consideration as you hear it in your committee.

If you have any questions please contact Geraldine at 6600.

Senator\_Lyda\_Green@legis.state.ak.us

Alexander Creek • Big Lake • Butte • Caswell • Chickaloon • Chulitna • Finger Lake • Goose Bay • Hatcher Pass • Houston  
Knik • Kashwitna • Lake Louise • Lazy Mountain • Montana Creek • Nancy Lake • Nelchina • Palmer • Petersville • Point Mackenzie  
Sheep Mountain • Skwentna • Sunshine • Sutton • Talkeetna • Trail Lakes • Trapper Creek • Wasilla • Willow

Larry W Devilbiss,  
Hc04 Box 9302  
Palmer, AK 99645

Distribution

Affiliation

Reg Voter

6

Y

Date POM Sent

Constituency

Bill Number

Response

Subject

02/05/2002

C

SB 202

Supports

I did not hire any kids last summer because of the complexity of legally hiring kids under 18-even when their parents are begging us to put them to work. Please try to uncomplicate this process. Thanks

Email Address

**SB**

**2008**

# FISCAL NOTE

**STATE OF ALASKA  
2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 208  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Environmental Conservation  
 Title: An Act relating to the labeling of, advertising of, BRU: Environmental Health  
and information disclosure about halibut and salmon products Component: Food Safety and Sanitation  
 Sponsor: Senator Ward  
 Requester: Labor & Commerce Component Number: 2343

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

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>						

**FUND SOURCE (Thousands of Dollars)**

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

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 No Fiscal Impact

Prepared by: Janice Adair, Director  
 Division: Division of Environmental Health  
 Approved by: Kurt Fredriksson  
 Agency: Department of Environmental Conservation

Phone: (907) 269-7644  
 Date/Time: May 2, 2001 11:30 a.m.  
 Date: 5/2/2001

For distribution information, call the Governor's Legislative Office

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

# FISCAL NOTE

**STATE OF ALASKA**  
**2001 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 208  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Environmental Conservation  
 Title: An Act relating to the labeling of, advertising of, BRU: Environmental Health  
and information disclosure about halibut and salmon products Component: Food Safety and Sanitation  
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**Expenditures/Revenues** (Thousands of Dollars)

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Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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 (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

No Fiscal Impact

Prepared by: Janice Adair, Director  
 Division: Division of Environmental Health  
 Approved by: Kurt Fredriksson  
 Agency: Department of Environmental Conservation

Phone (907) 269-7644  
 Date/Time May 2, 2001 11:30 a.m.  
 Date 5/2/2001

For distribution information, call the Governor's Legislative Office



# SENATOR JERRY WARD

ALASKA STATE LEGISLATURE

## SPONSOR STATEMENT

### SB 208

“An Act relating to the labeling of, the advertising of, and the disclosure of certain information about Halibut, Salmon, Halibut products, and Salmon products.”

SB 208 adds a new section relating to the labeling and advertisement of halibut and salmon products. This section will allow a person to sell or advertise halibut or salmon products as “wild,” “antibiotic-free,” “hormone free,” and “dye-free” if the product is harvested from a river or an ocean and has not been raised in captivity.

We have all seen the beautiful displays of farmed salmon at fish counters or restaurants without realizing that the varying shades of pink are artificially created. Almost 100% of all farmed salmon is artificially colored with either canthaxanthin or astaxanthin, a process sometimes called “color finishing” to give farmed salmon the attractive red color associated with wild salmon and salmon products that consumers expect.

Federal regulations call for declaration of the use of canthaxanthin or astaxanthin at the retail level but that information is rarely passed on to the consumer. Additionally, it is common practice to add antibiotics and other supplements to farmed finfish diets.

This legislation will allow a clear distinction to the consumer informing them of the natural benefits of “wild salmon” and “wild halibut.”

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-4940 • FAX (907) 465-3766

ANCHORAGE: 716 W. 4<sup>th</sup> AVE. • STE. 450 • ANCHORAGE, AK 99501 • (907) 269-0106 • FAX (907) 269-0109

KENAI: 145 MAIN STREET LOOP • KENAI, AK • 99611 • (907) 283-7996 • FAX (907) 283-3075

Vice-Chair, Senate Finance Committee • Vice-Chair, Senate Transportation • Member, Senate Health Education & Social Services  
Senator\_Jerry\_Ward@legis.state.ak.us

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 28, 2001

**SUBJECT:** Sectional Summary of SB 208 relating to the labeling and advertising of salmon and halibut products (Work Order No. 22-LS0788\C)

**TO:** Senator Jerry Ward  
Attn: Loretta

**FROM:** <sup>TS</sup> Theresa L. Bannister  
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

**Section 1.** AS 17.20.040(12) and (13). Amends the section that identifies when food is misbranded. In paragraph (12), adds farmed halibut to the paragraph that presently considers farmed salmon products as being misbranded unless the products are labeled (if packaged), or conspicuously identified (if not packaged), as farmed fish raised outside the state.

