

LEGISLATIVE FINANCE-HOUSE/SENATE FINANCE COMM. FILES 8879

SB 128 cont. ; SB 129 615 206

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SENATE COMMITTEE REPORT

FURTHER

3/17/89

DATE TURNED INTO OFFICE 4/6/89

Mr. President:

Finance

Committee considered SB 128

extending the termination date of the Alaska Code Revision Commission; efd
and recommended

- replace with _____ CS _____) same title
- or adopt _____ CS _____) new title
- attached amendment(s) and technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) zero fiscal impact appropriation no FN
 new 4/5/89 51.1 updated previous
 same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Signature]
Paul Frank

[Signature] DR-PASS
[Signature] (CO-CHAIR)
 Chairman signature and recommendation

Committee Backup attached

[Signature] DR-PASS
[Signature] CO-CHAIR

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act extending the termination
date of the Alaska Code Revision Commission...
Sponsor: Senator Sturgulewski
Requestor: Senate Finance

Affecte Agency Legislative Affairs Agency
BRU: Legislative Council
Components Legal Services

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Personal Services	0.0	26.5	26.5	26.5	26.5	0.0
Travel	0.0	15.0	15.0	15.0	15.0	0.0
Contractual	0.0	8.6	8.6	8.6	8.6	0.0
Supplies	0.0	1.0	1.0	1.0	1.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0	51.1	51.1	51.1	51.1	0.0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (THOUSANDS OF DOLLARS)

General Fund	0	51.1	51.1	51.1	51.1	0
Federal Fund	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	51.1	51.1	51.1	51.1	0

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

Please note: 17.6 of FY 90 funding has already been requested in the Legislative Affairs Agency budget request. This fiscal note for FY 90 reflects the 17.6 plus the additional 33.5 to add additional staff months to support the Code Revision Commission.

Prepared By: Pamela Stoops, Director
Division: Administrative Services

Pamela Stoops

Phone: 465-3850
Date: 4/5/89

Approved By: Warren Endicott, Executive Director
Agency: Legislative Affairs Agency

Warren W Endicott

Date: 4/5/89

DISTRIBUTION (BY PREPARER)
LEGISLATIVE FINANCE
LEGISLATIVE SPONSOR

REQUESTOR
OFFICE OF MANAGEMENT & BUDGET
AGENCY (IES)

CONTINUATION OF FISCAL NOTE - SB 128

Funding for the Code Revision Commission has been under the Legal Services Division since FY 87.

Current FY 89 funding is as follows:

23.0 Travel
17.6 Contractual (3.6 contractual--phones, advertising, etc., 14.0 Title 2 rewrite)
<u>1.0 Supplies</u>
41.6

Senate Bill 128 extends the termination date of the Alaska Code Revision Commission.

A recent audit found the funding level of the Code Revision Commission to be inadequate to carry out their function.

The following funding is being requested to adequately support the Code Revision Commission within the Legal Services Division. Existing clerical and attorney time will be absorbed within the Division to provide year-round staff support for the Commission. The funding request for personal services will increase existing staff from 9 months to 12 months.

Personal Services:

3 months at 12A - Admin Asst	9.0	
3 months at 23A - Attorney	<u>17.5</u>	
	26.5	26.5
Travel: Travel of 13.0 has already been requested in the FY 90 LAA budget request. An additional 2.0 is requested.		15.0
Contractual: Contractual of 3.6 has already been requested in the FY 90 LAA budget request. An additional 5.0 is requested for professional services for special projects.		8.6
Supplies: Supplies of 1.0 has already been requested in the FY 90 budget request.		<u>1.0</u>
		51.1

LAA Request		SB 128 Fiscal Note		Code Revision FY 90 Request	
Travel	13.0	Pers Svcs	26.5	Pers Svcs	26.5
Contr.	3.6	Travel	2.0	Travel	15.0
Supplies	<u>1.0</u>	Contr.	5.0	Contr.	8.6
	17.6		<u>33.5</u>	Supplies	<u>1.0</u>
					51.1

1 IN THE SENATE

BY STURGULEWSKI

2

SENATE BILL NO. 128

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act extending the termination date of the Alaska

7

Code Revision Commission; and providing for an effec-

8

tive date."

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

10 * Section 1. AS 44.66.010(a)(8) is amended to read:

11

(8) Alaska Code Revision Commission (AS 24.20.075) --

12

June 30, 1993 [1989];

13

* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

4/14/89

PROPOSED FY 90 BUDGET AMENDMENTS
LEGISLATIVE COUNCIL SUBCOMMITTEE RECOMMENDATIONS
TO THE LEGISLATIVE AFFAIRS AGENCY PROPOSED BUDGET

EXECUTIVE ADMINISTRATION

Reduce mainframe software rental	-53.4
Increase Southwest Energy Council dues	12.5
Add Western States Legis Forestry Task Force dues	3.5
Reduce travel by 10%	<u>- 2.1</u>
	-39.5

PUBLIC SERVICES

Reduce travel by 10%	- 1.5
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ADMINISTRATIVE SERVICES

Reduce travel by 10%	- .8
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LEGAL SERVICES

Add Ethics Attorney (transfer from H & S Ethics)	69.6
Reduce Legal Services travel by 10%	- 1.3
* Reduce Code Revision Commission contractual (14.0 approp for FY 89 Title 2 rewrite; 3.6 remains in contractual for phones, ads, etc.)	-14.0
* Reduce Code Revision Commission travel (remaining 13.0 covers 4 meetings - travel & per diem for 6 non legislative members)	<u>-10.0</u>
	44.3

COUNCIL & SUBCOMMITTEES

Add Student Internship Program *why not let the Univ. pay for it?*
2.5 stipend/intern + intern travel to/from Juneau 30.0

Reduce Admin Reg Review Committee (remaining
balance for ARR 44.0) -26.0

Increase Senate Ethics 9.6

Transfer from Ethics Committees to Legal Services
funding for Ethics Attorney (remaining requests for
House & Senate Ethics after Senate increase and
transfer to Legal Services - Senate Ethics 25.0,
House Ethics 15.0) -69.6

Add Western Legislative Conference Annual Meeting
(Anchorage, 1990) 50.0

- 6.0

OFFICE SPACE

Reduce travel by 10% - .1

Increase contractual for sufficient janitorial 24.0

23.9

HOUSE RESEARCH

Delete funding -644.0

SENATE ADVISORY COUNCIL

Delete funding -616.6

LEGISLATIVE RESEARCH AGENCY

Add funding for combined research 1,260.6

Reduce travel by 10% - 3.4

1,257.2

GRAND TOTAL 17.0

ALASKA CODE REVISION COMMISSION



COMMISSIONERS
JOHN W. ABBOTT - CHAIRMAN
WILSON L. CONDON
PETER FROEHLICH
RICK HALFORD
MARY HUGHES
DICK MADSON
JUDGE (RET.) THOMAS B. STEWART
JOHN SUND

ALASKA STATE LEGISLATURE
P.O. BOX Y - STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-2450

EXECUTIVE SECRETARY
TAMARA BRANDT COOK

December 19, 1988

DEC 22 1988

Randy S. Welker
Legislative Auditor
Division of Legislative Audit
State of Alaska
Budget and Audit Committee
P.O. Box W
Juneau, Alaska 99811-3300

Re: A Performance Review of the Alaska Code Revision Commission
for the years 1985 through 1988; Response of the Commission

Dear Mr. Welker:

This letter will constitute the response of the Alaska Code Revision Commission pursuant to your letter request under date of November 28, 1988. The Commission met in formal session on December 16, 1988 and the following response represents the consensus of the Commission following its review of the performance review performed by Elgee & Rehfeld.

The Commission agrees with most of the matters contained in the performance review. However, it is felt that some clarifications should be made and disagreement with certain conclusions should be stated. The following are clarifications to the report:

1) At page 8 (Report Conclusion), the review states that no new significant legislative projects have been taken under consideration by the Commission.

In fact, the Commission is currently preparing a draft bill on Occupational Licensing. This project was dropped by the Commission during the Sheffield administration when a representative of the governor's office requested that the Commission draft bill and work product be forwarded to the Governor so that the executive branch could pursue legislative updating Title 8. No

3) On page 12 of the report (Efficiency), the report states that "[t]here appears to be a direct correlation between the commission's budget reduction and the amount of work produced by the commission". While the Commission agrees with this proposition, it should also be understood that changes in the membership of the Legislature and the Executive branch of the government necessitate additional changes in the draft bill product of the Commission. This is true of all bills submitted for Legislative consideration and is unavoidable. Also, as previously stated, the scope of legislative change encompassed by the Commission's draft bills will always be reflected in the amount of time needed for enactment of such legislation. What work is not reflected in the "bill passage rate" includes work on Occupational Licensing, Administrative Procedures Act, the non-profit and cooperative corporations codes and updating the Security Interests in Real Property bill. Relatively minor legislative changes have been made in the past on a number of Commission bills which tend to distort the "bill passage rate". As such, it should be understood that the subject matter of the bill plays a significant role in how much time is spent in changes until enactment and how much time is required to get a bill passed into law.

Finally, it is necessary to focus on changes to any draft bill necessitated by a change in administration or recent changes in law enacted by the Legislature. Before a Commission draft bill can be introduced, it is always necessary to "update" the draft to correspond with legislative changes made since the bill was last considered. As such, it is misleading to speak of completion of "legislation" prior to its enactment by the Legislature. Any draft bill is actually complete when considered and enacted by the Legislature.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

First Paragraph: The Commission agrees that there is a relationship between the size of its budget and the time frame within which a particular draft bill is ready for introduction into the legislative process. The Commission disagrees with the analysis concerning completion of a particular draft bill. For the reasons previously stated, and because the laws of the State are continually changing, it will always be necessary to "update" draft legislation, regardless of the size of the budget. It is true, however, that an increase in the budget would allow this "updating" process to be speeded up considerably. It should also

the mandate of the Commission includes much more than just responding to specific legislative requests. The value of the Commission (and other similar commissions in other states) is the ability of the body to determine on its own areas of the law that require review. This is particularly true in Alaska where much of its statutory law was borrowed from other states in 1959. The Legislature does not normally perform a review of existing law except within the context of drafting an amendment to a particular statute. With the exception of Title 11 (the criminal code) and Title 29 (Municipal Government), the Legislature has never undertaken a wholesale review of a particular title. Performance of this function was one of the main reasons for the creation of the Commission in 1976. Additionally, the Legislature does not normally consider or review the many additional sources for change enumerated in AS 24.20.075 et seq. A special commission appointed to just consider a specific legislative request would not be in a position to perform the additional functions outlined in the enabling legislation nor would it maintain the continuity that a permanent commission enjoys. It is the Commission's belief that without a permanent commission, there will be little likelihood that the work presently performed by the Commission will be undertaken by the Legislature or by a special commission. The ability to continually review existing laws to determine a need for change or amendment is a function particularly unique to a permanent commission and is not something that will be done by the Legislature except in rare instances.

