

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11343 SENATE (STATE AFFAIRS

Attachment C State Agency Contacts

State contacts to facilitate the processing of nursing facility / home health care applicant fingerprints to the FBI for national criminal history background checks are listed below. States that submit or exchange fingerprint information electronically with the FBI for civil purposes, which expedites processing time, are identified by "yes" or "no." States with background check statutes enacted pursuant to Public Law 92-544 for nursing facility and/or home health employees and applicants are identified by "yes," "no," or "may." (It was not clear to the FBI whether laws in the latter category applied specifically to nursing facility personnel.)

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Alabama	No	No	Alabama Bureau of Investigation Post Office Box 1511 Montgomery, AL 36102-1511 (334) 395-4340 Att: James Potts
Alaska	Yes	Yes	Department of Public Safety 5700 Tudor Road Anchorage, AK 99507 (907) 269-5708 Att: Kathy Monfreda
Arizona	No	Yes	Arizona Department of Public Safety Post Office Box 6638 Phoenix, AZ 85005-6638 (602) 223-2400
Arkansas	No	Yes	Arkansas State Police/ID Bureau #1 State Police Plaza Drive Little Rock, AR 72209 (501) 618-8500 Att: Sherrie Ewing
California	Yes	Yes	Department of Justice, BCII Post Office Box 903417 Sacramento, CA 94203-4170 (916) 227-3324 Att: Applicant Processing Program
Colorado	No	No	Colorado Bureau of Investigation Suite 300 690 Kipling Street Denver, CO 80215 (303) 239-4301 Att: AIC R. Armstrong

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Connecticut	Yes	No	Department of Public Health 410 Capitol Avenue Hartford, CT 06134 (860) 509-7218 Att: Bureau of Admin. and Support Services
Delaware	No	Yes	Delaware State Police Headquarters Department of Public Safety Post Office Box 430 Dover, DE 19903-0430 302-739-5960 Att: Major Michael J. McDonald
District of Columbia	No	No	Dist. of Columbia Metropolitan Police Dept. 300 Indiana Avenue, NW Washington, DC 20001 202-727-4110 or 5516 Att: Deloris Hunter
Florida	No	Yes	Criminal Justice Information Services Florida Department of Law Enforcement P.O. Box 1489 Tallahassee, FL 32302 850-410-7100 Attn: Donna M. Uzzell
Georgia	Yes	No	Georgia Bureau of Investigation P.O. Box 370748 Decatur, GA 30037-0748 404-244-2601 Attn: Paul C. Heppner
Hawaii	No	No	Hawaii Criminal Justice Data Center Room 101, Kekuanao'a Bldg. 465 South King Street (808) 587-3100 Att: Hannah Kawakami
Idaho	No	Yes	Idaho State Police Bureau of Criminal Identification Post Office Box 700 Meridian, ID 83630 (208) 884-7130 Att: Maria Wiley

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Illinois	Yes	No	Illinois State Police Division of Administration P.O. Box 19461 Springfield, IL 62794-9461 217-524-4432 Att: Ted L. Stoica
Indiana	No	No	Indiana State Police 100 N. Senate Ave. Rm. 302 Indianapolis, IN 46204 (317) 232-8263 Att: Major Karen Butt
Iowa	No	No	Division of Criminal Investigation Wallace State Office Bldg. Des Moines, IA 50319 (515) 281-4776 Att: Angell Magnani
Kansas	No	No	Kansas Bureau of Investigation 1620 SW Tyler Topeka, KS 66612-1837 Att: Adult Record Unit
Kentucky	No	No	Kentucky State Police 1250 Louisville Road Frankfort, KY 40601 (502) 227-8700 Att: Lieut. Tommy Burris
Louisiana	Yes	No	Louisiana Department of Public Safety Communications Division of State Police P.O. Box 66614 Baton Rouge, LA 70896 504-925-6325 Attn: Lieutenant Jerry Patrick
Maine	Yes	No	Maine State Police 36 Hospital Street Augusta, ME 04333 207-624-7062 Att: Major Jeffrey Harmon

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Maryland	No	May	Department of Public Safety and Correctional Services 1201 Reisterstown Rd. Pikesville, MD 21208 (410) 764-5160 x 305 Att: Mike Tarlton
Massachusetts	Yes	No	Criminal History Systems Board Criminal Justice Information Systems 200 Arlington Street Chelsea, MA 02150 617-660-4713 Attn: John MacPherson
Michigan	Yes	No	Michigan State Police Criminal Justice Information Center 7150 Harris Dr. Lansing, MI 48913 (517) 322-1038 Att: AIT
Minnesota	Yes	Yes	Minnesota Department of Public Safety 1246 University Avenue Saint Paul, MN 55104-4197 (651) 603-0670
Mississippi	Yes	No	MS Department of Public Safety Post Office Box 958 Jackson, MS 39205 (601) 933-2600 Att: Applicant Processing Unit
Missouri	No	May	Missouri State Highway Patrol 1510 East Elm Street Jefferson City, MO 65102 573-526-6140 Att: Major William K. Seibert, Jr.
Montana	Yes	No	Justice Information Services 303 N. Roberts Street Helena, MT 59620 (406) 444-3625 Att: CSB - Records Section

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Nebraska	Yes	No	Nebraska State Patrol Post Office Box 94907 Lincoln, NE 68509 (402) 471-4545 Att: Ms. Marlene Dailey
Nevada	No	Yes	NV Highway Patrol Records and Identification Services 808 W. Nye Lane Carson City, NV 89703 (775) 687-1600
New Hampshire	No	No	New Hampshire State Police Support Services Bureau 10 Hazen Drive Concord, NH 03305 603-271-2151 Att: Major Frederick H. Booth
New Jersey	Yes	Yes	CJIS Control Unit New Jersey State Police P.O. Box 7068 West Trenton, NJ 08628-0068 609-882-2000 Ext. 2294 Att: Lieutenant Russell Dunfee
New Mexico	Yes	No	Department of Public Safety Technical and Emergency Support Division Communication Management Bureau P.O. Box 1628 Santa Fe, NM 87504-1628 505-827-9026 Att: Jeffery Wilkerson
New York	No	No	New York State Police Building #22 1220 Washington Avenue Albany, NY 12226 518-457-6811 Att: Steven Cumoletti

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
North Carolina	Yes	May	North Carolina State Bureau of Investigation Division of Criminal Information 407 North Blount Street Raleigh, NC 27601 919-733-3171 Att: Ronald P. Hawley
North Dakota	Yes	No	North Dakota State Radio Communications P.O. Box 5511 Bismark, ND 58502-5511 701-328-9628 Att: James D. Lueder
Ohio	No	Yes	Bureau of Criminal Identification Post Office Box 365 London, OH 43140 (740) 845-2200 Att: Bill Webb
Oklahoma	No	No	Oklahoma State Bureau of Investigation 6600 N. Harvey Oklahoma City, OK 73111 (405) 848-6724 Att: Ms. Debra Cooper
Oregon	Yes	Yes	Oregon State Police Identification Services 3772 Portland Road NE Salem, OR 97303 (503) 378-3070 ext. 223 Att: Lieut. Cliff Daimler
Pennsylvania	No	Yes	Pennsylvania State Police Bureau of Technology Services Operations Division 1800 Elmerton Avenue Harrisburg, PA 17110 717-787-1330 Att: Corporal John Albring

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Puerto Rico	No	No	Puerto Rico Criminal Justice Information Services G.P.O. Box 9020192 San Juan, PR 00902-0192 787-729-2121 Att: Alfonso Golderos
Rhode Island	No	No	Rhode Island State Police Technical Services Unit 311 Danielson Pike North Scituate, RI 02857 401-444-1033 Att: Brian J. Glancy
South Carolina	Yes	Yes	SC Department of Social Services Post Office Box 1520 Columbia, SC 29202 (803) 898-7635 Att: Helen Lebby, Director, Division of Child Day Care Licensing or Teresa Childers-Arnold, Legislative Liaison
South Dakota	Yes	No	South Dakota Division of Criminal Investigation 500 East Capitol Avenue Pierre, SD 57501 605-773-4636 Att: Delton K. Tipton
Tennessee	Yes	No	TN Bureau of Investigation 901 R.S. Gass Blvd. Nashville, TN 37216-2639 (615) 744-4004 Att: Mona Jamison
Texas	Yes	May	TX Department of Protective and Regulatory Services 701 West 51st Austin, TX 78751 (512) 438-4800 Att: Craig Phillips

<u>State</u>	<u>Elec. Proc.</u>	<u>PL 92-544</u>	<u>Address / Phone Number</u>
Utah	No	Yes	Utah Department of Public Safety Bureau of Criminal Identification 3888 West 5400 South Salt Lake City, UT 84118 (801) 965-3858 Att: Alice Emerson, Supervisor, Fingerprint Section
Vermont	No	No	VT Crime Information Center 103 S. Main Street Waterbury, VT 05671 (802) 244-8727 Att: Max Schlueter
Virginia	No	No	Virginia State Police Post Office Box 27472 Richmond, VA 23261-7472 (804) 674-2147 Att: Lieut. T.W. Turner
Washington	No	May	Washington State Patrol Post Office Box 42619 Olympia, WA 98504-2619 (360) 570-5250 Att: Identification Section
West Virginia	Yes	No	West Virginia Division of Public Safety Communications Section 725 Jefferson Road South Charleston, WV 25309 304-746-2154 Att: Sergeant Roy L. McCallister
Wisconsin	No	No	DOJ Crime Information Bureau 123 W. Washington Avenue Madison, WI 53701-2718 (608) 266-7399 Att: Dir. Michael Moschkau
Wyoming	No	May	WY Division of Criminal Investigation 316 W. 22nd Street Cheyenne, WY 82002 (307) 777-7523 Att: Criminal Records

Contact Steven G. Shandy, Program Analyst, U.S. Department of Justice, 202-514-9577 or Steve.Shandy@usdoj.gov for PL 92-544 state law citations or if you have questions.

SB

203

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 4/29/03

FURTHER: Judiciary
Finance

Date of 5-Day Notice: 5/2/03
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 5/1/03

State Affairs Committee considered SENATE BILL NO. 203

SB 203 OFFICE OF ADMINISTRATIVE HEARINGS

"An Act relating to certain administrative hearings; and establishing the office of administrative hearings and relating to that office."

and recommends:

- be replaced with _____ CS SB 203 (STA)
- adopt previous _____ CS _____ (_____)
- 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#
DOA	5/6/03	✓		1
DOR	5/6/03	✓		2
DOA	5/6/03	✓		3
DCED	5/6/03		✓	4
DOL	5/6/03	✓		5

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
CHAIR: <i>[Signature]</i>	X			<i>[Signature]</i>

Revised

**SB-203
Fair Hearing Bill**

**Senate State Affairs Committee
Bill Reference Work Sheet**

Changes to SB 203 as reflected in the blank CS work document 23-LSO903\O

1. Page 2, lines 27-31: deleted position of administrative assistant.
2. Page 3, line 13: replaced the words [provide and coordinate] with make available and facilitate.
3. Page 6, under Hearing Officers (a): added a requirement that candidates for the position must have been practicing law in this state for at least two years.
4. Page 6, lines 6 -7, under Hearing Officers (a) added a requirement that hearing officers be subject to personnel rules adopted under AS 39. 25.150 (7), (15), and (16). These are the same rules that apply to Division of Election employees.
5. Page 6, under Hearing Officers: removed (c) - (2), blanket prohibition of private law practice by hearing officers.
6. Page 7, under Procedure for hearings: amended subsection (c) and added a new subsection (d) to insure hearing officers have an impartial disciplinary hearing by the Attorney General instead of the Chief Hearing Officer.
7. Page 8, under Procedure for hearings (c): removed the ability for agencies to circumvent the 90-day maximum time limit through the promulgation of regulations.

SB-203
Fair Hearing Bill

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ALASKA STATE LEGISLATURE

SENATOR
Gene Therriault
119 N. Cushman Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
FAX (907) 488-4271



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

Senate
Senate District F

Sponsor Statement SB 203

Senate Bill 203 is a culmination of many years of effort to achieve a more efficient, timely, and fair administrative hearing process. The purpose of this legislation is to separate the administrative adjudication process away from the agencies that write, promulgate and enforce administrative law.

Instead of allowing hearing officers to be typical employees and extensions of the agencies whose administrative law they adjudicate, SB 203 is designed to give these administrative adjudicators a more independent and protected station from which to deliver timely due process through fair and objective hearings. This is accomplished through the creation of a model central independent hearing office, and the application of new protections and rules for all hearing officers in and out of that office.

As tempting as an all-inclusive type of reform might be, two critical obstacles have caused us to move in a more incremental approach. The first is a commitment to keep costs down. The second is sensitivity to both employees and administrators who will be involved in the reform. The model central office created in this bill will over time incorporate more hearing functions and officers. In the interim it will provide resources, training and alternative dispute resolution for all state hearing officers.

As a greater separation between hearing officers and agencies occurs, opportunities to create an efficient and more professional administrative hearing process in a central panel will be realized. It is through these efficiencies that any initial start-up costs are soon negated, and significant savings accrue over time. Of course the reductions in time and expense to citizens and businesses, though never reflected in fiscal notes, are equally important components in this major reform.

The primary objectives of this act are to insure better quality, less costly, less time consuming, and fairer administrative hearings. Achieving these goals will not only be beneficial to our constituents, but good for business, and government as well. The creation of independent hearing offices in other states has enjoyed bi-partisan support. I look forward to the same in Alaska as SB 203 proceeds through our legislative process.

23-LS0903\Q
Cook
5/2/03

CS FOR SENATE BILL NO. 203()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to certain administrative hearings; and establishing the office of
2 administrative hearings and relating to that office."

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

4 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 PURPOSE AND INTENT. The purpose of this Act is to increase the separation
7 between the adjudicatory functions of executive branch agencies and the agencies'
8 investigatory, prosecutory, and policy-making functions. The legislature intends by this Act
9 to

10 (1) provide for the delivery of high quality adjudication services in a timely,
11 efficient, and cost-effective manner;

12 (2) ensure respect for the dignity of the individuals whose cases are being
13 adjudicated;

14 (3) foster open and clearly explained agency decisions and improve public

1 access to the process of administrative adjudication;

2 (4) guarantee protection of all parties' due process rights, increase the public
3 parties' perception of fairness in administrative adjudication, and foster acceptance of final
4 administrative decisions by the public and affected parties;

5 (5) protect the integrity of the process of administrative adjudication and
6 decisional independence of administrative adjudicators; and

7 (6) increase consistency in administrative procedures and decisions.

8 * **Sec. 2.** AS 44.21 is amended by adding new sections to read:

9 **Article 9. Office of Administrative Hearings.**

10 **Sec. 44.21.510. Office created.** (a) There is created in the Department of
11 Administration an independent office of administrative hearings under the direction of
12 the chief administrative hearing officer.

13 (b) The chief administrative hearing officer must

14 (1) be a resident of the state;

15 (2) have experience in administrative law; and

16 (3) be licensed to practice law in this state and have been admitted to
17 practice law in this state for at least five years.

18 (c) The chief administrative hearing officer is appointed to a five-year term of
19 office by the governor. An individual may serve not more than three full or partial
20 terms as chief administrative hearing officer. The governor may remove the chief
21 administrative hearing officer from office only for good cause and shall state in
22 writing the basis for removal. A vacancy in the office of chief administrative hearing
23 officer shall be filled by the governor and the individual appointed serves for the
24 remainder of the term to which appointed.

25 (d) The chief administrative hearing officer shall receive a monthly salary that
26 is not less than Step A nor more than Step F, Range 27, of the salary schedule in
27 AS 39.27.011(a) for Juneau, Alaska. The chief administrative hearing officer is in the
28 partially exempt service.

