

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4576 HHS HB 524 - HB 531

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524

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Relating to the application of water quality criteria.

Agency Affected: Environmental Conservation
BRU: Environmental Quality

Sponsor: Frank, Miller, Bover and Shultz
Requestor: House HESS

Components: Southeast, Southcentral and Northern Regional Offices

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	858.0				
TRAVEL	0	90.0				
CONTRACTUAL	0	185.0				
SUPPLIES	0	9.0				
EQUIPMENT	0	27.0	9.0			
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	1,169.0	438.3	352.1	573.6	489.7
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	1,057.0	438.3	352.1	573.6	489.7
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

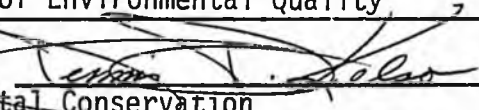
FULL-TIME	18.0					
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

See Attachment

Prepared by: Dan Easton, Deputy Director
Division: Division of Environmental Quality

Phone: 465-2640
Date: 4/6/88

Approved by Commissioner: 
Agency: Environmental Conservation

Date: April 14, 1988

Distribution (by preparer):

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

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

HB 524 FISCAL NOTE ANALYSIS

(April 4, 1988)

The fiscal note includes funding to determine mixing zones for all wastewater discharges in Alaska as required by HB 524. While the Department presently includes mixing zones in many of the state and federal wastewater discharge permits it issues or certifies, HB 524 mandates that mixing zones be issued for all wastewater discharges and alters the sizing criteria.

Consequently, new mixing zones would have to be calculated. HB 524 also moves the burden of providing information and mixing zone calculations from the permit applicant to the Department.

The annual costs associated with implementing HB 524 were derived using the number of state and federal wastewater permits due to be reissued in each of the next five fiscal years. A new mixing zone would be calculated as each wastewater permit was due for renewal. Because the term of most wastewater permits is five years, this has the effect of spreading the total costs over a five-year period. (The drawback to this approach is that years would pass before mixing zones could be calculated for some discharges. In the interim, the legal status of the permits

awaiting designation of a new mixing zone would be unclear.) For purposes of projecting costs, it was assumed that the number of wastewater permits in effect would not change from current levels.

To begin to implement HB 524 in FY 89, a total of 18 new positions would be required to calculate a mixing zone for each of the 724 permits to be reissued. Of these positions, three will be non-technical support positions. The other 15 would be technical staff. The technical staff would be assigned the following responsibilities:

- o As required by HB 524, for each wastewater discharge, the new positions would collect information pertaining to: the physical, chemical, biological and mixing characteristics of the receiving waters; the uses of the receiving waters; and the characteristics of the effluent. In many cases, collecting this information would require travel to the site. For major discharges, the Department would contract with consultants to provide the required information.

- o The new positions would calculate dilution and mixing rates, and mathematically model the mixing of the effluent and receiving waters to predict pollutant concentrations as a function of distance from the outfall. For major discharges such as those from pulp mills, the ballast water treatment

facility at Valdez, and off-shore mining operations, computer models will be used. For smaller, simpler discharges, staff would hand-calculate mixing behavior.

- o From predicted pollutant concentrations, the new staff would delineate mixing zones on the basis of the "as small as practicable" criterion prescribed by HB 524. The Department would then designate the mixing zones in state wastewater permits. For wastewater discharges permitted under the federal wastewater permitting (NPDES) program, the Department will request that the U.S. Environmental Protection Agency (EPA) include the mixing zones in the federal permits.

In addition to the personal services and support costs for the required 18 new positions, the fiscal note includes contractual funds in the amount of \$95.0 for FY 89. These funds will be needed to secure technical consultant assistance in collecting information and calculating mixing zones for major discharges to marine waters.

Annual costs decrease from FY 89 levels as the number of permits due for renewal decrease. While not shown on the fiscal note, the FY 94 costs would again rise to FY 89 levels.

The costs for mixing zone calculations could be reduced approximately by half if the bill were applied only to fresh waters. This would exclude most major industrial facilities and seafood processing plants.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

May, 1988

Mary Van Nimwegen

3-29-88

4-20-88

8:30 a.m.

8:30 a.m.

H HESS
H HESS

POUCHY, STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

CORRECTION

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

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
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May, 1988

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Mary Van Nimwegen

HHESS	3-29-88	8:30 a.m.
HHESS	4-20-88	8:30 a.m.

Alaska State Legislature

STEVE FRANK

DISTRICT 20A
Finance Committee

1125 Sunset Drive
Fairbanks, Alaska 99701



While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3709

House of Representatives

TO: House HESS Committee members

FROM: Rep. Steve Frank

RE: House Bill 524 - relating to the application of water quality criteria

DATE: March 29, 1988

House Bill 524 would spell out the terms and conditions for the use of mixing zones to achieve water quality standards.

The Departments of Environmental Conservation (DEC), Natural Resources (DNR), and Fish & Game (ADF&G) have been instructed by the Governor, in a memo dated March 30, 1987, to find solutions to the current water quality problems facing the placer mining industry. However, the DEC has proposed changes to existing mixing zone regulations that would further reduce, rather than increase, the availability of a mixing zone solution to the water quality problem.

The Department's proposed regulations will place an undue burden on placer miners by requiring them to make determinations as to threats to human health, biological spawning areas, existing and potential uses of water bodies, and barriers to migration of aquatic life. Miners are not qualified to make such technical determinations. It is more appropriate for trained departmental officials to make these determinations. The burden to establish whether these threats exist should properly reside with the Department.

HB 524 would provide for mixing zones unless the Department "...determines that toxic pollutants are being discharged that will accumulate or concentrate in the environment, are carcinogens, would present a significant risk to human health, or would form a barrier to migratory species."

The stream water quality outside the mixing zone would still have to meet State water quality standards. In determining the size of the mixing zone, the department would be required to consider the characteristics of the receiving water, and effects on the downstream uses.

In summary, Governor Cowper has stated that a resolution to this problem must "...be clearly legal under the federal Clean Water Act; and it must protect the rights of both placer miners and other water users." House Bill 524 accomplishes both of these objectives.



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-586-2345

HB 524: Water Quality Criteria

HB 524 is yet another attempt to allow the placer mining industry in Alaska to circumvent the requirements of the law. The federal Clean Water Act was enacted not only to clean up our waterways, but also to keep pristine waters unpolluted. HB 524 would have Alaska operating outside the prescribed methods of stream re-classification mandated under the Clean Water Act.

HB 524 would do the following:

- remove the department's discretionary function and force DEC to prescribe a volume of dilution for an effluent within a mixing zone.
- delineate a place to violate the law by allowing EPA's water quality criteria and antidegradation requirements to be exceeded in the mixing zone.
- create open-ended mixing zones, with no direction to protect for other uses.
- potentially impair designated uses. There is no provision to protect the environment and could allow settleable solids to be discharged inappropriately (i.e., on a salmon spawning bed).
- conflict with the Clean Water Act. It is not lawful to have a mixing zone unless it is technologically needed. Discharges must be as clean as is technologically feasible.
- constitute a de facto re-classification of our streams without following the mandated procedure for such action.

HB 524 would affect the following:

- commercial, sport, and subsistence fisheries. Clean water is necessary to support Alaska's fisheries. Increases in turbidity in streams has been scientifically proven to: (1) disrupt plant growth basic to aquatic food chain; (2) restrict the ability of sight-feeding fish to forage; (3) damage gills of fish; and (4) prevent visual fish-counting necessary to commercial fish management.
- downstream drinking water users, both permanent residents of the area and recreational users.
- aesthetic qualities that provide the general rules for protecting water against environmental insults.

The Alaska Environmental Lobby strongly opposes HB 524. We find it interferes with an administrative procedure already in place and is probably contrary to the Clean Water Act. The State cannot preclude attainment of use and indeed, must protect now for future uses of our waters. This legislation extends far beyond the placer mining industry; it affects discharges for other industries as well. It takes away our guarantee that other designated uses will be protected.

Issue paper by Daniel B. Perry, 3/25/88.

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • JUNEAU GROUP, SIERRA CLUB • SITKA GROUP, SIERRA CLUB
KNIK GROUP, SIERRA CLUB • DENALI GROUP, SIERRA CLUB • ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY
DENALI CITIZENS' COUNCIL • ALASKA FRIENDS OF THE EARTH • JUNEAU AUDUBON SOCIETY • KACHEMAK BAY CONSERVATION SOCIETY
KENAI PENINSULA AUDUBON SOCIETY • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • ALASKA WILDLIFE ALLIANCE
SITKA CONSERVATION SOCIETY • NORTHERN ALASKA ENVIRONMENTAL CENTER • SOUTHEAST ALASKA CONSERVATION COUNCIL
KNIK KANOERS AND KAYAKERS

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SIERRA CLUB LEGAL DEFENSE FUND, INC.

Sunrise, Mt. McKinley

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H.B. 524 MIXES UP CLEAN WATER ACT REQUIREMENTS

Excerpts of Testimony before the
House Health, Education & Social Services Committee

by

Philip S. Barnett
March 28, 1988

The Alaska Environmental Lobby has asked me to review House Bill No. 524 for compliance with the federal Clean Water Act and other legal requirements. I have done so and have found serious deficiencies.

I. *Mixing Zones Are Illegal when They Are Unnecessary*

Initially, HB 524 is illegal because it would require DEC to prescribe mixing zones in its certifications in instances where the discharger can achieve compliance with water-quality standards without a mixing zone.

The Clean Water Act uses two levels of pollution controls: technology-based ones under § 301(b)(2)(A) of the Act and water-quality ones under § 301(b)(1)(C) of the Act. When Alaska certifies a federal discharge permit, it is required by federal law to certify that *both* levels of pollution control will be met. CWA § 410(a).

This means that when the technology-based requirements (which require the use of the best available technology) are sufficient to provide for attainment of water-quality standards at the end of the pipe, DEC may not legally certify a mixing zone. To do so would be to allow the discharger to pollute beyond the levels required by the BAT limitation.

In short, whenever the technology-based requirements of the federal law are the more stringent ones, no mixing zone can be included in a certification, contrary to the current language of HB 524.

II. *Mixing Zones Are Illegal when They Would Impair Designated Uses*

HB 524 requires DEC to authorize the use of mixing zones even when the only practical mixing zone would destroy a designated use of a waterbody. This is illegal because it undermines the whole purpose of water-quality standards -- namely, to protect the designated uses. 40 C.F.R. § 131.6(c).

