

**ALASKA LEGISLATURE**

**1667**

**HOUSE and SENATE FINANCE COMMITTEE FILES, ( ) 1997-1998**

w/D  
#12

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE DAVIES

TO: CSHB 144(FIN), Draft Version "L"

1 Page 1, line 2, following "fees":

2 Insert "; relating to overhead rates charged by executive branch agencies"

3 Page 1, following line 3:

4 Insert a new bill section to read:

5 **\*\* Section 1.** AS 44.17 is amended by adding a new section to read:

6 **Sec. 44.17.090. Overhead costs.** (a) When a department is authorized by law  
7 to charge a fee that is based in whole or in part on the cost of its services, the  
8 department may, unless specifically prohibited by law, include overhead expenses  
9 when determining the amount of the fee. A law that restricts a department's recovery  
10 of costs through fees to direct costs may not be construed to prohibit the inclusion of  
11 overhead expenses in the department's recovery of costs unless the law specifically  
12 excludes consideration of overhead expenses when the department sets the fee.

*insurance  
sent to house  
about 3/18/98*

13 (b) Except as provided under AS 21.06.160, AS 36.30.220, and AS 38.10.030,  
14 the overhead rate used by a department to determine a fee shall be the standard  
15 overhead rate established by the Alaska office of management and budget under this  
16 section.

*DWR  
under  
summary*

17 (c) The Alaska office of management and budget shall establish a standard  
18 overhead rate that is

19 (1) uniform for all executive branch departments; and

20 (2) designed to compensate the departments for administration and  
21 support services incidentally provided with the services for which they are authorized  
22 to charge fees."

23 Page 1, line 4:

- 1 Delete "Section 1."
- 2 Insert "Sec. 2."
  
- 3 Renumber the following bill sections accordingly.
  
- 4 Page 3, line 9:
  - 5 Delete "directly"
  
- 6 Page 3, line 12:
  - 7 Delete "administrative, overhead, support, supervisory, or"
  
- 8 Page 3, line 16:
  - 9 Delete "sec. 2"
  - 10 Insert "sec. 3"

0-LS0573\B  
-Lauterbach  
2/24/98

**CS FOR HOUSE BILL NO. 144(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the authority of the Department of Environmental  
2 Conservation to charge fees; and providing for an effective date."

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

4 \* **Section 1.** AS 44.46.025(a) is amended to read:

5 (a) Subject to other provisions of this section, the [THE] Department of  
6 Environmental Conservation may adopt regulations that prescribe reasonable fees, and  
7 establish procedures for the collection of the fees, to cover the applicable direct costs,  
8 not including travel, of inspections, permit preparation and administration, and plan  
9 review and approval [, AND OTHER SERVICES PROVIDED BY THE  
10 DEPARTMENT] relating to

11 (1) agriculture and animals under AS 03.05; food, drugs, and cosmetics  
12 under AS 17.20; and public accommodations and facilities under AS 18.35;

13 (2) certificates of inspection for motor vehicles under AS 46.14.400 or  
14 46.14.510;

- 1 (3) sewerage system and treatment works and wastewater disposal  
2 systems, and drinking water systems, under AS 46.03.720;
- 3 (4) [REPEALED
- 4 (5) REPEALED
- 5 (6) WATER AND WASTEWATER OPERATOR TRAINING UNDER  
6 AS 46.30;
- 7 (7)] control of solid waste facilities under AS 46.03.020(10) and  
8 46.03.100;
- 9 (5) [(8)] certification of laboratories conducting environmental analyses  
10 of public drinking water systems or of oil or hazardous substances, or conducting other  
11 analyses required by the department;
- 12 (6) [(9)] certification of federal permits or authorizations under 33  
13 U.S.C. 1341 (sec. 401, Clean Water Act);
- 14 (7) registration of pesticides and broadcast chemicals under  
15 AS 46.03.320.

16 \* Sec. 2. AS 44.46.025 is amended by adding new subsections to read:

17 (e) The department may adopt regulations that prescribe reasonable fees, and  
18 establish procedures for the collection of the fees, to cover the applicable direct costs,  
19 not including travel, of services provided by the department relating to water and  
20 wastewater operator training under AS 46.30.

21 (f) The registration fee that may be charged by the department for registration  
22 of a broadcast chemical that is not labeled for use in or around household premises or  
23 for registration of a restricted-use pesticide, as defined in AS 46.03.900, is \$30. The  
24 registration fee that may be charged by the department for registration of other  
25 broadcast chemicals and pesticides is \$20.

26 (g) The department may not adopt an hourly fee under (a) of this section.

27 \* Sec. 3. APPLICABILITY. This Act applies to fees for registrations applied for and  
28 services performed on or after the effective date of this Act.

29 \* Sec. 4. TRANSITIONAL PROVISION. Notwithstanding the amendment made to former  
30 AS 44.46.025(a)(6) by sec. 1 of this Act, the regulations of the Department of Environmental  
31 Conservation that were adopted under that provision relating to fees for water and wastewater

- 1 operator training under AS 46.30 remain in effect until modified under the authority of
- 2 AS 44.46.025(e), enacted by sec. 2 of this Act.
- 3 \* **Sec. 5.** This Act takes effect July 1, 1998.



# Resource Development Council for Alaska, Inc.

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Founded 1975

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March 20, 1998

Representative Gene Therriault, Chairman  
House Finance Committee  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, AK 99801-1182

Dear Representative Therriault;

The Resource Development Council for Alaska, Inc. (RDC) is a statewide, non-profit, membership funded organization made of businesses and individuals from all resource sectors. RDC's membership also includes labor unions, regional and village Native corporations and local governments, all working together for responsible development of Alaska's natural resources.

RDC would like to commend Representative Therriault for having the foresight to address this issue and to thank him for all of the time and energy he has spent to take input from industry and ADEC on I-1B 144.

RDC would like to express its strong support for fixed costs associated with industry permitting and inspection in the development of fee structures for the Department of Environmental Conservation (ADEC). RDC also supports cooperative funding agreements which could be negotiated by the company and ADEC.

In particular, ADEC fees with regard to water quality permitting affects many of RDC's members -- from the seafood processing, timber, mining, and oil and gas industries to local communities.

Our membership believes fixed fees are an equitable means of standardizing fees for permitting and inspection and give industry predictability with regard to planning future development projects. Fixed fees also provide ADEC a strong incentive to act promptly and efficiently on permit decisions. Standardized fees should be established for the most common permits whenever possible.

RDC also supports the addition of a general permits provision requiring ADEC to identify classes of activities within each permit program, and to convert these categories to a general permit system.

AK

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Industries represented by RDC are being forced to bear the cost of maintaining permit programs due to a decline in legislative funding to regulatory agencies such as ADEC. An aggressive general permits program would allow the agency to continue to address those major controversial projects with a case-by-case-review, while at the same time sparing industry the cost to underwrite insignificant administrative procedures for routine activities that are adequately handled by standard, pre-written stipulations. General permit authorizations will also conserve limited ADEC resources.

The development of an appropriate fee program for ADEC is of great concern to our membership. The intent of HB 144 is a good first step in dealing with this issue.

In terms of the big picture, RDC would like to propose a comprehensive policy discussion involving the legislature, administration, and affected community and industry interests to deal with the direction state government is headed regarding overall agency fees.

A number of initial questions that may be answered by a policy forum include:

- What is the legislature's intent when reducing a department's budget? Specifically, does a budget decrease indicate a need for more efficient operations, or does the legislature expect the regulated community to make up budget shortfalls through agency fees?

*In the water quality permitting example for DEC, industry strongly believes DEC should retain control and implementation of this program -- but it must have funds to do it. Industry recognizes additional fees may be required, but calls upon the ADEC to give industry predictability through the use of fixed fees.*

- If fees are to be assessed, which agencies will have this power and for what services? How should such fees be administered?

*Private industry is concerned it may be paying fees for the benefit of the public-at-large rather than fees specifically associated with the costs of permitting and inspecting specific industry projects.*

- What effect will the cumulative impact of multi-agency fees have on industry throughout the state?

*With shrinking state dollars, industry is concerned there may be a trend toward agency fees, but the cumulative effect of different agencies assessing different fees could be detrimental to future resource development activities.*

We appreciate the opportunity to comment on HB 144 and the future of state agency fees. Agency fees are an issue of growing importance to our members and we support the intent of HB 144 and again want to thank Representative Therriault for taking a lead role on this issue.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL  
for Alaska, Inc.

A handwritten signature in cursive script that reads "Ken Freeman". The signature is written in black ink and extends across the width of the text area.

Ken Freeman  
Executive Director

**TESTIMONY OF RICHARD P. HARRIS**  
**Senior Vice President**  
**SEALASKA CORPORATION**

**House Finance Committee**  
**March 20, 1998**

**CS FOR HOUSE BILL 144(FIN) "L" VERSION**

Sealaska Corporation is the regional corporation established under ANCSA for Southeast Alaska. Sealaska represents over 16,000 shareholders and 12,000 descendants of shareholders. Due to the industrial nature of Sealaska's resource development activities, Sealaska is subject to numerous regulations and permits which now require fee payments to various state agencies. As users of services provided by these permitting agencies, Sealaska recognizes the current reality and that we will be required to pay our share of the cost associated with the use of these services.

In previous Legislative sessions, Sealaska voiced concern about requiring payment of fees for agency services. We expressed warnings that the Alaska Department of Environmental Conservation fee system in AS 44.46.025 was full of pitfalls and was ripe for agency excesses. Our concerns have been confirmed and Sealaska on numerous occasions has objected to the current fee structure established by the Alaska Department of Environmental Conservation and the gold rush mentality of fees for every possible regulatory action.

Sealaska agrees to pay the actual direct costs associated with these services, but does not support requirements to pay the pro-rata share of the indirect costs such as supervisory, administrative and overhead expenses. As the Legislature

considers changing fees for these services, three critical parameters must be put in place:

- 1) The permittee must have protections to prevent abuse and achieve efficiencies in the fee system;
- 2) Ensure the permittee is not charged for costs of services that have not been received; and
- 3) Ensure permittees are not burdened with the indirect costs of the regulatory program which must remain a funding function of the government.

H.B. 144 corrects many of these errors and uncertainties that currently exist in AS 44.046.025.

First, it properly limits fees to "actual direct costs" which is defined as the actual hourly wage rate of the department employees directly engaged in providing the service, multiplied by the number of hours usually required to perform the service being provided. "Actual direct costs" does not include indirect costs such as administrative, overhead, support, supervisory or travel expenses.

Second, Section 2 item (e) of H.B. 144 allows, at the request of the applicant or permittee, the ability to negotiate a fee for services that will be provided. This section removes the restrictions in Section 1 of AS 44.46.025 and allows the agency and permittee to negotiate fees for complex or particularly unique permitting situations.

Sealaska believes this Legislation has gone a long ways toward correcting the problems in the current fee systems. We also respectfully request the Legislature to assure that adequate general funding is available to compensate the State's regulatory agencies for the administrative, overhead, support and other

program related costs that cannot be classified as actual direct costs attributable to the proceeding of the specific permit. Thank you for the opportunity to express our favorable consideration of H.B. 144.

RPH/RD:mlt



February 27, 1998

The Honorable Mike Miller  
President, Alaska State Senate  
State Capitol, Room 107  
Juneau, Alaska 99801-1162

Re: The Imposition of Agency Fees to Underwrite State  
Environmental Programs

Dear Senator Miller:

As an active player in Alaska's private-sector resource management and development, various resource agencies are almost constantly at our door seeking one environmental permit or another. In-and-of-themselves, those demands are fair enough; indeed, Sealaska feels quite strongly that the public interest is best served by rigorous review of any activity that, if done wrong, might impair the precious resources on which our special Alaskan lifestyle is based. And we also believe that regulatory oversight helps ensure that individual operators do not damage the reputation of an entire industry.

Of late, these same agencies have begun asking us, and every other industrial permit applicant, to pay for these reviews--the most recent examples being the Alaska Department of Environmental Conservation's ("ADEC's") proposed permit and inspection fees for industrial solid waste, new source air emissions and wastewater discharges. It is one thing to ask industry to pay the actual, direct and incremental cost associated with an applicant's development proposal. The problem, however, is that these agencies are asking industry to go much further, and to fund, in addition to their traceable direct expenditures, some *pro rata* share of virtually an entire regulatory program--including, as we see it, supervisory, administrative and overhead expenses.

That, to us, is unfair. The public benefits considerably from these programs, and there remain aspects, or portions, of these programs, the burdens of which ought to be spread more broadly.

Through statutes like AS 37.10.050 and AS 44.46.025, the legislature has attempted to limit agency fees to the direct cost of providing a specific service. At the same time, however, the legislature has, in our view, made it difficult for agencies to comply with these statutes by reducing the general fund budgets of these agencies to the point where nearly the entire cost of a broadly-desired public program is being born by a small segment of Alaska's population.

Sealaska respectfully submits that this isn't good government. In our view, the legislature should always remain accountable for collecting the moneys necessary to run its programs. To keep regulatory programs on the books, but to absolve oneself of the duty to pay for them through general revenues, removes a critical constraint on the growth of government. By going beyond any fair notion of "user fees," and instead authorizing agencies to fund general program costs through *pro rata* assessments, the legislature has delegated the taxing power to the executive branch--an abdication that compromises our system of government's delicate checks and balances, and its separation of powers.

Moreover, the executive branch is approaching this issue in a piecemeal fashion. Each agency, and individual divisions within agencies, are adopting their own fee structures and policies that reflect no consistency throughout the executive branch, and are causing a bureaucratic morass. We urge the legislature to work with the administration in developing a comprehensive, as well as a fair policy for agency fee assessment.

Sealaska would respectfully urge the legislature, in the coming year's operating budget, to assure that the state's regulatory agencies have adequate general funding to compensate for the administrative, rulemaking, overhead and other program-related costs that cannot fairly be called incremental costs attributable to a specific permit proceeding. In this way, the legislature would assure itself that the regulated industry pays a share of these incremental costs, while at the same time maintaining legislative control over program costs as a whole.

Sealaska, of course, would be eager to lend any support that you might find helpful in this process. And thank, on Sealaska's behalf, for the thought we know you will give to our concerns.

Sincerely,

SEALASKA CORPORATION

  
Robert W. Loescher  
President and Chief Executive Officer

cc: The Hon. Gail Phillips  
The Hon. Tony Knowles  
Commissioner Michele Brown  
Commissioner John Shively  
Members, House Finance Committee  
Members, Senate Finance Committee  
Members, House Resources Committee  
Members, Senate Resources Committee  
Senator Robin Taylor  
Senator Jim Duncan  
Senator Jerry Mackie  
Rep. Kim Elton  
Rep. Ben Grussendorf  
Rep. Bill Hudson  
Rep. Al Kookesh  
Rep. Bill Williams  
Southeast Alaska ANCSA Village and Urban Corporations  
Mr. Sam Kite  
Alaska Federation of Natives Land Managers  
Alaska Forest Association  
Resources Development Council  
Alaska Miners Association  
Alaska Oil and Gas Association  
Koncor, Inc.