29 **Sec. 44.21.520. Powers and duties of chief administrative hearing officer.**

30 The chief administrative hearing officer shall

31 (1) supervise the office;

- 1 (2) employ administrative staff, who shall be in the classified service;
- 2 (3) employ hearing officers, who shall be in the partially exempt
- 3 service;
- 4 (4) preside over administrative hearings handled by the office or assign
- 5 hearing officers to preside over hearings and protect, support, and enhance the
- 6 decisional independence of the hearing officers;
- 7 (5) establish and implement performance standards and peer review
- 8 programs for hearing officers employed by the office;
- 9 (6) make available and facilitate training and continuing education
- 10 programs and services in administrative procedure, administrative adjudication,
- 11 substantive law, and technical matters for hearing officers and other administrative
- 12 adjudicators;
- 13 (7) survey administrative hearing participants and use other methods to
- 14 monitor the quality of administrative hearings held by the office and other state
- 15 agencies, and submit to the governor and the legislature on January 31 of each year a
- 16 report that includes a description of the activities of the office and recommendations
- 17 for statutory changes that may be needed in relation to the administrative hearings held
- 18 by the office or other state agencies;
- 19 (8) review and comment on regulations proposed by state agencies to
- 20 govern procedures in administrative hearings;
- 21 (9) enter into contracts as necessary to carry out the functions of the
- 22 office;
- 23 (10) annually prepare and submit to the commissioner of
- 24 administration a budget for the office for the next fiscal year that shall include and
- 25 separately identify funding for training and continuing education; a copy of the budget
- 26 submitted to the commissioner under this paragraph shall also be submitted to the
- 27 Finance Committee of each house of the legislature; and
- 28 (11) adopt regulations under AS 44.62 (Administrative Procedure Act)
- 29 to carry out the duties of the office and implement this chapter.
- 30 **Sec. 44.21.530. Jurisdiction of the office.** (a) The office shall conduct all
- 31 adjudicative administrative hearings required under the following statutes or under

1 regulations adopted to implement the statutes:

- 2 (1) AS 04.11.510(b)(1) (alcoholic beverages license);
- 3 (2) AS 05.15 (charitable gaming);
- 4 (3) AS 05.20 (recreational devices);
- 5 (4) AS 05.90.001 (special racing events);
- 6 (5) AS 06 (banks and financial institutions);
- 7 (6) AS 08 (occupational licensing), other than AS 08.08;
- 8 (7) AS 10.06 (Alaska Corporations Code);
- 9 (8) AS 10.13 (Alaska BIDCO Act);
- 10 (9) AS 10.25.375 (Electric and Telephone Cooperative Act);
- 11 (10) AS 10.50.408 (limited liability companies);
- 12 (11) AS 14.11.016 (education-related facility grants);
- 13 (12) AS 14.18 (discrimination in public education);
- 14 (13) AS 14.20.030 (teacher certificates);
- 15 (14) AS 14.25.037 (teachers' retirement);
- 16 (15) AS 14.30 (educational programs);
- 17 (16) AS 14.37 (child care facilities);
- 18 (17) AS 14.48 (postsecondary educational institutions);
- 19 (18) AS 17.20 (Alaska Food, Drug, and Cosmetic Act);
- 20 (19) AS 18.07 (certificate of need program);
- 21 (20) AS 18.18.030 (hospice licenses);
- 22 (21) AS 18.20 (hospitals and nursing facilities);
- 23 (22) AS 18.35.040 (tourist accommodations);
- 24 (23) AS 18.55 (housing and public buildings);
- 25 (24) AS 18.60 (safety);
- 26 (25) AS 18.67.040 (Violent Crimes Compensation Board);
- 27 (26) AS 18.80 (State Commission for Human Rights);
- 28 (27) AS 21 (insurance);
- 29 (28) AS 25.27 (child support enforcement);
- 30 (29) AS 27.21 (Alaska Surface Coal Mining and Reclamation Act);
- 31 (30) AS 32.05 (Uniform Partnership Act);

- 1 (31) AS 34.45 (unclaimed property);
2 (32) AS 34.55.024 and 34.55.026 (Uniform Land Sales Practices Act);
3 (33) AS 36.30 (State Procurement Code);
4 (34) AS 38.05.065 (contracts for sale of state land);
5 (35) AS 39.25 (State Personnel Act);
6 (36) AS 39.35 and AS 39.45 (Public Employees Retirement Board);
7 (37) AS 39.52 (Alaska Executive Branch Ethics Act);
8 (38) AS 41.17 (forest resources and practices);
9 (39) AS 41.37.050 (Citizens' Advisory Commission on Federal Areas
10 in Alaska);
11 (40) AS 43.23 (permanent fund dividends);
12 (41) AS 43.56.010 - 43.56.120 (oil and gas exploration, production,
13 and pipeline transportation property taxes);
14 (42) AS 43.70 (Alaska Business License Act);
15 (43) AS 44.77 (claims against the state);
16 (44) AS 45.30.040 (mobile homes);
17 (45) AS 45.55 (Alaska Securities Act);
18 (46) AS 45.57 (Takeover Bid Disclosure Act);
19 (47) AS 46 (water, air, energy, and environmental conservation);
20 (48) AS 47.30.031 (Alaska Mental Health Trust Authority);
21 (49) AS 47.33 (assisted living homes);
22 (50) AS 47.35 (child care);
23 (51) AS 47.45 (longevity bonuses).

24 (b) An agency may request the office to conduct an administrative hearing of
25 that agency or to conduct several administrative hearings. The office may provide the
26 service after entering into a written agreement with the agency describing the services
27 to be provided and providing for reimbursement by the agency to the office of the
28 costs incurred by the office in providing the services. To the extent otherwise
29 permitted by law, the agency may delegate to the hearing officer assigned to conduct
30 the hearing on behalf of the agency the authority to make a final agency decision in
31 the matter.

1 **Sec. 44.21.540. Hearing officers.** (a) A hearing officer must be admitted to
2 practice law in this state and must have been admitted to practice in this state for at
3 least two years before being employed or retained with the office. The chief
4 administrative hearing officer shall establish additional qualifications for hearing
5 officers employed or retained by the office and for those hearing officers that may be
6 assigned to particular types of cases. Full-time hearing officers employed by the
7 office are subject to the personnel rules adopted under AS 39.25.150(7), (15), and
8 (16).

9 (b) A hearing officer employed or retained by the office may, in conducting an
10 administrative hearing for an agency, exercise the powers authorized by law for
11 exercise by that agency in the performance of its duties in connection with the hearing.
12 A hearing officer may

13 (1) engage in alternative dispute resolution under regulations adopted
14 by the chief administrative hearing officer;

15 (2) order a party, a party's attorney, or another authorized
16 representative of a party to pay reasonable expenses, including attorney fees, incurred
17 by another party as a result of actions done in bad faith or as a result of tactics used
18 frivolously or solely intended to cause unnecessary delay;

19 (3) perform other necessary and appropriate acts in the performance of
20 official duties.

21 (c) A hearing officer employed by the office must devote full time to the
22 duties of the office unless appointed to a position that is less than full-time. A hearing
23 officer employed by the office may not perform duties inconsistent with the duties and
24 responsibilities of a hearing officer.

25 (d) The chief administrative hearing officer may enter into a contract with an
26 individual who meets the qualifications established in (a) of this section to serve as a
27 hearing officer in a particular administrative hearing or in several hearings of the same
28 type. Notwithstanding AS 36.30.015(d), the chief administrative hearing officer may
29 contract for or hire a hearing officer without notifying or securing the approval of the
30 Department of Law.

31 **Sec. 44.21.550. Code of hearing officer conduct.** (a) The chief

1 administrative hearing officer shall, by regulation, adopt a code of hearing officer
2 conduct. Hearing officers of the office and of each other agency shall comply with the
3 code.

4 (b) Except as provided in (d) of this section, the chief administrative hearing
5 officer shall receive and consider all complaints against hearing officers employed or
6 retained by the office or another agency alleging violations of the code. If the chief
7 administrative hearing officer determines that the conduct alleged, if true, would
8 constitute a violation of the code, the officer shall deliver the complaint to the attorney
9 general.

10 (c) If the attorney general determines that a violation has occurred, the
11 attorney general shall submit written findings to the agency that employed or retained
12 the hearing officer who is the subject of the complaint together with recommendations
13 for corrective or disciplinary action. If the hearing officer is employed or retained by
14 the office, the chief administrative hearing officer shall take appropriate corrective or
15 disciplinary action.

16 (d) The attorney general shall, by regulation, establish procedures to
17 implement (c) of this section, including procedures for investigating and holding
18 hearings on complaints. The attorney general shall receive and consider any
19 complaint filed against the chief administrative hearing officer under this section, and
20 may investigate or hold a hearing on the complaint in compliance with the regulations
21 adopted under this subsection.

22 **Sec. 44.21.560. Procedure for hearings.** (a) The chief administrative
23 hearing officer shall, by regulation, establish procedures for administrative hearings
24 conducted by the office. Each administrative hearing under the jurisdiction of the
25 office or that has been transferred to the office by an agency shall be conducted in
26 accordance with statutes that apply to that hearing, including, if applicable, the
27 Administrative Procedure Act (AS 44.62). However, to the extent regulations adopted
28 by an agency for the conduct of an administrative hearing conflict with regulations
29 adopted by the chief administrative hearing officer under this subsection, the
30 regulations adopted by the chief administrative hearing officer control.

31 (b) When an agency receives a request for a hearing that will be conducted by

1 the office under AS 44.21.530, the agency shall immediately notify the office. The
2 agency shall compile and transmit to the office the agency file and all materials
3 relevant to the matter.

4 (c) A hearing officer employed or retained by the office shall, within 90 days
5 after the date a case is assigned for hearing, prepare a proposed decision, unless
6 another time period is provided by law or agreed to by the parties and the chief
7 administrative hearing officer. If the proposed decision is not timely issued, the
8 agency decision that is the subject of the hearing is the final agency decision and the
9 party requesting the hearing may appeal from that decision to the superior court or as
10 otherwise provided by law for appeals of final agency decisions.

11 (d) A proposed decision in an administrative hearing shall be in a form that
12 may be adopted as the final decision by the agency with authority to make the final
13 decision. The proposed decision is a public record unless otherwise provided by law.
14 A copy of the proposed decision shall be served by the office on each party in the case
15 and the attorneys representing those parties in the hearing. Notwithstanding
16 AS 44.62.500(b) and except as provided by other statute, the agency with authority to
17 make a final decision in the case shall, within 30 days after the date the proposed
18 decision is served, do one or more of the following:

19 (1) adopt the proposed decision as the final agency decision;

20 (2) return the case to the hearing officer to take additional evidence or
21 make additional findings or for other specific proceedings;

22 (3) exercise its discretion by revising the proposed enforcement action,
23 order, award, remedy, sanction, or penalty, and adopt the proposed decision as revised;

24 (4) in writing reject, modify, or amend a factual finding in the
25 proposed decision by specifying the affected finding and identifying the testimony and
26 other evidence relied on by the agency for the rejection, modification, or amendment
27 of the finding, and issue a final agency decision;

28 (5) in writing reject, modify, or amend an interpretation or application
29 in the proposed decision of a statute or regulation directly governing the agency's
30 actions by specifying the reasons for the rejection, modification, or amendment, and
31 issue a final agency decision.

1 **Sec. 44.21.570. Disqualification of hearing officer.** (a) The chief
2 administrative hearing officer or a hearing officer employed or retained by the office is
3 disqualified from a case in which the officer cannot accord a fair and impartial hearing
4 or for other reasons established in the code of hearing officer conduct.

5 (b) A party may request the disqualification of the chief administrative hearing
6 officer or a hearing officer by filing an affidavit, before the taking of evidence at a
7 hearing, stating with particularity the grounds upon which it is claimed that a fair and
8 impartial hearing cannot be accorded by that officer. Notwithstanding
9 AS 44.62.450(c), upon receipt of the affidavit, the hearing officer assigned to the
10 administrative hearing shall make a determination. If the affiant objects to the
11 decision, the matter shall be decided by the chief administrative hearing officer, whose
12 decision is final, or if the hearing is assigned to the chief administrative hearing
13 officer, by the attorney general, whose decision is final.

14 **Sec. 44.21.580. Agency cooperation.** (a) All agencies shall cooperate with
15 the chief administrative hearing officer and with other hearing officers of the office in
16 the matters involving the duties of the office.

17 (b) Except as provided under AS 44.21.570 or by regulation adopted under
18 this chapter, an agency may not select or reject a particular hearing officer for
19 assignment to an administrative hearing.

20 (c) After an administrative hearing is referred by an agency to the office for
21 hearing, the agency may not take further adjudicatory action with respect to the
22 proceeding, except as a party litigant or to render a final decision as provided by law.

23 **Sec. 44.21.590. Administrative hearing records.** (a) The office shall
24 acquire, organize, and make available to the public records relating to administrative
25 hearings of the office and of other agencies. The records must include information,
26 materials, and data bases used in the conduct of hearings, and the proposed and final
27 agency decisions. All court decisions resulting from appeals from final agency
28 decisions shall also be collected and included in the records. The office shall make
29 final agency decisions available on line through an electronic data base.

30 (b) This section does not apply to records that are confidential or privileged.

31 **Sec. 44.21.599. Definitions.** In AS 44.21.510 - 44.21.599,

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(1) "administrative hearing" means a contested case before an agency in which

(A) the matter is heard by a hearing officer who does not represent or have authority to make decisions for the agency in its capacity as a party to the proceedings;

(B) the parties may present testimony and evidence not previously considered by the agency; and

(C) the hearing officer has authority to make factual findings, legal rulings, and issue a proposed or final agency decision; an administrative hearing does not include a public non-adjudicative hearing;

(2) "agency" means an agency of the executive branch of state government, including an officer, division, or other subunit of an agency, a public corporation, and the University of Alaska;

(3) "hearing officer" means an individual who presides over the conduct of an administrative hearing and who is retained or employed by an agency for that purpose;

(4) "office" means the office of administrative hearings established in AS 44.21.510.

* Sec. 3. AS 04.11.510(b) is amended to read:

(b) The board may review an application for the issuance, renewal, transfer of location, or transfer to another person of a license without affording the applicant notice or hearing, except

(1) if an application is denied, the notice of denial shall be furnished the applicant immediately in writing stating the reason for the denial in clear and concise language; the notice of denial must inform the applicant that the applicant is entitled to an informal conference with either the director or the board, and that, if not satisfied by the informal conference, the applicant is then entitled to a formal hearing conducted before a hearing officer from the office of administrative hearings (AS 44.21.510) [THE BOARD]; if the applicant requests a formal hearing, the office of administrative hearings [BOARD] shall adhere to AS 44.62.330 - 44.62.630 (Administrative Procedure Act); all interested persons may be heard at the hearing and

1 unless waived by the applicant and the board, the formal hearing shall be held in the
2 area for which the application is requested;

3 (2) the board may, on its own initiative or in response to an objection
4 or protest, hold a hearing to ascertain the reaction of the public or a local governing
5 body to an application if a hearing is not required under this subsection; the board
6 shall send notice of a hearing conducted under this paragraph 20 days in advance of
7 the hearing to each community council established within the municipality and to each
8 nonprofit community organization entitled to notification under AS 04.11.310(b);

9 (3) if a petition containing the signatures of 35 percent of the adult
10 residents having a permanent place of abode outside of but within two miles of an
11 incorporated city or an established village is filed with the board, the board shall hold
12 a public hearing on the question of whether the issuance, renewal, or transfer of the
13 license in the city or village would be in the public interest;

14 (4) if a protest to the issuance, renewal, transfer of location or transfer
15 to another person of a license made by a local governing body is based on a question
16 of law, the board shall hold a public hearing.

17 * Sec. 4. AS 05.20.080 is amended to read:

18 **Sec. 05.20.080. Application of Administrative Procedure Act.** The
19 procedure for review of the orders or actions of the department, its agents or
20 employees, is the same as that contained in AS 44.62 (Administrative Procedure Act).
21 Administrative hearings on contested cases shall be conducted by the office of
22 administrative hearings (AS 44.21.510).

23 * Sec. 5. AS 05.90.001(b) is amended to read:

24 (b) The Department of Public Safety, with the concurrence of the Department
25 of Transportation and Public Facilities, may grant, and for cause cancel, permission to
26 conduct a special racing event as provided in this section upon terms and conditions
27 and at times and places the department may determine. If an applicant's permission is
28 refused or cancelled, the applicant may request the Department of Public Safety for a
29 hearing. The hearing shall be conducted under the provisions of AS 44.62 [THE]
30 (Administrative Procedure Act) by the office of administrative hearings
31 (AS 44.21.510) [(AS 44.62)].

1 * Sec. 6. AS 06.01.030(f) is amended to read:

2 (f) Hearings required or authorized under this title are not subject to
3 AS 44.62.330 - 44.62.630, except as required by AS 44.62.560 and 44.62.570. The
4 department shall adopt regulations, consistent with the provisions of this title,
5 establishing procedures for hearings held under this section. Administrative
6 hearings on contested cases shall be conducted by the office of administrative
7 hearings (AS 44.21.510).

8 * Sec. 7. AS 08.01.075(c) is amended to read:

9 (c) A board may summarily suspend a licensee from the practice of the
10 profession before a final hearing is held or during an appeal if the board finds that the
11 licensee poses a clear and immediate danger to the public health and safety. A person
12 is entitled to a hearing conducted by the office of administrative hearings
13 (AS 44.21.510) [BEFORE THE BOARD] to appeal the summary suspension within
14 seven days after the order of suspension is issued. A person may appeal an adverse
15 decision of the board on an appeal of a summary suspension to a court of competent
16 jurisdiction.