An example will illustrate this problem. Some placer miners use the entire

flow of a stream for their operations. If these miners are allowed to violate water-quality standards at the end of the pipe, these violations will continue for the rest of the length of the stream, thus eliminating the designated uses that are protected by the water-quality standards along the entire stream.

In effect, there can't be a mixing zone when the effect would be the de facto reclassification of the waterbody, contrary to HB 524.

III. *Human Feces, Mud, and Other Conventional Pollutants Can Cause Serious Water-Quality Problems*

To put it simply, another problem with HB 524 is that it allows people to defecate in mixing zones.

HB 524 does specify a limited number of instances when mixing zones can be denied; however, in each instance, DEC must determine that "toxic pollutants" are threatening the environment in some way. This is too restrictive. Other pollutants besides "toxic" ones can cause problems that are serious enough to warrant denial of mixing zones.

For example, if the only practical mixing zone happens to be part of a stream that is used for drinking water, no discharger should be allowed to put untreated human sewage into the mixing zone. Likewise, if the only practical mixing zone happens to encompass an important spawning bed for salmon or other fish, a discharger should not be able to bury the bed in mud within the mixing zone.

Yet unless HB 524 is modified to reflect the fact that nontoxic pollutants can cause problems sufficient to justify denial of a mixing zone, these examples are realistic possibilities.

IV. *Mandatory Mixing Zones Will Overtax DEC*

Finally, a quite practical problem is posed by HB 524. It requires that DEC provide a site-specific mixing zone (based on a consideration of four enumerated factors) for each of the thousands of dischargers in the state. But DEC just doesn't have the resources to put such a system in place. It is one thing to ask a agency to evaluate a request for a mixing zone when the discharger has the burden of proving its desirability, as the current law provides; it is another thing altogether to require an agency to carry the burden of proof for the discharger, as HB 524 proposes.

There could be only one result from mandatory mixing zone requirement, in short: an overworked agency that regularly makes arbitrary and capricious mixing-zone determinations.

V. *Conclusion*

In sum, HB 524 is a textbook example of why the Legislature should leave the nuts and bolts of drafting a mixing-zone regulation to DEC. It deals with a complex problem in a superficial way, and in so doing, it creates far more problems than it solves.

Mixing zones have a role to play in the administration of Alaska's water-quality standards. But this role should be fleshed out by DEC, not the Legislature, since DEC has (or should have) the resources and expertise to resolve the complexities of the issue in a practical and legal way.

PRESS RELEASE
2/9/88

The Alaska Miners Association (AMA) and other members of Alaska's industry take issue with proposed regulatory changes to the water quality regulations by the Department of Environmental Conservation (DEC). The proposed changes deal with mixing zones and start-up variances. The current status is the result of several years of effort by the AMA and others to establish reasonable and attainable water quality regulations within the state. The DEC proposed regulations provide virtually no relief. In an effort to provide meaningful input to the agency the AMA has developed language for the proposed regulations that is fully in compliance with the Clean Water Act and the Environmental Protection Agency (EPA) regulations. Other parts of the regulations will be addressed in later meetings between the two groups.

The DEC proposed regulatory considerations, according to Randy Farleigh of the law firm of Farleigh & Waldo, are of limited benefit. The proposed changes to the mixing zone regulations "...are generally more to the detriment than benefit of the placer industry...Generally speaking, the proposed addition of the start-up variance language is an improvement over the present regulations only because the present regulations permit short term variances only for non-point sources of water pollution."

The DEC water quality regulations in existence have been challenged by the AMA and others as being unattainable. The onerous criteria threatened to shut down the placer mining industry in Alaska and severely encumber many of the other industries. In a DEC internal memo from John Reeves to Randy Bayliss dated 3/13/84, Mr. Reeves noted that

"The figures speak for themselves. If a minimum of 34% of all Alaskan mines up to a maximum of 96% of Alaskan mines are forced into closure because of enforcement of stipulations included in this permit it hardly seems like 'Best Available Technology Economically Achievable' is reflected in this permit. It doesn't appear that recycle technology is in fact economically achievable at all. I would like to know what technology economically achievable could force closure of 96% of Alaskan placer mines with a loss of 628 jobs and a 31 million dollar reduction loss. Surely there is other technology EPA studied that may force closure of the remaining 4%.... It can be stated that there is no and will be no easy solutions to this problem of mining and resultant turbidity. The least we can do is insure that if miners do incur the cost burden to comply with water quality standards there is a bottom line where government regulators say good enough. By raising the settleable solids limit to 15 ml/l and mandating a 25 NTU standard the EPA has provided the miners with some relief. State water quality standards cite no measureable increase for sediment and 5 NTU's as applicable to mining operations on all Alaskan streams unless otherwise reclassified."

Protests to the regulations in the form of a petition dated December 26, 1986 to the DEC inspired the new Commissioner of DEC, Mr. Dennis Kelso, in early 1987 to request dropping petition action in lieu of meeting to work out differences. The AMA conditionally withdrew the petition and formed a multi-industry committee to meet with DEC personnel to work various aspects of the water quality regulations. A list was developed that promised to provide some relief to the industries. It included changes to the language to include mixing zones, a start-up variance, restructuring of uses, stream reclassification and assumption of the NPDES permitting (which is now EPA controlled). Timely meetings were held throughout the year. Efforts were devoted to redoing the mixing zone and start-up variance provisions of the regulations with intentions of addressing other issues as time and finances allowed. Repeated comments that the results were not framed in a constructive and objective manner produced no changes.

In a memo from Governor Cowper to the Commissioners of DNR, DEC, and DF&G dated 3/30/87 several important aspects of the water quality regulations were discussed:

"We need a clear set of rules, standards, and procedures that everyone can understand. Miners must be able to operate with the assurance that rules will not keep changing."

"Continuation of the status quo is not acceptable."

Governor Cowper went on to discuss enforcement policy, technical assistance, review of regulations and policies, permitting, and other issues. The tone was to advocate cooperative and objective interchange.

The newly proposed language was published by the DEC on October 27, 1987 for public comment. The proposed changes were negative and generally more restrictive than the existing language.

The AMA has responded to the public hearings process of the proposed changes by developing regulatory language addressing the "mixing zone" and "start-up variance" issues. The language is entirely in compliance with the Clean Water Act, the EPA regulations and most of the producing industries. Downstream users will be protected.

The water quality committee will continue to work with the DEC on the other issues. These issues include stream reclassification, water quality criteria, restructuring of uses and NPDES program assumption.

Currently all streams in Alaska but 2 are classified for all uses. The most stringent use of all uses is for drinking water. Can you imagine drinking from the Matanuska river - it is classified for drinking water use. The reclassification process is set out in section .055 of the water quality standards and in 40 CFR 131.10 (g) - (j). It is a process by which non-existing and unattainable uses of a water body may be excluded from protection under the water quality standards and the standards modified accordingly. Streams or groups of streams are studied to establish which

uses are existing or non-existing, and which uses are attainable or unattainable. Non-existing and unattainable uses are excluded from protection by amending the classification.

The water quality criteria review will involve examination of the latest scientific information on the effects of turbidity and total suspended solids on various water uses, and propose amendments to the water quality criteria where appropriate. At present, Alaska's standards include both numerical criteria for turbidity and narrative criteria for sediment. These criteria have been evaluated in a report prepared by L. A. Peterson & Associates entitled Alaska Particulates Criteria Review. This report, along with scientific information published subsequent to the report, might be evaluated to assess whether other measurements of particulates could be used and the appropriate particulate levels associated with these alternate measurements. The results of this evaluation could be used to develop proposed amendments to the water quality standards.

In a letter from Dr. R. Johnson to Wally Scarborough (EPA) dated 6/7/83 the issue of turbidity is addressed in support of the impossibility of attaining current criteria:

"... During my seven years in Alaska, I have become increasingly convinced that attainment of low turbidity levels on effluents from even well-designed settling ponds associated with placer mining operations is very difficult because of the fine particles associated with sluicing operations in Alaska. As I testified at a March, 1981 Evidentiary hearing in Anchorage, even a settling pond the size of Lake Superior will not remove some of the fine particles found in Alaskan soils."

Alaska's water quality standards are structured to protect seven freshwater uses: drinking, agriculture, aquaculture, industry, contact recreation, non-contact recreation, and aquatic life. It may be possible to propose modifications to the structure of protected uses to better reflect the different types of uses of Alaskan waters. For example, one type of drinking water use might be serving as a source for public drinking water systems. One type of aquatic life use might be salmon spawning and rearing. Of course, there would be other types of drinking and aquatic life uses. Once the different types of uses were established, specific water quality criteria would be established for each type of use.

At present, permits for most wastewater discharges in the State of Alaska are issued by the EPA under the federal National Pollutant Discharge Elimination System (NPDES) program. The Clean Water Act contains provisions for state assumption of the program whereby the permits are issued by participating states in accordance with EPA regulations and guidance.

MEMORANDUM

TO: Commissioner Judith M. Brady
Department of Natural Resources
DATE: March 30, 1987

Commissioner Don W. Collinsworth
Department of Fish and Game

Commissioner Dennis D. Kelso
Department of Environmental
Conservation
PHONE: 465-3500

FROM: Steve Cooper
Governor
SUBJECT: Placer Mining

I have assigned a high priority to resolving the conflicts between placer miners and other water users. The miners believe they are faced with an impossible situation; they express concern about unattainable standards and unreasonable regulations. At the same time, other users of Alaska's water--fishermen, village residents, recreational users--express concern about the impacts of placer mining on their uses; they fear degradation of water quality leading to a loss of drinking water, fish habitat, and other values.

We need a clear set of rules, standards, and procedures that everyone can understand. Miners must be able to operate with the assurance that rules will not keep changing.

Continuation of the status quo is not acceptable.

We need to resolve these conflicts in a positive way, avoiding the adversarial relationships that have characterized this policy area.

A stable resolution will require two things. It must be clearly legal under the federal Clean Water Act; and it must protect the rights of both placer miners and other water users.

Only if these two requirements are met can we avoid years of slow, expensive, unpredictable litigation with the inevitable loss of state resource management prerogatives to the courts.