The Commission also disagrees with the underlying premises implicit in the recommendations contained in Recommendation No. 1: that is, that the Commission should be discontinued if it is unable to perform at maximum efficiency. It is the Commission's position that it provides a valuable service not provided by any branch of State government, including the Legislature (except in rare instances). Even though the Commission has operated with a drastically scaled-down budget, it has continued to consider needed changes in the law and has in fact gotten two major pieces of legislation considered by the Legislature in the past session. While the Commission would enjoy a return to its 1984 level of funding, such funding is highly unlikely given the present demands for legislative funding and the greatly reduced sources of revenue for the State. The Commission can continue with a maintenance level budget to hold regular meetings and provide testimony to the Legislature during the sessions. With the assistance now available from Legal Division, both administrative and legal duties can be fully performed. In short, the Commission can continue to function and to fully perform its legislative mandate, providing a service not otherwise provided in the State.

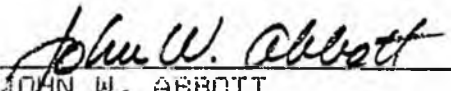
1. The Commission will submit a request for a budget increase to Legislative Council to increase the amount of funds available to contract for professional services. The Commission will also request that Legislative Council provide additional funding for two half-time positions to be included in the Legal Division of the Legislative Affairs Agency. Whether or not additional funding is available will be up to the Legislature. Funding increases would in all likelihood not be available until the next fiscal year. The Legislative Council would probably not request a supplemental appropriation on behalf of the Commission and additional funding would be available for the following fiscal year.

2. The Commission will adopt amendments to its by-laws to require a minimum of 50% attendance at all meetings by the members. The amendments will also require the Commission to notify any appointing authority of the failure of a member to meet this requirement and will request a replacement for the non-performing member. These amendments will be considered by the Commission at its next regularly scheduled meeting in January 1989.

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Since the Commission has already agreed with the recommendations as set forth in this report (excepting therefrom those areas of disagreement), it is anticipated that the by-laws changes will be accomplished at the Commission's January 1989 meeting.

Very truly yours,


JOHN W. ABBOTT
Chairman, Alaska Code Revision
Commission

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

ALASKA CODE REVISION COMMISSION



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The Commission agrees with most of the matters contained in the performance review. However, it is felt that some clarifications should be made and disagreement with certain conclusions should be stated. The following are clarifications to the report:

1) At page 3 (Report Conclusion), the review states that no new significant legislative projects have been taken under consideration by the Commission.

In fact, the Commission is currently preparing a draft bill on Occupational Licensing. This project was dropped by the Commission during the Sheffield administration when a representative of the governor's office requested that the Commission draft bill and work product be forwarded to the Governor so that the executive branch could pursue legislative updating Title 8. No

such action was undertaken and the Commission again took under consideration the complete overhaul of this title. Because of a new administration, a new director of Occupational Licensing and numerous changes enacted into law by the Legislature, a complete review of the Occupational Licensing draft bill has become necessary. Substantial work will be necessary to provide a draft bill that reflects recent changes by the Legislature. Such a review has been in process since 1987.

The same is true of the Administrative Procedures Act which was exposed to hours of public hearings and considerable written responses from agencies of the executive branch. Because of the new administration, it has been necessary to again solicit responses from all agencies affected by a new APA title. This fresh review of the APA began in 1987 and is expected to conclude with a draft bill within the next six months.

During the last legislative session, the Senate requested that the Commission review Title 2 in its entirety, providing additional funding (\$14,000.00) for the hiring of a consultant to assist the Commission in its review. The Commission will be providing the Legislature with its review and recommendations for changes to this title.

2) The audit report recognizes that the focus of the review should not be the "number or importance of the commission's recommendations that have actually been enacted by the legislature - but rather, the fairness, effectiveness and efficiency of the commission's procedures in arriving at its recommendations for improvement of Alaska's laws". (Page 9 of audit report). However, the report goes on to state at page 10 that the effectiveness of the commission is not impressive because only two recommended changes were enacted into law.

The Commission agrees that the number of bills passed should not be used to determine the effectiveness of its operation. It is important to note that other states that have concluded major overhauls of their statutes have taken from 10 to 15 years from consideration of a topic to enactment by the legislature. Ten years is probably an average amount of time to enact a bill such as the for-profit corporations code. Additionally, the Commission during the last legislative session worked on changes to the Security Interests bill and the Cooperative Corporations Code. Because it is necessary to prioritize the importance of its draft bills, emphasis was placed on those bills most likely to be given consideration by the Legislature. As such, the Commission expended most of its efforts on the for-profit corporations code and the recording act.

3) On page 12 of the report (Efficiency), the report states that "[t]here appears to be a direct correlation between the commission's budget reduction and the amount of work produced by the commission". While the Commission agrees with this proposition, it should also be understood that changes in the membership of the Legislature and the Executive branch of the government necessitate additional changes in the draft bill product of the Commission. This is true of all bills submitted for Legislative consideration and is unavoidable. Also, as previously stated, the scope of legislative change encompassed by the Commission's draft bills will always be reflected in the amount of time needed for enactment of such legislation. What work is not reflected in the "bill passage rate" includes work on Occupational Licensing, Administrative Procedures Act, the non-profit and cooperative corporations codes and updating the Security Interests in Real Property bill. Relatively minor legislative changes have been made in the past on a number of Commission bills which tend to distort the "bill passage rate". As such, it should be understood that the subject matter of the bill plays a significant role in how much time is spent in changes until enactment and how much time is required to get a bill passed into law.

Finally, it is necessary to focus on changes to any draft bill necessitated by a change in administration or recent changes in law enacted by the Legislature. Before a Commission draft bill can be introduced, it is always necessary to "update" the draft to correspond with legislative changes made since the bill was last considered. As such, it is misleading to speak of completion of "legislation" prior to its enactment by the Legislature. Any draft bill is actually complete when considered and enacted by the Legislature.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

First Paragraph: The Commission agrees that there is a relationship between the size of its budget and the time frame within which a particular draft bill is ready for introduction into the legislative process. The Commission disagrees with the analysis concerning completion of a particular draft bill. For the reasons previously stated, and because the laws of the State are continually changing, it will always be necessary to "update" draft legislation, regardless of the size of the budget. It is true, however, that an increase in the budget would allow this "updating" process to be speeded up considerably. It should also

be noted that the Commission has been provided with a substantial amount of assistance by the Legal Division of LAA, with the understanding that work must be prioritized by Legal Division to carry out its main function of serving the Legislature. Every effort has been made by Legal Division to provide the Commission with assistance in performing its function.

Second Paragraph: The Commission generally agrees with this paragraph with the following comments. First, the Commission has in the past operated at a maintenance level budget and has performed its statutory mandate. It is correct to state that not all minutes of the meetings have been kept (although there are few lapses in the minute records). All of the meetings have been recorded on tape so that the actions of the Commission have been memorialized. The recent practice of having personnel from Legal Division attend meetings and keep the minutes has helped the Commission considerably memorializing its actions.

Third Paragraph: The Commission agrees that a half time position in both administrative and legal research areas be made available to the Commission. It also agrees that these positions should be included in the Legal Division (LAA) rather than creating these positions in the Commission.

Fourth Paragraph: The Commission disagrees that it should be discontinued if a budget increase is not forthcoming. It believes that it can continue to provide a service not presently performed in any other sector of State government. It also believes that it can continue to provide draft legislation of high quality for consideration by the Legislature even with a maintenance level budget and assistance such as is currently available from Legal Division.

RESPONSE TO RECOMMENDATION NO. 1

The Commission agrees that its budget should be increased; that two half-time positions should be added to Legal Division for further assistance to the Commission. The Commission disagrees with that part of the recommendation that holds that it should be discontinued if additional funding is unavailable. It also disagrees with that part of the recommendation relating to the appointment of a special commission to work on legislation on an as needed basis.

The Commission has developed a particular expertise in reviewing existing laws and drafting new laws. Its composition is such that it represents the views of all three branches of State government. Furthermore, as the audit report recognizes,

the mandate of the Commission includes much more than just responding to specific legislative requests. The value of the Commission (and other similar commissions in other states) is the ability of the body to determine on its own areas of the law that require review. This is particularly true in Alaska where much of its statutory law was borrowed from other states in 1959. The Legislature does not normally perform a review of existing law except within the context of drafting an amendment to a particular statute. With the exception of Title 11 (the criminal code) and Title 29 (Municipal Government), the Legislature has never undertaken a wholesale review of a particular title. Performance of this function was one of the main reasons for the creation of the Commission in 1976. Additionally, the Legislature does not normally consider or review the many additional sources for change enumerated in AS 24.20.075 et seq. A special commission appointed to just consider a specific legislative request would not be in a position to perform the additional functions outlined in the enabling legislation nor would it maintain the continuity that a permanent commission enjoys. It is the Commission's belief that without a permanent commission, there will be little likelihood that the work presently performed by the Commission will be undertaken by the Legislature or by a special commission. The ability to continually review existing laws to determine a need for change or amendment is a function particularly unique to a permanent commission and is not something that will be done by the Legislature except in rare instances.

The Commission also disagrees with the underlying premises implicit in the recommendations contained in Recommendation No. 1: that is, that the Commission should be discontinued if it is unable to perform at maximum efficiency. It is the Commission's position that it provides a valuable service not provided by any branch of State government, including the Legislature (except in rare instances). Even though the Commission has operated with a drastically scaled-down budget, it has continued to consider needed changes in the law and has in fact gotten two major pieces of legislation considered by the Legislature in the past session. While the Commission would enjoy a return to its 1984 level of funding, such funding is highly unlikely given the present demands for legislative funding and the greatly reduced sources of revenue for the State. The Commission can continue with a maintenance level budget to hold regular meetings and provide testimony to the Legislature during the sessions. With the assistance now available from Legal Division, both administrative and legal duties can be fully performed. In short, the Commission can continue to function and to fully perform its legislative mandate, providing a service not otherwise provided in the State.