February 27, 1998

Ms. Michele Brown  
Commissioner  
Alaska Department of Environmental Conservation  
410 Willoughby Avenue, Suite 105  
Juneau, Alaska 99801-1795

Re: ADEC Permit and Inspection Fees

Dear Commissioner Brown:

Sealaska Corporation appreciates the time that you spent with us, and the Alaska Oil and Gas Association, on January 27<sup>th</sup> regarding the issue of agency fee assessments for solid waste and wastewater permits. As the legislature seeks to transfer the cost of government from the public to discrete industrial sectors, the need to assure that our business community pays its fair share, and no more, of those costs will become paramount.

It is troublesome enough to ask industry to pay the incremental cost attributable to the permitting and inspecting of our facilities. When, however, the agency goes further, and asks industry to pay some *pro rata* share of the entire cost of a program that benefits the public at large, or budgets a portion of those program costs to various industrial sectors, we think that serious policy and legal issues are raised:

*First*, we think that the legislature has properly limited an agency's fee authority to recoupment of incremental costs incurred because of a particular permit application, or operation of a particular facility. We think the legislature has done this both in AS 37.10.050, which limits any permissible fee to "the estimated **actual costs** of the state agency in administering the activity or providing the service," and in AS 44.62.025, which specially limits ADEC's authority to recouping "the applicable **direct costs**" of permitting or inspecting a facility.

We don't think that this latter statute can be expanded to cover "indirect" overhead costs, and we believe that, in choosing the words "direct cost," the legislature

declined to accept the argument that a private-sector counterpart would charge a customer for "indirect" costs as well, such as supervisory salaries, rent and the like. The regulated community can review and evaluate agency direct expenditures. However, it is a totally different matter to attempt to evaluate the equity of indirect costs. One significant concern is that indirect costs can balloon out of control with no checks and balances. And in this case, there are important differences between public and private suppliers--most especially, with respect to regulatory agencies there are none of the market-driven checks and balances that help assure a potential "buyer" of the lowest possible cost. To put it more crassly, if Sealaska doesn't like ADEC's prices, it can't go elsewhere.

*Second*, Sealaska believes that, when an agency begins to parcel out well-nigh the overall cost of a general government program to the industry it regulates, it is no longer assessing "fees" for a particular purpose, but has rather begun to exercise the taxing power. The legislature is the only branch that can levy taxes, and we think that this is a wise rule, because taxation is a serious thing, and only those with direct accountability to the voters should be authorized to undertake it.

Sealaska understands the situation in which ADEC finds itself. We are committed to urging the Alaska Legislature to provide general funding sufficient for the agency to fulfill its mission. And given that the likelihood of full general funding is poor, we are resigned to the reality of paying some direct incremental costs of permit processing and inspections. Our adjustments to reality, however, should be a two-way street, and we believe that ADEC should also modify its programs so as to protect the regulated community from runaway government exactions approaching the kind one would expect to experience in third world countries. The steps that ADEC can take to minimize, though they will not eliminate, the controversies surrounding these ever-increasing agency fees include:

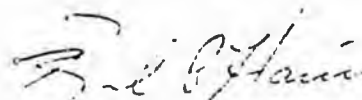
- *preparation of a clear and complete explanation of any new or revised agency fees.* The regulated industry should know exactly what its new fees will be used for, and in what amounts and percentages; and it should also be informed of the costs and calculations that went into the fee amount proposed. That "business plan" should be published along with any proposed regulations dealing with agency fees, and it should be available for ample public comment--as it was not, for example, with respect to the proposed solid waste regulations;
- *establishment of uniform fees, both between regulatory programs (i.e. as between wastewater and solid waste) and within regulatory programs (i.e. based on complexity and environmental risks).* That is not to say the aggregate amounts need be identical (obviously, they will not be); however, the methodology and hourly rates should be similar, unless a reasonable explanation for any differences is set out in the agency's "business plan";

- *avoidance of any breaks, discounts or waivers to any dischargers subject to the regulatory program for which the fees are being assessed.* Fees may lawfully be assessed only to compensate for services requested to the applicant, and forcing one applicant to bear part of the burden of another's project, for whom fees are forgiven or reduced, probably constitutes the most indefensible misuse of the fee power;
- *provide a good-faith estimate of total fees in the regulations, as ADEC has proposed to do in the solid waste regulations.* Sealaska appreciates the difficulties with fixed fees; however, an estimate aids the operator in project budgeting, and it also serves as something of a cost control measure; and
- *establishment of a quick, informal appeal procedure with respect to the fees ultimately assessed.* The amount of the fee, and the amount of time charged, should plainly be matters that an applicant, or permittee, should be capable of promptly resolving through a disinterested party. But we also think the matter of quality of service ought to be an issue of fair debate. If the agency now sees itself, essentially, as a market provider, by all rights there should exist some safeguard to ensure that the service provided is of the quality that a buyer would purchase in the market, if competition actually existed. This is not to say that this appeal procedure should be misused as a vehicle to challenge the outcome of the permit proceeding, or the inspection. However, applicants and permittees should feel free to challenge the qualifications of those for whom they are asked to pay. A permittee, for example, ought not be asked to pay for a person unqualified in the particular field of engineering required to assess the project under consideration.

Again, Sealaska appreciates the sensitivity that ADEC has shown to this very controversial issue, and we hope to work both with you, and the legislative branch, to assure a fair and workable outcome.

Sincerely,

SEALASKA CORPORATION



Richard Harris  
Senior Vice President  
Natural Resources

cc: The Hon. Gail Phillips

The Honorable Tony Knowles  
Commissioner John Shively  
Members, House Finance Committee  
Members, Senate Finance Committee  
Members, House Resources Committee  
Members, Senate Resources Committee  
Senator Robin Taylor  
Senator Jim Duncan  
Senator Jerry Mackie  
Senator Mike Miller  
Representative Kim Elton  
Representative Ben Grussendorf  
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Southeast Alaska ANCSA Village and Urban Corporations  
Mr. Sam Kito  
Alaska Federation of Natives Land Managers  
Alaska Forest Association  
Resources Development Council  
Alaska Miners Association  
Alaska Oil and Gas Association  
Koncor, Inc.



# ALASKA MINERS ASSOCIATION, INC.

801 W. Northern Lights Blvd., Suite 203, Anchorage, Alaska 99503 FAX: (907) 276-7897 Telephone: (907) 276-0347

March 20, 1998

Honorable Mark Hanley  
Honorable Gene Therriault  
Co-Chairmen, House Finance Committee  
Capitol Building  
Juneau, AK 99801

RE: Draft Version L to CSHB-144(FIN), Relating to DEC Fees

Dear Representatives Hanley and Therriault,

Thank you for the opportunity to comment on this bill regarding user fees charged by the Department of Environmental Conservation.

We have reviewed Work Draft Version L and feel that the changes you are proposing should answer the questions raised by industry and those raised by DEC.

There is one addition that we would suggest and it is in Section 1 under AS 44.46.025(a)(7). We suggest the following underlined material as an addition.

(7) certification of federal permits or authorizations under 33 U.S.C. 1341 (sec. 401, Clean Water Act) provided there will be only one paid inspection per year for items covered by this subsection;

Several miners have expressed concern that if DEC charges a fee for every inspection, this could be used by third parties to harass them. DEC follows-up on complaints they receive regarding a possible discharge violation. Without a limitation on the number of inspections that could be charged against a miner, opponents of mining could call DEC with spurious complaints and the miner would have to foot the bill each time.

Thank you for your consideration of our previous comments and of this addition.

We urge passage of this bill.

Sincerely,

Steven C. Borell, P.E.  
Executive Director

# LEGAL SERVICES

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

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130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

March 18, 1998

**SUBJECT:** DEC fees CSHB 144(FIN), version "L")

**TO:** Representative Gene Therriault  
Attn: Mike Tibbles

**FROM:** Terri Lauterbach  
Legislative Counsel *Terri Lauterbach*

Enclosed is a new draft version of CSHB 144(FIN).

Consistent with your explanation of the intent behind the items in your memo of instructions, I have adjusted wording in a number of places.

On page 1, line 8, I have removed "not including travel" because your new definition of "actual direct costs" excludes travel expenses.

On page 1, line 9, I have added "of permittees and applicants" to ensure that their training is still covered even though the definition of "actual direct costs" puts limits on training. The DEC should be consulted to see if "permittees and applicants" covers all of the training for which the legislature wishes to permit fees.

In (a)(1), I have changed "applicable direct costs, not including travel" to "actual direct costs" in order to be consistent with the changes on page 1, lines 7 - 8.

In (a)(3), I have added a reference to "actual direct costs."

In sec. 2, new subsection (e), I have modified the language provided so that it incorporates the definition you provided for "reasonable hourly rate." Also, in the first phrase of this subsection, I have added a reference to subsection (i) because subsection (e) allows travel costs and the definition in subsection (i) does not.

I have modified the language of the definition for "actual direct costs" by using "the number of hours usually required" instead of "reasonable number of hours." I have done this in an attempt to distinguish what is supposed to be a fixed fee from the hourly fee that is only allowed under subsection (h). If the fixed fee allowed under subsection (a) were simply a combination of a wage rate times a reasonable number of hours, I would say there might be

Representative Gene Therriault

March 18, 1998

Page 2

no difference between a fixed fee and an hourly fee because DEC could determine a reasonable number of hours in each case. Assuming that you do intend for there to be a difference, I have changed the proffered language. Even so, I'm not sure that I have succeeded in differentiating between what you intend for the fixed fee to be and what an hourly fee would be. This issue merits further attention, I think.

TML:lmb:pl:glc

98-040.lmb

Enclosure

HB 144

3/20/98

Version L

Mr. Chairman, before I go over the new changes to version L of this bill, I would comment that this bill is not intended to be a solution for everyone. It is, however, an attempt to address some serious concerns about how this section of statute can be interpreted.

We have made every effort to include interested parties and take all comments seriously. We have worked with DEC and incorporated many of their concerns into this draft. Equally, we have worked with industry to incorporate their concerns. As you know, this is quite a balancing act and the complexity increases when you make changes that apply not to just one industry but to many different types of governmental activities and services.

The changes contained in this draft do not modify the intent. That is to allow the department enough authority to insure the users of the system are paying for the actual direct costs of those services being provided to them while building in safeguards to prevent abuses and insuring that general governmental functions that benefit the state, are paid for by the state. Two examples would be public inquiries for information and training of DEC staff. These functions should continue and because they benefit the state, the state should pay.

Moving into the changes contained in this draft.

Section 1 still requires that the department establish fixed fees for direct costs. A technical change has been made to make this section permissive and relocate all references to restrictions and limitations to another section of the bill.

Section 1(a)(1) gives DEC the authority to charge for other services relating to agriculture and animals, food, drugs, and cosmetics, and public accommodations and facilities. Ms. Adair has previously testified that the language "other services" was originally attached to these types of functions and by removing this language, we were inadvertently removing DEC's authority to charge for many legitimate direct costs. This amendment was added to correct that situation.

(a)3 in the previous draft contained a similar situation. To address DEC's concern, we have added the authority for DEC to charge for "sanitary surveys, determinations, classifications, and monitoring waivers"

Section 2 of the bill:

(e) Contains new language for the negotiated agreements. It requires DEC at the request of an applicant, to negotiate a fee for service that is based upon the actual hourly wage rate of the employees performing the service. In addition, it may include travel and third party inquiries. --- This subsection is a result of the realization that there are complex situations where a fixed fee is not appropriate. It is intended to provide DEC with the flexibility to deal with those complex situations while placing restrictions to limit the charge to an appropriate level.

Subsection (f) increases the restricted use pesticide fee from \$25 to \$30. This change is in response to Ms. Adairs concern that there may not be enough receipts to cover the required state match for the pesticide program.

Subsection (g) has been modified to clarify that DEC may not charge for providing information to third parties. Original language stated "soliciting information from third parties."

Subsection (h) Permits DEC to charge an hourly rate for the solid waste program and is set out to be repealed in the year 2000 by section 3 of the bill. Since the department is currently charging an hourly fee for the industrial solid waste program, this change will authorize DEC to continue to do so under the direct cost restrictions and gives them time to establish by regulation reasonable fixed fees and to offer negotiated fee arrangements.

Subsection (I) Adds a definition of "actual direct costs" to the bill. This subsection is intended to place restrictions on what can and can not include as a part of their fixed fee.

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

## DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF ENVIRONMENTAL HEALTH  
DIRECTOR'S OFFICE  
555 CORDOVA STREET  
ANCHORAGE, ALASKA 99501  
<http://www.state.ak.us/dec/home.htm>

Telephone: (907) 269-7644  
Fax: (907) 269-7654  
E-mail: [jadair@envircon.state.ak.us](mailto:jadair@envircon.state.ak.us)

March 3, 1998

The Honorable Gene Therriault  
Co-Chairman, Finance Committee  
Alaska State House of Representatives  
State Capitol Building  
Juneau, AK 99801

Re: HB 144

Dear Representative Therriault:

This letter follows up on the questions raised at the February 25 hearing on HB 144.

Direct v. Indirect Costs The language limiting the department to charging only for its direct costs has been part of AS 44.46.025(a) since it was first adopted by the Legislature in 1990 through the passage of HB 85. In addition, AS 37.10.050 states in pertinent part

"A fee or other charge that is set by regulation may not exceed the estimated actual costs of the state agency in administering the activity or providing the service unless otherwise provided by the statute under which the regulation is adopted."

In 1993, when the Legislature passed legislation establishing the comprehensive air program in the state (HB 167), it included what is now AS 44.46.025(c), allowing DEC to include in its air permit fees both direct and "indirect" costs. Adding the authority for "indirect" costs was necessary because AS 46.14.400(h), also a part of HB 167, prohibits the department from delegating or enabling another department or government entity (i.e., municipalities) from establishing air permit fees or collecting them. Therefore, since the air fees established by DEC were intended to cover the costs of a municipality that might run the air permitting program rather just the department's own costs of providing the service, the term "indirect" was added to give the necessary authority.

"Other Services Provided by the Department". This language originated in AS 44.46.025(a)(1) relating to the food and public facility activities of DEC. It was moved into the introductory paragraph of AS 44.46.025(a) as part of SB 99, which passed the Legislature in 1993.

The Honorable Gene Therriault  
March 3, 1998  
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The language was moved in recognition of the fact that there are a number of other services the department provides that directly benefits individuals. The Legislature wanted us to charge for those services. Currently, the types of services we charge for that would not be included as part of an inspection, permit preparation and administration, or plan review and approval include:

- ◆ Laboratory analyses of food products for export;
- ◆ Certification of seafood products for export;
- ◆ Certificates of Origin for seafood products for export;
- ◆ Sanitary surveys of public drinking water systems;
- ◆ Domestic wastewater installer certification;
- ◆ Dog and cat health certificates;
- ◆ Food Service facility recognition program (planned)
- ◆ Monitoring waivers for public drinking water systems
- ◆ Determinations of whether or not a public water system is groundwater under the direct influence of surface water;
- ◆ Determinations of optimal corrosion control for a public water system that exceeds the lead and copper action levels
- ◆ Certified Pool and Spa operator training;
- ◆ Various other training opportunities as they arise and are needed.