We can help bring about a stable resolution to the problem. By ensuring reasonable, litigation-proof rules and fair enforcement, we can create a regulatory climate in which placer miners and

Commissioners -2- March 30, 1987

other water users will have confidence. In addition, I want my Administration to set a positive, cooperative tone; working with the miners and other groups to find policy options and mediating between the miners and other users to avoid or resolve conflicts.

I direct you, as commissioners of the state's three resource agencies, to work together to complete the following tasks, before the 1988 mining season.

1. Enforcement Policy

The state's enforcement program should emphasize technical assistance to miners who are making good faith efforts to maintain water quality, as well as protection of community drinking water sources, fish resources, and recreational uses. Please take appropriate actions to ensure that enforcement action is not taken against any miner who operates proper settling ponds for a violation of water quality standards where the violation results from upstream sources. In addition, no miner should be required to clean up natural background conditions or an upstream violation.

2. Technical Assistance

I expect the Department of Natural Resources, as well as the Departments of Environmental Conservation (DEC) and Fish and Game (DF&G) to provide technical assistance to operators in following state regulations. Nowhere is this more important than in working with placer miners.

Commissioner Brady has requested and received my support for two new positions in the Division of Mining to provide appropriate technical assistance to placer miners in part to help them mine more efficiently and to satisfy water quality requirements. Although neither DEC nor DF&G has staff added to their respective budgets for these functions, I expect you to work cooperatively with the placer miners in order to prevent water quality problems, where possible, or to resolve problems. Technical assistance will emphasize innovative operating techniques and improved mining methods. I believe this assistance can also help develop a more positive relationship between all three agencies and the miners.

3. Review of Regulations and Policies

Please conduct a thorough review of your agency's regulations and policies in order to determine whether there are duplicative provisions or unnecessary requirements and to take action as needed to correct any deficiencies. I would appreciate your providing me a written report describing your findings and any corrective actions you propose. Because this subject is of interest to the Alaska Minerals Commission (AMC), please consult with the Commission about the results of your review.

Commissioners -3- March 30, 1987

4. State Water Quality Regulations

Commissioner Kelso and the Alaska Miners Association (AMA) have begun a process to develop agreement about what the Clean Water Act requires and to identify areas of flexibility available to the state in water quality regulations, especially areas where site specific factors can be considered.

I fully support this effort. Although there are no guarantees that a solution will be found, the process may produce valuable tools that can be used singly or in combination. It is important that views of fishermen, environmental groups, village representatives and other interested Alaskans, as well as the miners, be considered. Consultations with these other groups should be part of the overall effort. In addition, please keep the Placer Mining Advisory Group and the AMC apprised of your efforts.

5. State Permitting

The tri-agency permit application process must operate efficiently and a placer miner should be able to deal with state permits through a single application. Please review the permitting process and take any actions you deem appropriate to improve the efficiency of this system.

6. BLM vs. Sitka Club Lawsuit

By copy of this memorandum, I am directing the Department of Law to file an amicus curiae brief in this lawsuit. It is important that the brief be crafted carefully to ensure that the state can mediate, if necessary, to enable responsible placer mining to continue. It is also important that the brief avoid issues which could prove detrimental to the state's overall interests on other resource matters involving the federal government. Please provide assistance to the Department of Law in preparing these materials.

Our basic position should oppose judicial relief that would penalize miners for any errors that the court concludes BLM has made. We should oppose a blanket injunction that precludes all mining and should urge that if the court finds for the appellants, the order be framed in such a way that the state can help the parties negotiate a solution.

7. Federal Effluent Guidelines (Best Available Technology Economically Achievable)

The Environmental Protection Agency (EPA) has just published its proposed effluent guidelines for the placer mining industry, establishing the pollution control technology considered by EPA to be economically achievable.

Commissioners -4- March 30, 1987

Because these guidelines are so important to the industry, I intend to see that the state is prepared to participate fully in the technical debate on their merits. By copy of this memorandum, I am asking the Department of Commerce and Economic Development to join with your departments in taking a hard look at the guidelines to see if they are based upon realistic assumptions and Alaskan data. When you have completed your analysis, we will prepare comments to EPA. While the state does not have a direct decision-making role on the effluent guidelines, I strongly believe that a well-reasoned, analytical position will have the greatest success in advancing the state's view.

My goal is for the state to participate as constructively as possible in creating a stable regulatory climate for the placer mining industry. A successful approach must be fair to the placer miners and acceptable to other water users. In order to reach this goal, the state must apply its best resources toward helping to find a reasonable approach. This is especially important in technical debates, such as discussion of the effluent guidelines. I am confident that through our combined efforts we can achieve the kind of progress that this important public policy issue deserves.

cc: Senator Don Bennett
Senator Bettye Fahrenkamp
Senator Jack Coughill
Senator John Binkley
Senator Wille Hansley
Representative Adelheid Herrmann
Representative Mike Miller
Attorney General Grace Marg Schaible
Department of Law
Commissioner Tony Smith
Department of Commerce and Economic
Development
Rod Swope, Special Assistant
Office of the Governor
Bob Grogan, Associate Director
Division of Governmental Coordination

DATE: January 27, 1988
TO: THE ALASKA MINERS ASSOCIATION, INC.
SUBJECT: Proposed Changes to 18 AAC 70.016 Start Up Variances
And 18 AAC 70.032 Mixing Zones

Mixing Zones

18 AAC 70.032. MIXING ZONES.

(a) In applying the water quality criteria the department will prescribe in its permits or certifications a volume of dilution for an effluent or substance within a receiving water unless (1) toxic pollutants are discharged which bioaccumulate, are carcinogens, or which concentrate in the environment, or otherwise present significant risk to human health, or (2) such a zone would form a barrier to migratory species. The water quality criteria of 18 AAC 70.020 and the antidegradation requirement of 18 AAC 70.010(c) may be exceeded within this mixing zone.

(b) In determining the size of mixing zones, the department will consider the following:

(1) the physical, biological, and chemical characteristics of the receiving water, including volume and flow rate;

(2) the effects of the discharge upon the uses of the receiving water;

(3) the mixing characteristics of the receiving water; and

(4) the characteristics of the effluent, including volume and flow rate.

(c) The mixing zone shall be as small as practicable.

18 AAC 70.032. MIXING ZONES. (a) In applying the water quality criteria of 18 AAC 70.020, the department will, in its discretion, prescribe in its permits or certifications a volume of dilution for an effluent or substance within a receiving water. Water quality standards may be exceeded within this mixing zone. However, the standards must be met at every point outside its boundaries. The department will not allow mixing zones if (1) there is significant potential for adverse environmental or health effects due to discharge of a substance that bioaccumulates in food chains; concentrates in sediments; or is persistent, carcinogenic, mutagenic, or teratogenic, or (2) other potential environmental or health effects are so adverse that a mixing zone is not appropriate. A mixing zone will be granted only after the applicant has shown to the department's satisfaction that the wastes or

substances that may exceed the water quality criteria limits will be treated using the methods found by the department to be most effective:

(b) The department will, in its discretion, establish effluent limitation requirements in its wastewater disposal permits in lieu of or in addition to a defined mixing zone.

(c) No individual mixing zone or combination of mixing zones will be permitted to form a barrier to the migratory routes of aquatic species.

(d) In determining the size of mixing zones, the department will consider the following:

(1) the physical, biological and chemical characteristics of the receiving water;

(2) the effects of the discharge on the present and anticipated protected water uses and quality of the receiving water;

(3) the mixing characteristics of the receiving water; and

(4) the characteristics of the effluent, including flow rate and composition.

(e) Unless it is demonstrated to the satisfaction of the department, in accordance with (f) of this section, that the size limitations can be increased, mixing zones will be as small as practicable and will comply with the following size limitations:

(1) the cumulative linear width of the mixing zone(s) intersected on any given cross section of a river or stream will not exceed one third of the total width of that cross section;

(2) the total horizontal area allocated to all mixing zones on a lake will not exceed 10 percent of the lake's surface area;

(3) the cumulative linear length of the mixing zone(s) intersected on any given cross section of an estuary, inlet, cove, channel, or other marine water measured at mean lower low water may not exceed 10 percent of the total length of that

cross section, nor may the total horizontal area allocated to mixing zones in these waters exceed 10 percent of the surface area measured at mean lower low water.

(f) A person conducting an operation for which a mixing zone is sought or required by the department shall submit to the department all information necessary for assignment of a mixing zone, including

(1) the type of operation being conducted;

(2) the characteristics of the effluent or material, including flow rate and composition;

(3) the characteristics of the receiving water at the location of the proposed discharge or activity, including but not limited to, where appropriate, water quality, flow rate, current patterns, depth and width, and seasonal changes;

(4) a description of the extent to which the operation may impact the physical, biological and chemical characteristics of the receiving water; and

(5) a proposed design for outfall and diffuser structures. (In effect before 7/28/59; am 1/24/70, Reg. 34; am 8/28/71, Reg. 39; am 10/22/72, Reg. 44; am 8/12/73, Reg. 47; am 1/2/79, Reg. 69; am 4/23/79, Reg. 70; am 1/19/79, Reg. 71; am 3/30/84, Reg. 89)

Authority: AS 46.03.020(10)(A)

AS 46.03.070

AS 46.03.080

AS 46.03.100

AS 46.03.110

AMENDMENTS

Water Quality Standards (18 AAC 70)
and
Administrative Procedures (18 AAC 15)

(October 27, 1987)

Following are proposed amendments to 18 AAC 70.032, a proposed new section 18 AAC 70.016, and proposed amendments to 18 AAC 15.070. The amendments to 18 AAC 70.032 and 18 AAC 15.070 are shown using a convention where wording to be added is underlined. Wording to be deleted is capitalized and shown in brackets. Note that the proposed new section 18 AAC 70.016 is not depicted using this convention and is simply described as a new section in the lead-in sentence.

Mixing Zones

18 AAC 70.032 is amended to read:

18 AAC 70.032. MIXING ZONES. (a) In applying the water quality criteria of 18 AAC 70.070, the department will, in its discretion, prescribe in its permits or certifications a volume of dilution for an effluent or substance within a receiving water. Water quality standards may be exceeded within this mixing zone. However, the standards must be met at every point outside its boundaries. The department will not allow mixing zones if

(1) there is significant potential for adverse environmental or health effects due to discharge of a substance that bioaccumulates in food chains; concentrates in sediments; or is persistent, carcinogenic, mutagenic, or teratogenic; or

(2) other potential environmental or health effects are so adverse that a mixing zone is not appropriate.