Recommendation No. 2

First Paragraph: The Commission agrees with the content of this paragraph.

Second Paragraph: The Commission agrees with the content of this paragraph.

RESPONSE TO RECOMMENDATION NO. 2

The Commission agrees fully with this recommendation and will recommend to the appropriate appointing authority that members whose attendance falls below the 50% level be replaced with a member who will meet the attendance requirements. The Commission will also amend its by-laws (which govern the procedures used by the Commission) to reflect a requirement of 50% attendance at Commission meetings (excluding legislative members who are considered under recommendation no. 3 in this report).

Recommendation No. 3

First Paragraph: The Commission agrees with this paragraph.

Second Paragraph: The Commission agrees with this paragraph.

Third Paragraph: The Commission agrees with this paragraph. Legislative members in the past have designated persons to attend Commission meetings when they were unable to attend. The practice has been helpful to the Commission. It will add considerably to the dialogue established by the Commission if the designees can also vote on the topics under discussion. The Commission will amend its by-laws to reflect the new procedure recommended by this third paragraph.

RESPONSE TO RECOMMENDATION NO. 3

The Commission agrees fully with this recommendation and believes that the designees of legislative members can contribute significantly to the work of the Commission if they are able to vote on matters being considered by the Commission.

Summary of Responses to Recommendations and Action By The Commission.

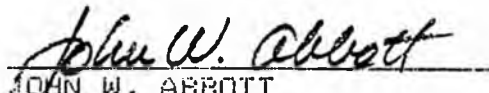
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Since the Commission has already agreed with the recommendations as set forth in this report (excepting therefrom those areas of disagreement), it is anticipated that the by-laws changes will be accomplished at the Commission's January 1989 meeting.

Very truly yours,



JOHN W. ABBOTT
Chairman, Alaska Code Revision
Commission

APPENDIX C

Budgets of the Alaska Code Revision Commission; FY84, FY85,
FY86, FY87, and FY88.

FISCAL YEAR 84

Appropriation received.	<u>\$245,600</u>
Personal Services	111,258
Travel and Per Diem	37,539
Contractual Services	91,345
Material and Supplies	<u>5,488</u>
	<u>\$245,600</u>

FISCAL YEAR 85

Appropriation received	<u>\$180,100</u>
Personal Services	115,175
Travel and Per Diem	20,080
Contractual Services	39,025
Material and Supplies	<u>5,820</u>
	<u>\$180,100</u>

FISCAL YEAR 86

Appropriation received.	<u>\$ -0-</u>
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FISCAL YEAR 87

Appropriation received.	<u>\$ 27,600</u>
Personal Services	\$ -0-
Travel and Per Diem	23,000
Contractual Services	5,600
Materials and Supplies	<u>1,000</u>
	<u>\$ 27,600</u>

APPENDIX C (continued)

FISCAL YEAR 88

Appropriation received.	\$ <u>27,600</u>
Personal Services	\$ -0-
Travel and Per Diem	23,000
Contractual Services	5,600
Materials and Supplies	<u>1,000</u>
	\$ <u>27,600</u>

BOARD: CODE REVISION COMMISSION, ALASKA

TITLE: Alaska Code Revision Commission

DEPT: Legislature

AUTHORITY: AS 24.20.075

STATUS: 89/06/30

REQUIREMENTS:

PROHIBITIONS: Public members may not be employees of state government.

TERM: 6 years (public members and Bar Association member); terms of public members and Board of Governor's designee begin July 1 and end June 30 six years later (even-numbered years).

DESCRIPTION: 8 members - 1 attorney employed by Executive Branch appointed by Governor; 3 public (not state government employees) appointed by Legislative Council; 1 legislator, appointed by each house's presiding officer; a designee of the Chief Justice of the Supreme Court, and a designee of the Alaska Bar Association Board of Governors appointed by the Board of Governors of the Alaska Bar; members may be reappointed or redesignated; commission selects chair.

SPECIAL FACTS: Serve at pleasure of appointing authority except 3 public members and designee of Alaska Bar Association who serve 6-year terms; quorum - 4 members; summary report to each Legislative Council, the Governor, all legislators, and the Chief Justice; commission selects chair and vice-chair.

FUNCTION: Reviews/recommends changes in statutes, judicial decisions for defects/anachronisms of the law; reviews/considers proposed changes in the law; receives/considers suggestions to review/remedy the law; may hold public hearings and other meetings throughout the state.

COMPENSATION: Standard travel/per diem for legislators.

MEETINGS: As determined by chair 10 times per year; 27 days maximum.

*FOR FURTHER INFORMATION CONTACT: Executive Secretary, Alaska Code Revision Commission, P.O. Box Y, Juneau, AK 99811 PHONE: 465-2450

- Description / Authority of BOARD -

ALASKA CODE REVISION COMMISSION

MEMBER	APPT	TERM
John W. Abbott P.O. Box 100588 Anchorage 99510 346-1039 Public - Chair	88/11/28	94/06/30
Dick L. Madson 712 8th Avenue Fairbanks 99701 (W) 452-4215 (H) 452-4254 Leg/Public	88/04/26	92/06/30
Wilson L. Condon 1121 Hillcrest Drive Anchorage 99503 (W) 276-2713 (H) 277-6137 Public	84/10/23	90/06/30
Peter Froehlich P.O. Box K Juneau 99811 (W) 465-3600 (CAP 412) Attorney/Executive	86/07/01	
Pat Rodey P.O. Box V Juneau 99811 (Cap. 113) (W) 465-3793 Legis/S	89/01/23	
Mary K. Hughes 509 West 3rd Ave. Anchorage 99501 (W) 274-7522 Bar Association	86/07/01	92/06/30
Thomas B. Stewart Pouch U Juneau 99811 (W) 463-4747 Supreme Court		
Fran Ulmer P.O. Box V Juneau 99811 (Cap. 421) (W) 465-4947 Legis/H	89/01/30	

7

CODE REVISION RESPONSIBILITY

Legislative

Other

	<u>Legislative</u>	<u>Other</u>
ALABAMA	X	
ALASKA	X	
ARIZONA	X	
ARKANSAS		Statute Revision Commission
CALIFORNIA	X	Law Revision Commission
COLORADO	X	
CONNECTICUT	X	
DELAWARE	X	
FLORIDA	X	
GEORGIA	X	
HAWAII	X	
IDAHO	X	
ILLINOIS	X	
INDIANA	X	
IOWA	X	
KANSAS	X	
KENTUCKY	X	
LOUISIANA		State Law Institute
MAINE	X	
MARYLAND	X	
MASSACHUSETTS	X	
MICHIGAN	X	
MINNESOTA	X	
MISSISSIPPI		Attorney General's Office
MISSOURI	X	
MONTANA	X	
NEBRASKA	X	
NEVADA	X	
NEW HAMPSHIRE	X	
NEW JERSEY	X	
NEW MEXICO		Compiler's Office, Executive Branch
NEW YORK	X	Law Revision Commission
NORTH CAROLINA		Attorney General's Office
NORTH DAKOTA	X	
OHIO	X	
OKLAHOMA	X	
OREGON	X	
PENNSYLVANIA	X	
PUERTO RICO	X	
RHODE ISLAND	X	
SOUTH CAROLINA	X	
SOUTH DAKOTA	X	
TENNESSEE	X	
TEXAS	X	
UTAH	X	
VERMONT	X	Statutory Revision Commission
VIRGINIA	X	
WASHINGTON	X	
WEST VIRGINIA		
WISCONSIN	X	
WYOMING	X	

THE FOLLOWING DOCUMENT HAS
NOT BEEN FILMED BUT IS
AVAILABLE IN THE ORIGINAL
FILE

A PERFORMANCE REVIEW
OF THE
ALASKA CODE REVISION COMMISSION

conducted by
ELGEE & REHFELD
Certified Public Accountants

Audit Control Number
30-1349-89-R

Members of the Alaska
Code Revision Commission

John W. Abbott, Chairman
Dick L. Madson
Wilson L. Condon
Peter Froehlich
Senator Rick Halford
Mary K. Hughes
Honorable Thomas B. Stewart
Representative John Sund

STATE OF ALASKA

THE LEGISLATURE
BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
P.O. BOX W
JUNEAU, ALASKA 99811-3300

October 25, 1988

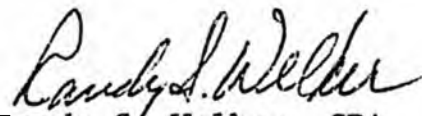
Members of the Legislative Budget
and Audit Committee:

According to the provisions of Titles 24 and 44 of the Alaska Statutes, the Division of Legislative Audit is required to conduct a "sunset" review of the Alaska Code Revision Commission.

Since this Division is part of the Legislative branch of the State, as is the Commission, we lack the apparent independence necessary to perform the review.

As a result, the audit of the Alaska Code Revision Commission was conducted, and this report has been prepared by Elgee & Rehfeld, Certified Public Accountants.

We feel this report discharges our responsibility under Titles 24 and 44. The report is submitted for your review.



Randy S. Welker, CPA
Legislative Auditor
Division of Legislative Audit

ELGEE
& REHFELD

CERTIFIED PUBLIC ACCOUNTANTS

9220 Lee Smith Drive, Juneau, Alaska 99801 (907) 789-1692

September 26, 1988

LEGISLATIVE AUDIT DIVISION
State of Alaska
P.O. Box W
Juneau, Alaska 99811-3300

SEP 28 1988

LEGISLATIVE
AUDIT

Att: Randy S. Welker, Legislative Auditor

Dear Mr. Welker:

In accordance with the Contract for Services between the Legislative Audit Division and our firm, we have completed a performance review of the Alaska Code Revision Commission using guidelines and standards established in Alaska Statutes for such "sunset" reviews.

The report, entitled A PERFORMANCE REVIEW OF THE ALASKA CODE REVISION COMMISSION, is hereby submitted.

Respectfully,

George W. Elgee

George W. Elgee, CPA
Partner

GWE/jb

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PURPOSE AND SCOPE OF THE REVIEW

Purpose

In accordance with AS 24.20.271(1) and AS 44.66 (Sunset Legislation), a review of the Alaska Code Revision Commission was conducted to examine the commission's activities, operation, policies and accomplishments. The purpose of the review is to determine if the subject commission has operated in a fair, effective, efficient and economical manner in the performance of its statutory functions, duties and responsibilities.