In some cases, these services might be arguably part of an approval. In some cases, we might continue to provide these services if sufficient general funds were provided to do so. In other cases, we would not offer the service, particularly the training.

There are some services in the current statutory list for which we can charge fees that are not part of an inspection, permit, or plan approval. Even though your proposed committee substitute leaves them in the list, the proposed amendment to the introductory paragraph makes our authority to charge a fee for those services highly questionable. They include the laboratory certification and ironically, the registration of pesticides.

From what I could tell based on the questions asked, it seems that the thought behind deleting this language would be to stop the department from charging applicants when we deal with third parties about a project. I don't think this amendment gets you there.

This is a problem of funding, not of authority. In a program that is heavily reliant on fees, every hour of an employee's time must be charged to a project. The costs incurred by answering questions about a facility or permit have to be covered. The only way to do that is to charge the project because there are insufficient general funds to cover those costs.

Believe me, we don't like this situation either. But, the funding mix in some of our programs leaves us little choice. We can't turn the questioner away but to answer costs money, even if only in staff time.

The Honorable Gene Therriault

March 3, 1998

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Water and Wastewater Operator Training. I understand this provision was moved to Section 2 in order to allow the department the ability to continue to offer the domestic wastewater certified installer program. AS 46.30 deals with the Water and Wastewater Works Advisory Board and covers the training and certification of operators of certain public water and wastewater systems. The primary authority we use for the domestic wastewater certified installers program is at AS 46.03.020(a)(10)(D).

Prohibition on Hourly Fees. As I stated in the hearing, hourly fees are tough for the department, and we'd probably be happy to not have them. However, as I also stated, the reason we do is because those who pay the fee have asked for them.

Currently, the only fees we have on the books that would be affected by the prohibition are the solid waste fees. These fees went out for public comment four times. We proposed flat fees, we proposed a combination of a flat fee and a per ton fee (that sure didn't work!), and we ended up with an hourly fee. It was *clearly* supported by those who would pay the fee. They did not want to "subsidize" other operations. To deal with their desire for certainty in budgeting, we put a cap on the total that would be charged for municipalities.

For the new industrial solid waste component, this prohibition would create a larger problem since we were given direction by the Legislature just last session to make this aspect of the solid waste program fully funded by fees. I don't know how to do that without an hourly fee unless we had a flat fee that was too high for some and too low for others.

Certainly you could correct that with a straight general fund appropriation which wouldn't affect the state's total spending since program receipts are also considered general fund. It would of course have an impact on the revenue side of the ledger.

Reimbursement Agreements. Our ability to continue to enter into these funding arrangements was supported by Mr. Borell in his testimony. As you know, we use these agreements for large development projects, particularly mines. They essentially pay the cost of DEC services. The projects receive priority handling. The costs are calculated based on the hourly rate of the employees involved with the project. The hourly rates used to calculate the costs in the reimbursement agreements range from \$56 to \$102. The desire to ensure we can continue to have these funding agreements would seem to indicate there is not a general opposition to paying for services based on hourly fees.

Particularly for site-specific determinations in the water quality program area, an hourly fee actually seems to be the fairest type of fee we could establish. These can be very labor intensive, but can also make the difference as to whether or not a specific project goes forward. The reimbursement agreements have been used to pay for these determinations in the past.

The Honorable Gene Therriault  
March 3, 1998  
Page 4

The angst about hourly fees is likely related to the discussion draft of the nondomestic wastewater regulations. The draft attempts to codify the reimbursement agreement arrangement and provide an alternative for those who do not wish to enter into a funding agreement. In that draft proposal (which has not yet gone out for public hearings), the hourly rate would be \$96 if the permitting function has no general fund in its budget. An explanation of how that hourly rate was established is attached.

Pesticide registration. If we have fees strictly based on the cost to the department to register a pesticide product, we would be looking at a fee of around \$100 per label. However, we need only cover the match for our federal pesticide grants. If the pesticides are not divided into categories, it appears a \$50 per label fee for all products will bring in enough money to provide that match. However, it may be that \$50 is too high, depending on how many of the 2,000 – 3,000 pesticides our market survey found being sold in the state actually register. We would like to be able to work the fee level through the regulatory process as we believe that is the best way to arrive at a fee level that is as low as it can be while still covering our grant match requirements.

As noted above, the distinctions between types of pesticides attempted to be made in the bill are very problematic for us. I have previously provided copies of some labels. Out of the three provided, two are clearly labeled for use "around household premises" as well as for agricultural use, leaving us to wonder into which category they would fall. It seems to me the certainty people want would be lost if the department was left to wrangle with individual companies over which fee applied to their product.

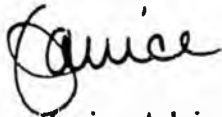
As I testified, it is easy for us to determine a restricted use pesticide. There is simply no question whether a pesticide is or is not a restricted use product. If categories must be delineated, this would be the only one that would not create uncertainty and an administrative nightmare for the department and the companies involved.

To respond to some of the other points Mr. Reinwand brought up, I would again point out that state statute says fees cannot exceed the actual costs to the department (AS 37.10.050). Also, the Legislature must approve the receipt and expenditure of any fees that are collected. It is simply not within the realm of reality that we could collect millions of dollars, or even hundreds of thousands of dollars through this registration fee and somehow get away with it – legally or legislatively.

The Honorable Gene Therriault  
March 3, 1998  
Page 5

I will be in Juneau on Friday and look forward to the hearing on this bill. In the meantime, please don't hesitate to contact me in Anchorage if you need any additional information or if I can be of any assistance.

Sincerely,



Janice Adair  
Director

JA/id (j:\eh\director\hb144.doc)

Enclosure

cc: Michele Brown, Commissioner (w/encl.)  
Mike Conway, Director, Air and Water Quality (w/encl.)  
Pat Pourchot, Office of the Governor (w/encl.)

## WATER PROGRAM HOURLY FEE EXPLANATION

In determining an appropriate hourly fee for water program services we reviewed the work previously done by the Air and the Solid Waste (Environmental Health Division) programs. To be consistent we used their base calculations to get the number of work days available by subtracting weekends, holidays and an average for sick and annual leave usage to arrive at an average 235 days. 235 days times 7.5 hours per day gives 1763 work hours per year.

Discussions with the Air Program and their two years experience with hourly fees indicate that we will be able to bill a maximum of 60 percent of available hours. The 40 percent non-billable time is consumed in training, program development and administration, and other such work that is not directly billable to an individual or facility. 1763 hours times 60% billable rate equals 1058 billable hours per staff per year.

All state funding sources whether grants, facility funding agreements or RSA's are charged approximately 25 percent to cover the allocated costs of running the department. This allocated rate covers such costs as administrative services and department overhead (costs shared by all divisions in a location such as rent, phones, copy machines). It does not cover line items 200-500 (travel, contractual, equipment, or supplies). Line items 300 - 500 are included separately.

Only staff without grant or other funding sources will be paid by these fees.



# ALASKA MINERS ASSOCIATION, INC.

501 W. Northern Lights Blvd., Suite 203, Anchorage, Alaska 98503 FAX: (907) 278-7997 Telephone: (907) 276-0347

January 22, 1998

Mr. Pete McGee  
Dept of Environmental Conservation  
610 University Avenue  
Fairbanks, AK 99709-3643

FAX 907-451-2187

Re. Fees Proposal For Water Permits

Dear Pete,

We are writing to provide you with some of our concerns regarding the water quality fees proposal. Our concerns fall into two general areas. The first area involves some specific comments on the draft fees document and the second involves the overall concept and direction of the fees.

Regarding specific comments, the water permit fees proposal is not ready for public notice. Much work has gone into this draft document but it remains far from workable. There are many areas where various persons on the recent teleconference had specific questions for which DEC did not have an answer. These included how to know if a project was complex versus non-complex. Whether or not a placer miner would be charged both a \$600 application fee and an annual \$600 fee. The impact of third party complaints on the number of inspections for which a miner may be required to pay. On this latter point we recognize that DEC would have the "option" of not charging the miner if the complaint was harassment but that is not sufficient protection. We know you personally and feel confident you would address this issue fairly but we also know that responsibilities change over time. We would also note that the inspection fee income was not shown in the table. There are many more problem items but these are a few examples.

We also have several points regarding the overall concept and direction of the fees. We cannot support the approach utilized which was to take the total DEC cost and distribute it over the various permits. Industries and the municipalities may be able to stomach paying for the direct cost for work done to directly support issuance of a specific permit but we cannot support the approach proposed.

We are also concerned that the amount of funds to be raised is an escalating target. In our first meeting several months ago the goal was to raise \$450,000 to meet a projected shortfall. By the time of the most recent teleconference the goal was up to \$1.5 million. This points to a philosophical question that the Legislature and the Administration must address before any fees proposal can proceed...How much of the DEC budget should be raised through fees versus how much should be from the General Fund.

In our first meeting the entire group of private and public participants was adamant that hourly fees do not work and must not be pursued. Yet hourly fees continue to be included in the document. And the level of these hourly fees is higher than the cost of the highest quality consultants that can be hired to do this kind of work.

Finally, at the first meeting we asked that DEC define the costs of the various programs and work items so we could support DEC in the Legislature to obtain General Fund money for those areas of a general support nature, items mandated by various acts, work items required for the "public good", etc. A partial list of these items has been provided, however, the associated costs for each have not been defined.

The bottom line is that the entire fees approach needs to be re-evaluated and the objectives and parameters clearly defined before any new rule can be proposed:

Sincerely,



Steven C. Borell, P.E.  
Executive Director

cc: Ken Feeman, RDC  
Marilyn Crocket, AOGA

STATE OF ALASKA  
HOUSE OF REPRESENTATIVES

Representative Jeannette James



P.O. Box 56622  
North Pole, AK 99705  
TEL 488-1546, FAX 488-4271

State Capitol  
Juneau, AK 99801  
TEL 465-3743, FAX 465-2381

**SPONSOR STATEMENT**

**House Bill 144**

**D.E.C. Fees, Pesticides and Chemicals**

February 25, 1998

I submitted this bill at the request of the Alaska Department of Environmental Conservation, Division of Environmental Health.

D.E.C. oversees pesticide use in Alaska. Those services consist of applicator training and certification, issuing permits for public use projects, and ensuring pesticides are used properly. This includes requiring manufacturers to register their products with the state. The program is funded in part by the federal government with a state match.

Every other state pays for its share of the pesticide program through a registration fee levied against the chemical manufacturers. D.E.C. would like to do the same thing in Alaska, but statutory authority is needed. No Alaskan would pay this fee, since there are no chemical manufacturers in Alaska. D.E.C. proposes to charge a fee per label to cover the costs of the program. This would have a positive impact on our general fund as program expenses are replaced with program receipts.



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1913 Eye St. N.W.  
Washington, DC 20006

**CHEMICAL SPECIALTIES MANUFACTURERS ASSOCIATION**

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## **CSMA POSITION ON ALASKA REGISTRATION FEE**

According to the fiscal impact note attached to the legislation, the amount of revenue contemplated to be raised by the legislation is \$55,000 under a pesticide registration fee of \$100.00. However, given the number of pesticide products that would be registered, CSMA projects that a proposed fee of \$100.00 per product is inordinate and would raise revenue far in excess of \$55,000.

In our estimate, a registration fee of \$100.00 per product would generate revenue of approximately \$500,000 per year, grossly in excess of the projected \$55,000 budget need of the department. This projection is based on a CSMA survey of product registrations, conducted in 1996 which shows that on average 8,830 pesticide products are registered in the states. Of the 29 states surveyed by CSMA the lowest number of products registered in any state was Rhode Island with 6,000 products ( The highest was Georgia with 13,500 products registered).

It should also be noted that while \$100.00 per product is an average of all pesticide registration fees, there is no practical applicability to Alaska since many states devote more than fifty percent, and in some cases up to seventy percent, of their pesticide program budgets on agricultural related activities. Moreover, even intensive agricultural states such as Nebraska, with a \$35.00 fee, have registration fees lower than the \$100.00 fee being proposed.

Assuming that Alaska would have the lowest number of registered pesticide products of any state, we estimate that approximately 5,000 products would be registered, and the program would, under a \$100.00 fee thereby accrue \$500,000.

Approximately sixty to sixty-five percent of all products are registered for consumer and institutional uses which fall under the category of "Consumer Protection and Health Benefit Products" defined as follows:

The term "consumer protection and health benefit products" shall mean: any disinfectant, sanitizer, germicide, biocide, and any pesticide labeled for use directly on humans or pets (including dogs, cats, horses and other companion animals). This category also includes any pesticide labeled for use directly in areas in or around household premises.

Examples of "consumer protection and health benefit products" include toilet bowl disinfectants, bleach products with disinfectant claims, and insect repellents. Though "consumer protection and health benefit products" constitute, in most states, the majority of registrations, characteristically most state pesticide regulatory programs devote sixty to seventy five percent of the pesticide regulatory budget administering the use of agricultural pesticides.

The disparity in expenditures are a consequence of the environmental and human health impact of agricultural pesticides, including restricted use pesticides. Agricultural pesticide products have greater concentration of active ingredients and are used in larger volumes, when compared with "consumer protection and health benefit products" which are routinely used by consumers in homes, and by institutions such as restaurants, hospitals, food processing facilities, etc.

In recognition of the differences between these two separate and distinct classes of pesticides several states ( Connecticut, Michigan, Minnesota, Nebraska, New Hampshire, Wisconsin) have enacted statutory distinctions and /or distinctions in registration fees.

CSMA therefore opposes the establishment of registration fees that do not recognize distinction in the classes of pesticides and are not equitable. It is also vital that the fee be prescribed in statute in order to ensure reasonable legislative oversight and to preclude significant administrative discretion for a substantial tax authority

Janice Adair, Director  
Division of Environmental Health  
555 Cordova Street  
Anchorage, AK 99501  
907-269-7644 voice  
907-269-7654 fax  
jadair@environ.state.ak.us

# Environmental Health

To: Mike Tibbles Fax: 907 465 3884

From: Janice Date:

Re: HB 144 Pages: Seven

CC:

Urgent  For Review  Please Comment  Please Reply  Please Recycle

Mike - Here are some ~~see to~~ labels.  
You'll see they are approved ~~for~~ for  
both ag + non-ag use. So, our  
dilemma would be how to categorize  
them if that was the line drawn  
in the bill

current as of March 7, 1996. The product descriptions and recommendations provided in this sample label are for  
use only. Always refer to the label on the product before using Monsanto or any other agricultural product.



Monsanto

**Complete Directions for Use  
in Forestry and Utility Rights-of-Way**

EPA Reg. No. 524-122

**AVOID CONTACT WITH FOLIAGE, GREEN STEMS,  
EXPOSED NONWOODY ROOTS, OR FRUIT OF CROPS,  
DESIRABLE PLANTS AND TREES, SINCE SEVERE  
INJURY OR DESTRUCTION WILL RESULT.**

\*Monsanto is a registered trademark of Monsanto Company.

