

**ALASKA LEGISLATURE**

**2105**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 1999 - 2000**

256

A M E N D M E N T

OFFERED IN THE SENATE  
TO: CSSB 133(RES)

SENATE FINANCE  
COMMITTEE #6  
Amendment Number: #6  
Bill Number: CSSB 133(RES)  
Sponsor: TOUGHERSON Date: 4/29/99  
Logged In By: Galvani

- 1 Page 8, line 18, following ".":
- 2       Insert "**in appropriate cases, a formal hearing may be held before an arbitrator**
- 3 **designated for the purpose by the commission.**"
  
- 4 Page 8, line 20, following "officer,":
- 5       Insert "**by the arbitrator,**"

A M E N D M E N T

OFFERED IN THE SENATE  
TO: CSSB 133(RES)

SENATE FINANCE  
COMMITTEE # 7  
Amendment Number: 7  
Bill Number: CSSB 133(RES)  
Sponsor: Loeber Date: 4/29/99  
Logged In By: J. Cramer

1 Page 5, following line 5:

2 Insert a new subsection to read:

3 "(c) The commission shall adopt regulations that establish standards of  
4 timeliness for the types of cases that come before the commission. The commission  
5 shall establish standards based in part on degree of complexity of the cases."

SENATE FINANCE  
COMMITTEE

Amendment Number: # 8  
Bill Number: CSSB 133 (RES)  
Sponsor: Green Date: 4/20/99  
Logged In By: J. S. Crainer

1-LS0771V.7 ✓  
Crainer  
4/28/99

A M E N D M E N T

OFFERED IN THE SENATE  
TO: CSSB 133(RES)

BY SENATOR GREEN

- 1 Page 1, line 5:
- 2 Delete "relating to regulation of waste collection and disposal;"
  
- 3 Page 5, lines 12 - 27:
- 4 Delete all material.
  
- 5 Renumber the following bill sections accordingly.
  
- 6 Page 7, lines 14 - 30:
- 7 Delete all material.
  
- 8 Renumber the following bill sections accordingly.
  
- 9 Page 9, lines 3 - 6:
- 10 Delete all material.
  
- 11 Renumber the following bill sections accordingly.
  
- 12 Page 9, line 29, through page 10, line 1:
- 13 Delete "[;
- 14 (F) FURNISHING COLLECTION AND DISPOSAL SERVICE
- 15 OF GARBAGE, REFUSE, TRASH, OR OTHER WASTE MATERIAL TO
- 16 THE PUBLIC FOR COMPENSATION]"
- 17 Insert ";
- 18 (F) furnishing collection and disposal service of garbage.

I-LS07711.7

1                    refuse, trash, or other waste material to the public for compensation"

2    Page 11, line 25:

3            Delete "(a)"

4    Page 11, lines 28 - 29:

5            Delete all material.

6    Page 14, line 2:

7            Delete "sec. 19"

8            Insert "sec. 15"

9    Page 15, following line 1:

10           Insert a new paragraph to read:

11                "(2) AS 29.35.050(e);"

12    Reletter the following paragraphs accordingly.

13    Page 15, lines 11 - 12:

14            Delete all material and insert:

15            "\* Sec. 26. This Act takes effect July 1, 1999."

SB 133  
ARECA Proposed Amendments

SENATE FINANCE  
COMMITTEE #9  
Amendment Number:  
Bill Number: CSSB 133 (RES)  
Sponsor: Adams Date: 4/29/99  
Logged In By: J. Sottani

1. Change the name to Alaska Energy Regulatory Commission

2. Line 14 page 2, change as follows:

Five members shall be public members one of which shall have a professional background in the electric utility industry, and one of which shall have a professional background in the telecommunications industry. [and need not have a background in petroleum engineering or petroleum geology.]

3. Line 2, page 5, add the line.

“A Management Information System shall be developed by the commission for the purpose of tracking, scheduling, and managing all dockets within the commission, and shall be accessible by the general public through the Internet.”

4. The final change that our industry would like to see is an allocation of Regulatory Cost Charge based on level of effort allocated to the individual industry sectors rather than the present method of charging a flat percentage of gross revenue with no regard to the level of effort dedicated to industry sectors.