As required by AS 44.66.050, this report shall be considered during the legislative oversight procedure in determining whether the Alaska Code Revision Commission should be continued or reestablished with changes. As currently specified in AS 44.66.010(a), this commission will terminate on June 30, 1989.

Scope

The major areas studied were the commission's operations, policies, administration and procedures; and the effectiveness of the commission in accomplishing its mandated objective of recommending changes needed to bring "the law into harmony with current needs and conditions." (AS 24.20.075(c)(4)).

The review consisted of examination, research, analysis and evaluation of the following:

- (1) Applicable Alaska Statutes and amendments thereto:

- (2) Minutes of the commission from August 2, 1984 to June 17, 1988 (with exception of missing minutes).
- (3) Sunset review dated November 6, 1981.
- (4) Sunset review dated November 8, 1984.
- (5) Records and documents of the commission,
- (6) Contracts between the commission and its consultants,
- (7) Commission budgets for FY 86, FY 87 and FY 88,
- (8) Interviews conducted with:
Director of Legal Services, Legislative Affairs
Agency
Members of the commission
- (9) Financial records
- (10) Relevant legislative intent and bill history.

HISTORY, ORGANIZATION AND FUNCTION

The Code Revision Commission was established as a permanent commission of the legislature by an act of that body (CH 114 SLA-1976). The act creating the commission established its membership as consisting of two legislators (one from each house appointed by the presiding officer); a public member appointed by the governor; a designee of the chief justice of the supreme court, and a designee of the board of governors of the Alaska Bar Association. The director of legal services for the Legislative Affairs Agency or his designee serves as executive secretary for the commission.

The commission was created to:

- (1) examine the statutes of the state and judicial decisions to discover defects and anachronisms in the law;
- (2) review and consider proposed changes in the law recommended by the National Law Institute, the National Conference of Commissioners on Uniform State Laws, the Alaska Judicial Council, the Supreme Court, the state or local bar associations, principal departments, agencies, boards and commissions of the executive or judicial branch, and committees of the legislative branch;
- (3) receive and consider suggestions from the Alaska bench and bar, public officials, organizations and individuals as to areas of the law needing revision and remedy;
- (4) recommend changes in law needed to eliminate antiquated and inadequate rules of law and to bring the law into harmony with current needs and conditions.

The commission is empowered to:

- (1) hold public hearings and other meetings as necessary throughout the state, and to determine an appropriate quorum for conducting business;
- (2) establish one or more subcommissions to assist it in the performance of its duties.

The staff of the Legislative Affairs Agency serves as staff for the commission, and (subject to appropriations for the purpose) contracts with other agencies or persons for the performance of necessary services for the commission.

Funds considered necessary for the commission (per diem, travel, contract expenses) are to be sought in a formal budget request to the legislative council. (Appropriated funds are dispersed and accounted for under procedures required by the Legislative Affairs Agency).

All branches of state government are directed to provide information and documents required by the commission necessary to the accomplishment of its work.

The commission is directed to submit its reports and recommendations, and draft legislation as to revision of law, to the Legislative Council, and shall distribute them to the governor, members of the legislature, and the chief justice of the supreme court.

In 1977, membership on the commission was broadened to include a "designee of the governor who is an attorney employed by the executive branch of the state government." (CH 57 SLA 1977).

The enabling legislation was further amended by CH 44 SLA 1980 to:

- (1) clarify the name of the commission as the Alaska Code Revision Commission;
- (2) establish 6 year terms for the public members and the designee of the Alaska Bar Association Board of Governors , and prescribe the manner in which vacancies are filled;
- (3) clarify the per diem and travel allowances provided members of the commission;
- (4) prescribe the manner in which the public members and the designee of the Board of Governors shall determine the length of their respective terms of office;
- (5) bring the Alaska Code Revision Commission within the purview of the sunset law (AS 44.66.101)

In 1982, following consideration of the performance review of the Alaska Code Revision Commission conducted in accordance with the requirements of AS 44.66, the commission was continued until June 30, 1985. The enabling legislation was further amended by ch 65 SLA 1982 which provided for:

- (1) three public members (bringing total commission membership to eight), and specified the length of terms for the additional public members;
- (2) addition of the Alaska Legislative Council and the American Law Institute (formerly National Law Institute) to those organizations whose proposed changes in the law are to be reviewed and considered by the commission;

(3) a requirement that the commission's recommendations as to revisions of Alaska law shall be accompanied by a sectional analysis "using language that is understandable to a layman."

In 1986 AS 24.20.074 (b) was amended to have the three public members appointed by the Legislative Council instead of by the governor. An additional change was also made to continue the terms of commission members until a member's successor is appointed.

*

*

REPORT CONCLUSION

Policy Issues

This review discusses issues raised as a result of our analysis and evaluation of the commission's organization and structure, responsibilities, operations and procedures. Resolution of these policy matters will require legislative action. In debating these issues, the legislative oversight committees should consider the findings and alternatives presented in this report in reaching their decision.

Report Conclusion

In our opinion, the Alaska Legislature should continue the Alaska Code Revision Commission as a permanent commission of the legislature subject, however, to an increase in the commission's operating budget. Additionally some changes should be made to the statutes regarding commission membership and attendance.

The conclusion recommending continuation of the commission is supported by the following rationale:

- (1)The commission serves an important function that is not duplicated by any other agency; i.e. substantive review of entire bodies of state law.

- (2)The commission has the time, objectivity, experience and expertise to conduct research into the often complex areas of law that it seeks to improve.

(3)The commission conducts a continuing forum where interested parties are welcome to provide testimony and to participate in debate with respect to areas of the law in need of amendment or reform.

(4)The commission provides a valuable service to the legislature by its study, hearings and resulting recommendations to the legislative council concerning improvement of state statutes.

The conclusion recommending increases to the commission's budget and changes to the statutes regarding membership and attendance is supported by the following findings:

The budget of the Commission is not adequate to properly conduct its affairs. This is evidenced by the fact that the commission has not kept adequate minutes of its meetings and has not taken on any significant new legislative tasks in four years.

Attendance at meetings of the commission by specific members of the commission was as low as 25% over the period under review.

Discussion

The Alaska Code Revision Commission is a dedicated organization. The members of the commission for the most part are not paid to serve on the commission. The commission's membership is such that the State of Alaska receives thousands of hours of free legal advise and consultation from some of the best legal minds available. The individual members are so dedicated to their mission that even though the commission's budget was eliminated in FY86 they still made themselves available to testify before the legislature on statute changes they had recommended.

It would not be equitable to use the same criteria in judging the performance of the Code Revision Commission, whose job is to make recommendations to the legislature, as would be employed in the audit of an agency or board directly serving the citizens of Alaska. Thus, the focus of this review is not the number or importance of the commission's recommendations that have actually been enacted by the legislature-- but rather, the fairness, effectiveness and efficiency of the commission's procedures in arriving at its recommendations for improvement of Alaska's laws.

FAIRNESS

The commission's work is conducted under the open meetings act. The commission accepts public testimony at all of its meetings. The nature of the commission's work does not attract public attention and the work performed by the commission is such that the average lay person would not comprehend the significance of many of the changes recommended by the commission to modify the specific statutes under review. Additionally, it may be perceived by many that the need to testify before the commission is not urgent in that all work done by the commission is then submitted to the Legislature for further review at which time those concerned may testify.

EFFECTIVENESS

The effectiveness of the commission is not impressive for the period under review. In the four years since the last review, the commission has had only two recommended changes enacted into law (see Appendix A). These two bills were issues which had been before the commission for almost ten years. This lackluster accomplishment can be viewed in both

a positive and a negative light. The fact that the recommendations were eventually enacted after ten years of effort lends credence to the importance of the legislation as well as the diligence of the commission. Probably no other formal body could have maintained the continuity and determination to pursue passage of these bills. The downside is that it took the commission ten years to get legislation approved and that the conditions under which the commission operates are such that only two bills passed in a four year period.

EFFICIENCY

Since its last sunset review, the commission incurred a substantial reduction to its operating budget. From 1982 until 1985, the commission had an attorney with substantial state government experience as its research director and a secretary. This staff provided the commission with an ability to conduct its business in what appears to have been an extremely efficient and effective manner.

There appears to be a direct correlation between the commission's budget reduction and the amount of work produced by the commission. During the period from 1982 to 1984, when the commission had full funding, eight major

pieces of commission legislation were enacted by the legislature. From the period 1985 to 1988, only two pieces of commission legislation have been enacted. It is important to note that, the work on these two pieces of legislation had been substantially completed by the commission before 1985. It appears the lack of commission staff has dramatically affected its ability to efficiently deal with its work load.

Per statute, the staff of the Legislative Affairs Agency serves as staff for the commission. In practice, however, the staff of the Legislative Affairs Agency has only infrequently been able to serve as staff for the commission; and contracting with consultants has not been possible since the commissions budget has been reduced.

* * *

The findings and recommendations contained in the following section of this review are designed to improve the fairness, effectiveness and efficiency with which the commission conducts its service to the legislature.

FINDINGS AND RECOMMENDATIONS

Recommendation No.1

The commission's budget should be increased. If the commission's budget is not adequately funded then the commission should not be continued.

The drastic reduction of the commission's budget appears to have had a substantial affect on the committee's ability to perform its function. The commission presently appears to be dealing only with legislation which it had substantially completed before its budget was cut. There is no indication that the commission has taken on or completed and sent to the legislature any new legislation which was not already substantially completed from prior years.

The commission's budget appears to be below even that of a maintenance level. The commission no longer has funds for personal services and insufficient funds to contract for any significant professional services. The funds available to the commission are basically for travel and per diem. During the period reviewed, the commission did not have staff for basic duties such as keeping the minutes of their meetings, these duties being assigned to individual commission members on a meeting by meeting basis.

Consequently, some minutes were not kept and were not available for review.

It is recommended that the commission be funded at a level sufficient to enable the commission to properly function. It is suggested that at least a half time position in both the administrative and legal research areas be made available to the commission. These positions might best be placed in the, legal services section of the Legislative Affairs Division and be made available to the commission on an as needed basis.

If the commission does not receive adequate funding then it is suggested that the commission not be continued. An alternative to the commission would be to appoint a special commission with adequate funding to work on legislation on an as needed basis as the legislature determines necessary.

Recommendation No. 2

Commission members who are excessively absent from commission meetings should be replaced.