1995-1 2100251-5/03

Read the entire label before using this product.  
Use only according to label instructions.

Read the entire label before using this product.  
Use only according to label instructions.

field "LIMIT OF WARRANTY AND LIABILITY" means buying or using, if terms are  
not acceptable, means of cause unapproved.

**LIMIT OF WARRANTY AND LIABILITY**

This Company warrants that this product conforms to the chemical description  
on the label and is reasonably fit for the purposes set forth in the Complete  
Directions for Use label booklet ("Directions") when used in accordance with  
these Directions under the conditions described therein. NO OTHER EXPRESS  
WARRANTY OR IMPLIED WARRANTY OF FITNESS FOR PARTICULAR PURPOSE  
OR MERCHANTABILITY IS MADE. This warranty is also subject to the "Warranty  
and Limitations" stated herein.

Buyer and all users shall promptly notify this Company of any injury whether  
by or to person, animal, or property, or damage to crops, or other loss, or  
damages or damages resulting from the use of this Company, including,  
but not limited to, increase in liability with products other than those set forth in the  
Directions, application to or contact with desirable vegetation, abnormal  
weather, weather conditions which are outside the range considered normal at  
the application site and for the time period when the product is applied, as well  
as weather or conditions which are outside the application ranges set forth in the  
Directions, application in any manner not explicitly set forth in the Directions, or  
excessive conditions outside the application range specified in the Directions, or  
the presence of products other than those set forth in the Directions in or on the  
site, or on treated vegetation.

THE EXCLUSIVE AGENCY OF THE USER OR BUYER, AND THE LIMIT OF THE LIABILITY OF THIS COMPANY OR ANY OTHER SELLER FOR ANY AND ALL LOSSES, DAMAGES OR DAMAGES RESULTING FROM THE USE OR HANDLING OF THIS PRODUCT INCLUDING CLAIMS BASED IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE SHALL BE THE PURCHASE PRICE PAID BY THE USER OR BUYER FOR THE QUANTITY OF THIS PRODUCT INVOLVED, OR, AT THE ELECTION OF THIS COMPANY OR ANY OTHER SELLER, THE REPLACEMENT OF SUCH QUANTITY, OR, IF NOT ACCUMULATED BY PURCHASE, REPLACEMENT OF SUCH QUANTITY, IN NO EVENT SHALL THIS COMPANY OR ANY OTHER SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES.

Buyer and all users are deemed to have accepted the terms of this LIMIT OF WARRANTY AND LIABILITY which may not be varied by any verbal or written agreement.

REPRISALIZATION IS PROHIBITED. SEE CONTAINER LABEL FOR RESTRICTIONS AND LIMITATIONS.

**PRECAUTIONARY STATEMENTS**

**Hazards to Humans and Domestic Animals**

Keep out of reach of children.

**CAUTION!**

HAZARDOUS IF INHALED.

Avoid breathing vapors or spray mist.

FIRST AID: IF INHALED, remove individual to fresh air. Seek medical attention if breathing difficulty develops.

**Personal Protective Equipment**

Applicators and other handlers must wear long-sleeved shirt and long pants and shoes plus socks. Follow manufacturer's instructions for cleanability. Wearing PPE if in such situations for washables, use detergent and hot water. Keep and wash PPE separately from other laundry.

**User Safety Recommendations**

Users should:

- Wash hands before eating, drinking, chewing gum, using tobacco or using the toilet.

In case of an emergency involving this product, call Collect, day or night, (314) 634-4000.

**Environmental Hazards**

Do not contaminate water when disposing of equipment washwaters. Treatment of aquatic waste can result in oxygen depletion or loss due to decomposition of dead matter. This oxygen loss can cause fish suffocation. In case of SPILL or LEAK, soak up and remove to a landfill.

**Physical or Chemical Hazards**

Spray solutions of this product should be mixed, stored and applied only in stainless steel, aluminum, fiberglass, plastic and polyurethane tanks containing.

DO NOT MIX, STORE OR APPLY THIS PRODUCT OR SPRAY SOLUTIONS OF THIS PRODUCT IN GALVANIZED STEEL OR UNPAINTED STEEL (EXCEPT STAINLESS STEEL CONTAINERS OR SPRAY TANKS). This product or spray solutions or this product mixed with such containers may react to produce hydrogen gas which may form a highly combustible gas mixture. This gas mixture could flash or explode, causing serious physical injury, if ignited by open flame, spark, welder's torch, lighted cigarette or other ignition source.

**ACTIVE INGREDIENT:**

Diflufenican, 10-(4-isopropylphenyl)pyridine, 81.5%  
in the form of its isopropylamine salt, 58.4%  
TOTAL INGREDIENTS: 100.0%

\*Contains 600 grams per liter or 4 pounds per U.S. gallon of glyphosate, N-(2-aminoethoxy)acetic acid, in the form of its isopropylamine salt. Equivalent to 546 grams per liter or 3 pounds per U.S. gallon of the acid, glyphosate.

**DIRECTIONS FOR USE**

It is a violation of Federal law to use this product in any manner inconsistent with its labeling. For any requirements specific to your State or Tribe, consult the agency responsible for pesticide regulation.

**Agricultural Use Requirements**

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses; the handlers of agricultural pesticides; and emergency responders for treating, disseminating, re-treating, and emergency applications. It also contains specific instructions and exceptions pertaining to the requirements on this label about personal protective equipment (PPE) and acceptable entry intervals. The requirements in this label only apply to uses of this product that are covered by the Worker Protection Standard.

Do not apply this product in a way that will contact workers or other persons, either directly or through drift, unless protective measures are in place to ensure safety. Do not enter or allow worker entry into treated areas during the restricted entry interval (REI) of 12 hours.

PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with sprayed plants has been treated, such as plants, soil, or water, are: eye protection, waterproof gloves and other PPE as needed.

Label #1

A2  
→

**Non-Agricultural Use Requirements**

The requirements in this box apply to uses of this product that are NOT within the scope of the Worker Protection Standard for agricultural pesticides (48 CFR Part 170). The WPS applies when this product is used to produce agricultural plants on farms, forests, nurseries, or greenhouses.

Uses of this product in utility rights-of-way and all other utility sites are not within the scope of the Worker Protection Standard requirements. Requirements in the Agricultural Use Requirement box do not apply to utility sites. Follow all other label requirements for applications to utility sites.

For more product information, call toll free 1-800-332-3111.

**Storage and Disposal**

Do not contaminate water, foodstuffs, feed or seed by storage or disposal. **STORAGE:** STORE ABOVE 10°F (-12°C) TO KEEP PRODUCT FROM CRYSTALLIZING.

Crystals will settle to the bottom. If allowed to crystallize, place in a warm room 58°F (12°C) for several days to redissolve and fill or shake container or recollect in clean containers to use well before using. For bulk containers, see container label.

**DISPOSAL:** Wastes resulting from the use of this product that cannot be used or the material reprocessed should be disposed of in a landfill approved for pesticide disposal or in accordance with applicable Federal, state or local procedures.

Empty container retains vapor and product residue. Observe all labeled safeguards until container is cleaned, reconditioned or destroyed. (See the individual container labels for disposal information)

**GENERAL INFORMATION**

This product, a water-soluble liquid, mixes readily with water and surfactant to be applied as a foliar spray for the control or destruction of most herbaceous and woody plants.

This product moves through the plant from the point of foliage contact to and into the root system. Visible effects on most herbaceous weeds occur within 7 days but on most woody plants may not occur for 30 days or more.

After any site disturbance, such as logging, mechanical brush removal or mowing, allow stump sprouts, resprouts and foliar regrowth from woody brush and perennial herbaceous weeds sufficient time to regrow before treatment.

Always use the higher recommended rates of this product and surfactant when treating dense, re-sprouting sites of woody vegetation or difficult-to-control woody and herbaceous plants.

Reduced control may result when woody brush, trees and herbaceous weeds are treated under poor growing conditions caused by drought, disease or insect damage. Reduced control may result if the foliage of undesirable vegetation is covered with dust at the time of treatment.

Rainfall occurring within 6 hours after application may reduce effectiveness. Heavy rainfall within 2 hours after application may wash the chemical off the foliage and a repeat treatment may be required.

When this product comes in contact with soil (on the soil surface or as suspended soil or sediment in water) it is bound to soil particles. When used in accordance with label directions, once this product is bound it is not available for plant uptake and will not harm off-site vegetation where roots grow into the treatment area or if the soil is transported off-site. When used in accordance with label directions, the strong affinity of this product to soil particles prevents this product from leaching out of the soil profile and entering ground water. The affinity between this product and soil particles remains until the product is degraded, which is primarily a biological degradation process carried out under both aerobic and anaerobic conditions by soil microflora.

Buyer and all users are responsible for all loss or damage in connection with the use or handling of mixtures of this product with herbicides or other materials that are not expressly recommended in this label. Mixing this product with herbicides or other materials not recommended in this label may result in reduced performance.

**FORESTRY SITE PREPARATION AND UTILITY RIGHTS-OF-WAY**

This product is recommended for the control or partial control of woody brush, trees and herbaceous weeds. This product is labeled for use in forestry and utility sites. This product is also recommended for use in preparing or establishing wildlife openings within these sites and maintaining logging roads, and for site trimming along utility rights-of-way.

In forestry, this product is recommended for use in site preparation prior to planting any tree species, including Christmas trees and structural nursery stock.

In utilities, this product is recommended for use along electrical power, pipeline and telegraph rights-of-way, and in other utility sites associated with these rights-of-way, such as substations.

**APPLICATION RATES AND TITING**

APPLICATION	ACCORD*	SPRAY VOLUME GAL/A
<b>BROADCAST</b>		
Ground	2 to 10 qt/a	5 to 30
Ground	2 to 10 qt/a	10 to 60
<b>SPRAY-TO-WET</b>		
Handgun, Backpack, Mistblower	34% to 2% by volume	spray-to-wet
<b>LOW VOLUME DIRECTED SPRAY</b>		
Handgun, Backpack, Mistblower	5% to 10% by volume	partial coverage*

\*For low volume directed spray applications, coverage should be uniform with at least 50 percent of the foliage contacted. Coverage of the top one-third of the plant is important for best results.

In forestry site preparation and utility rights-of-way applications, this product requires use with a surfactant. Use a nonionic surfactant with greater than 80 percent active ingredient and labeled for use with herbicides. Use of this product without surfactant will result in reduced performance. See the "MIXING AND APPLICATION INSTRUCTIONS" section of this label for more information.

Use 2 or more quarts of the nonionic surfactant per 100 gallons of spray solution (0.5 percent or more by spray volume). Use of surfactant concentrations greater than 1.5 percent by spray volume with handgun applications or 2.5 percent by spray volume with broadcast applications is not recommended.

Use higher rates of this product within the recommended range for control or partial control of woody brush, trees and hard-to-control perennial herbaceous weeds. For best results, apply to actively growing woody brush and trees after full leaf expansion and before fall color and leaf drop. Increase rates within the recommended range for control of perennial herbaceous weeds any time after emergence and before seedheads, flowers or berries appear.

Use the lower rates of this product within the recommended range for control of annual herbaceous weeds and actively growing perennial herbaceous weeds after seedheads, flowers or berries appear. Apply to the foliage of actively growing annual herbaceous weeds any time after emergence.

This product has no herbicidal or residual activity in the soil. Where repeat applications are necessary, do not exceed 10.6 quarts of this product per acre per year.

**TANK MIXTURES**

Tank mixtures of this product may be used to increase the spectrum of vegetation controlled. When tank mixing, read and carefully observe the label claims, cautionary statements and all information on the labels of both products used. Use according to the most restrictive preliminary statements for each product in the mixture. Any recommended rate of this product may be used in a tank mix.

**NOTE:** For forestry site preparation, you may use the tank-mix product as approved for use prior to planting the desired species. Observe planting interval restrictions. For site trimming treatments in utility rights-of-way, tank mixtures with Arsenal™ ZNSL are not recommended. For site trimming treatments, it is recommended that this product be used alone as recommended, or as a tank mixture with Garon™ 4.

PRODUCT	BROADCAST RATE	USE SITE
Arsenal Applicators Concentrate	2 to 10 qt/a	Forestry site preparation
Garon™	1 to 4 qt/a	Forestry site preparation
Garon 3A™, Garon 4	1 to 4 qt/a	Forestry site preparation, Utility sites
Arsenal ZNSL	2 to 32 fl oz/a	Utility sites
PRODUCT	SPRAY-TO-WET RATES	USE SITE
Arsenal Applicators Concentrate	1/32% to 1/2% by volume	Forestry site preparation
Arsenal ZNSL	1/32% to 1/2% by volume	Utility sites
PRODUCT	LOW VOLUME DIRECTED SPRAY RATES	USE SITES
Arsenal Applicators Concentrate	1/8% to 1/2% by volume	Forestry site preparation
Arsenal ZNSL	1/8% to 1/2% by volume	Utility sites

\*Evening Garon 3A is thoroughly mixed with water according to label directions before adding this product. Never spray mixtures a glazing of the trees this product is added to avoid spray compatibility problems.

For control of herbaceous weeds, use the lower recommended tank mixture rates. For control of dense stands or tough-to-control woody brush and trees, use the higher recommended rates.

\*Garon is a trademark of American Chemical Company.

\*Garon is a trademark of E. I. du Pont de Nemours and Company.

\*Garon is a trademark of DowChemical Products Company.

Label #1

BT  
AG + NOOD  
AG

# MATTCH™

## BIOINSECTICIDE

AQUEOUS FLOWABLE BASED ON THE CELLCAP® ENCAPSULATION SYSTEM

For control of caterpillar pests on vegetables, field crops, fruits, nuts, grapes, turf, stored products and ornamental and nursery crops.

### ACTIVE INGREDIENT

A blend of CryIA(c) and CryIC derived\* delta endotoxins of *Bacillus thuringiensis* encapsulated in killed *Pseudomonas fluorescens*.....12%

INERT INGREDIENTS.....88%

TOTAL.....100%

One gallon of this product contains 1.05 lbs of delta endotoxins of *Bacillus thuringiensis* encapsulated in killed *Pseudomonas fluorescens*

**KEEP OUT OF REACH OF CHILDREN**

### CAUTION

Avoid contact with eyes, skin and clothing. Wash thoroughly after handling.  
See back panel or booklet for additional precautionary statements.

EPA Registration No. 53219 - 10

EPA Establishment No. 37429-GA-2 or 53219-WI-1

See separate correspondence to find number of lot number stamped on container.

MATTCH is a trademark of Mycogen Corporation

CellCap is a registered trademark of Mycogen Corporation

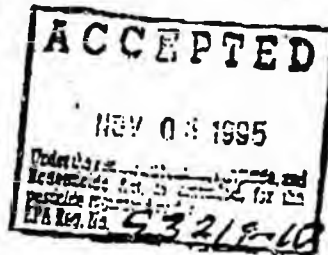
The CellCap encapsulation system is protected by U.S. patent nos. 4,695,462 and 4,695,455.