In paragraph (13), identifies food as misbranded if the food's labeling or advertisement is inconsistent with the bill's new section (AS 17.20.048), which relates to the labeling and advertisement of halibut and salmon products.

**Section 2.** AS 17.20.048. Adds a new section relating to the labeling and advertisement of halibut and salmon products. Allows a person to sell or advertise a halibut or salmon product as "wild," "antibiotic-free," or "hormone free" if the product is harvested from a river or an ocean and has not been raised in captivity. Indicates that the labeling may appear on the product's principal display panel, be conspicuously attached to the container of a bulk product, or appear in an advertisement for the product.

If I may be of further assistance, please advise.

TLB:lmb  
01-145.lmb

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

May 3, 2001

**SUBJECT:** CSSB 208(L&C) relating to salmon and halibut products  
(Work Order No. 22-LS0788F)

**TO:** Senator Randy Phillips  
Attn: Kim

**FROM:** *JB*  
Theresa L. Bannister  
Legislative Counsel

This memo accompanies a final of the bill described above.

Federal preemption issue. At this time, I cannot rule out a federal preemption issue in this bill. Even though the labeling and advertising provisions are voluntary, extensive research would be needed to identify and evaluate the federal laws and regulations that affect this subject and to determine whether the use of the terminology allowed in the bill would be allowed under federal law and whether the terms may be placed on a label.

If I may be of further assistance, please advise.

TLB:jhb\med  
01-115.jhb

Enclosure

**SB**

**220**

# ALASKA STATE LEGISLATURE



*Interim:*  
600 East Railroad Avenue  
Wasilla, Alaska 99654  
(907) 376-3370  
(907) 376-3157 Fax

*Session:*  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-6600  
(907) 465-3805 Fax

## SENATOR LYDA GREEN SENATE DISTRICT N

### Sponsor Statement

#### SB 220

“An Act relating to the scope of practice authorized under a license to practice hairdressing.”

Senate Bill 220 amends A.S. 08.13.170 (f), authorizing the Board of Barbers and Hairdressers to issue a hairdressing license that includes the temporary removal of superfluous hair on the face and neck and the application of basic make-up. These services are typically assumed to be available from a hairdresser.

The removal of unwanted hair by means of hair waxing and the application of basic make-up are services that Hairdressers should be allowed to practice. Hairdressers are trained and tested in these areas and have always performed these services. Both waxing and basic make-up are a part of the curriculum required to graduate; by statute, current training required for a hairdressing license is 1650 hours. Included in the 1650 hours are fifteen practical operations of eyebrow arching and hair removal by means of waxing, tweezing and the use of depilatories and fifteen basic make-up applications including skin analysis, complete and corrective make-up and the application of false eyelashes (12 AAC 09.160). Although the curriculum requires that they perform these operations during the instructional phase, once they are licensed, Alaska State law prohibits them from performing either service for their clients.

I respectfully request your support of SB 220, allowing trained professionals to continue a practice that they are fully qualified to do.

22-LS0949F  
Lauterbach  
3/1/02

CS FOR SENATE BILL NO. 220( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATOR GREEN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the scope of practice authorized under a license to practice  
2 hairdressing."

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

4 \* Section 1. AS 08.13.160(f) is amended to read:

5 (f) A person licensed under this chapter to practice hairdressing is considered  
6 to be licensed to practice manicuring and limited esthetics under the same license.

7 \* Sec. 2. AS 08.13.220 is amended by adding a new paragraph to read:

8 (13) "limited esthetics" means to perform for a fee for cosmetic  
9 purposes

10 (A) removal of superfluous hair on the face or neck, including  
11 eyebrow arching, by use of wax, manual or electric tweezers, or depilatories;  
12 or

13 (B) skin analysis preparatory to the application of makeup,  
14 application of complete or corrective makeup, and application of false

1

eyelashes.

**S B**

**2 3 5**

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: SB 235  
( S ) Publish Date: 1/16/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Military Affairs  
Title Emergency Management Assistance BRU Disaster Planning and Control  
Compact Component Disaster Planning and Control  
Sponsor Rules  
Requester Governor Component No. \_\_\_\_\_

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

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

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

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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 (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (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)

This bill authorizes the department to enter into an agreement with other states for mutual assistance during disasters or emergencies. There is no fiscal impact to the state of joining this pact.