17 * Sec. 8. AS 08.01.087(b) is amended to read:

18 (b) If it appears to the commissioner that a person has engaged in or is about
19 to engage in an act or practice in violation of a provision of this chapter or a regulation
20 adopted under it, or a provision of AS 43.70, or a provision of this title or regulation
21 adopted under this title dealing with an occupation or board listed in AS 08.01.010, the
22 commissioner may, if the commissioner considers it in the public interest, and after
23 notification of a proposed order or action by telephone, telegraph, or facsimile to all
24 board members, if a board regulates the act or practice involved, unless a majority of
25 the members of the board object within 10 days,

26 (1) issue an order directing the person to stop the act or practice;
27 however, reasonable notice of and an opportunity for a hearing must first be given to
28 the person, except that the commissioner may issue a temporary order before a hearing
29 is held; a temporary order remains in effect until a final order affirming, modifying, or
30 reversing the temporary order is issued or until 15 days after the person receives the
31 notice and has not requested a hearing by that time; a temporary order becomes final if

1 the person to whom the notice is addressed does not request a hearing within 15 days
2 after receiving the notice; if the hearing involves AS 08.08 or a regulation adopted
3 under that chapter, the commissioner or the commissioner's designee shall be the
4 hearing officer at the hearing and shall issue a final order within 10 days after the
5 hearing; otherwise the hearing shall be conducted by the office of administrative
6 hearings (AS 44.21.510);

7 (2) bring an action in the superior court to enjoin the acts or practices
8 and to enforce compliance with this chapter, a regulation adopted under it, an order
9 issued under it, or with a provision of this title or regulation adopted under this title
10 dealing with business licenses or an occupation or board listed in AS 08.01.010;

11 (3) examine or have examined the books and records of a person
12 whose business activities require a business license or licensure by a board listed in
13 AS 08.01.010, or whose occupation is listed in AS 08.01.010; the commissioner may
14 require the person to pay the reasonable costs of the examination; and

15 (4) issue subpoenas for the attendance of witnesses, and the production
16 of books, records, and other documents.

17 * Sec. 9. AS 08.11.090(c) is amended to read:

18 (c) The department may summarily suspend a license before final hearing or
19 during the appeals process if the department finds that the licensee poses a clear and
20 immediate danger to the public welfare and safety if the licensee continues to practice.
21 An individual whose license is suspended under this subsection is entitled to a hearing
22 conducted by the office of administrative hearings (AS 44.21.510) not
23 [DEPARTMENT NO] later than seven days after the effective date of the order. The
24 individual may appeal the suspension after the hearing to the superior court.

25 * Sec. 10. AS 08.32.171(c) is amended to read:

26 (c) The board may summarily suspend the license of a licensee who refuses to
27 submit to a physical or mental examination under AS 08.36.070(b)(1). A person
28 whose license is suspended under this section is entitled to a hearing conducted by the
29 office of administrative hearings (AS 44.21.510) [BOARD] within seven days after
30 the effective date of the order. If, after a hearing, the board upholds the suspension,
31 the licensee may appeal the suspension to a court of competent jurisdiction.

1 * Sec. 11. AS 08.36.320(c) is amended to read:

2 (c) The board may summarily suspend the license of a licensee who refuses to
3 submit to a physical or mental examination under AS 08.36.070(b)(1). A person
4 whose license is suspended under this section is entitled to a hearing conducted by the
5 office of administrative hearings (AS 44.21.510) [BOARD] within seven days after
6 the effective date of the order. If, after a hearing, the board upholds the suspension,
7 the licensee may appeal the suspension to a court of competent jurisdiction.

8 * Sec. 12. AS 08.40.170(f) is amended to read:

9 (f) The department may summarily suspend a license before a final hearing is
10 held or during an appeal if the department finds that the licensee poses a clear and
11 immediate danger to the public health and safety. A person is entitled to a hearing
12 conducted by [BEFORE] the office of administrative hearings (AS 44.21.510)
13 [DEPARTMENT] to appeal the summary suspension within seven days after the order
14 of suspension is issued. A person may appeal an adverse decision of the department
15 on an appeal of a summary suspension to a court of competent jurisdiction.

16 * Sec. 13. AS 08.40.320(f) is amended to read:

17 (f) The department may summarily suspend a license before a final hearing is
18 held or during an appeal if the department finds that the licensee poses a clear and
19 immediate danger to the public health and safety. A person is entitled to a hearing
20 conducted by [BEFORE] the office of administrative hearings (AS 44.21.510)
21 [DEPARTMENT] to appeal the summary suspension within seven days after the order
22 of suspension is issued. A person may appeal an adverse decision of the department
23 on an appeal of a summary suspension to a court of competent jurisdiction.

24 * Sec. 14. AS 08.45.070(c) is amended to read:

25 (c) The division may summarily suspend a license before final hearing or
26 during the appeals process if the division finds that the licensee poses a clear and
27 immediate danger to the public health and safety if the licensee continues to practice.
28 A licensee whose license is suspended under this section is entitled to a hearing
29 conducted by the office of administrative hearings (AS 44.21.510) not [DIVISION
30 NO] later than seven days after the effective date of the order. The licensee may
31 appeal the suspension after a hearing to a court of competent jurisdiction.

1 * **Sec. 15.** AS 08.54.710(i) is amended to read:

2 (i) The department may summarily suspend a licensee from practice of the
3 profession under this chapter, for a period of not more than 30 days, before a final
4 hearing is held or during an appeal if the department finds that the licensee poses a
5 clear and immediate danger to the public health and safety. A person is entitled to a
6 hearing conducted by [BEFORE] the office of administrative hearings
7 (AS 44.21.510) [DEPARTMENT] to appeal the summary suspension within seven
8 days after the order of suspension is issued. A person may appeal an adverse decision
9 of the department on an appeal of summary suspension to a court of competent
10 jurisdiction.

11 * **Sec. 16.** AS 08.55.140(c) is amended to read:

12 (c) The department may summarily suspend a license before final hearing or
13 during the appeals process if the department finds that the licensee poses a clear and
14 immediate danger to the public welfare and safety if the licensee continues to practice.
15 A person whose license is suspended under this subsection is entitled to a hearing
16 conducted by the office of administrative hearings (AS 44.21.510) not
17 [DEPARTMENT NO] later than seven days after the effective date of the order. The
18 person may appeal the suspension after the hearing to the superior court.

19 * **Sec. 17.** AS 08.62.046(c) is amended to read:

20 (c) The master, owner, operator, or agent of the master, owner, or operator, of
21 a vessel required to employ a pilot under this chapter may object to the proposed rate
22 for a specific pilotage service by filing a written notice of objection, containing the
23 grounds for the objection and relevant evidence demonstrating that the rate is not
24 reasonable, with the board within 60 days after the final date of publication of the
25 proposed rate in a newspaper of general circulation. The pilot organization that
26 proposed the rate has until 15 days after the close of the period for filing objections to
27 the proposed rate to provide its written response to the notice of objection and relevant
28 evidence demonstrating that the rate is reasonable. If the pilot organization does not
29 respond to the notice of objection by the close of the 15-day period for response to the
30 objection, the board may not take action on the proposed rate and the proposed rate
31 does not take effect. If the pilot organization does respond to the notice of objection

1 before the close of the response period, the board shall request that the office of
2 administrative hearings (AS 44.21.510) hold a hearing to determine whether the
3 proposed rate is reasonable. If, after the hearing, the board finds that the proposed
4 rate is reasonable, the rate is approved and takes effect retroactive to January 1 of the
5 calendar year in which the rate would have taken effect under (b) of this section if no
6 objection had been filed. If the board finds that the proposed rate is not reasonable,
7 the proposed rate is disapproved and does not take effect. In determining what
8 constitutes a reasonable rate, the board shall consider the following factors:

9 (1) current and historical rates charged for comparable pilotage
10 services;

11 (2) the actual time aboard the vessel, time engaged in preparing to
12 provide the pilotage services, seasonal and weather conditions, and risks;

13 (3) the reasonable expenses incurred in providing the pilotage services
14 such as dispatch, transportation, overhead, and other associated expenses;

15 (4) the financial effect of pilotage expenses on the owner of the vessel,
16 except that this factor shall only be considered if the owner provides all financial
17 information that the board determines is necessary to determine the financial effect;

18 (5) the number of vessels and volume of pilotage services at issue in
19 the dispute and the number of members of the pilot organization;

20 (6) the effect of the determination on the income of affected pilots
21 relative to prior years, taking into account changes in vessel tonnage and vessel traffic
22 in the pilotage region from year-to-year;

23 (7) prior determinations under this subsection; and

24 (8) other factors the board considers relevant.

25 * Sec. 18. AS 08.64.331(c) is amended to read:

26 (c) The board may summarily suspend a license before final hearing or during
27 the appeals process if the board finds that the licensee poses a clear and immediate
28 danger to the public health and safety if the licensee continues to practice. A person
29 whose license is suspended under this section is entitled to a hearing conducted by the
30 office of administrative hearings (AS 44.21.510) not [BOARD NO] later than seven
31 days after the effective date of the order and the person may appeal the suspension

1 after a hearing to a court of competent jurisdiction.

2 * **Sec. 19.** AS 08.65.120(c) is amended to read:

3 (c) The board may summarily suspend a license before final hearing or during
4 the appeals process if the board finds that the licensee poses a clear and immediate
5 danger to the public health and safety if the licensee continues to practice. A person
6 whose license is suspended under this section is entitled to a hearing conducted by the
7 office of administrative hearings (AS 44.21.510) not [BOARD NO] later than seven
8 days after the effective date of the order and the person may appeal the suspension
9 after a hearing to a court of competent jurisdiction.

10 * **Sec. 20.** AS 08.68.275(c) is amended to read:

11 (c) The board may summarily suspend a license before final hearing or during
12 the appeals process if the board finds that the licensee poses a clear and immediate
13 danger to the public health and safety. A person whose license is suspended under this
14 section is entitled to a hearing conducted by the office of administrative hearings
15 (AS 44.21.510) [BOARD] within seven days after the effective date of the order. If,
16 after a hearing, the board upholds the suspension, the licensee may appeal the
17 suspension to a court of competent jurisdiction.

18 * **Sec. 21.** AS 08.86.204(b) is amended to read:

19 (b) The board may summarily suspend the license of a licensee who refuses to
20 submit to a physical or mental examination under AS 08.86.075. A person whose
21 license is suspended under this subsection is entitled to a hearing conducted by the
22 office of administrative hearings (AS 44.21.510) [BOARD] within seven days after
23 the effective date of the order. If, after the [A] hearing, the board upholds the
24 suspension, the licensee may appeal the suspension to a court of competent
25 jurisdiction.

26 * **Sec. 22.** AS 08.88.037(b) is amended to read:

27 (b) If it appears to the department that a person has engaged in or is about to
28 engage in an act or practice in violation of a provision of this chapter or a regulation
29 adopted under it and that action is warranted in the public interest, the department
30 shall notify all commission members by telephone, telegraph, or facsimile of a
31 proposed order or action, and, if a majority of the members of the commission

1 approve, the department may

2 (1) after reasonable notice of and an opportunity for a hearing is given
3 to the person, issue an order directing the person to stop the act or practice; the
4 department may issue a temporary order before a hearing is held; a temporary order
5 remains in effect until a final order affirming, modifying, or reversing the temporary
6 order is issued or until 15 days have elapsed after the person receives the notice and
7 has not requested a hearing; a temporary order becomes final if the person to whom
8 the notice is addressed does not request a hearing within 15 days after receiving the
9 notice; if a hearing is requested, a hearing shall be conducted by a hearing officer
10 from the office of administrative hearings (AS 44.21.510) within 30 days; the
11 commission shall issue a final order within 10 days after the hearing;

12 (2) bring an action in superior court to enjoin the act or practice and to
13 enforce compliance with this chapter, a regulation adopted under it, or an order issued
14 under it;

15 (3) examine or have examined the books and records of a person
16 whose business activities require licensure under this chapter and the department may
17 require the person to pay the reasonable costs of the examination; and

18 (4) issue subpoenas for the attendance of witnesses, and the production
19 of books, records, and other documents.

20 * Sec. 23. AS 08.88.460(b) is amended to read:

21 (b) A copy of a claim filed with the commission under (a) of this section shall
22 be sent to each real estate licensee alleged to have committed the misconduct resulting
23 in losses, to the principal real estate broker employing a licensee alleged to have
24 committed the conduct resulting in losses, and to any other real estate licensee
25 involved in the transaction at least 20 days before any hearing held on the claim by the
26 office of administrative hearings (AS 44.21.510) [COMMISSION].

27 * Sec. 24. AS 08.88.460(d) is amended to read:

28 (d) A claimant under this section shall pay a filing fee of \$250 to the
29 commission at the time the claim is filed. The filing fee shall be refunded if the

30 (1) [THE] commission makes an award to the claimant from the real
31 estate surety fund;

1 (2) [THE] claim is dismissed under (c) of this section; or

2 (3) [THE] claim is withdrawn by the claimant before the office of
3 administrative hearings (AS 44.21.510) [COMMISSION] holds a hearing on the
4 claim.

5 * Sec. 25. AS 08.88.472(c) is amended to read:

6 (c) The commission may contract under AS 36.30 (State Procurement Code)
7 with a person for the person to perform [HEARING AND] legal services for the
8 commission with regard to a claim against the real estate surety fund filed in court.

9 The contract may cover one or more claims.

10 * Sec. 26. AS 08.92.040(c) is amended to read:

11 (c) If the department determines that a person is acting as a promoter in
12 violation of this chapter, the department may order the person to stop the violation.
13 Upon receipt of the order, the person affected has the right to be heard and to present
14 proof to the hearing officer from the office of administrative hearings
15 (AS 44.21.510) [DEPARTMENT] that the violation has not occurred. Upon [IN THE
16 DEPARTMENT'S DISCRETION OR UPON] application made by the recipient of the
17 order, the office of administrative hearings may [DEPARTMENT SHALL]
18 schedule a hearing at the earliest possible time. After the hearing the department may
19 affirm, modify, or set aside the order.

20 * Sec. 27. AS 10.06.633(b) is amended to read:

21 (b) A corporation may not be dissolved under this section unless the
22 commissioner has given the corporation written notice of its delinquency, failure, or
23 noncompliance by mail as provided by (i) of this section. If the corporation fails,
24 within 60 days after the requirements of (i) of this section have been satisfied, to
25 contest the alleged neglect, omission, delinquency, or noncompliance by a written
26 request for a hearing conducted by [BEFORE] the office of administrative hearings
27 (AS 44.21.510) [COMMISSIONER] or fails to correct the asserted neglect, omission,
28 delinquency, or noncompliance, it may be dissolved under (d) of this section.

29 * Sec. 28. AS 10.06.865 is amended to read:

30 **Sec. 10.06.865. Cancellation of certificates issued and filings accepted.**
31 The commissioner may, within one year after a filing, and after written notice to the

1 corporation or individual making the filing, cancel a certificate issued or filing
2 accepted under this chapter, on any ground existing at the time of issuance or filing for
3 which the commissioner could have originally refused to issue the certificate or accept
4 the filing. The notice of cancellation must state the reason for the cancellation. A
5 corporation or individual may request a hearing conducted by [BEFORE] the office
6 of administrative hearings (AS 44.21.510) [COMMISSIONER] within 90 days after
7 receipt of the notice. Cancellation becomes final if the corporation or individual does
8 not request a hearing within 90 days after receipt of notice. Notice of cancellation
9 shall be sent by certified mail with return receipt requested. If the return receipt is not
10 received by the department within a reasonable time and the department has made
11 diligent inquiry as to the address of the corporation, notice may be made by
12 publication in a newspaper of general circulation in the vicinity of the registered office
13 of the corporation or the address of the individual who made the filing, and the
14 cancellation becomes final 60 days after publication of the notice if the person or
15 corporation does not request a hearing.

16 * **Sec. 29.** AS 10.13.770(b) is amended to read:

17 (b) If the department fails to promptly notify the office of administrative
18 hearings (AS 44.21.510) of the application and the office fails to begin a hearing
19 within 15 business days after the application is filed or within a longer period to which
20 the licensee or subject person consents, the order shall be considered rescinded.

21 * **Sec. 30.** AS 10.13.860 is amended by adding a new subsection to read:

22 (b) Administrative hearings under this chapter shall be conducted by the office
23 of administrative hearings (AS 44.21.510).

24 * **Sec. 31.** AS 10.25.375 is amended to read:

25 **Sec. 10.25.375. Cancellation of certificates issued and filings accepted.**
26 The commissioner may, within one year after a filing, and after written notice to the
27 cooperative or individual making a filing, cancel a certificate issued or filing accepted
28 under this chapter, on any ground existing at the time notice of cancellation is made
29 for which the commissioner could have originally refused to issue the certificate or
30 accept the filing. The notice of cancellation must state the reason for the proposed
31 cancellation. A cooperative or individual may request a hearing within 90 days after

1 receipt of the notice. The notice of cancellation becomes final if the cooperative or
2 individual does not request a hearing within 90 days after receipt of notice. Notice of
3 cancellation must be sent by certified mail with return receipt requested. If the return
4 receipt is not received by the department within a reasonable time and the department
5 has made diligent inquiry as to the current address of the corporation, notice may be
6 made by publication in a newspaper of general circulation in the vicinity of the
7 registered office of the cooperative or the address of the individual who made the
8 filing, and the cancellation becomes final 60 days after publication of the notice. If a
9 hearing is requested, the hearing shall be conducted by the office of
10 administrative hearings (AS 44.21.510).