\*Patent pending

Net Contents:



MYCOGEN CORPORATION  
5501 Oberlin Drive  
San Diego, CA 92121  
1-800-746-7476



Label #2

B2

### AGRICULTURAL USE REQUIREMENTS

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE) and restricted-entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.

Do not enter or allow worker entry into treated areas during the restricted entry interval (REI) of 4 hours.

PPE required for entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil, or water, is: coveralls, waterproof gloves, and shoes plus socks.

### NON - AGRICULTURAL USE REQUIREMENTS

The requirements in this box apply to uses of this product that are NOT within the scope of the Worker Protection Standard for agricultural pesticides (40 CFR Part 170). The WPS applies when this product is used to produce agricultural plants on farms, forests, nurseries, or greenhouses.

#### Application Timing

- Always target newly hatched or small larvae with spray applications so that insects are controlled before they cause extensive feeding damage. Make applications before older larvae tunnel or bore into buds, heads, stalks, or fruits and begin feeding inside the plant or fruit. Once larvae are protected inside the plant, they will be difficult to control with this, or other foliar applied products.
- Determine optimal timing of first application, scout fields regularly for the appearance of eggs and newly hatched larvae. Make the first application as soon as larvae begin to hatch. Repeat applications as needed to maintain larval control.

#### Mixing and Application

- Fill spray tank 3/4 full with water and add recommended amount of this product to tank. Mix thoroughly while adding remainder of water. Agitate as necessary to maintain suspension.
- Thorough coverage of the foliage is NECESSARY for optimal performance of this product. Use sufficient volume of water to thoroughly wet upper and lower leaf surfaces. Do not apply to runoff. All application techniques and equipment should result in uniform and complete coverage of all leaf surfaces on the plant. Control of target insects is achieved only when susceptible stages of the insect eat the treated plant. Skips, streaks or untreated foliage below the canopy surface will result in reduced pest control.
- If rain or irrigation occurs on day of application, reapply this product.
- For water based conventional ground and aerial application, apply recommended amount of product in at least 2 gallons of water per acre. For most conventional ground application equipment, a minimum of 20 gallons of water per acre is necessary for good performance. Increasing water volume when crop growth is rapid and/or foliage is dense will improve crop coverage and the performance of this product.
- Use an approved spreader or spreader-sticker to improve coverage on hard to wet crops.

AG LAWNS, GOLF COURSES, PARKS, ROADSIDES  
**CLEAN CROP**  
**AMINE 4**  
**2,4-D WEED KILLER**

For Selective Broadleaf Weed Control in  
Certain Crops, Turf and Non-Crop Areas.

**ACTIVE INGREDIENT:**

Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid . 46.5%  
INERT INGREDIENTS: ..... 53.5%  
TOTAL 100.0%  
Equivalent to 36.8% 2,4-D aces or 3.74 pounds per gallon.  
Former specific by ADAC Method No. 8.273-6.273 (19th Ed.)

**KEEP OUT OF REACH OF CHILDREN  
CAUTION**

(See Below for Additional Precautionary Statements)

EPA REG. NO. 31704-126

EPA EST. NO. \_\_\_\_\_

NET CONTENTS 3 1/2 GAL. (9.46 L)

77053

10821

**PRECAUTIONARY STATEMENTS  
HAZARDS TO HUMANS AND DOMESTIC ANIMALS**

**CAUTION**

CAUSES IRRITATION OF EYES AND SKIN. DO NOT GET IN EYES.  
AVOID CONTACT WITH SKIN AND CLOTHING. HARMFUL IF SWAL-  
LOWED. Do not contaminate water used for irrigation, domestic or spray  
purposes.

**Personal Protective Equipment:**

Applicators and other handlers must wear long-sleeved shirt and  
long pants, waterproof gloves, shoes plus socks and protective eyewear.  
Follow manufacturer's instructions for cleaning and repairing PPE. If no  
such instructions for washables, use detergent and hot water. Keep and  
wash PPE separately from other laundry. After each day of use, clothing  
or PPE must not be repaired until it has been cleaned.

For containers over 5 gallons and less than 5 gallons in capacity:  
Mixers and loaders who do not use a mechanical system (probe and pump)  
to transfer the contents of the container must wear coveralls or a  
chemical-resistant apron in addition to the required PPE.

**Engineering controls statements:**

When handlers use enclosed cabs or aircraft in a manner that meets with  
requirements listed in the Worker Protection Standard (WPS) for agricul-  
tural pesticides (40 CFR 170.240 (d) (5-6)), the handler PPE require-  
ments may be reduced or modified as specified in the WPS.

For containers of 5 gallons or more in capacity: A mechanical system  
(probe and pump) must be used for transferring the contents of the  
container. If the contents of a non-refillable pesticide container are emul-  
sion, the probe must be rinsed before removal. If the mechanical system  
is used in a manner that meets the requirements listed in the Worker  
Protection Standard (WPS) for agricultural pesticides (40 CFR 170.240  
(d)(4)), the handler PPE requirements may be reduced or modified as  
specified in the WPS.

**USER SAFETY RECOMMENDATIONS**

**Users should:**

Wash hands before eating, drinking, chewing gum, using tobacco or  
using the toilet.

Remove clothing immediately if pesticide gets inside. Then wash thor-  
oughly and put on clean clothing.

Remove PPE immediately after handling this product. Wash the outside  
of gloves before removing. As soon as possible, wash thoroughly and  
change into clean clothing.

**STATEMENT OF PRACTICAL TREATMENT**

In case of contact, flush eyes with plenty of water for at least 15 minutes  
and get medical attention. Wash skin with plenty of soap and water.

**ENVIRONMENTAL HAZARDS**

This product is toxic to aquatic invertebrates. Drift or runoff may ad-  
versely affect aquatic invertebrates and non-target plants. For terrestrial  
uses, do not apply directly to water, or to areas where surface water is  
present or to terrestrial areas below the mean high water mark. Do not  
contaminate water when disposing of equipment washwaters.

**Groundwater Contamination:**

Most cases of groundwater contamination involving phenoxy herbicides  
such as 2,4-D have been associated with mixing/loading and disposal  
sites. Caution should be exercised when handling 2,4-D pesticides at  
such sites to prevent contamination of groundwater supplies. Use of  
closed systems for mixing or transferring this pesticide will reduce the  
probability of spills. Placement of the mixing/loading equipment on an  
impervious pad to contain spills will help prevent any groundwater contami-  
nation.

Do not apply when weather conditions favor drift from treated areas.

Do not use the same spray equipment for other purposes unless thor-  
oughly cleaned.

Do not apply in or near a greenhouse.

Do not contaminate water used for irrigation or domestic purposes (ex-  
cept as specifically recommended on this label) especially in areas  
where grapes, cotton, tomatoes or other susceptible plants are grown.  
Do not use irrigation ditches in areas where water will be used to  
irrigate (sprinkle) irrigate susceptible crops especially grapes, toma-  
atoes, tobacco and corn.

Do not apply AMINE 4 directly to, or permitted to drift onto, cotton, olive,  
peaches, tomatoes, fruit trees, soybeans, tobacco, beans, vegetables,  
flowers or other desirable crop or ornamental plants which are suscepti-  
ble to 2,4-D herbicide. Do not apply near susceptible plants since very  
small quantities of the 2,4-D will cause severe injury during the growing or  
dormant periods. Crops contacted by AMINE 4 sprays or spray drift  
may be killed or suffer significant stand loss with excessive quality and  
yield reduction.

Do not apply when a temperature air inversion exists. Such a condition is  
characterized by little or no air movement and an increase in air tempera-  
ture with an increase in height. In humid regions a fog or mist may form.  
An inversion may be detected by producing a smoke column and check-  
ing for a layering effect. If questions exist pertaining to the existence of  
an inversion consult with local weather services before making applica-  
tion.

Use cone nozzles to minimize drift. Do not apply with hollow cone type  
insecticide or other nozzle that produce fine spray droplets.

Drift from aerial or ground application may be reduced by: (1) applying as  
near the target as possible in order to obtain coverage; (2) by increasing  
the volume of spray mix per acre; (3) by decreasing the pounds of pres-  
sure at the nozzle tip; (4) by using nozzles which produce a coarse spray  
pattern; (5) by not applying when wind is blowing toward susceptible  
crops or valuable plants.

Applications by airplane, ground rig, and hand dispensers should be  
carried out only when there is no hazard from drift. Do not apply in the  
vicinity of cotton, grapes, tomatoes, or other desirable vegetation sus-  
ceptible to 2,4-D. Do not spray when the wind is blowing across the area  
to be sprayed toward susceptible crops or ornamental plants. Violent  
windscreens may move soil particles. If 2,4-D is on these particles and  
they are blown onto susceptible plants, visible symptoms may appear.  
Serious injury is unlikely. The hazard of movement of 2,4-D on dust  
during violent windscreens is reduced if treated fields are irrigated or if  
rain occurs shortly after application. Do not contaminate irrigation  
ditches or water used for irrigation or domestic purposes.

To avoid injury to desirable plants, do not store, handle, or apply other  
agricultural chemicals with the same containers or equipment used for  
AMINE 4 except as specified on this label.

Label #3



Cross references. — For exemption from AS 44.62 for adjudicatory hearing procedures to review permit decisions, see AS 46.36.090(e).

**Sec. 46.03.890. Enforcement authority.** (a) The following persons are authorized to enforce this chapter:

- (1) a state employee authorized by the commissioner;
- (2) a police officer of the state.
- (b) Inspection and enforcement employees of the department designated by the commissioner are peace officers in the performance of their duties under this chapter, AS 46.04, AS 46.09, and AS 46.14. (§ 3 ch 120 SLA 1971; § 2 ch 116 SLA 1980; am § 16 ch 59 SLA 1986; am § 24 ch 74 SLA 1993)

Revisor's notes. — Subsection (b) was formerly AS 46.04.090(b). Renumbered in 1991.  
 Effect of amendments. — The 1993 amendment, effective June 26, 1993, substituted "AS 46.04" for "AS 46.03" and added "AS 46.14" in subsection (b).

**Sec. 46.03.900. Definitions.** In this chapter

- (1) "air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances or a combination of these;
- (2) "air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in quantities and duration that tend to be injurious to human health or welfare, animal or plant life or property or would unreasonably interfere with the enjoyment of life or property;
- (3) *(Repealed, § 63 ch 30 SLA 1996.)*
- (4) "broadcast chemicals" means chemical substances which are released into the air or onto land or water for the purpose of preventing, destroying, repelling, stimulating, or retarding plant or animal life, or chemical substances released for meteorological control, oil spill control, or fire control;
- (5) "commissioner" means the commissioner of environmental conservation;
- (6) "department" means the Department of Environmental Conservation;
- (7) "dispose" has the meaning given "disposal" in 42 U.S.C. 6903(3);
- (8) "facility" means any offshore or onshore structure, improvement, vessel, vehicle, land, enterprise, or endeavor;
- (9) "hazardous waste" means a waste or combination of wastes that because of quantity, concentration, or physical, chemical, or infectious characteristics may
  - (A) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
  - (B) pose a substantial present or potential hazard to human health or the environment when improperly managed, treated, stored, transported, or disposed of;
- (10) "hazardous waste reduction" means decreasing, avoiding, or eliminating wastes that are hazardous to human health or the environment through source reduction or recycling; the term does not include hazardous waste treatment or hazardous waste disposal;
- (11) "industrial waste" means a liquid, gaseous, solid, or other waste substance or a combination of them resulting from process of industry, manufacturing trade or business, or from the development of natural resources; however, gravel, sand, mud, or earth taken from its original situs and put through sluice boxes, dredges, or other devices for the washing and recovery of the precious metal contained in them and redeposited in the same watershed from which it came is not industrial waste;
- (12) "low level radioactive materials" means a radioactive waste other than
  - (A) used nuclear reactor fuel;
  - (B) waste produced during the reprocessing of used nuclear reactor fuel; and
  - (C) elements having an atomic number greater than 92 and containing 10 or more nanocuries per gram;

(13) "manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of a hazardous waste when the hazardous waste is transported;

(14) "mining waste" means solid waste from the extraction, beneficiation, and processing of ores and minerals, including coal, and including phosphate rock and overburden from the mining of uranium ore;

(15) "motor vehicle" has the meaning given in AS 28.40.100;

(16) "other wastes" means garbage, refuse, decayed wood, sawdust, shavings, bark, trimmings from logging operations, sand, lime cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, heat from cooling or other operations, and other substances not sewage or industrial waste which may cause or tend to cause pollution of the waters of the state;

(17) "person" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate, or any other entity whatsoever;

(18) "pesticide" means any chemical or biological agent intended for preventing, destroying, repelling, or mitigating plant or animal life and any substance intended for use as a plant regulator, defoliant or desiccant, including but not limited to insecticides, fungicides, rodenticides, herbicides, nematocides, and biocides;

(19) "pollution" means the contamination or altering of waters, land, or subsurface land of the state in a manner which creates a nuisance or makes waters, land, or subsurface land unclean, or noxious, or impure, or unfit so that they are actually or potentially harmful or detrimental or injurious to public health, safety, or welfare, to domestic, commercial, industrial, or recreational use, or to livestock, wild animals, bird, fish, or other aquatic life;

(20) "resource recovery" means the recovery of materials or energy from solid wastes for industrial use, agriculture, heat production, power production, or other processes or purposes and includes the reuse of materials or products to conserve natural resources;

(21) "restricted-use pesticides" means pesticides that are classified for restricted use under 7 U.S.C. 136a(d)(1)(C) (sec. 3(d)(1)(C), Federal Insecticide, Fungicide, and Rodenticide Act), as amended;

(22) "service" means a function performed or service provided by the state or by a municipality under a duty or power authorized by AS 29 or other provision of law authorizing a municipality to perform functions or provide services, or a comparable function performed or service provided by a village; "service" includes functions not previously performed and services not previously provided;

(23) "sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments, or other places, together with ground water infiltration and surface water as may be present; the admixture with sewage of industrial wastes or other wastes is "sewage";

(24) "sewer system" or "sewerage system" means pipelines or conduits, pumping stations, and force mains, and all other appurtenant constructions, devices, and appliances used for conducting sewage, industrial waste, or other wastes to a point of ultimate disposal;

(25) "solid waste" means all unwanted, abandoned, or discarded solid or semi-solid material whether or not subject to decomposition, originating from any source;

(26) "solid waste disposal facility" means a facility for the discharge, deposit, injection, consolidation, or placement of solid waste into or onto the land and includes transfer stations and sanitary landfills;

(27) "solid waste processing facility" means a facility for the extraction of materials from solid waste, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal and includes incinerators, shredders, balers, and transfer stations;

(28) "standard" means the measure of purity or quality for air, water, and land in relation to their reasonable and necessary use as established by the department;

## FINDINGS AND RECOMMENDATIONS PART A: ISSUES REQUIRING STATE ACTION

### USER FEES

**FINDING 1.** As State revenues decline, agencies with the authority to assess fees will predictably attempt to both increase and broaden the scope of those fees in an act of budgetary self-preservation. Unfortunately, this system provides no meaningful incentive for the agency to minimize these costs to the regulated community. There is an inherent conflict of interest in asking for timely permit reviews from agency personnel whose jobs depend upon hourly billings for the given review, and unlike the free market, the regulated community cannot take its business elsewhere.