In a review of the attendance by individual members of the commission, it was discovered that in some instances attendance was below 50%. The Legislature has recognized the importance of a commission whose makeup represents a broad range of legal and public interests. If a commission member is not able to attend meetings, then it is possible the commission is not getting sufficient input from the realm of legal and public areas of interests as envisioned by the legislature.

It is recommended that if attendance by an individual commission member falls below an acceptable level, that the member be replaced.

Recommendation No. 3

Legislative members of the commission should be allowed to designate a person to represent them at commission meetings should they not be able to attend.

A review of attendance by legislative members of the commission indicated that they attended less than 25% of commission meetings.

In interviews with commission members, it was agreed that participation by legislative members was both desirable and beneficial. Legislative members that have been actively involved in specific commission legislation have apparently been quite helpful in getting the commission's work enacted into law.

It is suggested that instead of replacing legislative members who have poor attendance, that they be allowed to designate a person to represent them at commission meetings. These designees should have full voting powers.

ANALYSIS OF PUBLIC NEED

The public need factors defined in the "Sunset" law pertain primarily to regulatory bodies, or to commissions, boards and agencies directly serving the public.

The following analysis of the Alaska Code Revision Commission addresses those factors deemed applicable to a permanent commission of the legislature that we were able to cover within the scope of our review.

A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors.

I. The extent to which the board, commission or program has operated in the public interest;

1. The commission has recommended revisions to Alaska law which in its judgement were in the general public interest.

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

1. The commission's budget has dramatically decreased since its last sunset review. In FY86, the commission's budget was completely eliminated. (see Budget Information Appendix B). Yet despite reduced funding the commission has continued to operate. However, if the legislature is not going to appropriate adequate funding the commission should be eliminated (See Recommendation No.1).

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

1. The commission has recommended statutory changes which in its judgement was of benefit to the public interest.

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

1. The commission has accepted and encouraged testimony on its recommendations.

V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

1. The commission has consistently attempted to notify all parties of interest in topics that it was studying, and has encouraged their participation in its meetings.

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

1. No complaints have been filed with the ombudsman's office in a four year period.

VII. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

Not applicable to this commission.

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

Not applicable to this commission.

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

Please refer to FINDINGS AND RECOMMENDATIONS section of this report.

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APPENDIX A

LEGISLATIVE ENACTMENT OF THE
RECOMMENDATIONS OF THE ALASKA
CODE REVISION COMMISSION 1985, 1986, 1987, 1988

APPENDIX A

LEGISLATIVE ENACTMENT OF COMMISSION RECOMMENDATIONS 1985,
1986, 1987, AND 1988

1985

NO COMMISSION LEGISLATION WAS ENACTED

1986

NO COMMISSION LEGISLATION WAS ENACTED

1987

NO COMMISSION LEGISLATION WAS ENACTED

1988

CORPORATION CODE
CH 166 - SLA88

DOCUMENT RECORDING
CH 161 - SLA 88

APPENDIX B

SCHEDULE OF
ALASKA CODE REVISION COMMISSION
LEGISLATION SUBMITTED TO THE LEGISLATURE
AND
WORK IN PROCESS BUT NOT SUBMITTED TO THE LEGISLATURE

APPENDIX B

LEGISLATION SUBMITTED TO THE LEGISLATURE AND WORK IN PROCESS
BUT NOT SUBMITTED TO THE LEGISLATURE 1985, 1986, 1987,
1988.

14TH LEGISLATURE 1985-86.

LEGISLATION SUBMITTED TO THE LEGISLATURE

CORPORATION CODE
RECORDABLE DOCUMENTS (1)
SECURITY INTEREST IN REAL PROPERTY (2)

WORK IN PROCESS BUT NOT SUBMITTED TO THE LEGISLATURE

ADMINISTRATIVE PROCEDURE ACT
COOPERATIVE CORPORATION CODE REVISION

15TH LEGISLATURE 1987-88

LEGISLATION SUBMITTED TO LEGISLATURE

DOCUMENT RECORDING (1)
REAL PROPERTY SECURITY INTEREST (2)
CORPORATIONS CODE

WORK IN PROCESS BUT NOT SUBMITTED TO THE LEGISLATURE

ADMINISTRATIVE PROCEDURE ACT
REVISION OF TITLE 8 (BUSINESS & PROFESSIONS)
OCCUPATIONAL LICENSING

- (1) Same bill, different titles
(2) Same bill, different titles

APPENDIX C

BUDGET OF THE ALASKA
CODE REVISION COMMISSION
FY84, FY85, FY86, FY87, FY88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act extending the termination
date of the Alaska Code Revision Commission...
Sponsor: Senator Sturgulewski
Requestor: Senate Judiciary

Affect Agency Legislative Affairs Agency
BRU: Legislative Council
Components Legal Services

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Personal Services	0	0	0	0	0	0
Travel	23.0	23.0	23.0	23.0	23.0	0
Contractual	17.6	17.6	17.6	17.6	17.6	0
Supplies	1.0	1.0	1.0	1.0	1.0	0
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	41.6	41.6	41.6	41.6	41.6	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
TOTAL	0	0	0	0	0	0

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

Personal Services funds are not included in this fiscal note. The Legislative Affairs Agency Legal Services Division provides all required staff assistance for the commission.

The current level of funding for the Code Revision Commission is adequate.

Prepared By: Pamela Stoops, Director
Division: Administrative Services

Pamela Stoops

Phone: 465-3850
Date: 3/13/89

Approved By: Warren Endicott, Executive Director
Agency: Legislative Affairs Agency

Warren Endicott

Date: 3/13/89

DISTRIBUTION (BY PREPARER)
LEGISLATIVE FINANCE
LEGISLATIVE SPONSOR

REQUESTOR
OFFICE OF MANAGEMENT & BUDGET
AGENCY (IES)

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act extending the termination
date of the Alaska Code Revision Commission...
Sponsor: Senator Sturgulewski
Requestor: Senate Judiciary

Affect Agency Legislative Affairs Agency
BRU: Legislative Council
Components Legal Services

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Personal Services	0.0	53.0	53.0	53.0	53.0	0.0
Travel	0.0	*0.0	23.0	23.0	23.0	0.0
Contractual	0.0	*5.0	8.6	8.6	8.6	0.0
Supplies	0.0	*0.0	1.0	1.0	1.0	0.0
Equipment	0.0	5.6	0.0	0.0	0.0	0.0
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	0	63.6	85.6	85.6	85.6	0.0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (THOUSANDS OF DOLLARS)

General Fund	0	63.6	85.6	85.6	85.6	0
Federal Fund	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	63.6	85.6	85.6	85.6	0

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	2	2	2	2	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

*41.6 of FY 90 funding has already been requested. This fiscal note for FY 90 reflects additional funding requested to add 2 staff members to the Code Revision Commission.

Prepared By: Pamela Stoops, Director
Division: Administrative Services

Pamela Stoops

Phone: 465-3850
Date: 3/15/89

Approved By: Warren Endicott, Executive Director
Agency: Legislative Affairs Agency

Warren Endicott

Date: 3/15/89

DISTRIBUTION (BY PREPARER)
LEGISLATIVE FINANCE
LEGISLATIVE SPONSOR

REQUESTOR
OFFICE OF MANAGEMENT & BUDGET
AGENCY (IES)

CONTINUATION OF FISCAL NOTE - SB 128

Funding for the Code Revision Commission has been under the Legal Services Division since FY 87.

Current FY 89 funding is as follows:

23.0 Travel	
17.6 Contractual (3.6 contractual--phones, advertising, etc., 14.0 Title 2 rewrite)	
1.0 Supplies	
<u>41.6</u>	

Senate Bill 128 extends the termination date of the Alaska Code Revision Commission.

A recent audit found the funding level of the Code Revision Commission to be inadequate to carry out their function.

Staffing is requested as follows:

Personal Services:

6 months at 12A Admin Asst	18.0
6 months at 23A Attorney	<u>35.0</u>
	53.0

Travel: Travel of 23.0 has already been requested in the FY 90 budget request.

Contractual: Contractual of 17.6 has already been requested in the FY 90 budget request. For FY 91, 92 and 93, 14.0 is reduced from contractual for rewrite of Title 2. Additional funding for office space would be required for 2 staff-- 5.0 office space rental.

Supplies: Supplies of 1.0 has already been requested in the FY 90 budget request.

Equipment:

Equipment would be needed for 2 staff:

Computer	2.5
Laser Printer	2.0
Chair	0.5
File Cabinet	<u>0.6</u>
	5.6

S B

L R 9

SENATE COMMITTEE REPORT

FURTHER

4/11/89

DATE TURNED INTO OFFICE

4/22/89

Mr. President:

FINANCE

Committee considered

SB 129

providing for rent and royalty payments for a mining claim, leasehold location, or mining lease; relating to annual labor requirements for, and abandonment of, a mining claim, leasehold location, or mining lease; etc. and recommended

- replace with _____ CS SB 129 (Fin)) same title
- or adopt _____ CS _____) new title
- attached amendment(s) and technical title change (HB only)
- _____ letter of intent adopted

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

- FISCAL NOTE(S) zero ^{DNR (281.9 GF)} fiscal impact appropriation no FN
- new updated previous
- same as previous fiscal note(s) published _____

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Tom Duca

Bob St. George

Daryl Guill

John

True Coance

Rich

Chairman signature and recommendation

Committee Backup attached

John Co-CHAIR

No PASS

STATE OF ALASKA
1989 LEGISLATIVE SESSION

R/0 3FC 4-22-89

BILL VERSION: CSSB 129 (Finance)

PUBLISH DATE: 20-Apr-89

FISCAL NOTE

REQUEST:

Revision Date: 20-Apr-89
 Title: An Act relating to rent and
 royalty payments for mining claims.
 Sponsor: Senate Rules
 Requestor: Governor

Agency Affected: Natural Resources
 BRU: Mining Management
 Management/Administration
 Components: Mining Management
 Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		35.9	37.0	38.2	39.4	40.8
TRAVEL		0.0	0.0	0.0	0.0	0.0
CONTRACTUAL		1.5	1.5	1.5	1.5	1.5
SUPPLIES		0.5	0.5	0.5	0.5	0.5
EQUIPMENT		4.0				
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	41.9	39.0	40.2	41.4	42.8

CAPITAL		240.0	0.0	0.0	0.0	0.0
---------	--	-------	-----	-----	-----	-----

REVENUE		750.0	750.0	770.0	770.0	800.0
---------	--	-------	-------	-------	-------	-------

FUNDING: (Thousands of Dollars)

GENERAL FUND		281.9	39.0	40.2	41.4	42.8
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	281.9	39.0	40.2	41.4	42.8

POSITIONS:

FULL-TIME		1.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Gerald Gallagher Phone: 762-2165
 Division: Mining Management Date: 20-Apr-89
 Approved by Commissioner: Lennie Gorsuch Date: 20-Apr-89
 Agency: Department of Natural Resources

Distribution (by preparer) :
 Legislative Finance 4/21/89
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

ANALYSIS OF CSSB 129 (Finance)

Assumptions: As a result of the May, 1987, Alaska Supreme Court opinion, the State's mining laws will need to be amended to require the payment of a cash rent and production royalty. There are currently over 40,000 state mining claims and 200 mining operations on state land. Each claim will be assessed a rent of \$20. Producing claims and leases will be assessed a royalty of three percent net profits. DNR estimates revenue derived from rents and royalty will be \$750,000 in FY 90 and increase to \$800,000 by FY 94. Rental payments should be \$700,000 and the royalty payments are estimated to be \$50,000 annually.