11 * Sec. 32. AS 10.50.408(c) is amended to read:

12 (c) If, following a hearing conducted by the office of administrative
13 hearings (AS 44.21.510), the commissioner determines the presence of the
14 delinquency, failure, or misrepresentation providing grounds for involuntary
15 dissolution under this section, the company may appeal to the superior court. The
16 court shall either sustain the commissioner or direct the commissioner to take action
17 the court considers proper.

18 * Sec. 33. AS 14.11.016(b) is amended to read:

19 (b) A district may appeal an adverse decision of the department under (a) of
20 this section by filing a written notice of appeal with the commissioner within 15 days
21 after the date of the department's decision. The notice of appeal must state the legal
22 and factual basis for the appeal and the precise relief sought. The failure of the district
23 to include an issue in a notice of appeal constitutes a waiver of the right to have the
24 issue considered. Not later than 10 days after receipt by the commissioner of a notice
25 of appeal the chief administrative hearing officer of the office of administrative
26 hearings (AS 44.21.510) [COMMISSIONER] shall appoint a hearing officer who is
27 qualified under AS 44.62.350(c) to consider the appeal. If the hearing officer finds
28 that the notice of appeal does not raise a reasonable issue of fact or law, the hearing
29 officer shall issue a written decision denying the appeal. Denial of an appeal by a
30 hearing officer is a final decision that may be appealed under (d) of this section. If the
31 hearing officer finds that the notice of appeal raises a reasonable issue of fact or law,

1 the hearing officer shall conduct a hearing on those issues and recommend a decision
2 to the board. The hearing officer shall issue a decision on the appeal not later than 60
3 days after being appointed. The board shall consider the recommended decision of the
4 hearing officer at its next regularly scheduled meeting and may adopt all, part, or none
5 of the recommended decision or may remand the issue to the hearing officer for
6 further hearings. The board shall issue its decision in writing within 10 days after
7 consideration of the hearing officer's decision.

8 * Sec. 34. AS 14.18.090(a) is amended to read:

9 (a) The board shall enforce compliance by school districts and regional
10 educational attendance areas with the provisions of this chapter and the regulations
11 and procedures adopted under it by appropriate order made in accordance with
12 AS 44.62. After a hearing conducted by the office of administrative hearings
13 (AS 44.21.510) and a finding by the board that a district or a regional educational
14 attendance area is not in compliance with this chapter and is not actively working to
15 come into compliance, the board shall institute appropriate proceedings to abate the
16 practices found by the board to be a violation of this chapter.

17 * Sec. 35. AS 14.20.040 is amended by adding a new subsection to read:

18 (b) Hearings under AS 14.20.030 shall be conducted by the office of
19 administrative hearings (AS 44.21.510).

20 * Sec. 36. AS 14.25.037(b) is amended to read:

21 (b) In the conduct of a hearing under this chapter, the hearing officer from
22 the office of administrative hearings (AS 44.21.510) [BOARD] may issue
23 subpoenas, administer oaths, compel the attendance and testimony of witnesses,
24 compel the taking of depositions and the submission of affidavits, and compel the
25 production of documents and records. The hearing officer's [BOARD'S] powers
26 under this subsection do not extend to prehearing discovery. However, upon good
27 cause shown, the hearing officer [BOARD] may permit the preservation of witness
28 testimony if the hearing officer [BOARD] cannot successfully compel the witness to
29 attend a hearing. The board may authorize hearing officers to [CONDUCT
30 HEARINGS UNDER THIS CHAPTER AND] issue binding decisions. A binding [
31 THE] decision of a hearing officer may be appealed to the board. The board shall

1 adopt procedures for appeals from a hearing officer's binding decision.

2 * Sec. 37. AS 14.30.193(b) is amended to read:

3 (b) If a due process hearing is requested by either a school district or a parent,
4 the school district shall contact the office of administrative hearings (AS 44.21.510)
5 [DEPARTMENT] to request appointment of a hearing officer. The chief
6 administrative hearing officer [DEPARTMENT] shall select a hearing officer
7 through a random selection process, from a list maintained by the office
8 [DEPARTMENT] under (g) of this section. Within five working days after receipt of
9 the request, the chief administrative hearing officer [DEPARTMENT] shall provide
10 to the school district and the parent a notice of appointment, including the name and a
11 statement of qualifications, of the hearing officer that [THE DEPARTMENT
12 DETERMINES] is available to conduct the hearing.

13 * Sec. 38. AS 14.30.193(c) is amended to read:

14 (c) The school district and the parent each have the right to reject, without
15 stating a reason, one hearing officer appointed under this section. The rejecting party
16 shall notify the office of administrative hearings [DEPARTMENT] of that rejection
17 in writing within five days after receipt of the [DEPARTMENT'S] notice of
18 appointment. If a hearing officer is rejected under this subsection, the chief
19 administrative hearing officer [DEPARTMENT] shall, within five working days
20 after receipt of the written rejection, provide a notice of appointment, including the
21 name and a statement of qualifications, of another hearing officer that [THE
22 DEPARTMENT DETERMINES] is available to conduct the hearing. Each
23 appointment is subject to a right of rejection under this subsection by a party who has
24 not previously rejected an appointment.

25 * Sec. 39. AS 14.30.193(g) is amended to read:

26 (g) The office of administrative hearings [DEPARTMENT] shall maintain a
27 list of qualified hearing officers and shall provide for qualification of hearing officers
28 through a training program that is open to all individuals who meet the criteria set by
29 the office [DEPARTMENT] by regulation. The list of qualified hearing officers shall
30 be maintained as a public record.

31 * Sec. 40. AS 14.37.060(b) is amended to read:

1 (b) A prospective licensee who was denied licensure may appeal the
2 department's decision by requesting a hearing conducted by the office of
3 administrative hearings (AS 44.21.510), on the form provided by the department,
4 within 15 days after receipt of the notice of denial of licensure.

5 * Sec. 41. AS 14.37.130(g) is amended to read:

6 (g) An applicant whose application is denied may appeal the department's
7 decision, on the form provided by the department, by requesting a hearing conducted
8 by the office of administrative hearings (AS 44.21.510) within 15 days after receipt
9 of the notice of denial of application.

10 * Sec. 42. AS 14.37.170(d) is amended to read:

11 (d) A licensee or other person to whom a notice has been provided under (a)
12 or (c) of this section may appeal the department's decision to impose an enforcement
13 action described in (a) or (b)(2) - (8) of this section by filing a written request for a
14 hearing conducted by the office of administrative hearings (AS 44.21.510), on the
15 form provided by the department, within 15 days after receipt of the notice of
16 enforcement action.

17 * Sec. 43. AS 14.48.130(b) is amended to read:

18 (b) The commission shall investigate the complaint and may attempt to effect
19 a settlement by persuasion and conciliation. A [THE COMMISSION MAY
20 CONSIDER A] complaint may be considered after 30 days [DAYS] written notice
21 by registered mail to the institution or agent, or both, giving notice of a time and place
22 for hearing on the complaint. The hearing shall be conducted in accordance with
23 AS 44.62 (Administrative Procedure Act) by the office of administrative hearings
24 (AS 44.21.510).

25 * Sec. 44. AS 17.20.060 is amended to read:

26 Sec. 17.20.060. Suspension and reinstatement of emergency permit. The
27 commissioner may suspend immediately upon notice a permit issued under
28 AS 17.20.050 if it is found that the conditions of the permit have been violated. The
29 holder of a suspended permit may apply for the reinstatement of the permit, and the
30 commissioner, immediately after prompt hearing conducted by the office of
31 administrative hearings (AS 44.21.510) and an inspection of the establishment, shall

1 reinstatement the permit if it is found that adequate measures have been taken to comply
2 with and maintain the conditions of the permit as originally issued or as amended.

3 * **Sec. 45.** AS 17.20.120 is amended to read:

4 **Sec. 17.20.120. Application for sale of new drugs.** The application provided
5 for in AS 17.20.110 is effective on the 60th day after the filing of it. If the
6 commissioner finds, after notice to the applicant and providing an opportunity for a
7 hearing conducted by the office of administrative hearings (AS 44.21.510), that the
8 drug is not safe for use under the conditions prescribed, recommended, or suggested in
9 the proposed labeling, the commissioner shall, before the effective date of the
10 application, issue an order refusing to permit the application to become effective. An
11 order refusing an application to become effective may be revoked by the
12 commissioner.

13 * **Sec. 46.** AS 17.20.360 is amended to read:

14 **Sec. 17.20.360. Attorney general to prosecute; hearing before report of**
15 **criminal violation.** The attorney general, to whom the commissioner of
16 environmental conservation or the commissioner of health and social services, as the
17 case may be, reports a violation of this chapter, shall institute appropriate proceedings
18 in the superior court without delay and prosecute them in the manner required by law.
19 Before a violation of this chapter is reported to the attorney general, the person against
20 whom the proceeding is contemplated shall be given appropriate notice and an
21 opportunity to respond to the appropriate commissioner in a hearing conducted by
22 the office of administrative hearings (AS 44.21.510), orally or in writing, in person
23 or by attorney, with regard to the contemplated proceeding.

24 * **Sec. 47.** AS 18.07.071 is amended by adding a new subsection to read:

25 (d) A hearing under this section shall be conducted by the office of
26 administrative hearings (AS 44.21.510).

27 * **Sec. 48.** AS 18.07.081(a) is amended to read:

28 (a) The department, a member of the public who is substantially affected by
29 activities authorized by the certificate, or another applicant for a certificate of need
30 may initiate a hearing to obtain modification, suspension, or revocation of an existing
31 certificate of need by filing an accusation with the commissioner as prescribed under

1 AS 44.62.360. A revocation, modification, or suspension of an outstanding certificate
2 may not be undertaken unless it is in accordance with AS 44.62.330 - 44.62.630. A
3 hearing under this subsection shall be conducted by the office of administrative
4 hearings (AS 44.21.510).

5 * Sec. 49. AS 18.18.030(b) is amended to read:

6 (b) The department may, without a hearing, summarily suspend a license of a
7 hospice program if it finds that the actions or deficiencies of the program have caused,
8 or present an immediate threat of causing, serious injury to a hospice program client.
9 A licensee is entitled to a hearing conducted by the office of administrative
10 hearings (AS 44.21.510) [BEFORE THE DEPARTMENT] to appeal the summary
11 suspension within seven days after the order of suspension is issued. A licensee may
12 appeal an adverse decision of the department on an appeal of a summary suspension to
13 the superior court. A summary suspension remains in effect until the department finds
14 that the actions or deficiencies are corrected, the license is revoked, or the licensee is
15 successful in appealing the suspension.

16 * Sec. 50. AS 18.18.030(c) is amended to read:

17 (c) The department may, without a hearing, reduce a hospice license to a
18 provisional license for a period of time established by the department if the department
19 finds that the licensee is temporarily unable to comply with 18.18.005 - 18.18.390 or
20 is in the process of becoming decertified under the Medicare program but is taking
21 appropriate steps to bring the program into compliance with 18.18.005 - 18.18.390 or
22 Medicare certification requirements. A licensee is entitled to a hearing conducted by
23 the office of administrative hearings [BEFORE THE DEPARTMENT] to appeal a
24 reduction to a provisional license under this subsection within seven days after the
25 order to reduce the license is issued. A licensee may appeal an adverse decision of the
26 department on an appeal of the order reducing the license to a provisional license to
27 the superior court. A program with a provisional license under this subsection may
28 not accept new clients. If the program fails to correct its deficiencies and does not
29 successfully appeal the order reducing the license to provisional status within the
30 period stipulated in the provisional license, the department shall revoke the license.

31 * Sec. 51. AS 18.20.180 is amended to read:

1 **Sec. 18.20.180. Approval of applications.** The commissioner of the
2 department shall give every applicant an opportunity for a fair hearing conducted by
3 the office of administrative hearings (AS 44.21.510). If, after giving reasonable
4 opportunity for development and presentation of applications in the order of relative
5 need, the commissioner of the department finds that a project application complies
6 with the requirements of AS 18.20.170 and conforms with the state plan, the
7 commissioner shall approve and recommend the application and forward it to the
8 surgeon general.

9 * **Sec. 52.** AS 18.20.330(a) is amended to read:

10 (a) Notwithstanding AS 44.62.330 - 44.62.630, the department, by regulation,
11 shall establish a hearing procedure by which a nursing facility may present evidence to
12 refute a deficiency found by the department, and by which it may appeal a sanction
13 imposed by order of the department under AS 18.20.310. A request for a hearing shall
14 be made in writing within 10 days after service of the department's order on the
15 nursing facility. Except for an order that takes effect immediately under
16 AS 18.20.310(b)(1), a request under this subsection has the effect of staying the
17 department's order until the hearing is concluded and the department makes a final
18 determination. The hearing shall be conducted by the office of administrative
19 hearings (AS 44.21.510).

20 * **Sec. 53.** AS 18.55.790 is amended to read:

21 **Sec. 18.55.790. Pleadings and hearing.** The complaint must contain a notice
22 of a hearing conducted by the office of administrative hearings (AS 44.21.510)
23 [BEFORE THE CORPORATION OR DESIGNATED AGENT] and the time and
24 place fixed for the hearing. The hearing shall be not less than 10 days nor more than
25 30 days after the service of the complaint. The complaint must state that the parties in
26 interest may file an answer to the complaint, appear, and give testimony at the place
27 and time fixed in the complaint.

28 * **Sec. 54.** AS 18.60.093(f) is amended to read:

29 (f) If an employer fails without good cause to appear at a hearing held under
30 this section after receiving proper notice of the hearing, the OSHA Review Board may
31 order the employer to pay all reasonable expenses incurred by the board or the office

1 of administrative hearings (AS 44.21.510) for the hearing, including the board's
2 actual travel expenses and per diem and actual travel expenses and per diem for the
3 hearing officer.

4 * Sec. 55. AS 18.67.040(a) is amended to read:

5 (a) Upon application made under the provisions of this chapter, the board shall
6 consider the application and rule on it. The board may, upon its own motion, order a
7 hearing, specifying the time and place it is to be held after consulting with the office
8 of administrative hearings (AS 44.21.510). If [; IF] a hearing is ordered, the board
9 shall give notice to the applicant. If, after consideration without a hearing, the
10 decision is unfavorable to the applicant, in whole or in part, the board shall furnish the
11 applicant a written statement of the reason for the ruling. If, within 30 days after
12 receipt of this statement, the applicant requests a hearing on the application, the board
13 shall specify a time and place for a hearing after consulting with the office of
14 administrative hearings. and shall give notice to the applicant. If a request for a
15 hearing is not made within the specified time, the decision of the board is final.

16 * Sec. 56. AS 18.67.040(b) is amended to read:

17 (b) For the purpose of carrying out the provisions of this chapter, the office of
18 administrative hearings (AS 44.21.510) shall [BOARD OR ITS HEARING
19 OFFICER MAY] hold the hearings, sit and act at the times and places, and take the
20 testimony that the [BOARD OR THE] hearing officer considers advisable. The
21 [BOARD OR ITS] hearing officer may administer oaths or affirmations to witnesses.
22 The hearing officer [BOARD] has full powers of subpoena and compulsion of
23 attend . . . of witnesses and production of documents, but a subpoena may not be
24 issued except under the signature of a member of the board. Application to a court for
25 aid in enforcing the subpoena may be made in the name of the board only by a board
26 member. Subpoenas are served by any person designated by the hearing officer or
27 the board.

28 * Sec. 57. AS 18.67.040(c) is amended to read:

29 (c) The applicant and any other person having a substantial interest in a
30 proceeding may appear and be heard, produce evidence, and cross-examine witnesses
31 in person or by an attorney. The [BOARD OR ITS] hearing officer also may hear

1 other persons who, in the judgment of the [BOARD OR THE] hearing officer, may
2 have relevant evidence to submit.

3 * **Sec. 58.** AS 18.80.060(c) is amended to read:

4 (c) A commissioner or an employee authorized by the commission may
5 administer oaths, certify to all official acts, and issue subpoenas, subpoenas duces
6 tecum, and other process to compel the attendance of witnesses and the production of
7 testimony, records, papers, accounts, and documents in any inquiry or [,] investigation
8 [, HEARING, OR PROCEEDING] before the commission in the state. The hearing
9 officer of the office of administrative hearings (AS 44.21.510) may administer
10 oaths, certify to all official acts, and issue subpoenas, subpoenas duces tecum, and
11 other process to compel the attendance of witnesses and the production of
12 testimony, records, papers, accounts, and documents in any hearing held under
13 this chapter. The commission, a commissioner, or an employee authorized by the
14 commission may petition a court of this state to enforce its subpoenas, subpoenas
15 duces tecum, and other process. The hearing officer may petition a court of this
16 state to enforce subpoenas, subpoenas duces tecum, and other process issued by
17 the hearing officer.