Alaska cannot afford such an irresponsible process, especially when regulatory stability is a key element in marketing Alaska as an attractive and competitive place to do business. The citizens and businesses of Alaska deserve an open budgetary process that includes legislative oversight and that clearly details the relationship between user fees and agency expenditures.

### COMMISSION RECOMMENDATIONS

- 1a** *Long-term, the State needs to move toward paying for essential public services out of general fund revenue instead of assessing user fees at all levels of government. This will keep the budgetary process public, allow the public to establish priorities, and remove the inherent conflict of interest between efficient permit processing and agency hourly fees.*
- 1b** *Short term, the Legislature should amend AS 44.46.025 to require public review and legislative approval of all fees affecting the mining industry. Proposed fees shall include a detailed schedule justifying the applicable direct costs of inspections, permit preparation and administration, plan review and approval, and other services provided by the department that are to be paid for by the proposed fee. In no event should the proposed fee exceed those costs reasonably necessary to cover the direct costs of the above.*

### GEOPHYSICAL AND GEOLOGICAL MAPPING

**FINDING 2.** Since 1993, 12 state funded airborne geophysical surveys have covered about 5,000 square miles of the State of Alaska's 162,500 square mile land entitlement, at a total cost of about \$2.3 million.

One such survey in the Fairbanks district cost \$300,000, and since the results were released in 1995 the number of mining claims has doubled, and more than \$10 million has been spent exploring just the new claims. Further major investments are expected in the coming years. Information compiled by the Alaska Division of Mining & Water Management indicates that at least 65% of the \$35 million claimed by companies under the Exploration Incentives Credit are for Alaskan goods and services.

As a result of the airborne surveys, most of the Nome and Circle survey areas are now staked, and increased activity is reported in the Manley-Rampart, Yentna and Chulitna survey areas.

This increased activity was the intent of the surveys and will accelerate discovery of new Alaskan mines. However, with a landbase of 162,500 square miles, much of it chosen for its mineral potential, it will take the State of Alaska another 75 years to survey only 50% of its land endowment at the present rate of funding.

## COMMISSION RECOMMENDATIONS

- 2 *The Governor and the Legislature should invest \$5 million per year (approximately 10% of what industry spent on exploration in 1997) for the next decade, preferably through foundation funding, in airborne geophysical surveys and complementary geological and geochemical surveys.*

## COASTAL ZONE MANAGEMENT

**FINDING 3.** As presently implemented, the Coastal Zone Management program is not an efficient means of permitting necessary development activities in Alaska. The present jurisdiction of the "coastal zone" extends so far inland that an unnecessary level of bureaucracy is created in regions that have little to do with the marine environment.

In many cases the Coastal Management boundaries are many miles inland based on the Alaska Department of Fish & Game (ADF&G) boundary studies of the early 1980's which defined "zones of direct interaction" and "direct influence" that included transitional and intertidal areas; salt marshes and wetlands; islands; beaches; and water under tidal influence, including areas where anadromous fish, such as salmon, migrate upstream to spawn. These areas were mapped with the intent that Coastal Management Programs do detailed resource inventories in order to redefine coastal zone boundaries. In some cases, over a decade later, fish (trout and grayling) streams 85 miles from the coast are still within the coastal zone boundaries, with no studies done nor any changes made to the boundaries. The ADF&G and Department of Environmental Conservation already have authority to restrict uses of waterways (including waters that support anadromous fish) for resource development activities without this additional inland boundary.

The present Coastal Zone Management program creates a duplicative appeal process that allows the same issues to be challenged at two different stages of the process. This creates unnecessary delays and adds needless uncertainty during the permitting of any project. Both the Governor and the Legislature have recognized some of the shortcomings of the Coastal Zone Management programs, and have recommended various solutions. The key points that must be incorporated into any final solution are detailed below.

## COMMISSION RECOMMENDATIONS

- 3 *During any efforts to streamline the Coastal Zone Management Program, the Governor and Legislature should ensure that the following key provisions are incorporated:*
  - a *The jurisdiction of the coastal zone should be limited to those regions defined as wetlands, beaches, islands, waters under saline influence, transitional and intertidal areas, and not to include anadromous fish streams.*
  - b *There must only be a single notice, public comment, and appeal procedure, and*
  - c *The Department of Natural Resources should remain the lead agency for all mining related actions on a statewide basis, including within the coastal zone.*

## RECORDERS OFFICE TECHNOLOGY UPGRADE

**FINDING 4.** Modern technological improvements in imaging systems and computer systems make significant improvements in information management, search and retrieval, and document handling. In order for the Alaska Recorders Office to cost-effectively fulfill its function in government, an upgrade with state-of-the-art hardware, software and procedures is necessary. This upgrade will benefit all users

02/25/98  
12:28:52 N  
TCN 80360

LEGISLATIVE TELECONFERENCE NETWORK  
CONFERENCE DISPLAY PAGE 04 - VOLUNTEER & OFF-NET SITES  
T/C DATE: 02/25/98 TIME: 13:30 to 16:00 STATUS: 3 ANNOUNCED

LTN1404  
L339

* LIO VTS	NAME	ADDRESS	CONTACT	TELEPHONE
ZZZ OF1	OFFNET 1	① SEATTLE	JANICE ADAIR	999 999 9999
ZZZ OF2	OFFNET 2	② ANCHORAGE	STEVE BORELL	907 563 9229

ED.  
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DIRECTOR  
ENVIRONMENTAL  
HEALTH  
DEC

MSG: 1410 NO FURTHER INFORMATION  
ENTER Pg# 05 PF2 NextC# ynnnn PF3 Exit PF4 Menu PF5 Update PF7 Bwd PF8 Fwd



HB 144

# I-1. Product Registration

Classification System? State # Products \$ Raised # Household \$ Household

	No						
AK	0.00	\$0.00	\$0.00	0.00	\$0.00		
AZ	1,500.00	\$808,700.00					
DE	8,000.00	\$200,000.00					
GA	13,500.00	\$138,000.00					
IA	8,888.00	\$2,487,747.00					
IN	13,400.00	\$1,008,000.00					
KY	9,100.00	\$1,100,000.00					
MA	8,000.00	\$802,000.00					
MD	10,480.00	\$427,449.00					
ME	8,884.00	\$186,590.00					
MO	10,773.00	\$182,280.00					
MS	8,600.00	\$708,874.00					
NE	7,700.00	\$770,100.00					
NJ	11,000.00	\$2,750,000.00					
NV	7,000.00	\$288,280.00					
OH	11,000.00	\$550,000.00					
OR	6,600.00	\$685,792.00					
PA	10,300.00	\$1,000,000.00					
RI	6,000.00	\$480,000.00					
TN	8,000.00	\$1,000,000.00					
VA	10,200.00	\$1,415,083.00					
WY	8,641.00	\$480,575.00					

Yes

HI	7,273.00	\$166,600.00	3,300.00	\$48,500.00
K5	8,488.00	\$1,100,590.00	6,626.00	\$861,380.00
MI	11,000.00	\$1,320,000.00	8,500.00	\$1,020,000.00
MN	9,600.00	\$6,096,510.00	7,000.00	\$89,000
NC	11,000.00	\$605,000.00	5,300.00	\$281,600.00
SD	7,200.00	\$540,000.00	5,760.00	\$432,000.00
WA	8,500.00	\$1,000,000.00	2,500.00	\$270,000.00

**Notes:**  
 1. 508 missing the number was not filled or could not be tabulated.

AMENDMENT

A

OFFERED IN THE HOUSE

TO: CSHB 144(FIN); Draft Version "L"

- 1 Page 2, line 24:
- 2 Delete "(a), (g), and (i)"
- 3 Insert "(a), (f), and (h)"
  
- 4 Page 2, line 28:
- 5 Delete "(g)"
- 6 Insert "(f)"
  
- 7 Page 2, line 30, through page 3, line 1:
- 8 Delete all material.
  
- 9 Reletter the following subsections accordingly.
  
- 10 Page 3, line 16:
- 11 Delete "AS 44.46.025(h)"
- 12 Insert "AS 44.46.025(g)"

AMENDMENT

f

OFFERED IN THE HOUSE

TO: CSHB 144(FIN); Draft Version "L"

- 1 Page 3, line 16:
- 2 Delete all material.
- 3 Renumber the following bill sections accordingly.

Mike Tibbles  
2/25/98

## Analysis of HB 144 (FIN)

### Section 1

#### Does 2 things

- 1) Contains language from the sponsor's original bill that give the dept. the authority to collect fees for the registration of pesticides and broadcast chemicals.
- 2) Eliminates the dept. authority to charge fees for "other services provided by the department.

--The intent of this section is to permit the department to charge reasonable fees to cover the "applicable direct costs" of inspections, permit preparation and administration and plan review and approval.

The CS before you contains the language to continue the original intent of this provision. However, the language " and other services provided by the Department" has created uncertainty in the statutes as to how wide or broad the department can collect fees to cover their activities. This proposed change would eliminate this uncertainty

### Section 2

1) Establishes a new subsection (e) to permit the department to collect fees relating to water and wastewater operator training under AS 46.30. This item was singled out into its own subsection because it no longer appropriately fit under the direct costs of permitting.

2) Establishes new subsection (f) which divides pesticides and broadcast chemicals into two classifications; one being restricted use chemicals under federal regulation; and two all other pesticides (which target household chemicals such as bleach, disinfectants and insect repellents). The fee for restricted use chemicals is established at a higher rate to account for greater administrative costs associated with those chemicals (inspections, certification of applicators and training).

3) Section 2 also establishes new subsection (g), which will prohibit the department from charging an hourly fee under (a) of this section. This subsection addresses the concern that hourly fees are not established in a reasonable manner. This subsection does not impact the current collection of air fees.

2/25/98



## ALASKA MINERS ASSOCIATION, INC.

CSHB-144(FIN), Relating to DEC Fees

Wed, Feb 25, 1998

Thank you Mr. Chairman. My name is Steve Borell, I am Executive Director of the Alaska Miners Association and I am testifying on behalf of the Association.

Thank you for the opportunity to testify on this bill regarding user fees charged by the Department of Environmental Conservation.

The issue of user fees has arisen as State revenues have decreased and there has been the need to reduce state spending and resolve the State's fiscal gap. This situation has highlighted the need to address the overall policy issue - which I would define as a question -

How much of the DEC budget should be raised through user fees versus how much should be from the General Fund?

The Alaska Miners Association, along with other associations, municipalities, and a few individual companies have been working with DEC over the past several months discussing possible changes to the user fee amounts DEC charges for specific items. I believe you have our letter of January 22, 1998 on this topic in your packets. These meetings were driven by the need for the DEC Water Division to maintain a core of competent experienced personnel given the budget uncertainties.

The Water Division is one of the several places that the question of fees has arisen. The air program has its own set of fees, the solid waste program has its own set of fees, it has been suggested that non-point discharges also known as "stormwater discharges" needs to have its own set of fees, and HB-144 was originally written to address fees for pesticides.

We therefore feel that there is need for a consistent policy for agencies to address the topic of user fees.

Regarding this specific bill - We just received the a copy of Work Draft B of CSHB-144(FIN) and have thus far only given it a quick review. It appears that this bill would answer some of the uncertainty that now exists. There are two items in this bill on which I will comment:

The first item is in Section 1. It has been our understanding the intent of the existing statute in AS 44.46.025(a), this is Section 1 of CSHB-144(FIN), was to allow user fees for "the applicable direct costs" for the items listed which included certification of federal water discharge permits and processing other water discharge permits. The change proposed by removing the phrase "and other services provided by the Department" would make this intent clear and would limit user fees to the applicable direct costs. DEC would still be able to charge user fees but they would be limited to the direct costs only.

The second item is in Section 2, line 26. This change would prohibit DEC from charging hourly fees for the items listed. This is likely a benefit to DEC as well as to industry. The difficulty of and cost to administer an hourly fees program is significant. The Air Program has hourly fees and there are already several horror stories of how this aspect of the program has not worked well. The result is that industry opposes inclusion of hourly fees in other programs.

We have not yet determined if the changes in Draft B would affect the ability of DEC to enter into reimbursement agreements. It is important that DEC be able to enter such agreements for large projects. These agreements are negotiated between the company and the State and define the work objectives, the work to be done, the final products, the time schedules for completion, etc. Major companies are generally not opposed to such agreements if they will provide increased certainty and increased predictability of the total cost.

Although the authority now exists for reimbursement agreements, there is need for this to be specifically stated in regulation. We believe can be addressed in regulation rather than in statute. Without such a provision, the internal requirements of some companies that are designed to guard against graft, or even any appearance of wrong-doing, will not allow their mines to make such payments.

Thank you for this opportunity to comment.

*adopted 3/26/98*  
*#7*  
*# 10 (new)*

0-LS0573VP  
Lauterbach  
3/25/98

**CS FOR HOUSE BILL NO. 144(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the authority of the Department of Environmental  
2 Conservation to charge fees; and providing for an effective date."

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

4 \* **Section 1.** AS 44.46.025(a) is amended to read:

5 (a) Subject to other provisions of this section, the [THE] Department of  
6 Environmental Conservation may adopt regulations that prescribe reasonable **fixed** fees  
7 to be paid by the person receiving the department's services, and establish  
8 procedures for the collection of the fees, to cover the **actual** [APPLICABLE] direct  
9 costs [, NOT INCLUDING TRAVEL,] of **certifications,** inspections, **training,** permit  
10 preparation and administration, **and** plan review and approval [, AND OTHER  
11 SERVICES PROVIDED BY THE DEPARTMENT] relating to

12 (1) agriculture and animals under AS 03.05; food, drugs, and cosmetics  
13 under AS 17.20; and public accommodations and facilities under AS 18.35; **in**  
14 addition to fees otherwise allowed under this subsection, the department may also

1 prescribe reasonable fixed fees, and establish procedures for collection of the fees,  
2 to cover the actual direct costs of other services provided by the department  
3 relating to matters described in this paragraph;

4 (2) certificates of inspection for motor vehicles under AS 46.14.400 or  
5 46.14.510;

6 (3) sewerage system and treatment works and wastewater disposal  
7 systems, and drinking water systems, under AS 46.03.720; in addition to fees  
8 otherwise allowed under this subsection, the department may also prescribe  
9 reasonable fixed fees, and establish procedures for the collection of the fees, for  
10 the actual direct costs of sanitary surveys, determinations, classifications, and  
11 monitoring waivers relating to matters described in this paragraph;

12 (4) [REPEALED

13 (5) REPEALED

14 (6)] water and wastewater operator training under AS 46.30;

15 (5) [(7)] control of solid waste facilities under AS 46.03.020(10) and  
16 46.03.100;

17 (6) [(8)] certification of laboratories conducting environmental analyses  
18 of public drinking water systems or of oil or hazardous substances, or conducting other  
19 analyses required by the department;

20 (7) [(9)] certification of federal permits or authorizations under 33  
21 U.S.C. 1341 (sec. 401, Clean Water Act).