# Alaska State Legislature



*During Interim: (June - Dec.)*  
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Fax (907) 269-0204

*During Session: (Jan. - May)*  
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**Drue Pearce**  
*President of the Senate*

## Sponsor Statement

### Senate Bill 133 Combine AOGCC & APUC

SB 133 is an attempt to streamline government by re-structuring the Alaska Public Utilities Commission and the Alaska Oil & Gas Conservation Commission into one commission, the Alaska Energy Conservation Commission. Combining the agencies will improve the long term function, effectiveness, and efficiency of both commissions.

SB 133 has been re-written to address concerns raised regarding the timing of the merger along with other issues. The following changes were made in the Senate Resources Committee to alleviate those concerns.

1. The repeal of the APUC and the creation of the Alaska Energy Conservation Commission will still occur effective July 1, 1999. However, the AOGCC will not merge with the APUC at this time and will require subsequent legislation to do so.
2. The legislature shall authorize LB&A to work on a transition report to be delivered to the governor and the Legislature on the first day of the second session of the 21<sup>st</sup> Legislature. The Governor shall appoint one commissioner from each commission to work with LB&A on the transition report. The report shall contain recommendations for re-structuring the two commissions into one. It is the intent of the Legislature to introduce legislation during the second session that would combine the two commissions based on the recommendations of LB&A.

3. The AOGCC will physically move to the same location as the APUC as soon as possible, but not later than July 1, 2000. The two commissions will share record keeping facilities and clerical staff after that time.
4. The Chairman of the AECC shall be paid an annual salary equal to Step C, Range 27. All other commissioners shall be paid according to their current pay status.
5. Pipeline regulation and all pending matters, along with at least two tariff staff, shall move to the AOGCC on the effective date of July 1, 1999.
6. The AOGCC shall have access to the additional hearing officers at the AECC during the transition period following July 1, 1999. The hearing officer will likely be needed to assist with pipeline regulation.

This legislation does not create policy changes to the goals and objectives of the commissions other than the de-regulation of the refuse industry. De-regulation of the refuse industry has been recommended in recent legislative audits due to the determination that the cost of regulation may exceed the associated benefits.

Both commissions will continue to operate separately until the legislature has reviewed LB&A's transition report and additional legislation has passed authorizing the merger.

SB 133 repeals the APUC while carrying forward existing regulations as well as all pending matters currently before either commission. The new commission will be composed of five commissioners. The five commissioners shall be members of the general public with no requirement for areas of specific expertise. I feel that specific expertise wasn't necessary and that the public interest would best be served by having maximum flexibility in acquiring qualified individuals from the general public.

The chairman will have limited authority over the other commissioners and general oversight of commission functions. In addition, the chairman shall assign and distribute the workload, set a maximum time allowed for the completion of cases, and manage the time keeping records for commissioners and staff.

The commission will function more efficiently under a new system where the chairman empanels three or more commissioners to each case. This type of system will expedite the process by allowing the chairman to assign an appropriate number of commissioners to each case depending on the magnitude.

SB 133 will improve the professionalism of the commission by strengthening the power of the commissioners while reducing the power of staff. The APUC currently employs a system in which the Executive Director could potentially influence the outcome of pending decisions through the assignment of specific personnel to a case. Commission decisions are the responsibility of the commissioners and should not be within the purview of the Executive Director or staff. This position has also restricted the flow of communication between the commissioners and staff.

Another problem area under the current structure is the dual roles that staff is asked to perform. Staff are often asked to play the role of public advocate on one case while they are acting in an advisory capacity on another. This creates a difficult situation in that the staff may be required to switch roles back and forth while working with the commissioners.

The funding source of the commission shall continue as currently exists with a regulatory cost charge (RCC) on an industry by industry basis. This type of user fee design can establish a basic fairness in that only those who benefit from the regulatory process be responsible for its cost; it also has the added benefit of encouraging consumers to recognize and eliminate unwarranted regulation through deregulation elections. This benefit can only be realized to the extent that the RCC program reasonably links the cost-causer with the cost-payers.

SB 133 instructs the commission to adopt a time management system to ensure accurate accounting for time billed to each aspect of the commission's functions. Legislative Audit has been recommending a time management system for the APUC in every audit since 1979. To date, the APUC does not use industry or utility codes on payroll time sheets and therefore workloads are approximated using rough estimates.

I have used existing statutory language from both commissions and, in the absence of a preference of one over the other; I defaulted to the language used by the AOGCC. SB 133 will improve our ability to protect the long-term public interest through increased efficiency of the functions of the commission.