18 * **Sec. 59.** AS 18.80.120 is amended to read:

19 **Sec. 18.80.120. Hearing.** If the informal efforts to eliminate the alleged
20 discrimination are unsuccessful, the executive director shall inform the commission of
21 the failure, and the commission shall provide the respondent and the complainant with
22 notice of the failure and shall serve written notice, together with a copy of the
23 complaint, requiring the person, employer, labor organization, or employment agency
24 charged in the complaint to answer the allegations of the complaint at a hearing
25 [BEFORE THE COMMISSION]. The hearing shall be held by the office of
26 administrative hearings (AS 44.21.510) [COMMISSION] at the location of the
27 [COMMISSION] office unless a party requests a change of venue for good cause
28 shown, and the office [COMMISSION] grants the request. The case in support of the
29 complaint shall be presented before the office [COMMISSION] by the executive
30 director of the commission or a designee who shall be a bona fide resident of the
31 state. The person charged in the complaint may file a written answer to the complaint

1 and may appear at the hearing in person or otherwise, with or without counsel, and
2 submit testimony. The executive director has the power reasonably and fairly to
3 amend the complaint, and the person charged has the power reasonably and fairly to
4 amend the answer. The office of administrative hearings [COMMISSION] is not
5 bound by the strict rules of evidence prevailing in courts of law or equity. The
6 testimony taken at the hearing shall be under oath and shall be recorded.

7 * **Sec. 60.** AS 18.80.145(b) is amended to read:

8 (b) If, within the period allowed, [THE COMMISSION CONDUCTS] a
9 hearing is conducted and [REACHES] a decision is reached under AS 18.80.120 and
10 18.80.130, the decision of the commission is binding on the parties to the court action
11 as to all issues resolved in the hearing but not as to any issues not resolved in the
12 hearing.

13 * **Sec. 61.** AS 18.80.145(c) is amended to read:

14 (c) When proceedings in the superior court are deferred for a hearing and
15 decision [BY THE COMMISSION] under this section, the plaintiff may proceed, after
16 the decision of the commission, as an aggrieved party for the purpose of obtaining
17 judicial review under AS 18.80.135, whether or not the person was a party to, or
18 complainant in, the administrative [COMMISSION] proceedings.

19 * **Sec. 62.** AS 21.06.170(a) is amended to read:

20 (a) With respect to the subject of an examination or [,] investigation [, OR
21 HEARING] being conducted by the director or an examiner, if general written
22 authority has been given the examiner by the director, the director or the examiner
23 may subpoena witnesses and administer oaths or affirmations and examine any person
24 under oath, and may compel the production of records, books, papers, contracts, and
25 other documents by attachments, if necessary. If, in connection with an examination
26 of an insurer, the director desires to examine an officer, director, or manager who is
27 then outside this state, the director is authorized to conduct and to enforce by
28 appropriate and available means an examination under oath in another state or a
29 territory of the United States in which the officer, director, or manager may then
30 presently be, to the full extent permitted by the laws of the other state or territory, this
31 special authorization considered. A hearing officer from the office of

1 administrative hearings (AS 44.21.510) conducting a hearing under this title may,
2 in the course of the hearing, exercise the powers granted to the director under
3 this subsection.

4 * Sec. 63. AS 21.06.170(d) is amended to read:

5 (d) If a person disobeys or resists a lawful order of the hearing officer
6 [DIRECTOR], refuses to respond to a subpoena, refuses to take oath or affirmation as
7 a witness, refuses to be examined, or is guilty of misconduct at a hearing or so near the
8 hearing as to obstruct the proceeding, the hearing officer [DIRECTOR] shall certify
9 the facts to the superior court where the hearing is held, and, upon certification, the
10 court shall issue an order directing the person to appear before the court and show
11 cause why the person should not be punished for contempt.

12 * Sec. 64. AS 21.06.180(a) is amended to read:

13 (a) The office of administrative hearings (AS 44.21.510) [DIRECTOR] may
14 hold hearings for any purpose within the scope of this title considered to be necessary
15 by the director.

16 * Sec. 65. AS 21.06.180(b) is amended to read:

17 (b) The office of administrative hearings (AS 44.21.510) [DIRECTOR] shall
18 hold a hearing if required by a provision of this title, or upon written demand to the
19 director by a person aggrieved by an act, threatened act, or failure of the director to
20 act, or by a report, regulation, or order of the director (other than an order for the
21 holding of a hearing, or an order on hearing or under it). A demand must specify the
22 grounds to be relied upon at the hearing as a basis for the relief. Unless postponed by
23 mutual consent or for good cause shown, the hearing shall be held within 30 days after
24 receipt by the director of the written demand.

25 * Sec. 66. AS 21.06.200 is amended to read:

26 Sec. 21.06.200. Notice of hearing. Not less than 20 days in advance, the
27 hearing officer [DIRECTOR] shall give notice of the time and place of the hearing,
28 stating the matters to be considered at the hearing. If the persons to be given notice are
29 not specified in the provision under which the hearing is held, the hearing officer,
30 with assistance from the director, shall give notice to all persons whose pecuniary
31 interests are to be directly and immediately affected by the hearing.

1 * **Sec. 67.** AS 21.06.210(a) is amended to read:

2 (a) The hearing officer [DIRECTOR] shall allow a party to the hearing to
3 appear in person and by counsel, to be present during the giving of all evidence, to
4 have a reasonable opportunity to inspect all documentary evidence and to examine
5 witnesses, to present evidence in support of the party's interest, and to have subpoenas
6 issued by the hearing officer [DIRECTOR] to compel attendance of witnesses and
7 production of evidence in the party's behalf.

8 * **Sec. 68.** AS 21.06.210(b) is amended to read:

9 (b) The hearing officer [DIRECTOR] shall permit to become a party to the
10 hearing by intervention, if timely, any person who was not an original party to the
11 proceeding and whose pecuniary interests are to be directly and immediately affected
12 by the director's order made upon the hearing.

13 * **Sec. 69.** AS 21.06.210(d) is amended to read:

14 (d) Upon written request seasonably made by a party to the hearing and at that
15 person's expense, the hearing officer [DIRECTOR] shall cause a full stenographic
16 record of the proceedings to be made by a competent reporter. If transcribed, a copy
17 of the stenographic record shall be furnished to the director, without cost to the
18 director or the state, and shall be a part of the director's record of the hearing. If
19 transcribed, a copy of the stenographic record shall be furnished to any other party to
20 the hearing at the request and expense of the other party. If no stenographic record is
21 made or transcribed, the hearing officer [DIRECTOR] shall prepare an adequate
22 record of the evidence and of the proceedings.

23 * **Sec. 70.** AS 21.06.210(f) is amended to read:

24 (f) If the parties agree, the hearing officer [DIRECTOR] may conduct a
25 hearing under this section by teleconference.

26 * **Sec. 71.** AS 21.06.210(h) is amended to read:

27 (h) The hearing officer [DIRECTOR] may close a hearing to the public when
28 the hearing officer [DIRECTOR] finds the closure is necessary to protect a person
29 against unwarranted injury or is in the public interest.

30 * **Sec. 72.** AS 21.06.220(a) is amended to read:

31 (a) In conducting the hearing, the hearing officer [DIRECTOR] shall sit in a

1 quasi-judicial capacity. Within 30 days after termination of the hearing, rehearing, or
2 reargument, the director shall make an order on hearing, covering matters involved in
3 the hearing, rehearing, or reargument, and shall give a copy of the order to the same
4 persons given notice of the hearing.

5 * **Sec. 73.** AS 24.60.030 is amended by adding a new subsection to read:

6 (i) Except for supplying information requested by the hearing officer or
7 responding to contacts initiated by the hearing officer, a legislator or legislative
8 employee may not attempt to influence the outcome of an administrative hearing
9 conducted by the office of administrative hearings (AS 44.21.510) by directly or
10 indirectly contacting or attempting to contact the hearing officer assigned to the
11 hearing unless the

12 (1) contact is made in the presence of all parties to the hearing or the
13 parties' representatives and the contact is made a part of the record; or

14 (2) fact and substance of the contact is promptly disclosed by the
15 legislator or legislative employee to all parties to the hearing and the contact is made a
16 part of the record.

17 * **Sec. 74.** AS 25.27.150(e) is amended to read:

18 (e) The hearing officer from the office of administrative hearings
19 (AS 44.21.510) [CONFERENCE OFFICER] shall inform the obligor of the informal
20 conference decision either at the informal conference hearing or within 15 days after
21 the hearing.

22 * **Sec. 75.** AS 25.27.150(f) is amended to read:

23 (f) If the hearing [CONFERENCE] officer determines that withholding will
24 continue, the obligor may request a formal hearing as provided in the department's
25 regulations.

26 * **Sec. 76.** AS 25.27.160(b) is amended to read:

27 (b) Except as provided in (c) of this section, the notice and finding of financial
28 responsibility served under (a) of this section must state

29 (1) the sum or periodic payments for which the alleged obligor is
30 found to be responsible under this chapter;

31 (2) the name of the alleged obligee and the obligee's custodian;

1 (3) that the alleged obligor may appear and show cause in a hearing
2 held by the office of administrative hearings (AS 44.21.510) [AGENCY] why the
3 finding is incorrect, should not be finally ordered, and should be modified or
4 rescinded, because

5 (A) no duty of support is owed; or

6 (B) the amount of support found to be owed is incorrect;

7 (4) that, if the person served with the notice and finding of financial
8 responsibility does not request a hearing within 30 days, the property and income of
9 the person will be subject to execution under AS 25.27.062 and 25.27.230 - 25.27.270
10 in the amounts stated in the finding without further notice or hearing.

11 * Sec. 77. AS 25.27.160(c) is amended to read:

12 (c) If the agency is establishing only a medical support order, the notice and
13 finding of financial responsibility must state

14 (1) that health care insurance shall be provided for the child to whom
15 the duty of support is owed if health care insurance is available to the alleged obligor
16 at a reasonable cost and that the alleged obligor and the other parent shall share
17 equally the cost of the health care insurance and the costs of reasonable health care
18 expenses not covered by insurance;

19 (2) the name of the alleged obligee and the obligee's custodian;

20 (3) that the alleged obligor may appear and show cause in a hearing
21 held by the office of administrative hearings [AGENCY] why the finding is
22 incorrect, should not be finally ordered, and should be modified or rescinded, because

23 (A) no duty of support is owed;

24 (B) health care insurance for the child is not available to the
25 alleged obligor at a reasonable cost;

26 (C) adequate health care is available to the child through the
27 Indian Health Service or other insurance coverage; or

28 (D) there is good cause to allocate the costs of health insurance
29 or uninsured health care expenses unequally between the parents;

30 (4) that, if the person served with the notice under this subsection does
31 not request a hearing within 30 days, a copy of the medical support order will be sent

1 to the person's employer under AS 25.27.063(b) without further notice or hearing for
2 inclusion of the child in family health coverage if it is available through the person's
3 employer.

4 * Sec. 78. AS 27.21.150(a) is amended to read:

5 (a) Within 30 days after an applicant is notified under AS 27.21.140(c) of the
6 commissioner's decision concerning the application, the applicant or a person who is
7 or may be adversely affected by the decision may request a hearing to review the
8 reasons for the decision. The office of administrative hearings (AS 44.21.510)
9 [COMMISSIONER] shall hold the hearing within 30 days after the request, and the
10 commissioner, after consulting with the office, shall notify the interested parties of
11 the hearing at the time the applicant is notified. AS 44.62 (Administrative Procedure
12 Act) applies to a hearing under this section except as provided by regulations adopted
13 under this chapter and under AS 44.21.560.

14 * Sec. 79. AS 27.21.150(c) is amended to read:

15 (c) The hearing officer from the office of administrative hearings who is
16 [PERSON] presiding at the hearing may administer oaths, subpoena witnesses,
17 subpoena written or printed materials, compel the attendance of witnesses or the
18 production of materials, and take evidence including [BUT NOT LIMITED TO]
19 evidence derived from site inspections of the land that will be affected by the permit or
20 revision and other surface coal mining operations conducted by the applicant in the
21 general vicinity of the operation proposed in the application. On the motion of a party
22 or by order of the commissioner, a verbatim record of a hearing required by this
23 chapter shall be made and a transcript made available.

24 * Sec. 80. AS 27.21.170(g) is amended to read:

25 (g) A person with a valid legal interest that might be adversely affected by
26 release of a bond or deposit under this section or a federal, state, or municipal agency
27 that has jurisdiction over an environmental, social, or economic impact involved in the
28 permittee's operation or that has authority to develop and enforce environmental
29 standards with respect to the permittee's operation, may, within 30 days after the last
30 publication of notice required by (a) of this section, file written objections to the
31 request with the commissioner and may request a hearing. A permittee whose request

1 for release of all or part of a bond or deposit is disapproved may request a hearing
2 within 30 days after receipt of written notification of the disapproval under (e) of this
3 section. If a hearing is requested, the commissioner shall, after consulting the office
4 of administrative hearings (AS 44.21.510), inform the interested parties of the time
5 and place of the hearing, and the office of administrative hearings shall hold the
6 hearing within 30 days after the request for the hearing. The commissioner shall
7 publish the date, time, and location of the hearing in a newspaper of general
8 circulation in the locality for two consecutive weeks. The office of administrative
9 hearings [COMMISSIONER] shall conduct the public hearing and any appeal
10 according to the AS 44.62 (Administrative Procedure Act) except as provided by
11 regulations adopted under this chapter or under AS 44.21.560.

12 * Sec. 81. AS 27.21.190(b) is amended to read:

13 (b) The commissioner may not approve an application for revision of a permit
14 unless the commissioner finds that reclamation required by this chapter and the
15 regulations adopted under it can be accomplished under the necessary revisions to the
16 reclamation plan. The commissioner shall establish guidelines for determining the
17 extent of revision for which all permit application requirements and procedures,
18 including notice and hearing, shall apply. A revision that, in the commissioner's
19 determination, requires significant revisions to the applicant's reclamation plan must,
20 at a minimum, be subject to a notice and hearing requirement, with the hearing to be
21 held by the office of administrative hearings (AS 44.21.510).

22 * Sec. 82. AS 27.21.240(c) is amended to read:

23 (c) A person who is or may be adversely affected by a notice of violation or
24 cessation order issued under (a) or (b) of this section, or by a modification, vacation,
25 or termination of the notice or order, may apply to the commissioner for review of the
26 notice or order within 60 days after receipt of the notice or order by the operator or
27 permittee or within 60 days after the modification, vacation, or termination of the
28 notice or order. On receipt of the application, the commissioner shall provide for an
29 investigation and an investigation report, as the commissioner considers appropriate.
30 At the request of the applicant or another person who is or may be adversely affected,
31 the commissioner shall provide for a public hearing to enable the applicant to present

1 information relating to the notice or order or the modification, vacation, or termination
2 of the notice or order. The filing of an application for review under this subsection
3 may not operate as a stay of the order or notice. The commissioner, after consulting
4 with the office of administrative hearings (AS 44.21.510), shall give the applicant
5 and other interested persons written notice of the time and place of the hearing at least
6 five days before the hearing. AS 44.62 ([THE] Administrative Procedure Act
7 [(AS 44.62)] applies to a hearing under this subsection except as provided by
8 regulations adopted under this chapter or under AS 44.21.560.

9 * Sec. 83. AS 27.21.240(e) is amended to read:

10 (e) An applicant for review under (c) of this section may file with the
11 commissioner a written request for temporary relief from a notice or order issued
12 under (a) or (b) of this section before completion of the review of the notice or order.
13 The written request must include a detailed statement of the reasons in support of the
14 request. The commissioner shall expeditiously issue an order granting or denying the
15 temporary relief. If the applicant requests temporary relief from a cessation order
16 issued under (a) or (b) of this section, the commissioner shall issue an order granting
17 or denying the temporary relief within 10 days after the commissioner receives the
18 written request. The commissioner may grant the temporary relief under this
19 subsection only

20 (1) after the office of administrative hearings [COMMISSIONER]
21 holds a hearing in the locality of the permit area on the request for temporary relief in
22 which the parties have an opportunity to be heard;

23 (2) if the applicant shows that there is substantial likelihood that the
24 findings of the commissioner under (d) of this section will be favorable to the
25 applicant; and

26 (3) if the temporary relief will not adversely affect the health or safety
27 of the public or cause significant, imminent, environmental harm to land, air, or water
28 resources.

29 * Sec. 84. AS 34.45.400(c) is amended to read:

30 (c) At the formal hearing, the hearing officer from the office of
31 administrative hearings (AS 44.21.510) [DEPARTMENT] may subpoena witnesses

1 and may administer oaths and make inquiries necessary to determine the validity of
2 the claim. The person aggrieved may present arguments and evidence relevant to the
3 decision or action of the department. If, after the hearing, the department determines
4 that a correction is warranted, the department shall make the correction.

5 * Sec. 85. AS 36.30.615 is amended to read:

6 **Sec. 36.30.615. Hearing on protest appeal.** A hearing on a protest appeal
7 shall be conducted in accordance with AS 36.30.670 and regulations adopted by the
8 commissioner to the extent they do not conflict with regulations adopted under
9 AS 44.21.560.