A mixing zone will be granted only after the applicant has shown to the department's satisfaction that the wastes or substances that may exceed the water quality criteria limits will be treated using the methods found by the department to be most effective.

(b) The department will, in its discretion, establish effluent limitation requirements in its wastewater disposal permits in lieu of or in addition to a defined mixing zone.

(c) The department will prescribe a mixing zone only if an applicant for a permit or certification shows to the department's satisfaction that the mixing zone, alone or in combination with other mixing zones,

(1) will not present a significant threat to human health;

(2) will not cause a significant adverse effect on important biological areas, such as spawning or rearing areas;

(3) will not cause a significant adverse effect on existing or potential uses of the waterbody, including, but not limited to, growth and propagation of aquatic life;

(4) will not form a barrier to migration of aquatic life;

(5) is simply configured with clearly identified limits; and

(6) complies with the size limitations set out in (d) of this section. [NO INDIVIDUAL MIXING ZONE OR COMBINATION OF MIXING ZONES WILL BE PERMITTED TO FORM A BARRIER TO THE MIGRATORY ROUTES OF AQUATIC SPECIES.]

(d) In determining the size of mixing zones, the department will consider the following:

(1) the physical, biological and chemical characteristics of the receiving water;

(2) the effects of the discharge on the existing [PRESENT] and potential [ANTICIPATED PROTECTED] water uses and quality of the receiving water;

(3) the mixing characteristics of the receiving water; and

(4) the characteristics of the effluent, including flow rate and composition.

(e) The size of different mixing zones will vary depending on the characteristics of a particular site. In all cases, the department will require that mixing zones be as small as practicable. Unless it is demonstrated to the satisfaction of the department in accordance with (c) and (d) [(f)] of this section, that the size limitations can be increased, mixing zones [WILL BE AS SMALL AS PRACTICABLE AND] will comply with the following size limitations:

(1) in rivers, streams and creeks where it is practical to restrict mixing to a portion of the waterway width, the cumulative width of any one or more mixing zones will not exceed one third of the total waterway width [THE CUMULATIVE LINEAR WIDTH OF THE MIXING ZONE(S) INTERSECTED ON ANY GIVEN CROSS SECTION OF A RIVER OR STREAM WILL NOT EXCEED ONE THIRD OF THE TOTAL WIDTH OF THAT CROSS SECTION];

(2) the total horizontal area allocated to all mixing zones on a lake will not exceed ten percent of the lake's surface area;

(3) the cumulative linear length of the mixing zone(s) intersected on any given cross section of an estuary, inlet, cove, channel, or other marine water measured at mean lower low water may not exceed ten percent of the total length of that cross section, nor may the total horizontal area allocated to mixing zones in these waters exceed ten percent of the surface area measured at mean lower low water.

(f) A person conducting an operation for which a mixing zone is sought or required by the department shall submit to the department all information necessary to designate a mixing zone, including

(1) the type of operation being conducted;

(2) the characteristics of the effluent or material, including flow rate and composition;

(3) the characteristics of the receiving water at the location of the proposed discharge or activity, including but not limited to, where appropriate, water quality, flow rate, current patterns, depth and width, and seasonal changes;

(4) a description of the extent to which the operation may impact the physical, biological and chemical characteristics of the receiving water; and

(5) a proposed design for outfall and diffuser structures.



ALASKA MINERS ASSOCIATION, INC.

501 W. Northern Lights Blvd., Suite 203, Anchorage, AK 99503 (907) 276-0347

February 4, 1988

The Honorable Steve Cowper
Governor
State of Alaska
P.O. Box A
Juneau, AK 99811-0101

Dear Governor Cowper:

Attached per our discussion and previous letters is a copy of our response to the proposed mixing zone and start-up variance regulations by the Department of Environmental Conservation. Our position is that the DEC proposed regulations are, at best, a very minor step in a positive direction and we therefore reject the proposal; we are proposing an alternative wording to the regulations. This proposal is fully in compliance with the Clean Water Act and the EPA regulations, meets with miner acceptance and partially satisfies the intent of your memo to the Commissioners of 3/30/87. We appreciate the opportunity to keep you appraised of the process and your support of our proposal.

The DEC proposed mixing zone and start-up variance regulations are unacceptable to us because they are negative in tone and impose more controls on the industry than are currently in place. The DEC's mixing zone proposed regulations are generally more to the detriment than benefit of the placer industry. The proposed start-up variance language is an improvement over the present regulations in that the present regulations permit short term variances only for non-point sources of water discharge. No economic consideration for implementation has been included in either issue; they refer only to "most effective" considerations. The language is subjective and leaves a lot of discretion to any regulator's or enforcer's interpretation.

Your memo of 3/30/87 states that "We need a clear set of rules, standards, and procedures that everyone can understand. Miners must be able to operate with the assurance that rules will not keep changing."

"Continuation of the status quo is not acceptable."



ALASKA MINERS ASSOCIATION, INC.

"A stable resolution will require two things. It must be clearly legal under the Federal Clean Water Act; and it must protect the rights of both placer miners and other water users."

Our proposed language does exactly that. It is simple, straight forward and positive. The adoption of these regulations will provide partial relief to some miners. We will continue to work the identified problems of NPDES assumption, water quality criteria, stream reclassification and restructuring of uses. Please refer to the attached documentation for further definition.

Respectfully yours,

ALASKA MINERS ASSOCIATION, INC.

Claude Morris
Co-Chairman Water Quality Committee

cs/wateract.cow

Enclosure



ALASKA MINERS ASSOCIATION, INC.

501 W. Northern Lights Blvd., Suite 203, Anchorage, AK 99503 (907) 276-0347

February 4, 1988

Commissioner Dennis Kelso
Alaska Department of Environmental Conservation
Water Quality Management Section
P.O. Box 0
Juneau, AK 99811-1800

Dear Commissioner Kelso:

Attached is our response to the proposed mixing zone and start-up variance regulations by the Department of Environmental Conservation. Our position is that the DEC proposed regulations, as written, do not give any regulatory relief to the industry and we therefore reject that proposal. The language used is negative in tone and imposes more controls on the industry than regulations that are currently in place. The DEC's proposed mixing zone regulations are generally more to the detriment than benefit of the placer mining industry. The proposed start-up variance language is an improvement over the present regulations in that point sources of water discharge are also included. But the scope of its application is so limited and the language used is so subjective that the final product offers very little to the placer industry. With minor changes to the short term variance language, to include variances for point source discharges, the objective of the start-up variance concept is better achieved.

The adoption of mixing zone and short-term variance regulations is the first step needed to help some miners continue to operate legally under the letter of the law in the face of what are presently unattainable water quality standards. We are not looking for a solution for the irresponsible operator. Our intent is to protect the rights of other water users and the rights of the placer miner. We believe that this goal can be achieved.

As you can see, it is not the concept of the proposed regulations that we are opposed to, but rather the language that was used in the proposed regulations. Therefore, we are proposing an alternative wording to the regulations. Any changes which lessens the objectives of our proposed language for mixing zones



ALASKA MINERS ASSOCIATION, INC.

and short term variances would not satisfactorily address the concerns expressed to us by representatives of the placer industry. This proposal is in full compliance with the Clean Water Act and the EPA regulations, meets with miner acceptance, and follows the intent of the Governor's memo to the Commissioners (March 30, 1987), which states that:

"Continuation of the status quo is not acceptable."

"A stable resolution will require two things. It must be clearly legal under the Federal Clean Water Act; and it must protect the rights of both placer miners and other water users."

Our proposed language does exactly that. It is simple, straight forward and positive. It is the much needed first step that the State must take with would create a positive platform from which we can continue to work on the other identified problems of water quality criteria, restructuring of water uses, stream reclassification, and NPDES assumption.

The Industry Water User Group will continue to work with the DEC to remedy the water use concerns of not only the placer mining industry, but of all water user industries.

Sincerely,

ALASKA MINERS ASSOCIATION, INC.

Claude Morris
Co-Chairman, Industry Water User Group

cs/kelso.dra

Fairbanks

irbanks, Alaska

Sunday, March 27, 1988—A-3

Water quality on placer-mining rivers improves

By FRED PRATT
Correspondent

Placer miners are adopting effective pollution control measures, government officials said here Saturday, and their work shows in cleaner water of Alaska's rivers.

The comments came during an "agency session" with state and federal officials at the conclusion of the three-day annual placer mining conference at Alaskaland.

Water-quality monitoring shows a "general trend toward improvement" on five interior placer-mining streams, Larry Dietrick of the Alaska Department of Environmental Conservation said. Only three operations were cited for violations, Dietrick added, two for settling pond problems and one for not following his plan of operation. All responded with corrections when notified.

Pointing to a "significant increase" in use of wastewater treatment techniques by miners, Dietrick said 1987 mine inspections showed the following:

- Mines using full recycling systems and having no discharge of wastewater grew from five in 1986 to 31 in 1987.
 - Surveys found 51 mines using at least some water recycling, up from 14 in 1986.
 - Use of tailings to filter wastewater increased from seven in 1986 to 44 in 1987.
 - Seven mines now use "tundra filters" to absorb wastewater, up from only two last year; and
 - Use of chemical flocculents to draw fine sediments from wastewater grew from two operations in 1986 to eight in 1987.
- Dietrick said DEC found no mines operating without settling ponds and the number found with

violations for improper pond design or size dropped from 38 to 12.

"No operations were shut down for water-quality violations where we think the miner was working within his plan of operation," Dietrick said. The plan is submitted by the miner when applying for his state permit, and state agencies can change the plan to add specific stipulations when they grant the permit.

Al Ewing, representing the Federal Environmental Protection Agency, said his agency found a significant increase in the number of mines meeting federal standards for settleable solids.

In 1984, Ewing said, only 39 percent of the mines inspected were reducing settleable solids to below the federal limits. In 1985 EPA found 42 percent of the mines in compliance, and in 1986 the figure improved to 55 percent.

In 1987 EPA found 77 percent of the mines it inspected met the limits, and Ewing noted that state officials found 92 percent compliance. The difference between state and federal figures came because the EPA officials focused testing on mines where they expected to find violations, while DEC made a broader sample.

"My own observation is that this represents the result of a cooperative effort with the mining industry," Ewing said. "It shows the cumulative effect on the part of all parties to help move this process toward the point we can all live with."