Program Summary: This funding is necessary to complete the additional work load of administering, collecting, and auditing rent and royalty payments, while maintaining both the current mining records system and the state's revenue and billing system.

Positions: A new "Accounting Technician I" position is needed in the Management and Administration BRU. This position will maintain accounts in the LAS's Revenue and Billing System, audit billing registers, and prepare worksheets and reports as necessary to assure proper accounting and coding of these funds.

Other Expenditures: A one-time capital appropriation of \$240,000 is necessary to purchase a new computer system in the "Mining Management" BRU. This new system will allow the Division of Mining to handle the additional workload of rent and royalty payment tracking and lease status verification without additional staff. Over 35,000 individual mining claims and 100 mining leases will have to be administered under this new system.

Revenues generated under this proposal will exceed expenditures in every year. Beginning in FY 90, new annual revenues of \$750,000 are projected. Expenditures for the first year (FY 90) will be \$281,900, which includes the one time capital expenses. After FY 90, the continued annual operating cost of this new work load will be approximately \$40,000, while revenue will continue to be \$750,000.

Position Title Accounting Technician I		No. of Positions 1	Range/Step 12A	Barg. Unit GGU
Time Status PFT	Staff Months 12	Location Anchorage		Election District
Justification				
The position will receive balance and code funds over the counter and by mail for payments received for the Division of Mining leases and claims. The position will determine the proper customer account, the Department handles approximately 40,000 mining leases belonging to 2500 to 3000 individual customers. The proper coding will be impacted by number of properties owned by payee. The position will do acct functions, plus provide customer information, auditing billing register to insure proper billing and researching address changes.				
Type of Expenditure		Amount		
1	2	3		
Salary	24,900			
Benefits	11,000			
Premium Pay				
Other				
Total Personnel Services		35,900		
Travel				
Contractual		1,500		
Commodities		500		
Equipment		4,000		
Other				
Total Cost		41,900		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	41,900		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
New Position**

Agency NATURAL RESOURCES
 . DRU MANAGEMENT & ADMINISTRATION
 Component Administrative Services

Page 1 of 1
 Revised Date

FY 90

go0759sD
Bradley
4/21/89

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 129 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to mining; and providing for an
7 effective date."

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

9 * Section 1. AS 38.05.205(c) is amended to read:

10 (c) A mining lease shall be for any period up to 55 years, and
11 is renewable if requirements for the lease remain satisfied. Annual
12 rental and production royalties shall be paid as required under
13 AS 38.05.211 and 38.05.212 [THE LESSEE HAS A RIGHT TO A NEW LEASE AT
14 THE END OF EACH LEASE PERIOD. THE COMMISSIONER MAY MAKE REASONABLE
15 ADJUSTMENTS OF THE RENTAL RATE AT THE END OF EACH 20 YEAR PERIOD,
16 BASED UPON CHANGED CONDITIONS IN PRODUCTION COSTS AND MARKETS]. A
17 valid mining claim located and held under AS 38.05.195 may be con-
18 verted to a lease at any time upon application by the owner, and
19 issuance by the commissioner. Rights [NO RIGHTS] granted by a mining
20 lease may not be exercised until the lease has been filed for record
21 in the recording district where the land is located.

22 * Sec. 2. AS 38.05.210(a) is amended to read:

23 (a) Labor shall be performed or improvements made annually on or
24 for the benefit or development of each mining claim, leasehold lo-
25 cation, and mining lease on state land except that where adjacent
26 claims, leasehold locations, or mining leases are held in common, the
27 expenditure may be made on any one claim, leasehold location, or
28 mining lease. The commissioner shall establish the date of the com-
29 mencement of the year during which the labor or improvements are to be

1 performed. Labor shall be performed at the annual rate of \$100 [\$200]
2 per claim or leasehold location, and \$100 for each partial or whole 40
3 acres of each mining lease. If more work is performed than is re-
4 quired by this section to be performed in any one year, the excess
5 [WORK UP TO A] value [OF \$800] may be applied against labor required
6 to be done during the subsequent year or years, for as many as four
7 years. Instead of performing annual labor, the holder of a claim,
8 leasehold location, or mining lease may make a cash payment to the
9 state equal to the value of the labor required by this subsection.

10 * Sec. 3. AS 38.05.210(b) is amended to read:

11 (b) During the year in which [THE PERFORMANCE OF] annual labor
12 is required or within 90 days after the close of that year, the owner
13 of the mining claim, leasehold location, or mining lease, or some
14 other person having knowledge of the facts shall record with the
15 recorder of the district in which the claim, leasehold location, or
16 mining lease is located a signed statement setting out the informa-
17 tion, as may be required by the commissioner, concerning the annual
18 labor of the preceding year, [AND] any labor in excess of that re-
19 quired for the preceding year, and any payment of cash instead of
20 annual labor. The statement, properly recorded, is prima facie evi-
21 dence of the performance of the labor. The failure of one of several
22 co-owners to contribute the proportion of the expenditures required
23 for annual labor from the co-owner shall be treated in accordance with
24 AS 38.05.215 - 38.05.235.

25 * Sec. 4. AS 38.05 is amended by adding new sections to read:

26 Sec. 38.05.211. ANNUAL RENTAL. (a) The holder of each mining
27 claim, leasehold location, and mining lease, including a mining lease
28 under AS 38.05.250, shall pay, in advance, annual rental for the right
29 to continue to hold the mining claim, leasehold location, and mining

1 lease, including a mining lease under AS 38.05.250. The annual rental
2 amount shall be based on the number of the years since a mining claim,
3 a leasehold location, or a mining lease's predecessor claim or lease-
4 hold location was first located, as follows:

5 Number of Years Since	6 Rental Amount Per	7 Rental Amount
8 First Located	9 Acre for Mining	10 for Each Mining
	11 Leases	12 Claim or Leasehold
		13 Location
14 0 - 5	15 \$.50	16 \$ 20
17 6 - 10	18 \$1.00	19 40
20 11 - or more	21 \$2.50	22 100

23 (b) A claim, leasehold location, or mining lease located on or
24 before August 31, 1989 is considered to have been first located on
25 August 31, 1989 for purposes of determining the amount of rental under
26 this section.

27 (c) The rental for each year shall be credited against the
28 production royalty under AS 38.05.212 as it accrues for that year.

29 (d) The rental established under this section shall be revised
30 each 10 years by the commissioner based on the consumer price index
31 for Anchorage and published in regulations by the commissioner.

32 Sec. 38.05.212. PRODUCTION ROYALTY. (a) In exchange for and to
33 preserve the right to extract and possess the minerals produced, the
34 holder of a mining claim, leasehold location, or mining lease, includ-
35 ing a mining lease under AS 38.05.250, shall pay a royalty on all
36 minerals produced from land subject to the claim, leasehold location,
37 or mining lease during each calendar year.

38 (b) The production royalty is three percent of net income as
39 determined under AS 43.65.

40 (c) The commissioner shall adopt regulations to implement this

1 section and to provide for combined reporting and paying of production
2 royalties for mining operations that include more than one mining
3 claim, leasehold location, or mining lease.

4 * Sec. 5. AS 38.05.240 is amended to read:

5 Sec. 38.05.240. LABOR DEFINED FOR AS 38.05.210 - 38.05.235. In
6 AS 38.05.210 - 38.05.235, "labor" includes geological, geochemical,
7 geophysical, and airborne surveys conducted by qualified experts and
8 verified by a detailed report filed in the recording district office
9 in which the claim, leasehold location, or mining lease is located
10 which sets out fully (1) the location of the work performed in re-
11 lation to the point of discovery and boundaries of the claim, lease-
12 hold location, or mining lease, (2) the nature, extent, and cost of
13 it, and (3) the name, address, and professional background of the
14 person conducting the work. The commissioner, by regulation, shall
15 define the nature of acceptable survey work and the qualifications of
16 a person competent to perform this work. The airborne surveys, how-
17 ever, may not be applied as labor for more than two consecutive years
18 or for more than a total of five years on any one mining claim, lease-
19 hold location, or mining lease, and each of those surveys shall be
20 nonrepetitive of any previous survey on the same claim, leasehold
21 location, or mining lease.

22 * Sec. 6. AS 38.05.250(c) is amended to read:

23 (c) Each [LEASES FOR SUBMERGED LAND SHALL BE CONDITIONED UPON
24 PAYMENT OF AN ANNUAL RENTAL OF \$3 AN ACRE. EXPENDITURES ON OR FOR THE
25 BENEFIT OF THE LEASEHOLD MAY BE CREDITED AGAINST THE RENTAL. RENT
26 SHALL BE PAID OR A STATEMENT OF ANNUAL LABOR SHALL BE RECORDED WITHIN
27 90 DAYS AFTER EACH ANNIVERSARY DATE OF THE LEASE. ALL] submerged land
28 mining lease [LEASES] shall be for a period of up to 20 years [,] and
29 for so long as there is production in paying quantities from the

leased area. [THE COMMISSIONER MAY MAKE REASONABLE ADJUSTMENTS OF THE RENTAL RATE AT THE END OF EACH 10-YEAR PERIOD, BASED UPON CHANGED CONDITIONS IN PRODUCTION COSTS AND MARKET.]