10 * Sec. 86. AS 36.30.630(a) is amended to read:

11 (a) Except as provided in (b) of this section, a hearing shall be conducted
12 according to AS 36.30.670 and, to the extent they do not conflict with regulations
13 adopted under AS 44.21.560. regulations adopted by the commissioner of
14 administration on a contract controversy appealed to the commissioner of
15 administration or the commissioner of transportation and public facilities or referred to
16 either commissioner under AS 36.30.620(f).

17 * Sec. 87. AS 36.30.635(a) is amended to read:

18 (a) After consultation with the using agency and the attorney general and after
19 a hearing conducted according to AS 36.30.670 and, to the extent they do not
20 conflict with regulations adopted under AS 44.21.560. regulations adopted by the
21 commissioner of administration, the commissioner of administration or the
22 commissioner of transportation and public facilities may debar a person for cause from
23 consideration for award of contracts. Notice of a debarment hearing shall be provided
24 in writing at least seven days before the hearing. The debarment may not be for a
25 period of more than three years.

26 * Sec. 88. AS 36.30.650 is amended to read:

27 **Sec. 36.30.650. Hearing on a suspension.** (a) A person suspended under
28 AS 36.30.635 is entitled to a hearing conducted according to AS 36.30.670 and, to the
29 extent that they do not conflict with regulations adopted under AS 44.21.560.
30 regulations adopted by the commissioner of administration if the person files a written
31 request for a hearing with the commissioner of administration or the commissioner of

1 transportation and public facilities, as appropriate, within seven days after receipt of
2 the notice of suspension under AS 36.30.645.

3 (b) If a suspended person requests a hearing, the commissioner of
4 administration or the commissioner of transportation and public facilities, as
5 appropriate, after consulting with the office of administrative hearings
6 (AS 44.21.510), shall schedule a prompt hearing unless the attorney general
7 determines that a hearing at the proposed time is likely to jeopardize an investigation.
8 A hearing may not be delayed longer than six months after notice of the suspension is
9 provided under AS 36.30.645.

10 * Sec. 89. AS 36.30.670(a) is amended to read:

11 (a) The chief administrative hearing officer (AS 44.21.510)
12 [COMMISSIONER OF ADMINISTRATION OR THE COMMISSIONER OF
13 TRANSPORTATION AND PUBLIC FACILITIES] shall act as a hearing officer [OR
14 APPOINT A HEARING OFFICER] for a hearing conducted under this chapter. The
15 hearing officer shall arrange for a prompt hearing and notify the parties in writing of
16 the time and place of the hearing. The hearing shall be conducted in an informal
17 manner. The provisions of AS 44.62 (Administrative Procedure Act) do not apply to a
18 hearing conducted under this chapter.

19 * Sec. 90. AS 36.30.675(a) is amended to read:

20 (a) The [IF THE COMMISSIONER OF ADMINISTRATION OR THE
21 COMMISSIONER OF TRANSPORTATION AND PUBLIC FACILITIES IS NOT
22 ACTING AS HEARING OFFICER, THE] hearing officer shall recommend a decision
23 to the commissioner of administration or the commissioner of transportation and
24 public facilities, as appropriate, based on the evidence presented. The
25 recommendation must include findings of fact and conclusions of law.

26 * Sec. 91. AS 39.25.120(b) is amended to read:

27 (b) A person holding a position in the partially exempt service is not required
28 to complete an assessment and is not eligible for a hearing [BY THE PERSONNEL
29 BOARD] in case of dismissal, demotion, or suspension. Positions in the partially
30 exempt service are specifically exempt from the rules established under
31 AS 39.25.150(3) - (10), (12), (13), and (16).

1 * Sec. 92. AS 39.25.120(c) is amended by adding a new paragraph to read:

2 (20) the chief administrative hearing officer and hearing officers of the
3 office of administrative hearings established in AS 44.21.510.

4 * Sec. 93. AS 39.25.170(a) is amended to read:

5 (a) An employee in the classified service who is dismissed, demoted, or
6 suspended for more than 30 working days in a 12-month period shall be notified in
7 writing by the employer of the action and the reason for it, [AND] may be heard
8 publicly by a hearing officer from the office of administrative hearings
9 (AS 44.21.510), [THE PERSONNEL BOARD] and may be represented by counsel at
10 the hearing. In order to be heard, the complainant shall request a hearing within 15
11 days of dismissal, demotion, or suspension.

12 * Sec. 94. AS 39.25.176(a) is amended to read:

13 (a) If a person refuses to respond to a subpoena issued under AS 39.25.175, or
14 refuses to testify at a hearing authorized by AS 39.25.170, the hearing officer
15 [PERSONNEL BOARD] may apply to the superior court for an order requiring the
16 person to respond to the subpoena or to testify.

17 * Sec. 95. AS 39.35.030(d) is amended to read:

18 (d) The governor shall appoint two physicians authorized to practice medicine
19 in the state to serve as members of the board and two physicians authorized to practice
20 medicine in the state to serve as alternate members to the physician members of the
21 board. The physicians are members of the board only for the purpose of assisting the
22 hearing officer from the office of administrative hearings (AS 44.21.510) in
23 hearing appeals to determine medical eligibility for disability benefits under
24 AS 39.35.400 and 39.35.410. If the administrator, after making a reasonable effort to
25 secure the participation of two physician members or alternates to serve on a disability
26 appeal, is unable to do so, the hearing officer [BOARD] may hear the appeal with the
27 assistance [PARTICIPATION] of only one physician member or alternate [, IN
28 WHICH CASE, FOR PURPOSES OF A QUORUM, THE BOARD SHALL BE
29 CONSIDERED TO HAVE ONLY ONE PHYSICIAN AS A MEMBER]. The Public
30 Employees' Retirement Board and the Teachers' Retirement Board may submit to the
31 governor a list of recommended physicians to serve on the board. Physician members

1 serve at the pleasure of the governor.

2 * Sec. 96. AS 39.35.047(b) is amended to read:

3 (b) In the conduct of a hearing under this chapter, the hearing officer from
4 the office of administrative hearings (AS 44.21.510) [BOARD] may issue
5 subpoenas, administer oaths, compel the attendance and testimony of witnesses,
6 compel the taking of depositions and the submission of affidavits, and compel the
7 production of documents and records. The hearing officer's [BOARD'S] powers
8 under this subsection do not extend to prehearing discovery. However, upon good
9 cause shown, the hearing officer [BOARD] may permit the preservation of witness
10 testimony if the hearing officer [BOARD] cannot successfully compel the witness to
11 attend a hearing. The board may authorize hearing officers to [CONDUCT
12 HEARINGS UNDER THIS CHAPTER AND] issue binding decisions. The binding
13 [; THE] decision of a hearing officer may be appealed to the board. The board shall
14 adopt procedures for appeals from a hearing officer's binding decision.

15 * Sec. 97. AS 39.35.522(c) is amended to read:

16 (c) The board may arrange with the office of administrative hearings
17 (AS 44.21.510) to conduct a hearing on an appeal under this section.

18 * Sec. 98. AS 39.45.025(a) is amended to read:

19 (a) The Public Employees Retirement Board established by AS 39.35.030
20 shall

21 (1) hold regular and special meetings it considers necessary to carry
22 out its responsibilities relating to the deferred compensation program for state
23 employees; all meetings are open to the public and the board shall keep a full record of
24 all its proceedings;

25 (2) adopt, with modifications it considers proper, regulations
26 recommended by the administrator for carrying out the deferred compensation
27 program for state employees;

28 (3) consider matters referred to it by the administrator in connection
29 with changes in policy and revisions of the deferred compensation program for state
30 employees;

31 (4) act as an appeals board, arrange with the office of administrative

1 hearings (AS 44.21.510) to hold hearings at the request of an employer, employee,
2 surviving spouse, or a beneficiary on decisions made by the administrator that relate to
3 the deferred compensation program for state employees, and submit its findings to the
4 administrator;

5 (5) prescribe the policies for the proper operation of the deferred
6 compensation program for state employees and take other action that it considers
7 necessary to carry out the intent and purpose of the program.

8 * **Sec. 99.** AS 39.52.120 is amended by adding a new subsection to read:

9 (e) Except for supplying information requested by the hearing officer or
10 responding to contacts initiated by the hearing officer, a public officer may not attempt
11 to influence the outcome of an administrative hearing conducted by the office of
12 administrative hearings (AS 44.21.510) by directly or indirectly contacting or
13 attempting to contact the hearing officer assigned to the hearing unless the

14 (1) contact is made in the presence of all parties to the hearing or the
15 parties' representatives and the contact is made a part of the record; or

16 (2) fact and substance of the contact is promptly disclosed by the
17 public officer to all parties to the hearing and the contact is made a part of the record.

18 * **Sec. 100.** AS 39.52.350(c) is amended to read:

19 (c) If the subject of the accusation denies that a violation of this chapter has
20 occurred, the attorney general shall refer the matter to the chief administrative
21 hearing officer (AS 44.21.510). who [PERSONNEL BOARD, WHICH] shall appoint
22 a hearing officer to conduct a hearing.

23 * **Sec. 101.** AS 41.17.045(a) is amended to read:

24 (a) The governor may initiate the removal of a board member for inefficiency,
25 neglect of duty, or misconduct in office by delivering to the member a written copy of
26 the charges and giving the member an opportunity to be heard in person or by counsel
27 at a public hearing before a hearing officer of the office of administrative hearings
28 (AS 44.21.510) [THE GOVERNOR OR THE GOVERNOR'S DESIGNEE] on at least
29 10 days' written notice by registered mail. The member has a right of confrontation
30 and cross-examination of witnesses testifying.

31 * **Sec. 102.** AS 41.17.139(a) is amended to read:

1 (a) Unless otherwise specified, proceedings under AS 41.17.131 - 41.17.139
2 are not subject to AS 44.62 (Administrative Procedure Act). A hearing under
3 AS 41.17.136 or 41.17.138 shall be held before [THE STATE FORESTER, A
4 REGIONAL FORESTER, OR ANOTHER EMPLOYEE OF THE DIVISION WITH
5 SIMILAR QUALIFICATIONS ACTING AS] a hearing officer of the office of
6 administrative hearings (AS 44.21.510). A hearing on an appeal under
7 AS 41.17.087 and a hearing under AS 41.17.082(b) shall also be held before a
8 hearing officer of the office of administrative hearings [THE COMMISSIONER
9 OR THE COMMISSIONER'S DESIGNEE. A PERSON WHO HAS ASSISTED IN
10 THE PREPARATION OF THE DIVISION'S CASE IS INELIGIBLE]. Hearings are
11 not limited by common law, statutory, or judicial rules of evidence; however, the
12 hearing officer may admit only that evidence that appears to be reliable and
13 trustworthy. All hearings shall be open to the public. Written or oral testimony may
14 be submitted. A party to a hearing may make written or oral argument, secure the
15 issuance of a subpoena under AS 44.62.430, offer testimony or other evidence, and
16 cross-examine witnesses. The hearing officer shall endeavor, in conducting any
17 hearing, to ensure that the respondent understands the proceedings and that the facts
18 supporting the position of each party have been adequately presented.

19 * **Sec. 103.** AS 43.23.015(g) is amended to read:

20 (g) If an individual is aggrieved by a decision of the department determining
21 the individual's eligibility for a permanent fund dividend or the individual's authority
22 to claim a permanent fund dividend on behalf of another, the individual may, upon
23 payment of a \$25 appeal fee, request the department to review its decision. Within 12
24 months after the administrative appeal is filed and after a hearing conducted by the
25 office of administrative hearings (AS 44.21.510), the department shall provide the
26 individual with a final written decision. If the individual is aggrieved by the decision
27 of the department after all administrative proceedings, the individual may appeal that
28 decision to the superior court in accordance with AS 44.62.560. An appeal to the court
29 under this section does not entitle the aggrieved individual to a trial de novo. The
30 appeal shall be based on the record of the administrative proceeding from which
31 appeal is taken and the scope of appeal is limited to matters contained in the record of

1 the administrative proceeding. If, as a result of an administrative proceeding or a court
2 appeal, the individual prevails, the \$25 appeal fee shall be returned to the individual
3 by the department.

4 * Sec. 104. AS 43.23.066(c) is amended to read:

5 (c) AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual
6 under (b)(3) of this section. The hearing shall be conducted by the office of
7 administrative hearings (AS 44.21.510).

8 * Sec. 105. AS 43.23.068(c) is amended to read:

9 (c) AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual
10 under (b)(3) of this section. The hearing shall be conducted by the office of
11 administrative hearings (AS 44.21.510).

12 * Sec. 106. AS 43.23.072(c) is amended to read:

13 (c) Except as provided in (d) of this section, AS 44.62.330 - 44.62.630 apply
14 to a hearing requested by an individual under (b) of this section. The hearing shall be
15 conducted by the office of administrative hearings (AS 44.21.510) and

16 (1) is limited to issues of identity of the individual and whether an
17 amount is still owing in the claim under AS 23.20; and

18 (2) may be conducted telephonically or in writing.

19 * Sec. 107. AS 43.70.075(m) is amended to read:

20 (m) The department may initiate suspension of a business license endorsement
21 or the right to obtain a business license endorsement under this section by sending the
22 person subject to the suspension a notice by certified mail, return receipt requested, or
23 by delivering the notice to the person. The notice must contain information that
24 informs the person of the grounds for suspension, the length of any suspension sought,
25 and the person's right to administrative review [BEFORE THE DEPARTMENT]. A
26 suspension begins 30 days after receipt of notice described in this subsection unless
27 the person delivers a timely written request for a hearing to the department in the
28 manner provided by regulations of the department. If a hearing is requested under this
29 subsection, a hearing officer of the office of administrative hearings (AS 44.21.510)
30 [DEPARTMENT] shall determine the issues by using the preponderance of the
31 evidence test and shall, to the extent they do not conflict with regulations adopted

1 under AS 44.21.560, conduct the hearing in the manner provided by regulations of the
2 department. A hearing under this subsection is limited to the following questions:

3 (1) was the person holding the business license endorsement, or an
4 agent or employee of the person while acting within the scope of the agency or
5 employment of the person, convicted by plea or judicial finding of violating
6 AS 11.76.100, 11.76.106, or 11.76.107;

7 (2) if the department does not allege a conviction of AS 11.76.100,
8 11.76.106, or 11.76.107, did the person, or an agent or employee of the person while
9 acting within the scope of the agency or employment of the person, violate a provision
10 of (a) or (g) of this section;

11 (3) within the 24 months before the date of the department's notice
12 under this subsection, was the person, or an agent or employee of the person while
13 acting within the scope of the agency or employment of the person, convicted of
14 violating AS 11.76.100, 11.76.106, or 11.76.107 or adjudicated for violating a
15 provision of (a) or (g) of this section.

16 * Sec. 108. AS 43.70.075(q) is amended to read:

17 (q) The department may adopt regulations that do not conflict with
18 regulations adopted under AS 44.21.510 to establish an administrative hearing
19 process for actions taken [BY THE DEPARTMENT] under this section. AS 44.62
20 (Administrative Procedure Act) does not apply to a hearing under this section.

21 * Sec. 109. AS 44.62.350(a) is amended to read:

22 (a) The governor shall assign a qualified, unbiased, and impartial hearing
23 officer, with experience in the general practice of law, to conduct hearings under this
24 chapter that are not conducted by the office of administrative hearings
25 (AS 44.21.510). A [. THE] hearing officer may perform other duties in connection
26 with the administration of this chapter and other laws.

27 * Sec. 110. AS 44.62.450(a) is amended to read:

28 (a) A hearing in a contested case shall be presided over by a hearing officer.
29 Unless the hearing is conducted by the office of administrative hearings
30 (AS 44.21.510), the [THE] agency itself shall determine whether the hearing officer
31 hears the case alone or whether the agency hears the case with the hearing officer.

1 * Sec. 111. AS 44.77.040(a) is amended to read:

2 (a) The Department of Administration, after consulting with the office of
3 administrative hearings (AS 44.21.510), shall fix a time for hearing the appeal and
4 shall notify the claimant and the officer who approved the voucher and give them a
5 reasonable opportunity to be heard. The hearing shall be conducted by the office of
6 administrative hearings.

7 * Sec. 112. AS 45.30.040(c) is amended to read:

8 (c) Whenever it determines that there may be a violation of the provisions of
9 this chapter by a manufacturer or dealer of mobile homes, the department may give
10 notice of hearing, and, within 30 days after giving notice, [HOLD] a hearing shall be
11 held by the office of administrative hearings (AS 44.21.510) to determine whether
12 there has been a violation. After notice and hearing,

13 (1) if the department finds that there has been a violation of the
14 provisions of this chapter, the department may issue an order directing that the person
15 who is violating the provision cure the violation in a reasonable time and in a
16 reasonable manner;

17 (2) if the department determines that violations of the provisions of
18 this chapter are regular and recurring, it may require forfeiture of the bond to the
19 benefit of the state and arrange for distribution of the proceeds of the bond to the
20 mobile home owners injured by the activities of the dealer or manufacturer, or to
21 mobile home dealers injured by the activities of the manufacturer.