Settleable solids measure larger particles that sink out of water over a specified time, and the standards are among the easier water quality limits for placer miners to meet.

Miners say turbidity standards, which measure finer particles that

stay in suspension even after settling pond treatment, are all but impossible to meet, but Ewing noted that EPA does not have a major enforcement effort on that front.

Not all the miners accepted the rosy picture.

Don Stein suggested that a greater percentage of mines are meeting EPA standards because more mines are being closed by the effects of government regulation. Noting that Alaska had 700 operating placer mines a few years ago and has only 200 now, he said the number of operating mines will decrease gradually until there is 100 percent compliance but only a very few mines left.

Ewing said there is no question that there are fewer mines operating now, and that enforcement of water quality regulations is responsible for at least some of the

decline. "We're implementing the law in the most reasonable way we know how, and that can result in a few people going out of business," Ewing said.

Pat Wrightman of the state Division of Governmental Coordination told the group that coastal zone management plan compliance has not been a problem in granting mining permits.

In the year ending Sept. 1, 1987, her office granted nine consistency findings for placer mines operating in coastal zone areas, and gave 36 consistency findings with stipulations. Seven permit applications were withdrawn, Wrightman added, but none were denied.

The U.S. Army Corps of Engineers, which recently entered the placer mining permit arena with new wetlands regulations, and the U.S. Park Service were not represented at the meeting.



Alaska State Legislature

Please enter into the record my testimony to the HESS
committee name
 committee on HB 574, dated 03/29/88
bill/subject

I oppose this. The state can't afford it. I'm con-
 cerned about any risk to human health and the
 food chains. I don't like carcinogens or mutagens
 either going into the environment. We are seeing
 some progress now in cleaning up H2O. This bill
 will send the wrong signal to industry at this
 time. Industry should not externalise its costs.
 The burdens of cleaning up their mess should be
 on them. This bill is for miners but streets will
 slip in through the loop hole. Subsistence is an
 industry too.

Signed: *David Lane*
 Testifier
Self
 Representing (Optional)
Box 81765, College 99708
 Address
4562871
 Phone No.

①

5-1954B
Bradley
4/19/88

Original sponsors: Frank, Miller,
Boyer and Shultz

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 524 (H.E.S.S.)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the application of water quality
7 criteria to placer mining."

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

9 * Section 1. AS 46.03.080 is amended by adding a new subsection to
10 read:

11 (b) In applying water quality criteria to placer mining, the
12 department shall prescribe in its permits or certifications a volume
13 of dilution for an effluent or substance within a mixing zone of the
14 receiving water unless the department determines that toxic pollutants
15 are being discharged that will accumulate or concentrate in the
16 environment, are carcinogens, would present a significant risk to
17 human health, or would form a barrier to migratory species. The water
18 quality criteria and antidegradation requirements of the regulations
19 of the Environmental Protection Agency may be exceeded in placer
20 mining within the mixing zone of the receiving water. The mixing zone
21 of the receiving water in placer mining shall be as small as practica-
22 ble. In determining the size of the mixing zone of the receiving
23 water in placer mining, the department shall consider

24 (1) the physical, biological, and chemical characteristics
25 of the receiving water, including volume and flow rate;

26 (2) the effects of the discharge upon the uses of the
27 receiving water;

28 (3) the mixing characteristics of the receiving water; and

29 (4) the characteristics of the effluent including volume



and flow rate.

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HOUSE COMMITTEE REPORT

(7)

Date referred: 2/15/88

FURTHER REFERRALS:

Resources

DATE: 4-20-88

The Health, Education and Social Services Committee has considered HB 524

"An Act relating to the application of water quality criteria."

RECOMMENDS:

- replace with CSHB 524 (HESS) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note
- zero with analysis same as previous zero fiscal note published _____

SIGNING TO PASS:

[Signature]

[Signature]

[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature] (no rec.)

[Signature] (no rec.)

[Signature] (no rec.)

[Signature]
 Co-Chairman's signature

[Signature]

H B

526

277

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHB 526 (L&C)
PUBLISH DATE: HOUSE 3/28/88

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Health and Social Services
Title: The practice of clinical social work and exempting certain persons from licensure BRU: _____
Sponsor: Pourchot, Phillips, Collins Components: _____
Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

N/A

Prepared by: Yvonne M. Chase, Director
Division: Division of Family and Youth Services

Phone: 465-3170
Date: 03/24/88

Approved by Commissioner: Myra M. Munson
Agency: Department of Health and Social Services

Date: 3/24/88

Distribution (by preparer):

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

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H HESS

4-6-88

8:30 a.m.

POSITION PAPER
COMMITTEE SUBSTITUTE FOR HOUSE BILL No. 526

For an Act entitled: "An Act relating to the practice of clinical social work and exempting certain persons from licensure as clinical social workers; and providing for an effective date."

The Committee Substitute for House Bill 526 would provide for a licensing body with the authority to regulate the practice of clinical social work in Alaska. The provisions in this Committee Substitute would:

1) promote high standards of professional performance by persons licensed to practice clinical social work.

As a result of this legislation, only persons found by the Board to meet the requirements under Section 08.95.110 would be issued a license to practice clinical social work. Clinical social workers intervene in complex situations involving interpersonal, social, financial, and legal dimensions, and in an area where the professional capabilities of the individual have such an important impact on the persons receiving services, it is essential that the standards of quality of one's professional performance are consistently high. Licensure or certification has been effected in 43 states, the Virgin Islands, and Puerto, as a mechanism to ensure those standards.

2) protect the consumer by insuring that persons using the title of clinical social worker have specific educational training designed to prepare persons for the field of social work.

There are presently no requirements for clinical social work practitioners, and while consumers of these services can contact the Alaska Chapter of the National Association of Social Workers (NASW) to see if the person is a member, membership in NASW is voluntary and therefore all "licensable" social workers may not belong to NASW. In addition, while persons who are members of NASW are required to conduct their practices according to the national organization's code of ethics, censoring a member for unethical practices does not stop them from practicing in Alaska; that can only be accomplished through licensure.

3) provide individuals in the community with more options for treatment than what presently exists.

Licensure provides the clinical social worker with the ability to seek financial reimbursement for services through a number of insurance companies which presently will only reimburse "licensed" professionals. The result of the present situation is that persons seeking treatment services are forced to wait for the availability of other professionals if they need to pay for these services through insurance. Social workers provide a large percentage of the clinical services offered in Alaska, particularly in the rural areas, and the availability of those services often means the difference between some treatment and no treatment.

4) provide for privileged communication between the professional social worker and the client.

While the information acquired by state social workers in their performance of their duties under AS 47.10.090, 47.17.040, 47.35.060, and 47.35.070 is confidential, social workers in private agencies or in private practice have no similar protection of their clients' information.

The Department of Health and Social Services strongly supports both the recognition of the profession of social work and the commitment of the Alaska Legislature to regulate that practice in order to assure quality service to clients.

RECOMMENDED: *Yvonne M. Chase*
Yvonne M. Chase, Director
Division of Family
and Youth Services

DATE: 3/24/88

APPROVED: *Myra M. Munson*
Myra M. Munson, Commissioner
Department of Health
and Social Services

DATE: 3/24/88

MEMORANDUM

State of Alaska

TO: Sandra Schubert, Aide to
Representative Pat Pourchot

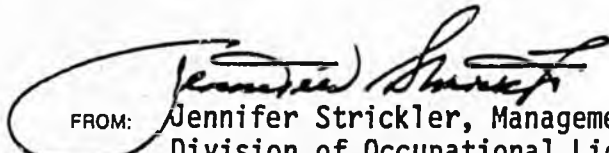
DATE: March 23, 1988

FILE NO:

TELEPHONE NO:

THRU:

SUBJECT: Preliminary Costs on Draft
CS for HB 526, Clinical
Social Work


FROM: Jennifer Strickler, Management Analyst
Division of Occupational Licensing
Department of Commerce and Economic
Development

In response to your request, I have prepared a preliminary cost summary based on the draft committee substitute for HB 526. If the CS is adopted by the committee, these calculations will be transferred to a fiscal note.

PERSONAL SERVICES	0.0	
TRAVEL	3.5	(Based on one meeting)
CONTRACTUAL	1.0	(Printing/Advertising, Communications, etc.)
COMMODITIES	0.0	
EQUIPMENT	<u>0.0</u>	
TOTAL	4.5*	

*(Note: This does not include overhead costs.)

The department has statutory authority to establish licensing fees through regulations so that each occupation will be responsible to cover their costs to the extent possible through licensing fees. To accomplish this, the division has established a formula used to spread overhead costs in each licensing area based on the number of licensees within an occupation. For clinical social workers, 50 practitioners equal 0.24% of the current licensees; and, therefore, 0.24% of the overhead is assigned to the clinical social work licensing program to be covered by licensing fees.

Therefore, the total cost of the clinical social work licensing program is \$15,400 in the first year and licensing fees would need to attempt to cover this cost. You advised earlier that the clinical social workers are willing to pay licensing fees of \$150 per year (\$300 biennial). If so, the profession will just about cover the costs of its licensing program.

If you have any questions, please call me at 465-2144.

JS/mst7601m
032388a

Alaska State Legislature



ANCHORAGE

P O BOX 104836
ANCHORAGE AK 99510
(W) (907) 561-7623
(H) (907) 338-2425

JUNEAU

P.O. BOX V
STATE CAPITOL
JUNEAU, AK 99811
(907) 465-3712

REPRESENTATIVE
PAT POURCHOT

HOUSE FINANCE COMMITTEE,
VICE CHAIR

HOUSE ETHICS COMMITTEE, CHAIR

LEGISLATIVE BUDGET & AUDIT
COMMITTEE

House of Representatives

March 22, 1988

Proposed CSHB 526(L&C), An Act relating to the practice of clinical social work.

BILL ANALYSIS

Section 1 Purpose

Protect the public by setting standards of professional performance for clinical social workers.

Section 2, 08.95.010 Board Make-up

Four licensed clinical social workers and one public member.

Section 08.95.020 Board Meetings

At least once a year.

Section 08.95.030 Duties of the Board

Issue licenses, impose disciplinary sanctions, adopt regulations, and prepare an annual report.

Section 08.95.040 Continuing Education

Minimum of 45 hours per biennium of education or training, with a minimum of 6 hours in substance abuse and 6 hours in cross-cultural education that emphasizes Alaska Natives.