* Sec. 7. AS 38.05.265 is amended to read:

Sec. 38.05.265. ABANDONMENT. Failure to [(1)] properly record a certificate of location or a statement of annual labor, [OR (2)] file with the director within the time prescribed a lease application, [OR (3)] pay any required annual rental, pay any required production royalty [OR RECEIVE CREDIT FOR RENTAL], or [(4)] keep location boundaries clearly marked [, ALL] as required by AS 38.05.185 - 38.05.275 and by regulations adopted under these sections [,] constitutes abandonment of all rights acquired under the mining claim [LEASE], leasehold location, lease, or site involved, and the claim, location, lease, or site [IT] is subject to relocation by others. A [IF A LOCATION IS NOT RELOCATED BY ANOTHER PERSON WITHIN ONE YEAR AFTER THE FAILURE, THE] locator or claimant of an [THE] abandoned location [,] or a successor in interest [,] may not [RETURN TO] relocate the location until one year after abandonment [IT AS THOUGH IT HAD NEVER BEEN LOCATED]. A statement of annual labor that [WHICH] does not accurately set out the essential facts is void and of no effect. If an annual rental or a royalty payment is deficient but is otherwise timely paid, abandonment does not result if full payment is made within

(1) the period prescribed by a deficiency notice from the commissioner; or

(2) 30 days after a final judgment establishing the amount due if the deficiency amount due was contested.

* Sec. 8. AS 27.05 is amended by adding a new section to read:

ARTICLE 4. RECLAMATION.

1 Sec. 27.05.250. RECLAMATION. (a) The commissioner shall re-
2 quire reclamation of state land from the effects of mining.

3 (b) The commissioner shall adopt regulations under this section
4 and under AS 38 to implement (a) of this section. The regulations
5 must require a miner to submit to the commissioner and receive ap-
6 proval on a reclamation plan before undertaking any mining activity;
7 the regulations must also establish penalties for noncompliance with
8 the regulations. On a determination by the commissioner that a miner
9 has failed to follow the reclamation plan, the commissioner shall
10 require proof of financial responsibility before the miner undertakes
11 any further mining activity.

12 (c) In order to provide for an effective reclamation program,
13 when adopting regulations under this section and AS 38, the commis-
14 sioner shall consult with the commissioners of environmental conserva-
15 tion and fish and game.

16 (d) This section does not apply to reclamation carried out under
17 AS 27.21.

18 * Sec. 9. AS 43.05.230 is amended by adding a new subsection to read:

19 (h) The commissioner shall, upon request, furnish to the Depart-
20 ment of Natural Resources copies of tax returns, reports, documents
21 filed under AS 43.65.010 - 43.65.060, and the department's deter-
22 minations and workpapers. The Department of Natural Resources shall
23 maintain the confidentiality that the department is required to extend
24 to the returns, reports, documents, determinations, and workpapers
25 furnished to the Department of Natural Resources under this subsec-
26 tion.

27 * Sec. 10. AS 38.05.205(b) and 38.05.210(d) are repealed.

28 * Sec. 11. TRANSITION. (a) Sections 1 - 7, 9, and 10 of this Act and
29 this section apply to mining claims, leasehold locations, and mining leases

located before, on, or after August 31, 1989.

(b) The first annual rental payment due under AS 38.05.211 as enacted in sec. 4 of this Act is for the annual labor year beginning September 1, 1989.

(c) The first production royalty payment due under AS 38.05.212 as enacted by sec. 4 of this Act is for production after December 31, 1989.

(d) The commissioner of natural resources shall adopt regulations to implement the changes made by secs. 1 - 7, 9, and 10 of this Act and this section. The regulations take effect under the Administrative Procedure Act (AS 44.62) but not before August 31, 1989. The regulations may defer the date for the first annual rental payment due under AS 38.05.211 as enacted in sec. 4 of this Act.

* Sec. 12. The commissioner of natural resources shall adopt the regulations required by AS 27.05.250, added by sec. 8 of this Act, by July 1, 1991.

* Sec. 13. Section 11(d) of this Act takes effect immediately under AS 01.10.070(c).

* Sec. 14. Except for secs. 8, 11(d), and 12, this Act takes effect August 31, 1989.

* Sec. 15. Sections 8 and 12 of this Act take effect June 1, 1990.



129

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 19, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Kelly:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making certain changes in the laws regarding state mining claims, leasehold locations, and mining leases. The main purpose of the bill is to resolve the long-standing "6(i)" issue, which has cast a legal cloud over the state's mining laws since statehood. The bill achieves that purpose by imposing rent and royalty requirements on state mining claims, leasehold locations, and mining leases. Those in the mineral industry will benefit from the added legal security of their mining interests, while all the people of the state will benefit from the rent and royalty income to the state.

Under existing state law, rights to "locatable" minerals (those minerals subject to location under the federal mining law at the time of statehood, including such minerals as gold, silver, and zinc) may be acquired, except in offshore areas, by staking a mining claim under AS 38.05.195, or by staking a leasehold location and converting it to a mining lease under AS 38.05.205. Present state law imposes no rent or royalty upon a mining claim under AS 38.05.195 or leasehold location under AS 38.05.205, and allows the rental requirement for a mining lease to be discharged through the performance of annual labor. AS 38.05.205(b).

In Trustees for Alaska v. State of Alaska, 736 P.2d 324 (Alaska 1987), cert. denied __ U.S. __, 108 S.Ct. 2013, 100 L.Ed.2d 601 (1988), the Alaska Supreme Court found that the state's mining law fails to comply with the minimum requirements in sec. 6(i) of the Alaska Statehood Act. In particular, the court found that cash rents or royalties are required for mining rights in mineral land granted under sec. 6 of the Statehood Act.

This bill conclusively resolves the "6(i)" issue within the context of existing law. The bill will minimize administrative burdens for the Department of Natural Resources and will generate significantly more in general fund revenue than it will cost to administer. Passage this session will remove the threat of an injunction against mining during this upcoming season. The balance of this letter discusses the particular changes proposed.

The bill amends AS 38.05.210 to make the annual labor requirement applicable to all mining claims, leasehold locations, and mining leases, while reducing the amount from \$200 to \$100. Cash payment in place of the annual labor will also be allowed. In addition, the current dollar limit on the application of excess work to future years is being converted to a durational limit of four years, and an unnecessary reference to AS 38.05.240 and 38.05.242 is also deleted. Section 2 of the bill.

Section 3 of the bill adds two new sections. Proposed AS 38.05.211 provides for a minimum annual rental on each mining claim, leasehold location, and mining lease. The minimum annual rental will be on a sliding scale ranging from a minimum of \$.50 per acre for a mining interest up to five years old, to a minimum of \$5 per acre for mining interests held for more than 20 years.

Proposed AS 38.05.212 provides for a minimum production royalty on all minerals produced from land subject to a claim, leasehold location, or mining lease. The production royalty will be determined on a sliding scale measured on gross income. At each level of gross income, the higher of a minimum royalty or a specified percentage of net income will be payable. The details for computing gross and net income will be established by regulations.

Section 5 of the bill amends AS 38.05.265 to provide that a mining interest is considered abandoned if no annual rental or production royalty is paid by the deadline, which will be set by regulation.

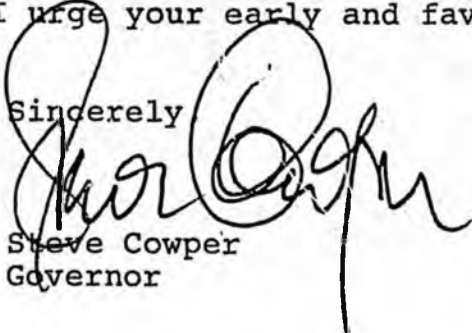
Section 6 of the bill amends AS 43.05.230 to require the commissioner of revenue to provide tax returns, reports, and documents relating to the mining license tax to the Department of Natural Resources, on the condition that confidential information be protected.

The bill includes a transition section that provides for commencement dates for the annual rental and royalty requirements. These dates will allow sufficient time for the Department of Natural Resources to adopt regulations implementing the bill.

The bill also includes technical revisions, a repealer section, and other conforming amendments, to make changes necessary to achieve the purposes generally described above.

Passage of this bill will end a long and troubled period of uncertainty under the state mining laws. It will give holders of interests in mining claims greater legal security, and the people of the State of Alaska a fair return on the public's mineral resources. I urge your early and favorable consideration of this bill.

Sincerely


Steve Cowper
Governor

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CSSB 129 (Res) (b)
PUBLISH DATE: 4/14/89

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to rent and
royalty payments for a mining claim"
Sponsor: Rules/Governor
Requestor: Resources

Agency Affected: Revenue
BRU: Income and Excise Audit Division

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	50.9	50.9	50.9	50.9	50.9	50.9
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL	17.9	17.9	17.9	17.9	17.9	17.9
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	10.2	0.0	0.0	0.0	0.0	0.0
LANDS & 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	85.0	74.8	74.8	74.8	74.8	74.8
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	85.0	74.8	74.8	74.8	74.8	74.8
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	85.0	74.8	74.8	74.8	74.8	74.8

POSITIONS:

FULL-TIME	1.0	1.0	1.0	1.0	1.0	1.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: See attached.

Prepared By: Steven E. Kette *Steven E. Kette* Phone: (907) 465-2320
Division: Income and Excise Audit Division Date: April 13, 1989

Approved by Commissioner: Hugh Malone *Hugh Malone* Date: April 13, 1989
Agency: Department of Revenue

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Prepared By: Steven E. Kettel
Income and Excise Audit Division

CSSB 129 Analysis

Personal Services

Revenue Auditor III \$50.9
12 months, 18A

Travel \$5.0

Contractual \$17.9

Communications \$9.0
Courier \$0.5
Printing \$3.5
Advertising \$1.7
Maintenance \$0.7
Training \$1.0
Postage \$1.5

Supplies \$1.0

Equipment \$10.2*

Computer \$3.5
Office Furniture \$3.5
Computer Printer \$3.2

TOTAL \$85.0

*One Time Item

CSSB 129
Prepared by:
Steven E. Kettel
Income and Excise Audit Division
April 13, 1989

ANALYSIS

CS SB 129 places responsibility for auditing a new production royalty on mining operations in the Department of Revenue. The royalty is computed at 2% of net income determined under AS 43.65, the Mining License Tax Act, presently administered by the Department.

Department of Natural Resources estimates that approximately 100 royalty production returns will be filed annually. Profitability of mining operations on state claims has traditionally been low for all but a few large operations. Section 9 of the bill provides that the rental for the state mining lease may be used as a credit against the royalty, further minimizing collections.