22 * Sec. 113. AS 45.55.935 is amended to read:

23 **Sec. 45.55.935. Hearings.** (a) The administrator shall adopt regulations,
24 consistent with the provisions of this chapter and with regulations adopted under
25 AS 44.21.560, governing administrative hearings conducted by the office of
26 administrative hearings (AS 44.21.510) [ADMINISTRATOR OR A DESIGNEE OF
27 THE ADMINISTRATOR] for the following:

28 (1) orders issued under AS 45.55.120, 45.55.900(d), or 45.55.920; in
29 these instances, the administrator shall promptly send a notice of opportunity for
30 hearing to the issuer of the securities and to all persons who have filed with the
31 department a notice of intention to sell the securities; and

1 (2) orders issued under AS 45.55.060; before the administrator enters
2 an order under AS 45.55.060, the administrator shall send to the person involved a
3 notice of opportunity for hearing; if the person involved is an agent or investment
4 adviser representative, then the administrator shall, in addition, notify the employing
5 broker-dealer, state investment adviser, federal covered adviser, or issuer.

6 (b) In conducting a hearing in accordance with (a) of this section, the hearing
7 officer [ADMINISTRATOR] may issue a subpoena to compel the attendance of any
8 witness or party and to compel production of evidence.

9 * Sec. 114. AS 45.55.950(e) is amended to read:

10 (e) Every hearing in an administrative proceeding shall be public unless the
11 hearing officer. [ADMINISTRATOR] in the exercise of discretion, grants a request
12 joined in by all the respondents that the hearing be conducted privately.

13 * Sec. 115. AS 45.57.020(a) is amended to read:

14 (a) An offeror may not make a takeover bid unless at least 20 days before the
15 bid the offeror files with the department and with the registered agent of the offeree
16 company a statement containing all the information required by (c) of this section and
17 either

18 (1) within 10 days following the filing no hearing has been ordered by
19 the department or requested by the offeree company; or

20 (2) a hearing has been ordered within that time and, after [UPON] the
21 hearing conducted by the office of administrative hearings (AS 44.21.510), the
22 department has decided [ADJUDICATED] that the offeror proposed to make fair,
23 full, and effective disclosure to offerees of all information material to a decision to
24 accept or reject the offer.

25 * Sec. 116. AS 45.57.020(b) is amended to read:

26 (b) A hearing shall begin within 20 days of the date of filing of the statement,
27 and adjudication shall be made within 30 days of the filing unless extended by the
28 hearing officer [DEPARTMENT] for the convenience of the parties or protection of
29 the offerees.

30 * Sec. 117. AS 46.03.820(c) is amended to read:

31 (c) In the commissioner's discretion or upon application made by the recipient

1 of an order within 15 days of receipt of the order, the department, after consulting
2 with the office of administrative hearings (AS 44.21.510), shall schedule a hearing
3 at the earliest possible time. The hearing shall be scheduled within five days of the
4 receipt of the application. The submission of an application or the scheduling of a
5 hearing does not stay the operation of the department's order issued under (a) of this
6 section.

7 * **Sec. 118.** AS 46.03.850(e) is amended to read:

8 (e) The office of administrative hearings (AS 44.21.510) [DEPARTMENT]
9 shall hold a hearing within 20 days after the department receives [RECEIPT OF] a
10 request for one under (d) of this section. After the hearing, the department may
11 rescind, modify, or affirm the compliance order.

12 * **Sec. 119.** AS 46.14.410(a) is amended to read:

13 (a) If a municipality or a local air quality district has an approved local air
14 quality control program under AS 46.14.400 and the department determines that the
15 program is being implemented in a manner that fails to meet the terms of the
16 cooperative agreement or is otherwise being inappropriately administered, the
17 department shall give written notice setting out its determination to the municipality or
18 local air quality district. Within 45 days after [GIVING] written notice was given, the
19 office of administrative hearings (AS 44.21.510) [DEPARTMENT] shall conduct a
20 public hearing on the matter. The hearing shall be recorded by any means that ensures
21 an accurate record.

22 * **Sec. 120.** AS 46.15.065(c) is amended to read:

23 (c) The commissioner shall make investigations as necessary of rights asserted
24 by declarations filed under this section and shall determine each existing appropriation
25 and mail a summary of the determination to each person who has filed a declaration
26 with respect to the specified area or source. Any person adversely affected by a
27 determination may file with the commissioner a request for a hearing within 20 days
28 of the date the notice is mailed. If a hearing is requested, the commissioner shall,
29 after consulting with the office of administrative hearings (AS 44.21.510), send a
30 notice of the time and place of the hearing to each person who has filed a declaration.

31 * **Sec. 121.** AS 46.35.090(c) is amended to read:

1 (c) A hearing officer appointed by the chief administrative hearing officer
2 (AS 44.21.510) [UNDER AS 44.62.350] shall preside at hearings under this section,
3 rule on the admission and exclusion of evidence, advise the deciding officers on
4 matters of law, and participate in posthearing deliberations.

5 * Sec. 122. AS 46.35.090(e) is amended to read:

6 (e) The commissioner, after consultation with other state agencies and local
7 government, shall adopt regulations governing the conduct of adjudicatory hearings
8 under this section that do not conflict with regulations adopted under
9 AS 44.21.560. The commissioner may enter into cooperative agreements with local
10 governments and federal agencies for the joint holding of adjudicatory hearings. To
11 the extent feasible, regulations adopted under this section must conform to
12 adjudicatory hearing procedures for the review of permit decisions under AS 46.03
13 and AS 46.04. Notwithstanding AS 44.62.330(a)(44), adjudicatory hearing procedures
14 to review permit decisions under AS 46.35.010 - 46.35.210, or under AS 46.03 or
15 AS 46.04, need not conform to AS 44.62.330 - 44.62.630 (Administrative Procedure
16 Act).

17 * Sec. 123. AS 46.40.100(b) is amended to read:

18 (b) A party that is authorized under (g) of this section may file a petition
19 showing that a district coastal management program is not being implemented. A
20 petition filed under this subsection may not seek review of a proposed or final
21 consistency determination regarding a specific project. On receipt of a petition, the
22 council, after giving public notice in the manner required by (f) of this section, shall
23 arrange with the office of administrative hearings (AS 44.21.510) to conduct
24 [CONVENE] a hearing to consider the matter. A hearing called under this subsection
25 shall be held in accordance with regulations adopted by the council to the extent that
26 they do not conflict with regulations adopted under AS 44.21.560. After hearing,
27 the council may order that the coastal resource district or a state resource agency take
28 any action with respect to future implementation of the district coastal management
29 program that the council considers necessary, except that the council may not order
30 that the coastal resource district or a state agency take any action with respect to a
31 proposed or final consistency determination that has been issued.

1 * **Sec. 124.** AS 46.40.100(f) is amended to read:

2 (f) Upon receipt of a petition under (b) of this section and after consulting
3 with the office of administrative hearings, the council shall give notice of the
4 hearing at least 10 days before the scheduled date of the hearing. The notice must

5 (1) contain sufficient information in commonly understood terms to
6 inform the public of the nature of the petition; and

7 (2) indicate the manner in which the public may comment on the
8 petition.

9 * **Sec. 125.** AS 47.30.031(a) is amended to read:

10 (a) The board shall adopt regulations under AS 44.62 (Administrative
11 Procedure Act) consistent with state law and the fiduciary responsibilities imposed by
12 law on members of boards of directors of corporations having trust responsibilities
13 and consistent with regulations adopted under AS 44.21.560.

14 * **Sec. 126.** AS 47.45.050 is amended to read:

15 **Sec. 47.45.050. Department hearing.** The Department of Administration
16 may arrange with the office of administrative hearings (AS 44.21.510) to hold a
17 [DEPARTMENTAL] hearing upon the request of an applicant or recipient who has
18 been disqualified. Before this hearing the department shall by certified mail notify an
19 applicant or recipient in plain and comprehensive language the exact reason for the
20 disqualification. Form letters using only referral to state statutes or department
21 regulations, or otherwise vague in detail, are not considered compliance by the
22 department with this section.

23 * **Sec. 127.** AS 39.25.070(3) is repealed.

24 * **Sec. 128.** The uncodified law of the State of Alaska is amended by adding a new section
25 to read:

26 **TRANSITION.** (a) Upon the initial appointment of the chief administrative hearing
27 officer under AS 44.21.510(c), added by sec. 2 of this Act, the chief administrative hearing
28 officer and the commissioner of administration, the commissioner of community and
29 economic development, the commissioner of revenue, and the governor's office shall identify
30 hearing officers and support staff to be transferred to the office of administrative hearings. A
31 state employee who is transferred under this section from another agency to the office of

1 administrative hearings shall continue to be compensated at the same range and step of the
2 salary schedule in AS 39.27.011(a) that the employee was receiving before the transfer, and
3 qualifies for salary increases authorized under AS 39.27.011 and 39.27.022.

4 (b) Procedural regulations of an agency that refers an administrative hearing to the
5 office of administrative hearings shall apply to the hearing until regulations adopted under
6 AS 44.21.560(a), added in sec. 2 of this Act, become effective.



PERFORMANCE AUDIT REPORT

Centralized Administrative Hearings: Reviewing the Advantages and Disadvantages

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
March 2001**

APPENDIX C

Survey of 8 States' Centralized Administrative Hearing Offices

The following table shows the results of a phone and e-mail survey of 8 states' centralized administrative hearing offices. This data is entirely self-reported and we didn't seek to verify the accuracy of any of the data.

Summary of Interviews with Other States with Centralized Administrative Hearings Offices

Agency Name	Independent ¹ Agency or Part of Another Agency	Unique Features of Agency Structure or Operations	Year Established	How Many Agencies Conduct Hearings For?	How Is the Agency Funded?	Who has Final Decision: Hearing Officer or Agency?	Are Hearing Officers Cross-Trained or Do They Specialize?	Negative Experiences	Positive Experiences
Arizona Office of Administrative Hearings	Independent	Not applicable	1996	about 30	Combination of billing agencies for services provided, general appropriations, and federal funds.	Agency, except for Dept. of Revenue cases	Assigned to subject area "cadres," but will handle other types of cases when needed.	None	<ul style="list-style-type: none"> • Appearance of independence is important to citizens, and it increases the integrity of the hearing process. • Cross-training hearing officers increases objectivity & efficiency. • Office is able to attract higher quality employees. • According to the 2000 Annual Report, 91% of the Office's decisions were accepted by the agencies in question.
Iowa Division of Administrative Hearings	Part of another agency	<ul style="list-style-type: none"> • The Division got most of the original staff from the Dept. of Transportation. Other agency staff were added later. • Agencies that had FTE staff who were transferred to the Division aren't billed by the Division for services. • If an agency thinks the hearing officer doesn't have enough expertise, the agency can provide training to the hearing officer at the agency's expense. 	1986	55	Combination of use tax appropriation, general appropriations, and billing agencies for services provided.	Agency	Specialized by subject matter, but also cross-trained to handle other cases as needed.	None	<ul style="list-style-type: none"> • Citizens of the state now have independent hearings. • The Division can do more with fewer people because staff are cross-trained.

¹ "Independent" is defined as completely autonomous agency--not in any way a part of another agency.

Agency Name	Independent Agency or Part of Another Agency	Unique Features of Agency Structure or Operations	Year Established	How Many Agencies Conduct Hearings For?	How Is the Agency Funded?	Who has Final Decision: Hearing Officer or Agency?	Are Hearing Officers Cross-Trained or Do They Specialize?	Negative Experiences	Positive Experiences
Maryland Office of Administrative Hearings	Independent	Not applicable	1990	20	Agencies pay a prorated amount of the Office's budget, based on services provided.	90% hearing officer 10% agency	Cross-trained	None	<ul style="list-style-type: none"> Professional hearing officers who know the process are more efficient. Cross-training staff has reduced employee burnout. The Office is doing the same work with fewer employees than it had 10 years ago.
Michigan Bureau of Hearings	Part of another agency	Not applicable	1999	9	Agencies pay a prorated amount of the Office's budget, based on services provided.	80% agency 20% hearing officer	Cross-trained central pool, with some specialization.	No systematic problems, just internal growing pains.	Cross-trained hearing officers allow for more fluid scheduling.
Minnesota Office of Administrative Hearings	Independent	Cases heard by the Office include Workers' Compensation cases.	1976	about 45 state agencies & local govt. entities	Combination of general appropriations and billing agencies for services provided.	Most hearing officer	Specialized into 3 groups—one for Workers Compensation, one for environmental & natural resources cases, & another for everything else; moving towards cross-training.	None	The state has gained independence & fairness in decision-making.

Agency Name	Independent Agency or Part of Another Agency	Unique Features of Agency Structure or Operations	Year Established	How Many Agencies Conduct Hearings For?	How Is the Agency Funded?	Who has Final Decision: Hearing Officer or Agency?	Are Hearing Officers Cross-Trained or Do They Specialize?	Negative Experiences	Positive Experiences
Missouri Office of Administrative Hearings Commission	Part of another agency	<ul style="list-style-type: none"> There are only 3 commissioners, appointed by the Governor for 6-year terms, who handle all the cases. In order for a licensing agency to revoke a person's license, the agency has to file its case with the Commission who makes a decision the agency must abide by or take to court. About 85% of the caseload is from the Dept. of Revenue. 	1965	102	General appropriations. Licensing agencies pay billed hourly fees into the general fund for services provided.	The Commission's decision is final.	Not applicable	None	Licensees are getting a fair, unbiased hearing.
Oregon Hearing Officer Panel	Part of another agency	Staff have physically remained in the agencies where they were, but now are employed by the Central Panel.	1999	75	60% federal funds, 35% billing agencies for services provided, 5% general appropriations.	97% hearing officer 3% agency	Specialized, with some cross-training.	Hard to create new culture and communicate effectively, given hearing officers' physical locations.	<ul style="list-style-type: none"> Neutrality of hearing officers is gained. Because hearing officers now work for one agency they can be allocated to where the demand for hearings services is.
Texas State Office of Administrative Hearings	Independent	The centralized office first included all agencies that didn't have hearing officers in-house. Other agencies were transferred later.	1992	60	Combination of general appropriations and billing agencies on an hourly or annual basis for services provided.	Most agency; hearing officer in some cases	Both—hearing officers are assigned to subject area teams, but hear a variety of cases.	Have had difficulties identifying appropriate method & level of funding.	<ul style="list-style-type: none"> There's been an increased public perception of fairness in the process. All agencies have access to high quality judicial services, delivered promptly & efficiently. The state has saved money overall.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 203
 () Publish Date: _____

Revision Date/Time (Note if correction): _____
 Title Office of Administrative Hearings
 Dept. Affected: DCED
 BRU Occupational Licensing (117)
 Component Occupational Licensing
 Sponsor Rules by Request
 Requester Senate State Affairs
 Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1007 - Inter-Agency Receipts						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 140.7
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

POSITIONS	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Full-time	-2					
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB 203 establishes an Office of Administrative Hearings in the Department of Administration. Under the new Office of Administrative Hearings, the Division of Occupational Licensing would transfer its current Hearing Examiner (PCN 08-1040) and Law Office Assistant (PCN 08-1038) included in the FY04 budget request.

The fund source for these positions and related costs are receipt supported services (RSS) from licensing fees. When the positions are transferred to the new Office, it is anticipated that receipts from licensing fees (RSS) will be transmitted via Inter-Agency Receipts to support the hearing services requested by Occupational Licensing.

Prepared by: Jennifer Strickler, Administrative Manager Phone 907-465-2144
 Division: Occupational Licensing Date/Time 5/6/03 11:57 AM
 Approved by: Edgar Blatchford, Commissioner Date 5/6/2003
 Agency: Department of Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSSB203
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title "An Act relating to certain BRU Centralized Administrative Services
administrative hearings..." Component Office of Tax Appeals
Sponsor Rules
Requester State Affairs Component No. 2131

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	(90.9)	(90.9)	(90.9)	(90.9)	(90.9)	(90.9)
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	(90.9)	(90.9)	(90.9)	(90.9)	(90.9)	(90.9)

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

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
1007 Interagency Receipts	(40.9)	(40.9)	(40.9)	(40.9)	(40.9)	(40.9)
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	(90.9)	(90.9)	(90.9)	(90.9)	(90.9)	(90.9)

Estimate of any current year (FY2003) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	-1	-1	-1	-1	-1	-1
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

SB 203 creates the Office of Administrative Hearings in the Department of Administration and transfers to it the Office of Tax Appeals Hearing Officer position.