Section 08.95.100 Penalties

Class B misdemeanor (maximum 90 day sentence) for practicing clinical social work or using the title "clinical social worker" without a license. Unlicensed persons may use the title "social worker".

Section 08.95.110 Licensure

Qualifications: (1) Masters or doctoral degree in social work; (2) 2-years of full-time supervised employment in clinical social work or 3,000 supervised hours of less than full-time employment; (3) good professional standing; (4) 3 professional references; (5) pass examination; (6) pay fees.

Section 08.95.130 Display of License

Must be in a conspicuous place.

Section 08.95.900 Confidentiality

Required except under certain conditions (case conferences with other licensed professionals, written consent, incidents of child abuse or neglect).

Section 08.95.910 Exemptions

Employees of federal/state/local government, non-profits, other qualified professionals.

Section 08.95.990 Definitions

Defines "clinical social work" and "social work principles and methods".

Section 3-4 DCED Duties

08.01.010 places Social Work Board under the centralized licensing statute.
08.01.050 authorizes DCED to provide investigative services to the Board.

Section 5, 08.02.010(a) Use of Title

Must be used on all signs, stationery, or other advertising.

Section 6, 08.03.010(c) Sunset

June 30, 1992

Section 7 Initial Appointments to Board

Persons with masters or doctoral degree in social work, 2 years or 3000 hours of experience, good professional standing, and who practiced in Alaska during the past year are eligible.

Section 8 Transitional Licensure

License without exam until June 30, 1989 for persons who meet all other licensure requirements.

Section 9 Effective Date

July 1, 1988

Mandatory
Mental Health
Assurance
HCS CS SB 67
(HESS)

11 (9) "office visit" means treatment that is not inpatient
12 treatment or outpatient treatment and that is provided through the
13 professional offices of

14 (A) a psychiatrist who is licensed by a state as a
15 physician and certified, or eligible for certification, in psy-
16 chiatry by the American Board of Psychiatry and Neurology;

17 (B) a physician who is employed by the federal govern-
18 ment in a state and certified or eligible for certification in
19 psychiatry by the American Board of Psychiatry and Neurology;

20 (C) a psychologist or psychological associate licensed
21 by a state;

22 (D) a person who works in a consulting relationship
23 with a mental health care provider licensed by a state and has a
24 masters or doctoral degree in psychology, nursing, or social
25 work; or

26 (E) a clinical social worker who is

27 (i) licensed or certified as a clinical social
28 worker by a state; or

29 (ii) certified by a national professional

1 organization offering certification of clinical social
2 workers;

3 (10) "outpatient treatment" means treatment that is not
4 inpatient treatment and that is provided

5 (A) in the outpatient department of

6 (i) a hospital that is licensed under AS 18.20 or
7 that is specifically exempt under AS 18.20.020 from the
8 licensing requirements of the state;

9 (ii) a hospital that is located in another state
10 and that is either licensed or specifically exempt from the
11 licensing requirements of that state; or

12 (iii) an entity that is designated by the Depart-
13 ment of Health and Social Services as an organizational unit
14 in a geographical area to receive funds under AS 47.30.520 -
15 47.30.620; and

16 (B) by one or more of the following:

17 (i) a psychiatrist who is licensed by a state as
18 a physician and certified, or eligible for certification, in
19 psychiatry by the American Board of Psychiatry and Neu-
20 rology;

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2

HOUSE BILL NO. 304

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to group disability insurance."

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

8 * Section 1. AS 21.36.090(d) is amended to read:

9 (d) A person may not practice or permit unfair discrimination
10 against a person who provides a service covered under a group disabili-
11 ty policy that extends coverage on an expense incurred basis, or
12 under a group service or indemnity type contract issued by a nonprofit
13 corporation, if the service is within the scope of the provider's
14 occupational license. In this subsection, "provider" means a state
15 licensed physician, dentist, osteopath, optometrist, chiropractor,
16 [OR] nurse midwife, or other licensed health care practitioner.

Utterable - if HB 304 + SB 69
amend existing law, can add
as amendment to "B 50 b. If
establish new law, would need
to "conditionally" amend those
sections.

ALASKA FEDERATION OF NATIVES, INC.

411 W. 4th Avenue, Suite 301 • Anchorage, Alaska 99501 • Phone (907) 274-3611



March 24, 1988

Representative Pat Pourchot
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Dear Representative Pourchot:

AFN has reviewed the proposed Committee Substitute for House Bill 526 (L & C). At this time, AFN has no objection to this substitute moving forward. Our concerns in previous drafts seem to have been met, specifically the very clear exemption for non-profit and state social workers.

If you have any questions please give me a call.

Sincerely,

A handwritten signature in cursive script that reads 'Julie Kitka'.

Julie Kitka
Executive Vice President

NASW Statement

LICENSING OF CLINICAL SOCIAL WORKERS IN PRIVATE PRACTICE

The Alaska Chapter of the National Association of Social Workers supports the passage of legislation to regulate social workers who are engaged in the private-for-profit, independent practice of clinical social work. Currently 35 States provide some control over clinical social work in their jurisdiction through registration, certification, or licensure of social workers and 9 States including California and Oregon regulate only the practice of clinical social work.

The standard adopted by NASW for the independent practice of clinical social work includes a master's degree in social work from an accredited program and two years of supervised experience in a clinical setting. Clinical settings include but are not limited to mental health clinics, hospitals, and counseling centers. Only clinical social workers are qualified to diagnose and treat mental illness and emotional disorders utilizing psychosocial methods and psychotherapeutic techniques. Clinical social workers deliver over 50% of mental health services on the national and statewide level. Clinical social workers are the only unlicensed mental health professionals currently permitted by State statute to evaluate clients for commitment in mental health proceedings.

The majority of social workers engaged in private practice throughout the State are clinical social workers. There are several masters level and some bachelors level social workers engaged in private practice as consultants but it would be difficult to regulate this group because they do not possess a standard body of knowledge in comparison to clinical social workers. Consumers of clinical social work services by private practitioners are those consumers most at risk of receiving services from unqualified or unethical practitioners.

NASW believes that licensing of all social workers is beneficial to the public but licensing of private practitioners is absolutely necessary to protect consumers. Clients of agencies can file complaints with the worker's supervisor, director, or governing board, but clients of private practitioners have no such recourse. Recently there have been several reports indicating that complaints against social workers accused of sexually abusing clients has sharply increased. The Alaska Chapter of NASW is currently in the process of handling a complaint of this nature against one of our members. Because NASW can only handle complaints against members, the only sanction we can impose is to revoke membership.

We estimate that approximately 40-50 clinical social workers are engaged in the private practice of clinical social work on a part-time or full-time basis in Alaska and an additional 50-80 clinical social workers employed by agencies, clinics, and hospitals will meet the qualifications. Licensing of clinical social workers will enable private practitioners to collect third-party payments for treatment of mental and emotional disorders. Licensing of clinical social workers will expand treatment options for many Alaskans because clinical social workers frequently charge less for their services, and because clinical social workers are more likely to reside in rural areas of the State than psychiatrists or psychologists. In addition, many clinical social workers have developed expertise in areas such as treating victims of domestic violence and sexual abuse, but have had difficulty establishing their expertise as competent witnesses in courtroom settings because social workers are not licensed.

Submitted by: Marsha Schneider, MSW, ACSW
Executive Director
Alaska Chapter, NASW
3/22/88

THE FAMILY THERAPY CENTER

Tudor Professional Building

4325 Laurel Street

Anchorage, Alaska 99508

(907) 561-2868

March 23, 1988

MARTHA HOUCK, MSW, ACSW

KATHY APPLE, R.N., M.E., A.N.P.

ANN GORSUCH, MSW, ACSW

The Honorable Niilo Koponen, Vice Chairman
House Labor and Commerce Committee
Alaska House of Representatives
P.O. Box V
Juneau, Alaska 99811

Dear Representative Koponen:

This letter is with regard to Committee Substitute for House Bill 526, an Act entitled: "Licensing of Social Work." CS526 is scheduled to come before your committee on Tuesday and I urge you to support this bill.

CS526 is a bill that will protect consumers. Consumers currently can receive services that are provided by any individual who is called a "social worker," regardless of education, training or experience. This bill will provide much needed protection for mental health clients as well as set standards for persons practicing clinical social work.

Again, I urge your support of CS526.

Sincerely,

Ann Gorsuch, MSW, ACSW.

THE FAMILY THERAPY CENTER

Tudor Professional Building

4325 Laurel Street

Anchorage, Alaska 99508

(907) 561-2868

March 23, 1988

The Honorable Dave Donley, Vice Chairman
House Labor and Commerce Committee
Alaska House of Representatives
P.O. Box V
Juneau, Alaska 99811

MARTHA HOUCK, M.S.W., ACSW

KATHY APPLE, R.N., M.S., A.N.P.

ANN GORSUCH, M.S.W., ACSW

Dear Representative Donley:

This letter is with regard to Committee Substitute for House Bill 526, an Act entitled: "Licensing of Social Work." C5526 is scheduled to come before your committee on Thursday and I urge you to support this bill.

C5526 is a bill that will protect consumers. Consumers currently can receive services that are provided by any individual who is "called a 'social worker,' regardless of education, training, or experience. This bill will provide much needed protection for mental health clients as well as set standards for persons practicing clinical social work.

Again, I urge your support of C5526.

Sincerely,

Ann Gorsuch, M.S.W., A.C.S.W.

Alaska State Legislature

REPRESENTATIVE
PAT POURCHOT

HOUSE FINANCE COMMITTEE,
VICE CHAIR

HOUSE ETHICS COMMITTEE, CHAIR

LEGISLATIVE BUDGET & AUDIT
COMMITTEE



House of Representatives

ANCHORAGE

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ANCHORAGE AK 99510
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(H) (907) 338-2425

JUNEAU

P.O. BOX V
STATE CAPITOL
JUNEAU, AK 99811
(907) 465-3712

M E M O R A N D U M

TO: Representative Johnny Ellis, Co-Chairman
Representative Niilo Koponen, Co-Chairman
House Committee on Health, Education, and
Social Services

FROM: Representative Pat Pourchot *Pat*

RE: HB 526, Social Work Licensing

DATE: March 25, 1988

I am writing to call your attention to CSHB 526(L&C), which would establish licensure for clinical social workers.