Fiscal Impact

Continuing expenses of \$75,000 per year will fund a new position to audit royalty production returns as required by AS 38.05.036(a)(2).

Department Position

In addition to objections raised by Department of Natural Resources, the Department opposes putting the audit responsibilities for the production royalty in this Department. This proposal is not destined to be a revenue raising measure, yet will require significant agency attention, diverting management and staff from more important tax matters, which are our primary responsibilities.

Also, with the link between the lease rental and the royalty, it would seem more logical to administer both programs in the same agency.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 129 (b)
PUBLISH DATE: 1/19/89

FISCAL NOTE

REQUEST:

Revision Date: January 13, 1989
Title: Rent and Royalties for
State Mining Claims
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Revenue
BRU: Income and Excise Audit Division
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven F. Kettel *Steve Kettel* Phone: (907) 465-2320
Division: Income and Excise Audit Date: January 13, 1989

Approved by Commissioner: Hugh Malone *Hugh Malone* Date: January 13, 1989
Agency: Revenue

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Prepared by: Steven E. Kettel
Income and Excise Audit Division
Department of Revenue
January 13, 1989

Fiscal Note Analysis

Legislative action is necessary to cure a defect in the state's mining laws which do not comply with Section 6(i) of the Statehood Act. The central problem -- Alaska's mining leasing system does not require the payment of cash rent or royalties.

This legislation introduces a system of rental and royalty charges against those miners with claims on state land. There will be no fiscal impact upon the Department of Revenue. DNR has prepared a fiscal note showing the anticipated revenues this proposal will generate.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CSSB 129 (Resources) ^{H/B} (a)
PUBLISH DATE: 4/12/89

FISCAL NOTE

REQUEST:

Revision Date: 11-Apr-89 Agency Affected: Natural Resources
Title: An Act relating to rent and BRU: Mining Management
royalty payments for mining claims.
Sponsor: Senate Rules Components: Mining Management
Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		673.4	52.3	52.3	52.3	52.3
TRAVEL		9.0	2.0	2.0	2.0	2.0
CONTRACTUAL		248.8	10.0	10.0	10.0	10.0
SUPPLIES		29.0				
EQUIPMENT		13.0				
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	973.2	64.3	64.3	64.3	64.3
CAPITAL						
REVENUE		75.0	75.0	77.0	77.0	80.0

FUNDING: (Thousands of Dollars)

GENERAL FUND		973.2	64.3	64.3	64.3	64.3
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	973.2	64.3	64.3	64.3	64.3

POSITIONS:

FULL-TIME		2.0	1.0	1.0	1.0	1.0
PART-TIME						
TEMPORARY		2.0				

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Gerald Gallagher Phone: 762-2165
Division: Mining Management Date: 11-Apr-89
Approved by Commissioner: Lennie Gorsuch Date: 11-Apr-89
Agency: Department of Natural Resources

Distribution (by preparer) :
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

CS for SB121 Bill Analysis

Determining whether the 104.5 million acres of 6(a) and (b) state lands are "mineral-in-character at the time of state selection" will require a comprehensive evaluation of the selection history, mineral occurrences and location of state and federal mining claims on a township (status plat) scale. The department has prepared the following 14 step process:

- 1) Conduct a literature study for mineral occurrences. These occurrences are put on the ARC/INFO system as mineral occurrence polygons. This information is made available in digital form to LRIS. Dates are associated with all of these polygons as attribute information.
- 2) LRIS gets a digital dump from BLM ALARS system of the 110,000 federal mining claims. This information is processed onto regional GIS maps that will also contain the polygons from step one. Dates are associated with this information as attributes.
- 3) LRIS gets a digital dump from LAS of the 45,000 state mining claims. Dates are associated with this information as attributes. This information is processed onto the regional GIS maps mentioned above.
- 4) DGGS and Mining personnel review the GIS regional maps showing mineral polygons from literature, the federal mining claim scatter, and the state mining claim scatter. Based on this review, LRIS is instructed as to which federal mining claims must have actual locations determined.
- 5) The federal files in Anchorage and Fairbanks are searched for the above identified location maps by knowledgeable Mining staff.
- 6) The above location maps are converted to digital format by LRIS.
- 7) This incremental location information is added to the above regional GIS information by LRIS.
- 8) Division of Mining determines which of these occurrences (literature polygons and federal mining claims) qualify as "mineral-in-character".
- 9) The final mineral occurrence polygons are processed into the GIS data. These polygons are represented relative to the scatter of state mining claims. Regional products are produced by LRIS.

- 10) Title is given these regional products. In areas where state mining claims are in the vicinity of mineral occurrence polygons, title searches are done to determine title lines and dates of selection.
- 11) Title manuscripts onto copies of state status plats, the relevant title lines, and notes the date of selection for the land.
- 12) LRIS produces map overlays at the status plat scale of all mineral occurrence polygons, with dates associated.
- 13) Number twelve will be used by Mining to determine which claims are subject to rents and or royalties.
- 14) Status graphics devises a method of standard notation for putting these mineral occurrence polygons onto the status plats for purposes of identifying for the public and the land managers what areas have a "6(i)" liability associated with staking a mining claim.

This process relies on the Departments Geographic Information System (GIS) computer to compile data and produce maps at the scale of state status plats. Over 12,000 individual maps will have to be made in this process.

The Department has determined it will be more efficient and cost effective to conduct this assessment on a statewide basis for all 6(a) and 6(b) lands rather than react to requests for such determinations on each individual mining claim. (There are approximately 45,000 claims.) As such, all costs for mineral determinations are limited to a single year, rather than spread out over several years.

Continuing expenses of \$52.0 per year will fund a new position to issue leases as required by AS 38.05.205(b). These leases require notice, agency and public comment, and land title analysis. This position will be responsible for that additional work load under this bill.

Position Title Geologist IV		No. of Positions 1	Range/Step 20A	Barg. Unit SU
Time Status Non-Perm	Staff Months 12	Location Anchorage		Election District
Justification				
This position will serve as the Project Manager for the mineral-in-character determinations required under the CS for SB 129. Oversight and technical quality control of the compilation of geologic, land status and mining claim data and adherence to schedules will be the responsibility of this person. See attachments to bill analysis for the full scope of this project.				
Type of Expenditure		Amount		
1	2	3		
Salary		42.8		
Benefits		17.1		
Premium Pay				
Other				
Total Personal Services		59.8		
Travel				
Contractual				
Commodities				
Equipment				
Other				
Total Cost		59.8		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	59.8		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
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Position Title Natural Resources Manager I		No. of Positions 1	Range/Step 18A	Barg. Unit GGU
Time Status Permanent	Staff Months 12 months/year	Location Anchorage		Election District
Justification				
During the first 12 months, this staff member will assist the project manager in the compilation and assessment of mining claims and land status data. After the final mineral-in-character determinations are completed, this position will process leases and track rent and royalty payments from these leases. See the bill analysis for a full description of this project.				
Type of Expenditure		Amount		
1	2	3		
Salary	37.4			
Benefits	14.9			
Premium Pay				
Other				
Total Personal Services		52.3		
Travel				
Contractual				
Commodities				
Equipment				
Other				
Total Cost		52.3		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	52.3		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

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Position Title Analyst Programmer I		No. of Positions 2	Range/Step 13A	Barg. Unit GGU
Time Status Non-Perm	Staff Months 24	Location Anchorage		Election District
Justification				
These staff will be responsible for inputting geologic, land status and mining claim data into the Geographic Information Computer System (GIS). In addition, they will perform quality control of all data and maps generated. See bill analysis for a full description of this project.				
Type of Expenditure		Amount		
1	2	3		
Salary	52.9			
Benefits	21.2			
Premium Pay				
Other				
Total Personal Services		74.1		
Travel				
Contractual				
Commodities				
Equipment				
Other				
Total Cost		74.1		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	74.1		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
New Position**

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FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Rent & Royalty Payments for Mining Claims
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: DNR
BRU: Mining Management Management/Administration
Components: Property Management Admin. Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		35,900	37,000	38,200	39,400	40,800
TRAVEL		0	0	0	0	0
CONTRACTUAL		1,500	1,500	1,500	1,500	1,500
SUPPLIES		500	500	500	500	500
EQUIPMENT		4,000	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		41,900	39,000	40,200	41,400	42,800
CAPITAL		240,000	0	0	0	0
REVENUE		750,000	750,000	770,000	770,000	800,000

FUNDING: (Thousands of Dollars)

GENERAL FUND	281,900	39,000	40,200	41,400	42,800
FEDERAL FUNDS					
OTHER					
TOTAL					

POSITIONS:

FULL-TIME	1	1	1	1	1
PART-TIME					
TEMPORARY					

ANALYSIS : (Attach a separate page if necessary)

See attached sheet

Prepared by: Gerald Gallagher
Division: Mining
Approved by Commissioner: Lennie Gorsuch
Agency: DNR

Phone: 762-2165
Date: 1/6/89
Date: 1-6-89

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Assumptions: As a result of the May, 1987 Alaska Supreme Court opinion, the State's mining laws will need to be amended to require the payment of a cash rent and production royalty. There are currently over 40,000 state mining claims and 200 mining operations on state land. Each claim will be assessed a rental of \$0.50 per acre (\$20 per claim) and each operation a minimum royalty of \$200 or 1% of the net profits, whichever is greater. DNR estimates revenue derived from rents and royalty will be \$750,000 in FY 90 and increase to \$800,000 by FY 94. Rental payments should account for \$650,000 and the royalty payments are estimated to be \$100,000 initially.

Program Summary: This expenditure is necessary to complete the additional work load of collecting rent and royalty payments and maintaining both the current mining records system and the state's revenue and billing system.

Positions: A new "Accounting Technician I" position is needed in the Mining and Administration BRU. This position will maintain accounts in the LAS's Revenue and Billing System, audit billing registers, and prepare worksheets and reports as necessary to assure proper accounting and coding of these funds.

Other Expenditures: A one-time capital appropriation of \$240,000 is necessary to purchase a new computer system in the "Mining Management" BRU. This new system will allow the Division of Mining to handle the additional workload of rent and royalty payment tracking and lease status verification without additional staff.

General fund revenues generated under this proposal will exceed expenditures in every year. During FY 90, a general fund contribution of \$468,000 after all expenses is estimated. Beginning in FY 91, general fund contribution of at least \$700,000 annually are expected after operating expenses are deducted.