Prepared by: Kevin Jardell, Assistant Commissioner Phone _____
Division: Commissioner's Office Date/Time 5/6/03 2:30 PM
Approved by: Mike Miller, Commissioner Date 5/6/2003
Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB203
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Office of Administrative Hearings BRU Administration and Support
 Component Commissioner's Office
 Sponsor Rules Committee
 Requester Senate State Affairs Committee Component No. 123

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	(379.4)	(379.4)	(379.4)	(379.4)	(379.4)	(379.4)
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(379.4)	(379.4)	(379.4)	(379.4)	(379.4)	(379.4)

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	(45.6)	(45.6)	(45.6)	(45.6)	(45.6)	(45.6)
1005 GF/Program Receipts						
1113 Indirect Cost Reimbursement	(189.2)	(189.2)	(189.2)	(189.2)	(189.2)	(189.2)
1007 Inter-agency Receipts	(144.6)	(144.6)	(144.6)	(144.6)	(144.6)	(144.6)
TOTAL	(379.4)	(379.4)	(379.4)	(379.4)	(379.4)	(379.4)

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	-5	-5	-5	-5	-5	-5
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 This legislation would transfer the Department of Revenue's three hearing examiners and two support staff positions to the newly created Office of Administrative Hearings at the Department of Administration. Department of Revenue hearing examiners currently hear appeals of child support orders and modifications, Permanent Fund dividend eligibility cases and charitable gaming license cases.

 The fiscal note shows the transfer of five positions and the accompanying funding for those positions. The Indirect Cost Reimbursement funding source is federal money allocated to the Department of Revenue as reimbursement for the cost of hearing child support cases. The Inter-agency Receipt funding is Permanent Fund Dividend funding allocated to the department for the cost of hearing dividend eligibility cases.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
 Division Department of Revenue Date/Time 5/6/03 10:19 AM
 Approved by: Larry Persily, Deputy Commissioner Date 5/6/2003
 Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB203
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title "An Act relating to certain BRU Administrative Hearings
administrative hearings..." Component Administrative Hearings
 Sponsor Rules
 Requester State Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	686.6	686.6	686.6	686.6	686.6	686.6
Travel	15.0	15.0	15.0	15.0	15.0	15.0
Contractual	35.0	35.0	35.0	35.0	35.0	35.0
Supplies	6.0	3.0	3.0	3.0	3.0	3.0
Equipment	4.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	746.6	739.6	739.6	739.6	739.6	739.6

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

1040 Real Estate Surety	12.1	12.1	12.1	12.1	12.1	12.1
1156 Rcpt. Sup. Svcs.	142.0	142.0	142.0	142.0	142.0	142.0
1004 GF	258.4	251.4	251.4	251.4	251.4	251.4
1007 Interagency Receipts	167.9	167.9	167.9	167.9	167.9	167.9
1133 Indirect Cost Reimb.	166.2	166.2	166.2	166.2	166.2	166.2
Other (Specify Type--Do not abbreviate)						
TOTAL	746.6	739.6	739.6	739.6	739.6	739.6

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	8	8	8	8	8	8
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)
 SB 203 establishes the Office of Administrative Hearings (OAH) in the Department of Administration. The OAH will conduct administrative hearings under the direction of the Chief Administrative Hearing Officer.

This fiscal note includes personal services and associated costs for the new Chief Administrative Hearing Officer position as well as five additional hearing officer positions and two support staff positions which will be transferred from the Departments of Revenue, Community and Economic Development, and Administration.

Although precise numbers are as yet unknown, budget savings are expected to result from the creation of the OAH. The new office will be able to conduct hearings that otherwise would have been contracted out. Economies of scale may produce additional savings.

Prepared by: Kevin Jardell, Assistant Commissioner Phone _____
 Division: Commissioner's Office Date/Time: 5/6/03 2:31 PM
 Approved by: Mike Miller, Commissioner Date: 5/6/2003
 Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 203
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title: "An Act relating to certain administrative BRU Civil Division
hearings; . . . the office of administrative hearings . . ." Component All
Sponsor: Senate Rules Committee by Request
Requester: Senate State Affairs Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	0.0	0.0	0.0	0.0

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

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*****	*****	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

POSITIONS	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill establishes the Office of Administrative Hearings in the Department of Administration. The office will conduct all adjudicative administrative hearings for an extensive list of state programs, including alcoholic beverage licensing, charitable gaming, banking, occupational licensing, and oil and gas exploration, production, and pipeline transportation property taxes, among others.

The fiscal impact on the Department of Law from this bill will be during the first year or two of transition from the current structure of agency hearing officers to the centralized Office of Administrative Hearings. Hundreds of pages of regulations directing how the current adjudicative process is handled will need to be rewritten to implement the new process. Boards, commissions, and agency staff will need to be trained. Whether or not the new workload can be absorbed with existing staff will depend on how quickly the revised regulations need to be implemented. This will likely

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division: Attorney General's Office Date/Time 5/6/03 10:50 AM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 5/6/2003
Agency: Department of Law

FISCAL NOTE

**STATE OF ALASKA
2003 LEGISLATIVE SESSION**

BILL NO. SB 203

ANALYSIS CONTINUATION

vary from agency to agency. If any of the regulations projects assume an urgency that existing staff cannot meet, outside contract counsel may be necessary to handle them. Given the uncertainty, we cannot estimate what the potential cost might be.

Revised

**SB-203
Fair Hearing Bill**

**Senate State Affairs Committee
Bill Reference Work Sheet**

Changes to SB 203 as reflected in the blank CS work document 23-LSO903\Q

1. Page 2, lines 27-31: deleted position of administrative assistant.
2. Page 3, line 13: replaced the words [provide and coordinate] with make available and facilitate.
3. Page 6, under Hearing Officers (a): added a requirement that candidates for the position must have been practicing law in this state for at least two years.
4. Page 6, lines 6 -7, under Hearing Officers (a) added a requirement that hearing officers be subject to personnel rules adopted under AS 39. 25.150 (7), (15), and (16). These are the same rules that apply to Division of Election employees.
5. Page 6, under Hearing Officers: removed (c) – (2), blanket prohibition of private law practice by hearing officers.
6. Page 7, under Procedure for hearings: amended subsection (c) and added a new subsection (d) to insure hearing officers have an impartial disciplinary hearing by the Attorney General instead of the Chief Hearing Officer.
7. Page 8, under Procedure for hearings (c): removed the ability for agencies to circumvent the 90-day maximum time limit through the promulgation of regulations.

An Act establishing an Independent Office of Administrative Hearings.

Section By Section Quick Reference

- Section 1.** Purpose and intent
- Section 2.**
- 44.21.510 Establishes location of independent office of administrative hearings and qualifications and compensation of chief hearing officer.
 - 44.21.520 Powers and duties of chief hearing officer.
 - 44.21.530 Administrative hearing functions to be included in the new independent office. Provisions of service and delegation of decision authority.
 - 44.21.540 Hearing officer qualifications and duties. Authority for chief administrative hearing officer to enter into contracts with qualified individuals to serve as hearing officers.
 - 44.21.550 Code of conduct for hearing officers.
 - 44.21.560 Establishment of procedures for administrative hearings, including time limits, decision authority, and rules for altering a hearing officer decision.
 - 44.21.570 Disqualification of hearing officer.
 - 44.21.580 Agency cooperation with hearing officers. Selection of hearing officers. Non-interference.
 - 44.21.590 Administrative hearing records. Record keeping requirements.
 - 44.21.599 Definitions
- Sections 3 – 72 Conforming technical amendments to affected statutes.
- Section 73 24.60.030 Prohibits legislative influence.

Sections 74 – 98	Conforming technical amendments to affected statutes.
Section 99	39.52.120 Prohibits agency influence.
Section 100 – 127	Conforming technical amendments to affected statutes.
Section 128	Transition authority to accommodate administrative process.

SENATE BILL NO. 203

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to certain administrative hearings; and establishing the office of
2 administrative hearings and relating to that office."

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

4 * Section 1. The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 PURPOSE AND INTENT. The purpose of this Act is to increase the separation
7 between the adjudicatory functions of executive branch agencies and the agencies'
8 investigatory, prosecutory, and policy-making functions. The legislature intends by this Act
9 to

10 (1) provide for the delivery of high quality adjudication services in a timely,
11 efficient, and cost-effective manner;

12 (2) ensure respect for the dignity of the individuals whose cases are being
13 adjudicated;

14 (3) foster open and clearly explained agency decisions and improve public

1 access to the process of administrative adjudication;

2 (4) guarantee protection of all parties' due process rights, increase the public
3 parties' perception of fairness in administrative adjudication, and foster acceptance of final
4 administrative decisions by the public and affected parties;

5 (5) protect the integrity of the process of administrative adjudication and
6 decisional independence of administrative adjudicators; and

7 (6) increase consistency in administrative procedures and decisions.

8 * **Sec. 2.** AS 44.21 is amended by adding new sections to read:

9 **Article 9. Office of Administrative Hearings.**

10 **Sec. 44.21.510. Office created.** (a) There is created in the Department of
11 Administration an independent office of administrative hearings under the direction of
12 the chief administrative hearing officer.

13 (b) The chief administrative hearing officer must

14 (1) be a resident of the state;

15 (2) have experience in administrative law; and

16 (3) be licensed to practice law in this state and have been admitted to
17 practice law in this state for at least five years.

18 (c) The chief administrative hearing officer is appointed to a five-year term of
19 office by the governor. An individual may serve not more than three full or partial
20 terms as chief administrative hearing officer. The governor may remove the chief
21 administrative hearing officer from office only for good cause and shall state in
22 writing the basis for removal. A vacancy in the office of chief administrative hearing
23 officer shall be filled by the governor and the individual appointed serves for the
24 remainder of the term to which appointed.

25 (d) The chief administrative hearing officer shall receive a monthly salary that
26 is not less than Step A nor more than Step F, Range 27, of the salary schedule in
27 AS 39.27.011(a) for Juneau, Alaska. The chief administrative hearing officer shall
28 employ a chief assistant of the office who shall receive a monthly salary that is not
29 less than Step A nor more than Step F, Range 18, of the salary schedule in
30 AS 39.27.011(a) for Juneau, Alaska, except that the chief assistant may also receive
31 pay increments for longevity under AS 39.27.022. The chief administrative hearing

1 officer and the chief assistant are in the partially exempt service.

2 **Sec. 44.21.520. Powers and duties of chief administrative hearing officer.**

3 The chief administrative hearing officer shall

- 4 (1) supervise the office;
- 5 (2) employ administrative staff, who shall be in the classified service;
- 6 (3) employ hearing officers, who shall be in the partially exempt
7 service;
- 8 (4) preside over administrative hearings handled by the office or assign
9 hearing officers to preside over hearings and protect, support, and enhance the
10 decisional independence of the hearing officers;
- 11 (5) establish and implement performance standards and peer review
12 programs for hearing officers employed by the office;
- 13 (6) provide and coordinate training and continuing education programs
14 and services in administrative procedure, administrative adjudication, substantive law,
15 and technical matters for hearing officers and other administrative adjudicators;
- 16 (7) survey administrative hearing participants and use other methods to
17 monitor the quality of administrative hearings held by the office and other state
18 agencies, and submit to the governor and the legislature on January 31 of each year a
19 report that includes a description of the activities of the office and recommendations
20 for statutory changes that may be needed in relation to the administrative hearings held
21 by the office or other state agencies;
- 22 (8) review and comment on regulations proposed by state agencies to
23 govern procedures in administrative hearings;
- 24 (9) enter into contracts as necessary to carry out the functions of the
25 office;
- 26 (10) annually prepare and submit to the commissioner of
27 administration a budget for the office for the next fiscal year that shall include and
28 separately identify funding for training and continuing education; a copy of the budget
29 submitted to the commissioner under this paragraph shall also be submitted to the
30 Finance Committee of each house of the legislature; and
- 31 (11) adopt regulations under AS 44.62 (Administrative Procedure Act)

1 to carry out the duties of the office and implement this chapter.

2 **Sec. 44.21.530. Jurisdiction of the office.** (a) The office shall conduct all
3 adjudicative administrative hearings required under the following statutes or under
4 regulations adopted to implement the statutes:

- 5 (1) AS 04.11.510(b)(1) (alcoholic beverages license);
- 6 (2) AS 05.15 (charitable gaming);
- 7 (3) AS 05.20 (recreational devices);
- 8 (4) AS 05.90.001 (special racing events);
- 9 (5) AS 06 (banks and financial institutions);
- 10 (6) AS 08 (occupational licensing), other than AS 08.08;
- 11 (7) AS 10.06 (Alaska Corporations Code);
- 12 (8) AS 10.13 (Alaska BIDCO Act);
- 13 (9) AS 10.25.375 (Electric and Telephone Cooperative Act);
- 14 (10) AS 10.50.408 (limited liability companies);
- 15 (11) AS 14.11.016 (education-related facility grants);
- 16 (12) AS 14.18 (discrimination in public education);
- 17 (13) AS 14.20.030 (teacher certificates);
- 18 (14) AS 14.25.037 (teachers' retirement);
- 19 (15) AS 14.30 (educational programs);
- 20 (16) AS 14.37 (child care facilities);
- 21 (17) AS 14.48 (postsecondary educational institutions);
- 22 (18) AS 17.20 (Alaska Food, Drug, and Cosmetic Act);
- 23 (19) AS 18.07 (certificate of need program);
- 24 (20) AS 18.18.030 (hospice licenses);
- 25 (21) AS 18.20 (hospitals and nursing facilities);
- 26 (22) AS 18.35.040 (tourist accommodations);
- 27 (23) AS 18.55 (housing and public buildings);
- 28 (24) AS 18.60 (safety);
- 29 (25) AS 18.67.040 (Violent Crimes Compensation Board);
- 30 (26) AS 18.80 (State Commission for Human Rights);
- 31 (27) AS 21 (insurance);

- 1 (28) AS 25.27 (child support enforcement);
2 (29) AS 27.21 (Alaska Surface Coal Mining and Reclamation Act);
3 (30) AS 32.05 (Uniform Partnership Act);
4 (31) AS 34.45 (unclaimed property);
5 (32) AS 34.55.024 and 34.55.026 (Uniform Land Sales Practices Act);
6 (33) AS 36.30 (State Procurement Code);
7 (34) AS 38.05.065 (contracts for sale of state land);
8 (35) AS 39.25 (State Personnel Act);
9 (36) AS 39.35 and AS 39.45 (Public Employees Retirement Board);
10 (37) AS 39.52 (Alaska Executive Branch Ethics Act);
11 (38) AS 41.17 (forest resources and practices);
12 (39) AS 41.37.050 (Citizens' Advisory Commission on Federal Areas
13 in Alaska);
14 (40) AS 43.23 (permanent fund dividends);
15 (41) AS 43.56.010 - 43.56.120 (oil and gas exploration, production,
16 and pipeline transportation property taxes);
17 (42) AS 43.70 (Alaska Business License Act);
18 (43) AS 44.77 (claims against the state);
19 (44) AS 45.30.040 (mobile homes);
20 (45) AS 45.55 (Alaska Securities Act);
21 (46) AS 45.57 (Takeover Bid Disclosure Act);
22 (47) AS 46 (water, air, energy, and environmental conservation);
23 (48) AS 47.30.031 (Alaska Mental Health Trust Authority);
24 (49) AS 47.33 (assisted living homes);
25 (50) AS 47.35 (child care);
26 (51) AS 47.45 (longevity bonuses).

27 (b) An agency may request the office to conduct an administrative hearing of
28 that agency or to conduct several administrative hearings. The office may provide the
29 service after entering into a written agreement with the agency describing the services
30 to be provided and providing for reimbursement by the agency to the office of the
31 costs incurred by the office in providing the services. To the extent otherwise

1 permitted by law, the agency may delegate to the hearing officer assigned to conduct
2 the hearing on behalf of the agency the authority to make a final agency decision in
3 the matter.

4 **Sec. 44.21.540. Hearing officers.** (a) A hearing officer must be admitted to
5 practice law in this state and must have been admitted to practice for at least two years
6 before being employed or retained with the office. The chief administrative hearing
7 officer shall establish additional qualifications for hearing officers employed or
8 retained by the office and for those hearing officers that may be assigned to particular
9 types of cases.

10 (b) A hearing officer employed or retained by the office may, in conducting an
11 administrative hearing for an agency, exercise the powers authorized by law for
12 exercise by that agency in the performance of its duties in connection with the hearing.
13 A hearing officer may

14 (1) engage in alternative dispute resolution under regulations adopted
15 by the chief administrative hearing officer;

16 (2) order a party, a party's attorney, or another authorized
17 representative of a party to pay reasonable expenses, including attorney fees, incurred
18 by another party as a result of actions done in bad faith or as a result of tactics used
19 frivolously or solely intended to cause unnecessary delay;

20 (3) perform other necessary and appropriate acts in the performance of
21 official duties.

22 (c) A hearing officer employed by the office must devote full time to the
23 duties of the office unless appointed to a position that is less than full-time. A hearing
24 officer employed by the office may not

25 (1) perform duties inconsistent with the duties and responsibilities of a
26 hearing officer; or

27 (2) engage in the private practice of law for compensation while
28 holding a full-time position with the office.

29 (d) The chief administrative hearing officer may enter into a contract with an
30 individual who meets the qualifications established in (a) of this section to serve as a
31 hearing officer in a particular administrative hearing or in several hearings of the same