Licensure of social workers is an issue that has been before the Legislature in the past, but due to strong opposition from some groups has failed to achieve passage into law. The primary opposition has come from Native non-profit organizations concerned about the impact licensure might have on the ability of the Native community to continue to provide services to its people. Lesser opposition has come from the State Division of Family and Youth Services (DFYS) who is concerned about the feasibility of licensing state employees and the difficulty of attracting licensed professionals to remote areas of the state.

The bill before you is a scaled-down version of earlier licensing proposals. It meets the concerns of the Native non-profits and DFYS, is supported by the Alaska Chapter of the National Association of Social Workers (ANASW), and meets the most pressing consumer protection issue -- social workers providing counseling or psychotherapy services in unsupervised private practice.

Proposed CSHB 526(L&C) would apply only to clinical social workers in private practice, a subset (approximately 50 persons) of the general social work profession. A clinical social worker is classified according to NASW's standardized definition and is set apart from other social workers by the fact that he or she performs psychotherapy (diagnosis and assessment of persons with mental and emotional conditions). This aspect of social work requires specialized knowledge and training and can have detrimental effects if wrongly

CSHB 526 (L&C)
March 25, 1988
Page 2

applied. Social workers employed by federal, state, or local government entities and by private non-profits (e.g. social workers who, by the nature of their employment, operate within a supervised structure) would be specifically exempt from licensure.

HB 526 should not be interpreted to mean that consumer protection and standard of practice issues arise only with clinical social workers. Probably each decision made by each social worker impacts somebody's life, and there are many people who feel that this justifies licensure of all social workers. However, there is simply not support for that approach. I am convinced that CSHB 526 (L&C) will do much to enhance consumer protection and improve the standard of care by targeting those social workers that are totally unregulated at this time, and I would urge your support.

You'll note that the bill has a zero fiscal note, as license fees (approximately \$150 per year) would cover the cost of licensing. It is also worth noting that licensure would facilitate the receipt of third party insurance payments by clinical social workers, which would have the general effect of increasing the availability of their services.

HB 526 received a unanimous "do pass" recommendation from the House Labor and Commerce Committee yesterday, after supportive testimony was received from the Alaska Chapter of the National Association of Social Workers, the Alaska Department of Health and Social Services, the State Division of Occupational Licensing, and the Alaska Federation of Natives. The bill now rests in your committee. Because of the lateness of the date and the fact that the bill represents a consensus of opinion, I would urge your prompt consideration.

I would be happy to discuss this with you further at your convenience.

H B

530

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/17/88

FURTHER REFERRALS: Finance

DATE: 3-10-88

The Health, Education and Social Services Committee has considered HB 530

"An Act relating to the establishment and operation of a state boarding school by the Department of Education; and providing for an effective date."

RECOMMENDS:

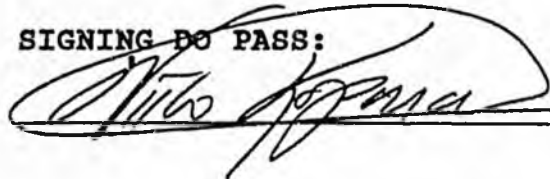
- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

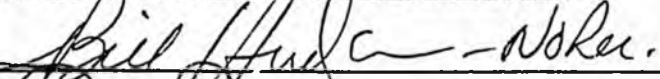
ATTACHES NEW FISCAL NOTE(S):

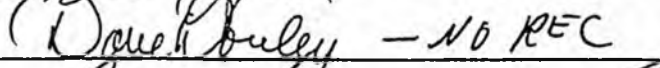
- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

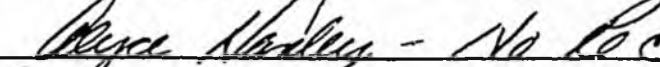
SIGNING DO PASS:

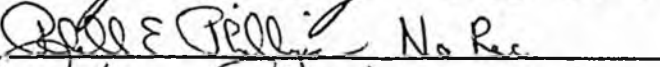


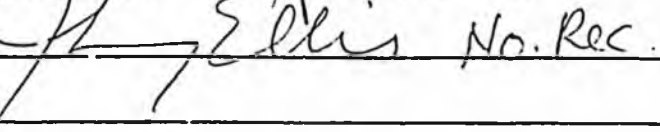
SIGNING OTHER RECOMMENDATIONS:

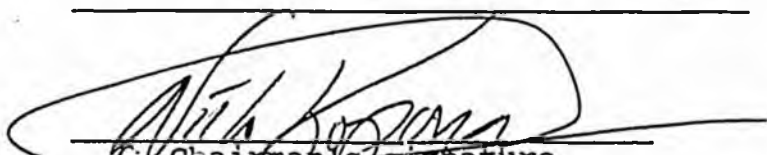
 - No Rec.

 - NO REC

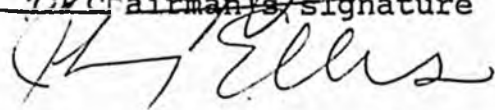
 - No Rec

 - No Rec

 - No. Rec.



Chairman's signature



STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HHESS	3-8-88	8:30 a.m.
HHESS	3-10-88	8:30 a.m.

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 17, 1988

74B 530

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the establishment and operation of a state boarding school. The Department of Education (department) already operates such a school on Japonski Island in Sitka -- Mt. Edgecumbe High School. This bill would, among other things, institutionalize certain funding for the school under the public school foundation program and clarify certain aspects of the operation of the school and the status of its employees. A section-by-section analysis of the bill follows.

Section 1 of the bill creates new AS 14.16, which contains the following new sections:

Proposed AS 14.16.010 authorizes the department to establish and operate a state boarding school, to be known as Mt. Edgecumbe High School, to offer a secondary education curriculum and provide domiciliary services to its students.

Proposed AS 14.16.020 requires the board, in operating the school, to adopt a philosophy of education, employ a chief school administrator and approve the employment of necessary personnel, establish the salaries and benefits of its teachers (excluding administrators), designate the employees authorized to direct disbursements, provide custodial services and routine maintenance, establish procedures for the development and implementation of curriculum and instructional materials, provide health evaluation and placement screening programs for newly admitted students, establish procedures for staff evaluation, and provide staff training.

Proposed AS 14.16.030 requires the board to establish admissions standards and procedures by regulation, and permits the school to admit students meeting those criteria.

Proposed AS 14.16.040 establishes the state boarding school as a public school of the state.

Proposed AS 14.16.050 makes certain other provisions of AS 14 applicable to the state boarding school as if it were a school district. Especially noteworthy are the provisions making the statutes in AS 14.20, pertaining to employment, tenure, salaries, and collective bargaining for teachers, applicable to the state boarding school as if it were a school district. Note, however, that AS 14.20.550 -- 14.20.610, regarding collective bargaining, would allow the board to delegate its bargaining responsibilities.

Proposed AS 14.16.060 provides that the employees of the state boarding school are state employees.

Proposed AS 14.16.070 provides that the Public Employment Relations Act (AS 23.40.070 -- 23.40.260) applies to the employees of the state boarding school who are not subject to AS 14.20, i.e., those employees who are not teachers or administrators. It should also be noted that the certificated teachers in the Mt. Edgecumbe School are already in the exempt service under 39.25.110(7).

Proposed AS 14.16.080 provides for the applicability of certain financial provisions in other statutes.

Section 2 of the bill amends AS 14.17.010(a) to reflect that money appropriated to the public school foundation account may be distributed to the state boarding school.

Section 3 of the bill creates a new AS 14.17.024. Subsection (a) of the proposed section provides for funding from the public school foundation account, in an amount that is generally equivalent to the amount that would be generated by a single funding community school district, for instructional services provided by the state boarding school. Subsection (b) of this proposed new section provides that, in addition, the governor shall request appropriation of program receipts and federal aid received on behalf of the school, as well as amounts necessary for domiciliary services, student transportation, and maintenance and operation of the school's physical plant.

Section 4 of the bill amends AS 14.30.010(b)(10) to provide an exception to the state's compulsory education statute, which would otherwise require students to attend school in the district in which they reside, for students attending the state boarding school.

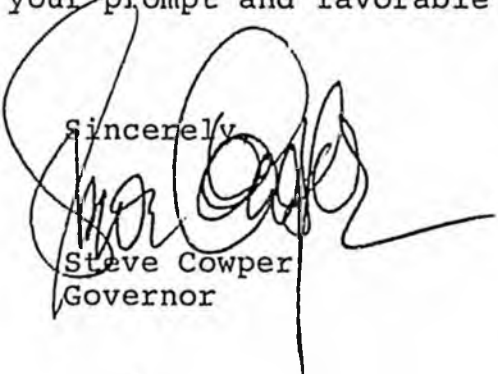
Section 5 of the bill amends AS 36.30.850(b) by adding a paragraph (14) to exempt the state boarding school from application of the State Procurement Code (AS 36.30) if the board or the commissioner of the department adopts procurement and contracting regulations for use by the school.

Section 6 of the bill is a transition section providing for the continuance of pending litigation, hearings, investigations, and other proceedings, and contractual and other legal obligations.

Sections 7 and 8 of the bill provide that sec. 3 (funding for the state boarding school) will take effect July 1, 1988, while the other sections of the bill will take effect immediately under AS 01.10.070(c).

The State Board of Education and the Department of Education support this bill. I urge your prompt and favorable consideration of it.

Sincerely,



Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Establishment and operation of a state board school.
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Education
BRU: Mt. Edgecumbe and K-12 Support
Components: All of Mt. Edgecumbe; Foundation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached analysis; FY89 budget revisions will be necessary for several budget components: there is a net zero effect on the overall budget.

Prepared by: Mary Hakala
Division: Commissioner's Office

Phone: 465-2800
Date: 2-12-88

Approved by Commissioner: William G. Demmert
Agency: Department of Education

Date: 2-12-88

Distribution (by preparer):

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

Mt. Edgecumbe Fiscal Note Analysis

<u>Budget Component</u>	<u>FY89 Gov Budget</u>	<u>Proposed under Bill</u>
Mt. Edgecumbe		
Maint & Op	0	0
Instructional	1322.2 GF	0 GF
	<u>63.0</u> Oth	<u>63.0</u> Oth
Subtotal Instructional	1385.2	63.0
Residential	1510.0 GF	1565.3 GF (1)
Private & Federal Grants	28.5 Oth	28.5 Oth
	-----	-----
SUB-TOTAL	\$2923.7	\$1656.8
K-12 Support		
Foundation	411,913.0 GF	413,179.9 GF (2)
	21,246.1 PL874	21,246.1 PL874
	<u>8,830.9</u> PSF	<u>8,830.9</u> PSF
Subtotal Foundation	\$441,990.0	\$443,256.9
TOTAL	<u>\$444,913.7</u>	<u>\$444,913.7</u>

Footnotes:

1) Increase of \$55.3 for one round trip for each student between the student's place of residence and Mt. Edgecumbe (page 6, line 22-24).