22 \* **Sec. 2.** AS 44.46.025 is amended by adding new subsections to read:

23 (e) Notwithstanding (a), (g), and (j) of this section, the department shall, at the  
24 request of an applicant or permittee, negotiate a fee for services provided under (a)(1) -  
25 (7) of this section that is based on the actual hourly wage rate of the employees  
26 performing the services and a maximum number of hours for which the fee will be  
27 charged, and the fee may cover associated travel costs and costs described in (g) of  
28 this section.

29 (f) The department shall charge and collect a fee for the registration of  
30 pesticides under AS 46.03.320. The fee shall be \$30 for registration of a restricted-use  
31 pesticide, as defined in AS 46.03.900, and \$20 for registration of other pesticides.

1 (g) Except for fees under (c) of this section, the department may not charge  
2 a fee for the costs to the department for conferring with or providing information to  
3 a third party about an application or a permit unless the third party is acting as a legal  
4 representative or as an agent of the applicant or permittee. However, the department  
5 may require an applicant to pay for the costs of providing public notice of a permit  
6 application when the notice is otherwise required by law.

7 (h) Notwithstanding (a) of this section, the department may prescribe an hourly  
8 fee for services provided under (a)(5) of this section, rather than a fixed fee, if the fee  
9 otherwise complies with this section.

10 (i) Notwithstanding (a) of this section, the department may prescribe an hourly  
11 fee to cover the actual direct costs to the department for

12 (1) work performed on an application that is withdrawn before  
13 completion; or

14 (2) an inspection that is conducted at the request of an applicant or  
15 permittee when the department would not otherwise conduct an inspection or for an  
16 inspection that is conducted outside of the department's normal working hours after a  
17 request by an applicant or permittee for an after-hours inspection; fees charged under  
18 this paragraph may include travel costs incurred in providing the inspection.

19 (j) In this section,

20 (1) "actual direct costs" means the actual hourly wage rate of the  
21 department employees, including clerical staff, directly engaged in providing the  
22 service, multiplied by the number of hours usually required to perform the service  
23 being provided; "actual direct costs" does not include

24 (A) overhead expenses;

25 (B) the costs of administrative support or supervisory personnel  
26 who are not directly engaged in providing the service; or

27 (C) travel expenses;

28 (2) "training" means educational services provided by the department  
29 for the purpose of carrying out services provided under (a)(1) - (7) of this section,  
30 except that "training" does not include training of employees of the department.

31 \* Sec. 3. AS 44.46.025(h), enacted by sec. 2 of this Act, is repealed July 1, 2000.

1       \* **Sec. 4.** APPLICABILITY. This Act applies to agreements entered into, fees for  
2 registrations applied for, and fees for services performed on or after the effective date of this  
3 Act.

4       \* **Sec. 5.** This Act takes effect July 1, 1998.

# FISCAL NOTE

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. HB 144**

Revision Date (Note if correction) 23-Feb-98 Dept. Affected Environmental Conservation  
 Title Pesticide Registration Fees BRU Environmental Health  
 Component Laboratory Services  
 Sponsor House State Affairs  
 Requester House Finance Component Serial No. 2065

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	(55.5)	(55.5)	(55.5)	(55.5)	(55.5)	(55.5)
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	55.5	55.5	55.5	55.5	55.5	55.5
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY98) cost: 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)

This bill would allow DEC to charge chemical manufacturers a fee when they register their products for sale in Alaska. We would replace the general funds currently used to match federal grants for the pesticide program with the fees collected from those manufacturers.

Prepared by Janice Adair, Director Phone 269-7644  
 Division Environmental Health Date 2/23/98  
 Approved by Commissioner [Signature] Date 2/23/98  
 Agency Department of Environmental Conservation

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# FISCAL NOTE

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

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

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	55.5	55.5	55.5	55.5	55.5	55.5
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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**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)  
 This bill would allow DEC to charge chemical manufacturers a fee when they register their products for sale in Alaska. We would replace the general funds currently used to match federal grants for the pesticide program with the fees collected from those manufacturers.

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 Division Environmental Health Date 2/23/98  
 Approved by Commissioner [Signature] Date 2/23/98  
 Agency Department of Environmental Conservation

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Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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1003 GF Match	(55.5)	(55.5)	(55.5)	(55.5)	(55.5)	(55.5)
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
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<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY98) cost: 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)

This bill would allow DEC to charge chemical manufacturers a fee when they register their products for sale in Alaska. We would replace the general funds currently used to match federal grants for the pesticide program with the fees collected from those manufacturers.

Prepared by Janice Adair, Director  
 Division Environmental Health  
 Approved by Commissioner *Michael P.*  
 Agency Department of Environmental Conservation

Phone 269-7644  
 Date 2/23/98  
 Date 2/23/98

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*Discussed*  
*3/24/98*

0-LS0573VL  
Lauterbach  
3/18/98

**CS FOR HOUSE BILL NO. 144(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the authority of the Department of Environmental  
2 Conservation to charge fees; and providing for an effective date."

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

4 \* **Section 1.** AS 44.46.025(a) is amended to read:

5 (a) Subject to other provisions of this section, the [THE] Department of  
6 Environmental Conservation may adopt regulations that prescribe reasonable fixed  
7 fees, and establish procedures for the collection of the fees, to cover the actual  
8 [APPLICABLE] direct costs [, NOT INCLUDING TRAVEL,] of certifications,  
9 inspections, training of permittees and applicants, permit preparation and  
10 administration, and plan review and approval [, AND OTHER SERVICES  
11 PROVIDED BY THE DEPARTMENT] relating to

12 (1) agriculture and animals under AS 03.05; food, drugs, and cosmetics  
13 under AS 17.20; and public accommodations and facilities under AS 18.35; in  
14 addition to fees otherwise allowed under this subsection, the department may also

1 prescribe reasonable fixed fees, and establish procedures for collection of the fees,  
2 to cover the actual direct costs of other services provided by the department  
3 relating to matters described in this paragraph;

4 (2) certificates of inspection for motor vehicles under AS 46.14.400 or  
5 46.14.510;

6 (3) sewerage system and treatment works and wastewater disposal  
7 systems, and drinking water systems, under AS 46.03.720; in addition to fees  
8 otherwise allowed under this subsection, the department may also prescribe  
9 reasonable fixed fees, and establish procedures for the collection of the fees, for  
10 the actual direct costs of sanitary surveys, determinations, classifications, and  
11 monitoring waivers relating to matters described in this paragraph;

12 (4) [REPEALED

13 (5) REPEALED

14 (6)] water and wastewater operator training; under AS 46.30;

15 (5) [(7)] control of solid waste facilities under AS 46.03.020(10) and  
16 46.03.100;

17 (6) [(8)] certification of laboratories conducting environmental analyses  
18 of public drinking water systems or of oil or hazardous substances, or conducting other  
19 analyses required by the department;

20 (7) [(9)] certification of federal permits or authorizations under 33  
21 U.S.C. 1341 (sec. 401, Clean Water Act);

22 (8) registration of pesticides under AS 46.03.320.

23 \* Sec. 2. AS 44.46.025 is amended by adding new subsections to read:

24 (e) Notwithstanding (a), (g), and (i) of this section, the department shall, at the  
25 request of an applicant or permittee, negotiate a fee for services provided under (a)(1) -  
26 (8) of this section that is based on the actual hourly wage rate of the employees  
27 performing the services and a maximum number of hours for which the fee will be  
28 charged, and the fee may cover associated travel costs and costs described in (g) of  
29 this section.

30 (f) The department shall charge and collect a fee of \$30 for registration of a  
31 restricted-use pesticide, as defined in AS 46.03.900. The department shall charge and

1 collect a fee of \$15 for registration of other pesticides.

2 (g) The department may not charge a fee for the costs to the department for  
3 conferring with or providing information to third parties about an application or a  
4 permit.

5 (h) Notwithstanding (a) of this section, the department may prescribe an hourly  
6 fee for services provided under (a)(5) of this section, rather than a fixed fee, if the fee  
7 is otherwise authorized under this section.

8 (i) In this section, "actual direct costs" means the actual hourly wage rate of  
9 the department employees directly engaged in providing the service, multiplied by the  
10 number of hours usually required to perform the service being provided; "actual direct  
11 costs" does not include

- 12 (1) administrative, overhead, support, supervisory, or travel expenses;  
13 (2) the cost of training department employees; or  
14 (3) the cost of training members of the public who are not applicants  
15 or permittees.

16 \* Sec. 3. AS 44.46.025(h), enacted by sec. 2 of this Act, is repealed July 1, 2000.

17 \* Sec. 4. APPLICABILITY. This Act applies to agreements entered into, fees for  
18 registrations applied for, and fees for services performed on or after the effective date of this  
19 Act.

20 \* Sec. 5. This Act takes effect July 1, 1998.

**HB**

**144**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/30/98

FURTHER: 5/4/98

DATE TURNED  
IN TO OFFICE: 8 May 1998

Finance Committee considered **CS FOR HOUSE BILL NO. 144(FIN)**

"An Act relating to the authority of the Department of Environmental Conservation to charge fees; and providing for an effective date."

and recommends:

be replaced with S CS HB 144 (FIN)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to the \_\_\_\_\_ Committee

**Senate Bill:**  
 same title  
 new title  
**House Bill:**  
 same title  
 technical title  
 new: SCR# \_\_\_\_\_

SIGNING DO/PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>	<input checked="" type="checkbox"/>		
		<i>[Signature]</i>	<input checked="" type="checkbox"/>		
		<i>[Signature]</i>	<input checked="" type="checkbox"/>		
		<i>[Signature]</i>	<input checked="" type="checkbox"/>		
Co-Chair: <i>[Signature]</i>	<input checked="" type="checkbox"/>	Co-Chair: <i>[Signature]</i>			
Co-Chair: _____		Co-Chair: <i>[Signature]</i>	<input checked="" type="checkbox"/>		

**NEW FISCAL NOTE(S):**

Department      Date      Zero      Fiscal

DEC	5/7/98	<input checked="" type="checkbox"/>	

**PREVIOUS FISCAL NOTE(S):\***

Department      Date      Zero      Fiscal


APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

REPORTED OUT OF  
SFC 5/8/98

**STATE OF ALASKA**  
**1998 LEGISLATIVE SESSION**

**BILL NO. SCSCSHB144(FIN)**

Revision Date (Note if correction) 07-May-98 Dept. Affected Environmental Conservation  
 Title DEC Fees BRU Administration  
 Component Commissioner  
 Sponsor House State Affairs  
 Requester Senate Finance Component Serial No. 633

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

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	-----	-----	-----	-----	-----	-----

<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	-----	-----	-----	-----	-----	-----

**FUND SOURCE** (Thousands of Dollar-)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	266.5	266.5	266.5	266.5	266.5	266.5
1005 GF/Program Receipts	186.2	186.2	186.2	186.2	186.2	186.2
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1091 Statutory Program Receipts	(452.7)	(452.7)	(452.7)	(452.7)	(452.7)	(452.7)
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY98) cost: 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)

See attached for detail of financial impacts by component.

Prepared by Janice Adair and Barbara Frank  
 Division Environmental Health and Administrative Services  
 Approved by Commissioner *Michael R. ...*  
 Agency Department of Environmental Conservation

Phone 269-7644  
 Date 5/7/98  
 Date 5/7/98

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**IMPACT OF HB 144 ON PROGRAM RECEIPT COLLECTIONS - FUND SOURCE CHANGES**

<b>Component</b>	<b>General Fund Program Receipts</b>	<b>Statutory Program Receipts</b>	<b>Total Program Receipts</b>	<b>Change Due to Direct Market Fixed</b>	<b>Change due to Industrial Systems</b>	
Seafood and Sanitation	1,139.4	0.0	1,139.4	44.3	0	44.3
Drinking Water	503.3	0.0	503.3	0.0	50.3	50.3
	1,642.7	0.0	1,642.7	44.3	50.3	94.6 Convert to GF

<b>Component</b>	<b>General Fund Program Receipts</b>	<b>Statutory Program Receipts</b>	<b>Total Program Receipts</b>	<b>Change Due to Contracts</b>	
Water Quality	178.6	452.7	631.3	452.7	452.7 Convert to GF PR

<b>Component</b>	<b>General Fund Program Receipts</b>	<b>Statutory Program Receipts</b>	<b>Total Program Receipts</b>	<b>Change due to Actual Costs Only</b>	
Municipal Solid Waste	146.5	0.0	146.5	76.8	76.8
Industrial Solid Waste	285.9	0.0	285.9	150.1	150.1
	432.4	0.0	432.4	226.9	226.9 Convert to GF

<b>Component</b>	<b>General Fund</b>	<b>Statutory Program Receipts</b>	<b>GF Program Receipts</b>	
Laboratory Services	(55.0)	0.0	55.0	Convert to GF PR

SENATE FINANCE  
COMMITTEE

Amendment Number: #1  
Bill Number: HB 144 (C version)  
Sponsor: Torgerson Date: 3/8/98  
Logged In By: Mindy

**AMENDMENT**  
**CSHB 144 (FIN) Version 'C'**

*Offered in the Senate*

*Senator Torgerson - moved*

*See Adm Object  
Renew*

Page 2, Line 7

*ADOPT via object*

**INSERT:**

After '(3)' "Except as provided in paragraph (e)(4) of this section."

Page 2, Line 9

**DELETE:**

[if the systems are located within a municipality;]

ORIGINAL

SENATE FINANCE  
COMMITTEE

Amendment Number: #2  
Bill Number: HB 144 ('C' version)  
Sponsor: Torgerson Date: 5/8/98  
Logged In By: Mindy

**AMENDMENT**  
**CSHB 144 (FIN) Version 'C'**

*Offered in the Senate*

*Senator Torgerson - move*

*See below object -  
remove*

*ADOPT what object*

Page 3, Line 2

**DELETE:**

After 'AS 46.03.720' [if the systems are located outside a municipality.]

Page 3, Line 2

**INSERT:**

After 'AS 46.03.720' **"if the system serves only a discrete industrial operation"**

Page 3, Line 3

**INSERT:**

After '(a),' **"(e)."**

Page 3, Line 4

**INSERT:**

After 'provided under' **a(3) or**

JAN 13 1998

SENATE FINANCE  
COMMITTEE

Amendment Number: #3  
Bill Number: HB 144 (reversion)  
Sponsor: JAMMISON Date: 5/1/98  
Logged In By: Mindy

**AMENDMENT**  
**CSHB 144 (FIN) Version 'C'**

*Offered in the Senate*

*Senator Torgerson - move  
Sen Aidan object -  
remove  
ADOPT what object  
AMENDED*

New Section:

"Notwithstanding other provisions of this section, the department may adopt regulations that prescribe reasonable hourly rates, and establish procedures for collection of the fees, for reapplication consultative services provided to an applicant at the request of the applicant, for any permit or approval required by the department.