Prepared by: Carol Carroll Phone 465-4730  
Division Administrative Services Date/Time 12/11/01 2:55 PM  
Approved by: Carol Carroll Date 12/11/2001  
Agency Military and Veterans Affairs

## SB235 Emergency Management Assistance Compact (EMAC)

### What does this bill accomplish?

1. It repeals the outdated Interstate Civil Defense and Disaster Compact (AS 26.23.120 and 130) and replaces it with the Emergency Management Assistance Compact (EMAC), a mutual aid agreement that facilitates disaster assistance among member states.
2. It updates AS 23.30.244 to provide worker's compensation for specific categories of disaster volunteers, namely those who perform duties in another state under EMAC or those who perform duties in Alaska under the Division of Emergency Services.

### What is EMAC?

EMAC allows states to assist one another during emergencies. It offers a quick and easy way for states to send personnel and equipment to help disaster relief efforts in other states. There are times when state and local resources are overwhelmed and federal assistance is inadequate or unavailable. Out-of-state aid through EMAC helps fill such shortfalls.

EMAC establishes a firm legal foundation. Requests for EMAC assistance are legally binding, contractual arrangements which make states that ask for help responsible for reimbursing all out-of-state costs and liable for out-of-state personnel. States that send aid will not incur a financial burden.

EMAC provides fast and flexible assistance. EMAC allows states to ask for whatever assistance they need for any emergency, from earthquakes to acts of terrorism. At the same time, EMAC makes no requirement for a state to send assistance unless they determine to provide the requested assistance.

### Why should Alaska join EMAC?

While Alaska is capable of handling most disasters/emergencies, as demonstrated by past events, there are times when disasters exceed State and local resources and therefore require outside assistance. Normally this assistance comes from federal agencies through the Federal Emergency Management Agency (FEMA). However, not all disasters qualify for a Presidential Disaster Declaration and therefore are not eligible for federal assistance.

EMAC provides a means for Alaska to receive interstate assistance when federal assistance is not merited or available. Even when federal assistance is merited, EMAC assistance may be more readily available or more cost effective, or it may be necessary to supplement federal assistance. In any case, EMAC allows other member states to assist Alaska by rapidly providing their unique resources and expertise in the event of a large-scale disaster. EMAC costs incurred for a disaster that receives a Presidential Disaster Declaration are reimbursable by FEMA at the same cost share (75/25) as other costs incurred by the state.

Because a terrorist attack has the potential to be catastrophic and therefore overwhelming, Alaska should take all possible measures to obtain outside assistance prior to such an event.

Membership in EMAC will also allow Alaska to rapidly provide requested assistance to other states in a process that provides mutually agreed upon and understood requirements for reimbursement and responsibility for the welfare of personnel and resources.

## SECTIONAL ANALYSIS OF SB 235

(Re emergency and disaster relief forces as state employees  
for workers' comp and re the Emergency Management Assistance Compact)

Section 1 repeals and reenacts existing AS 23.30.244 (workers' compensation; civil defense and disaster relief forces as state employees). Presently, this statute provides that an Alaskan temporarily engaged in civil defense or disaster relief, whether in another state under an interstate compact or as a volunteer in this state, is considered an employee of the state for purposes of workers' compensation. The statutory change will make administration of workers' compensation coverage for disaster workers the same as for emergency medical technicians—in order to be covered as state employees for workers' compensation purposes, these workers must be listed on a roster maintained by the Division of Emergency Services. This will result in faster payment of claims, and will assist in risk management in tracking the number of potential claimants.

Sections 2 and 4 makes conforming amendments to AS 26.23.070 (establishment of interjurisdictional disaster planning and service areas) and AS 26.23.210 (relationship of disaster laws to civil defense laws) to make these statutes consistent with the adoption of the Emergency Management Assistance Compact and the repeal of the Interstate Civil Defense and Disaster Compact, discussed below in sections 3 and 5.

Section 3 enacts the Emergency Management Assistance Compact (EMAC). The compact is a uniform agreement that establishes a framework by which states can request assistance from and provide assistance to other states in declared disasters and emergencies. The EMAC was originally developed and adopted by states in the southeastern United States and now has been adopted by 43 states, including New York, New Jersey, and Michigan, which joined after the September 11 attack.

Article I of the EMAC describes its purpose, and provides for mutual cooperation in emergency-related exercises and training as well as in disaster response.

Article II describes the general implementation of the EMAC, with each state designating an emergency management official responsible for formulating appropriate mutual aid plans and procedures consistent with the EMAC.

Article III describes party states' responsibilities for planning and preparedness, and describes the procedures by which a state may request assistance of another state. Such assistance may be in the form of personnel, equipment, materials, supplies, or emergency services such as fire services, medical services, transportation.