2) Increase by \$1266.9 for Mt. Edgecumbe allocation under proposed formula as follows: State Aid (20.33 Units x \$60.0) \$1219.8

10% PL874 Revenues generated by Mt. Edgecumbe students (budgeted revenue for foundation program, included within PL874 \$21,246.1) 47.1

Total Instructional Program aid under Formula \$1266.9

531

HB

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/17/88

FURTHER REFERRALS: HESS
Finance

DATE: 3-1-88

The Labor & Commerce Committee has considered HB 531

"An Act extending the termination date of the Board of Chiropractic Examiners; and providing for an effective date."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

H. Ellis

Walt Furnace

Carol W. ...

Mike ...

Dave ...

SIGNING OTHER RECOMMENDATIONS:

Dave ...

 Chairman's signature

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HHESS

3-1-88

1:30 p.m.

HHESS

3-17-88

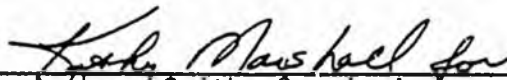
8:30 a.m.

HB 531: An Act extending the termination date of the Board of Chiropractic Examiners; and providing for an effective date.

The Board of Chiropractic Examiners is presently in its sunset year and scheduled to terminate on June 30, 1988. HB 531 extends the board to June 30, 1992.

The performance report conducted by the Legislature's Budget and Audit Committee found the process of licensure by the board to be neither unduly restrictive nor too lax, and no found violations of statute or regulations by the board. In addition, the performance report found that the licenses were correctly granted strictly on the basis of the applicant's professional qualifications.

We believe the board is necessary for the regulation of qualified professionals in order to protect the public's health, safety and welfare; the department concurs with the audit report's finding that the board should be reestablished.



J. Anthony Smith, Commissioner
Department of Commerce and Economic
Development

Date: 2/29/88

JS/dg10041o-3
022988b

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act extending the termination date of the Board of Chiropractic Examiners;...
 Sponsor: House Labor & Commerce
 Requestor: _____

Agency Affected: Commerce & Economic Dev.
 BRU: Occupational Licensing
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

The bill extends the termination date of the Board of Chiropractic Examiners to June 30, 1992. Funding for the board is included in the department's FY 89 operating budget request.

Prepared by: Jennifer Strickler, Management Analyst Phone: 465-2144
 Division: Occupational Licensing Date: 2/29/88

Approved by Commissioner: J. Anthony Smith Date: 2/29/88
 Agency: Commerce and Economic Development

Distribution (by preparer) :

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

A PERFORMANCE REPORT
ON THE BOARD OF
CHIROPRACTIC EXAMINERS

July 1, 1983 - June 30, 1987

Audit Control Number

08-1315-88-R

Commissioner, Department of
Commerce and Economic
Development

J. Anthony Smith

Deputy Commissioner, Department
of Commerce and Economic
Development

John Williams

Members of the
Board of Chiropractic Examiners

Kenneth Ketz, D.C. (Chair)
Carol J. Davis, D.C.
Thomas Gundelfinger, D.C.
Frank J. Kufel (Public)
Leland P. Oldjer, D.C.

STATE OF ALASKA

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

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

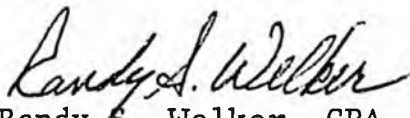
December 31, 1987

Members of the Legislative Budget
and Audit Committee:

According to the provisions of Titles 24 and 44 of the Alaska Statutes, the Division of Legislative Audit is required to conduct a "Sunset" review of the Board of Chiropractic Examiners.

At the request of the Chairman, during Fiscal Year 1988 budget deliberations, the Audit Division's budget was revised to reflect certain changes in the organization of the Committee's two Divisions. The revised budget of the Audit Division reflected efficiencies that might be obtained by utilizing the staff of the Legislative Finance Division on selected audit assignments during the interim.

As a result, the audit of the Board of Chiropractic Examiners was conducted and this report has been prepared by the Legislative Finance Division. We feel this report discharges our responsibility under Titles 24 and 44. The report is submitted for your review.



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

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF—STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

November 16, 1987

Members of the Legislative Budget
and Audit Committee:

In accordance with the intent of Titles 24 and 44 of the
Alaska Statutes (sunset legislation), the attached report is
submitted for your review.

A PERFORMANCE REPORT
ON THE BOARD OF
CHIROPRACTIC EXAMINERS

July 1, 1983 - June 30, 1987

Audit Control Number

08-1315-88-R

M Greany

Mike Greany, Director
Division of Legislative Finance

TABLE OF CONTENTS

	<u>Page</u>
Purpose and Scope of the Report	1
Organization and Function	3
Report Conclusion	5
Analysis of Public Need	7
Appendixes:	
A. Schedule of Revenues Compared with Expenditures, for Fiscal Year 1987.	11
B. Schedule of Estimated Revenues Compared with Budgeted Expenditures, for Fiscal Year 1988	12
Agency Response:	
Department of Commerce and Economic Development	15

PURPOSE AND SCOPE OF THE REPORT

PURPOSE

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have examined the activities of the Board of Chiropractic Examiners for the past four fiscal years. Our examination was conducted to determine if the Board has been operating in a effective and efficient manner.

Legislative intent requires consideration of this report during legislative oversight hearings to determine whether the Board of Chiropractic Examiners should be reestablished. The law now specifies that the Board will terminate June 30, 1988 and have one year from that date to conclude its affairs.

SCOPE

The major areas reviewed were the Board's operations and its licensing, examination, administration, complaint and affirmative action functions. Our review consisted of analyzing and evaluating the following:

1. Applicable statutes and Board regulations.
2. Interviews with Board members.
3. Discussions with the Division of Occupational Licensing personnel.
4. Tests of the records and documents of the Board and the Division of Occupational Licensing.
5. Complaints filed with the Division of Occupational Licensing, Ombudsman's Office, Consumer Protection Agency, Equal Employment Opportunity Office, and the Human Rights Commission.

ORGANIZATION AND FUNCTION

Created in 1939, the Alaska Board of Chiropractic Examiners is a regulatory board comprised of five members appointed by the Governor. Four are licensed chiropractors and one is a public individual.

The underlying reasons for this Board are fourfold. First, the Board is responsible for reviewing the applications of individuals desiring to enter the chiropractic profession in Alaska. Secondly, the Board has the responsibility of administering an examination to test the applicant's ability. Third, the Board is responsible for the adoption of regulations regarding the standards of professional practice in Alaska and fourth, to investigate and act upon complaints filed against members of the regulated profession.

To assist the Board, it has the staff support of the Division of Occupational licensing (OL), Department of Commerce and Economic Development which is comprised of two sections. The licensing section processes applications, maintains license files, collects statistics, answers inquires, and provides administrative help to the Board. The investigation section provides investigative services to the Board in the event of consumer or other professional complaints.

The Board of Chiropractic Examiners issues licenses to applicants that have met all licensing requirement and have taken and passed the State examination. The Board may also issue a license without examination if the applicant holds a current license in another state whose licensing requirements are essentially equivalent to those of Alaska.

REPORT CONCLUSION

In our opinion, the Board of Chiropractic Examiners should be reestablished. The regulation and licensing of qualified professionals is necessary to protect the public's health, safety and welfare. The Board establishes minimum educational and experience requirements that provide reasonable assurance that persons licensed are qualified. Further, active investigation of complaints and revocation or suspension of licenses, as appropriate, insure that licensees act in a competent manner.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses indicate both positive and negative factors as they relate to the public need as defined in the "sunset" law. These analyses are not intended to be comprehensive, but to address those areas we were able to cover during our examination.

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

The Board has addressed each of the recommendations made in the previous review. The balance between public protection and ease of licensure is adequate and appropriate.

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

Reductions in the agency budget have limited staff support to all professional licensing boards. Present levels of funding are adequate, but further reductions would be detrimental.

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

The Board has supported Senate Bill 264, which provides a statutory basis for the continuing education requirement now in regulation. An additional bill, not yet introduced, provides for locum tenens licensure to replace temporary licensing and clarifies license by credential requirements.

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

The Board publishes public notices of all examinations, meetings, and regulation changes.

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

APPENDIXES

Note 3

Expenditures consist of FY88 budgeted direct costs associated with board member activities (i.e. travel and per diem) and a allocation of direct and indirect costs of DOL. It should be noted that represented expenditures do not include expenses incurred by other Departments or other divisions of the Department of Commerce and Economic Development in assisting the Board.

Note 4

This schedule represents the licensing fees currently in effect. Fees were raised in November 1986 in response to legislative intent to make the Boards more self supporting.

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P. O. BOX D
JUNEAU, ALASKA 99811-0800
PHONE: (907) 465-2500

January 21, 1988

RECEIVED
JAN 27 1988

LEGISLATIVE
AUDIT

Mr. Randy Welker
Acting Legislative Auditor
Division of Legislative Audit
Budget and Audit Committee
P.O. Box W
Juneau, AK 99811

Dear Mr. Welker:

The Department of Commerce and Economic Development (hereinafter "Department") obviously supports and appreciates the conclusion of the Budget and Audit Committee that the Board of Chiropractic Examiners should be reestablished. We are confident the Board will continue to serve the public well.

Sincerely,



J. Anthony Smith
Commissioner

JAS/mst7203m
011988b

HOUSE COMMITTEE REPORT

(7)

Date referred: 3/2/88

FURTHER REFERRALS: Finance

DATE: 3-17-88

The Health, Education and Social Services Committee has considered HB 531

"An Act extending the termination date of the Board of Chiropractic Examiners; and providing for an effective date."

RECOMMENDS:

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ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

J. Ellis

W. E. Kopman

Ray E. Kelly

Ray E. Kelly

Max Shumbe

SIGNING OTHER RECOMMENDATIONS:

J. Ellis

 Chairman's signature
W. E. Kopman