*↑  
Preapplication  
to correct  
type*

SENATE FINANCE  
COMMITTEE  
Amendment Number: # 4  
Bill Number: HB 144 (FIN) "C"  
Sponsor: Torgerson Date: 5/8/98  
Logged In By: Jeltan

**AMENDMENT**  
**CSHB 144 (FIN) Version 'C'**

*Offered in the Senate*

*Senator Torgerson - move  
ADOPT w/out dissent*

Page 4, Line 18

**INSERT:**

After 'Sec. 4.' "AS 03.05.025(c). enacted by sec. 1 of this Act, and"

0-LS0573\C  
Lauterbach  
5/7/98

*Sen Pearce wants to Adopt  
ADAPT what objection*

**SENATE CS FOR CS FOR HOUSE BILL NO. 144(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - SECOND SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered:**

**Referred:**

**Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the authority of the Department of Environmental  
2 Conservation to charge fees; and providing for an effective date."

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

4 \* **Section 1.** AS 03.05.025 is amended by adding a new subsection to read:

5 (c) Notwithstanding AS 44.46.025, the fee for a seafood processing permit and  
6 routine inspections for a direct-market fishing vessel may not exceed \$150. In this  
7 subsection, "direct-market fishing vessel" means a fishing vessel that has an overall  
8 length of less than 65 feet, that processes the vessel operator's own catch of seafood  
9 products on board the vessel for direct retail sale to consumers, and for which a hazard  
10 analysis critical control point plan is not required under federal law.

11 \* **Sec. 2.** AS 44.46.025(a) is amended to read:

12 (a) Subject to other provisions of this section, the [THE] Department of  
13 Environmental Conservation may adopt regulations that prescribe reasonable fees, and  
14 establish procedures for the collection of the fees, to cover the applicable direct costs,

1 not including travel, of inspections, permit preparation and administration, plan review  
2 and approval, and other services provided by the department relating to

3 (1) agriculture and animals under AS 03.05; food, drugs, and cosmetics  
4 under AS 17.20; and public accommodations and facilities under AS 18.35;

5 (2) certificates of inspection for motor vehicles under AS 46.14.400 or  
6 46.14.510;

7 (3) domestic [SEWERAGE SYSTEM AND TREATMENT WORKS  
8 AND] wastewater treatment and disposal systems [,] and drinking water systems [,]  
9 under AS 46.03.720 if the systems are located within a municipality;

10 (4) [REPEALED

11 (5) REPEALED

12 (6)] water and wastewater operator training under AS 46.30;

13 (5) [(7) CONTROL OF SOLID WASTE FACILITIES UNDER  
14 AS 46.03.020(10) AND 46.03.100;

15 (8)] certification of laboratories conducting environmental analyses of  
16 public drinking water systems or of oil or hazardous substances, or conducting other  
17 analyses required by the department [;

18 (9) CERTIFICATION OF FEDERAL PERMITS OR  
19 AUTHORIZATIONS UNDER 33 U.S.C. 1341 (SEC. 401, CLEAN WATER ACT)].

20 \* Sec. 3. AS 44.46.025 is amended by adding new subsections to read:

21 (e) Subject to other provisions of this section, the department may adopt  
22 regulations that prescribe reasonable fixed fees, and establish procedures for the  
23 collection of the fees, to be paid by the person receiving the department's services to  
24 cover the actual direct costs, not including travel, of permit preparation and  
25 administration, plan review and approval, operator training, and inspections relating to

26 (1) control of solid waste facilities under AS 46.03.020(10) and  
27 46.03.100;

28 (2) nondomestic wastewater treatment and disposal systems under  
29 AS 46.03.720;

30 (3) certification of federal permits or authorizations under 33 U.S.C.  
31 1341 (sec. 401, Clean Water Act); and

1 (4) domestic wastewater treatment and disposal systems and drinking  
2 water systems under AS 46.03.720 if the systems are located outside a municipality.

3 (f) Notwithstanding (a), (h), and (k) of this section, the department shall, at the  
4 request of an applicant or permittee, negotiate a fee for services provided under (e)(1) -  
5 (4) of this section that is based on the average hourly rate of compensation of each  
6 departmental employee required to perform the service and a maximum number of  
7 hours for which the fee will be charged, and the fee may cover associated travel costs  
8 and costs described in (h) of this section.

9 (g) The department shall charge and collect a fee of \$40 for registration of a  
10 restricted-use pesticide, as defined in AS 46.03.900. The department shall charge and  
11 collect a fee of \$30 for registration of an agricultural pesticide. The department shall  
12 charge and collect a fee of \$25 for registration of a consumer protection and health  
13 benefit product. In this subsection, "consumer protection and health benefit product"  
14 means a

15 (1) disinfectant, sanitizer, germicide, biocide, or other pesticide labeled  
16 for use directly on humans or pets, including dogs, cats, horses, and other companion  
17 animals; or

18 (2) pesticide for use directly in areas in or around household premises.

19 (h) Except for fees under (c) of this section, the department may not charge  
20 a fee for the costs to the department for conferring with or providing information to  
21 a third party about an application or a permit unless the third party is acting as a legal  
22 representative or as an agent of the applicant or permittee. However, the department  
23 may require an applicant to pay for the costs of providing public notice of a permit  
24 application when the notice is otherwise required by law.

25 (i) Notwithstanding (e) of this section, the department may prescribe an hourly  
26 fee for the actual direct costs of services provided under (e)(1) of this section, rather  
27 than a fixed fee, if the fee otherwise complies with this section.

28 (j) Notwithstanding (e) of this section, the department may prescribe an hourly  
29 fee to cover the actual direct costs to the department for

30 (1) work performed on an application that is withdrawn before  
31 completion; or

1 (2) an inspection that is conducted at the request of an applicant or  
2 permittee when the department would not otherwise conduct an inspection or for an  
3 inspection that is conducted outside of the department's normal working hours after a  
4 request by an applicant or permittee for an after-hours inspection; fees charged under  
5 this paragraph may include travel costs incurred in providing the inspection.

6 (k) In this section, "actual direct costs" means the average hourly rate of  
7 compensation of each departmental employee, including clerical staff, required to  
8 perform the service under normal circumstances, multiplied by the number of hours  
9 usually required to perform the service being provided; "actual direct costs" does not  
10 include

11 (1) overhead expenses;

12 (2) the costs of administrative support or supervisory personnel who are  
13 not directly engaged in providing the service; or

14 (3) travel expenses.

15 \* **Sec. 4. APPLICABILITY.** This Act applies to agreements entered into, fees for  
16 registrations applied for, and fees for services performed on or after the effective date of this  
17 Act.

18 \* **Sec. 5.** AS 44.46.025(f), enacted by sec. 3 of this Act, takes effect immediately under  
19 AS 01.10.070(c).

**HB**

**145**

**HFIN**

**FILE**

# HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: March 5, 1997

FURTHER REFERRALS:

Date of Committee Action: 3/11/97

The FINANCE Committee considered:

HB 145

HOUSE BILL NO. 145

TEACHING COMPETENCY EXAM FOR CERTIF

"An Act relating to certification of teachers."

recommends it be replaced  
with the following committee substitute

CS HB 145 (HES)

the same title  
 a new title

additional referral to \_\_\_\_\_ Committee

attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) HFC

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Mark Hanley</i>	Hanley	X			
<i>Gene Therriault</i>	Therriault	X			
<i>Thom Mulder</i>	mulder	X			
<i>Terry Martin</i>	Martin			<del>X</del> X	
<i>Vic Kohring</i>	Kohring	X			
<i>John E. Davies</i>	J. Davies			X	
<i>Robert Moses</i>	Moses			X	
<i>John Kelly</i>	Kelly			✓	
<i>John Foster</i>	Foster	X			
<i>Gene Davis</i>	G. Davis	X			

CO-CHAIR'S SIGNATURE

*Mark Hanley*  
Hanley

*Gene Therriault*  
Therriault

# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. CSHB 145 (FIN)

Title: An act relating to certification  
of teachers...

Sponsor: Rep. Bunde

Requestor: \_\_\_\_\_

Dept. Affected Education

BRU: Teacher & Learning Support

Components: Teacher Certification

Serial # 1240

**EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)**

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	10.0	0.0	0.0	0.0	0.0	0.0
Contractual	40.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	10.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>60.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
----------------	------------	------------	------------	------------	------------	------------

<b>REVENUE</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
----------------	------------	------------	------------	------------	------------	------------

**FUNDING: (THOUSANDS OF DOLLARS)**

General Fund	60.0	0.0	0.0	0.0	0.0	0.0
Federal Fund	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
<b>TOTAL</b>	<b>60.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**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)**

see attached analysis

Prepared by:

House Finance Committee

Rep. Mark Hanley, Co-Chair

Rep. Gene Therriault, Co-Chair

Date: 3/11/97

Phone: 465-4939

Phone: 465-4797

# **HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES



STATE CAPITOL, JUNEAU 99801  
(907) 465-3759

## **SPONSOR STATEMENT**

### **CS HB 145 (HES)**

**"An Act relating to certification of teachers."**

We all realize the importance of having well-qualified teachers in our school system. In an effort to provide our state with a quality teaching force, we must ensure that our prospective teachers demonstrate a minimum level of competency in basic skills.

There are over 40 states that include tests as a part of their teacher licensure. The passage of CS HB 145 (HES) would add Alaska to that list.

Beginning July 1, 1998, CS HB 145 (HES) would require people who are not now licensed to teach in the state to pass a competency examination designated by the Alaska State Board of Education before receiving their certification. It is our intention that the Board will select a basic test for primary grades and a test for subject endorsements in secondary. The board will also establish the minimum acceptable level of performance for this examination.

I urge you to support these increased standards for our teachers.

**Sec. 14.20.020. Requirements for issuance of certificate.** (a) Except as provided in (f) of this section, the department shall issue a teacher certificate to every person who meets the requirements in (b) and (c) of this section.

(b) A person is not eligible for a teacher certificate unless that person has received at least a baccalaureate degree from an institution of higher education accredited by a recognized regional accrediting association or approved by the commissioner. However, this subsection is not applicable to

(1) persons employed in the state public school system on September 1, 1962;

(2) persons issued an emergency certificate during a situation which, in the judgment of the commissioner, requires the temporary issuance of a certificate to a person not otherwise qualified.

(c) The board may establish by regulation additional requirements for the issuance of certificates, including the fees to be charged for each certificate.

(d) The board may by regulation establish various classes of certificates.

(e) The annual estimated balance in the account maintained by the commissioner of administration under AS 37.05.142 may be used by the legislature to make appropriations to the department to carry out the purposes of this section and to support the activities of the Professional Teaching Practices Commission under AS 14.20.460, 14.20.470, and 14.20.500.

(f) Except as otherwise provided in this subsection, the department may not issue a teacher certificate to a person who has been convicted of a crime involving a minor under AS 11.41.434 — 11.41.440, 11.41.455, or 11.41.460, or under a law in another jurisdiction with elements substantially similar to an offense described in AS 11.41.434 — 11.41.440, 11.41.455, or 11.41.460. When five years have elapsed after a person has received an unconditional discharge for a conviction of a crime listed in this subsection, the person may petition the department to issue the certificate in spite of the conviction if the person otherwise satisfies the requirements for the certificate. When deciding whether to grant or deny the petition, the department shall consider the nature of the particular crime, whether and to what extent the person has been rehabilitated, and the other factors that the department determines are significant.

(g) The department shall issue a teacher certificate to a person who possessed a valid Alaska teacher certificate upon retirement. A teacher certificate issued under this subsection is valid for the life of the retired teacher and qualifies the holder as a substitute teacher in the state.

(h) A person is not eligible for a teacher certificate unless the person has completed three semester hours in Alaska studies and three semester hours in multicultural education or cross-cultural communications. However, the commissioner may issue a provisional certificate valid for no longer than two years, to an applicant who has not completed the semester hours required under this subsection at the time of application.

(§ 37-5-4 ACLA 1949; am § 1 ch 76 SLA 1962; am § 10 ch 98 SLA 1966; am §§ 13, 14 ch 32 SLA 1971; am §§ 19, 20 ch 138 SLA 1986; am §§ 6, 7 ch 151 SLA 1990; am § 1 ch 3 SLA 1991; am § 5 ch 10 SLA 1991; am § 1 ch 105 SLA 1992)

**Revisor's notes.** — In 1992, in (f) of this section, "AS 11.41.434 — 11.41.440" was substituted for "AS 11.41.434 — 11.41.442" in two places to correct a manifest error in § 7, ch. 151, SLA 1990.

**Effect of amendments.** — The 1992 amendment, effective September 18, 1992, added subsection (h).

**Editor's notes.** — Section 10, ch. 151, SLA 1990 provides that subsection (f) does not apply when the crime occurred before September 19, 1990.

**Opinions of attorney general.** — The State Board of Education may not provide for issuance of a "teacher certificate" for a person who does not hold at least a baccalaureate degree unless the person comes

within one of the exceptions enumerated in this section. August 29, 1988 Op. Att'y Gen.

The State Board of Education may provide for a "provisional certificate" that is not a "teacher certificate," but it may not authorize the holder to be employed as a teacher or to be eligible for membership in the Teachers' Retirement System unless the certificate is based upon at least a baccalaureate degree. Similarly, a holder of a provisional certificate based on less than a baccalaureate degree would not be considered a "certificated employee" within the meaning of AS 14.20.550, relating to collective bargaining rights. August 29, 1988 Op. Att'y Gen.

4 AAC 12.020

**REGULAR CERTIFICATE (TYPE A): PROVISIONAL CERTIFICATE  
(PROVISIONAL TYPE A).**

(a) The regular certificate, valid for five years, shall be issued to an applicant who

(1) has completed a teacher education program approved by the board, has a bachelor's degree, and is recommended by the preparing institution; or

(2) has completed an approved program in another state and is recommended by the preparing institution.

(b) Except as otherwise provided by 4 AAC 12.042, the applicant must have earned at least six semester hours of credit within the five years immediately preceding application.

(c), (d) Repealed 4/9/87.

(e) To meet the requirements of (a) of this section, the applicant must have satisfactorily completed three semester hours in Alaska studies and three semester hours in multicultural education or cross-cultural communications.

(f) The commissioner may issue a nonrenewable provisional certificate (provisional Type A), valid for no longer than two years, to an applicant who has completed the requirements of this section, except for the requirements in (e) of this section.

(g) For the purposes of endorsement and certification for other types of certificates issued under this chapter, a provisional certificate (provisional Type A) may be considered the equivalent of a regular certificate (Type A).

(h) The commissioner may convert a provisional certificate (provisional Type A) to a regular certificate (Type A) upon satisfactory completion of the courses required under (e) of this section and payment of the fee for a regular certificate.

**History -**

In effect before 7/28/59; am 6/9/61, Register 3; am 4/4/63, Register 10; am 1/28/66, Register 20; am 9/8/66, Register 24; am 5/30/71, Register 38; am 10/4/73, Register 47; am 8/30/75, Register 55; am 9/30/83, Register 87; am 8/30/86, Register 99; am 4/9/87, Register 102; am 7/2/93, Register 126; am 6/9/95, Register 134

**Authority -**

AS 14.07.060

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