Article IV provides that the state receiving a request for assistance shall take such action as is necessary to provide the requested resources, however it may withhold them to the extent necessary to provide reasonable protection in its own state. This article also

specifies that the requesting state must declare a state of emergency or disaster, and the emergency forces are under the immediate command and control of their regular leaders, but are under the operational control of the requesting state.

Article V provides that in general, a license, certificate, or other permit held by a responder in the assisting state is valid when providing assistance in the requesting state.

Article VI provides that employees of the assisting state are considered agents of the requesting state for tort liability and immunity purposes, and no assisting state's employees shall be liable for any good faith act or on account of the maintenance or use of equipment or supplies.

Article VII authorizes supplementary agreements in addition to the EMAC.

Article VIII specifies that the requesting state shall pay workers' compensation and death benefits to members of its emergency forces and the representatives of deceased members who are injured and killed while rendering aid to another state, in the same manner and on the same terms as if they were injured or killed within their own state.

Article IX provides for reimbursement by the requesting state of the costs incurred by the assisting state in responding to the request.

Article X addresses planning for and implementation of evacuations from one state to another.

Articles XI, XII, and XIII cover administration of the EMAC, including provisions for withdrawal, principles of interpretation, and additional provisions respecting the use of the National Guard.

Section 5 repeals the outdated Interstate Civil Defense and Disaster Compact.

**SENATE COMMITTEE REPORT**

DATE: 2/1/02

FURTHER: Judiciary

DATE TURNED  
IN TO OFFICE: 2/21/02

Labor and Commerce Committee considered

SENATE BILL NO. 235

*SB 235 EMERGENCY MANAGEMENT ASSISTANCE COMPACT*

"An Act relating to emergency and disaster relief forces as state employees for purposes of workers' compensation benefits; relating to the Emergency Management Assistance Compact and the implementation of the compact; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS SB 235 \_\_\_\_\_ (STA)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DMVA	12/1/01		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Greg D. Roman</i>	✓			
<i>Bettye Davis</i>	✓			
CHAIR: <i>Ben Heman</i>	✓			

**SB**

**243**

# Audit Report

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

September 13, 2001

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Audit Control Number:

08-20009-01

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

# LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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## 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 Fate, 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**  
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# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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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.

<b><u>Board of Chiropractic Examiners</u></b>
---

<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.



**IRELAND**  
Clinic of Chiropractic, LLC.

541 WEST 36th AVENUE, ANCHORAGE, ALASKA 99503-5804  
(907) 561-1222 • FAX 561-1350

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LEGISLATIVE AUDIT

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 13<sup>th</sup> 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

Division of Occupational Licensing

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

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

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

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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 Chiropractic Examiners preliminary audit.

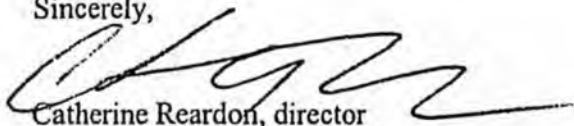
The division agrees that the board is operating in an efficient and effective manner and should continue.

**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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# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CS SB 175 (L&C)  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
 Title Municipal Protests BRU Revenue Operations  
of Gaming Permits Component Tax Division  
 Sponsor Senator Ellison  
 Requester Senate Finance Component No. 2476

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

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

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

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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 (Specify Type-Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (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 Department of Revenue does not expect any fiscal impact to its operations from this legislation.

Prepared by: Carl Meyer Phone 465-2343  
 Division Tax Division Date/Time 1/31/02 6:14 PM  
 Approved by: Larry Persily, Deputy Commissioner Date 01/31/2002  
 Agency Department of Revenue

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB 243  
( ) Publish Date: \_\_\_\_\_

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 Theriault  
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						
<b>TOTAL OPERATING</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>0.0</b>

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

<b>CHANGE IN REVENUES ( )</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	
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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	
<b>TOTAL</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>44.2</b>	<b>0.0</b>

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

# Alaska State Legislature

SENATOR  
**GENE THERRIAULT**

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

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

Senate District Q

## 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

**SB**

**244**

# FISCAL NOTE

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 244  
 () Publish Date: \_\_\_\_\_

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						
<b>TOTAL OPERATING</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	
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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	
<b>TOTAL</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>17.7</b>	<b>0.0</b>

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, 2003. 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

# Alaska State Legislature

SENATOR  
GENE THERRIAULT

Mailing Address:  
119 N. Cushman, Suite 101  
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Senate

While in session  
State Capitol  
Juneau, Alaska  
99801-1182  
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Senate District Q

**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**

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Alaska Statute 08.72.010 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

# Audit Report



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

September 12, 2001

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Audit Control Number:

08-20011-01

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

# LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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## 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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### DIVISION OF LEGISLATIVE AUDIT

**Pat Davidson, CPA**  
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# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



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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.<sup>1</sup>

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.

<sup>1</sup> 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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