The  
Alaska Energy Conservation Commission  
3/25/99  
Version - E

Goals & Objectives

- Streamline government by combining the two agencies. This will require the repeal of both commissions while allowing for a reasonable transition period. This will also require carrying forward all existing regulations as well as all pending matters currently before either commission.
- Improve the long term function, effectiveness, and efficiency of both commissions.
- Improve the antiquated funding mechanism of the AOGCC
- Address the perception of disfunctionality of the APUC

Composition

- (a) There is created as an independent quasi-judicial agency of the state the Alaska Energy Conservation Commission, composed of seven members appointed by the governor and confirmed by the Legislature in joint session assembled.
- (b) The commission shall nominate, to the Governor, one public member of the commission as chairman. However, the governor may or may not choose to appoint this person as chairman. The chairman shall serve for a term of four years, but may not be appointed for successive terms.

Removal of commissioners

The governor may remove a commissioner from office for cause including but not limited to incompetence, neglect of duty or misconduct in office. A commissioner, to be removed for cause, shall be given a copy of the charges and afforded an opportunity to be publicly heard in person or by counsel in the commissioner's own defense upon not less than 10 days' notice. If a commissioner is removed for cause, the governor shall file with the lieutenant governor a complete statement of all charges made against the commissioner and the governor's finding based on the charges, together with a complete record of the proceedings.

*The above language was copied from the current removal language for the AOGCC*

Current commissioner terms – *All commissioner terms will expire with repeal of the commissions.*

AOGCC

- David Johnston – Term expired 3-1-99
- Robert Christensen – Term expires 3-1-01
- Camille Oechsli – Term expires 3-1-03

APUC

- Sam Cotten – Term expired 3-1-99
- Alyce Hanley – Term expires 3-1-00

- Dwight Ormquist – Term expires 3-1-00
- Tim Cook – Term expires 3-1-01
- James Posey – Term expires 3-1-03

#### Term

The term of office of each member is six years. A commissioner, upon the expiration of a term, shall continue to hold office until a successor is appointed and qualified.

#### Qualifications of members.

7 members – five public members, one Petroleum Engineer, one Petroleum Geologist.

*Note: Our current judicial system deliberates technical issues in our courts utilizing randomly selected members of the general public. Having the ability to hand pick well rounded, intelligent individuals should prove more than adequate. (Commissioners can rely on staff for any technical expertise that may be required regarding the APUC decisions) The AOGCC deals with specific sub-surface technical issues relating to oil & gas reservoirs, which will require specific expertise.*

*Given Alaska's relatively small population, as well as those who may have a conflict of interest, this should help to resolve some of the past problems we've faced with the lack of qualified candidates.*

#### Compensation of members of the commission

Members of the commission are in the exempt service and shall receive an annual salary. Chairman shall receive a slightly higher (one step) salary over other commissioners.

#### Legal counsel

The Department of Law shall provide full-time legal counsel to the commission. The legal counsel provided by the Department of Law is subject to the approval of the commission. *The Department of Law shall provide for the full-time legal counsel in the same fashion as they currently do to the AOGCC. (The Dept. of Law shall NOT contract to the commission)*

#### Funding Source

The commission shall operate with a program receipt system similar to that of the existing APUC. Through the implementation of the new time management system this will allow for better assessment of costs related to telecommunication and power generation. Pipelines will continue to be funded using the existing tariff system. Oil & gas related costs shall be collected utilizing a program receipt system of total volume of liquids proportional to related budget costs *(This will allow the costs to remain proportional to the existing conservation tax)*. Program receipts shall not be used for purposes outside the commission. The commission shall be authorized to adopt a standard fee rate in cases where the existing system does not apply.

The existing Oil & Gas conservation tax shall be repealed with commission.

### Time Management System

The commission shall implement a time management system to maintain a record of time expended on the various functions of the commission. This shall apply to all staff as well as the administrative director and commissioners.

### Commission staff

#### AOGCC

- Add - (3) Junior positions – Jr. Reservoir Engineer, Jr. Petroleum Engineer, and a Jr. Petroleum Geologist. All three positions would need to be filled by qualified professionals capable of moving up into the senior position.

*Note: The current problem is that the level of institutional knowledge is only one person deep in each field. And, each of these people is nearing the end of their professional careers and will most likely retire within the next 5-10 years.*

#### APUC

- Eliminate - Executive Director position
- Add – Office manager
- Add - (1) Hearing officer

Staffing levels should otherwise remain relatively the same.

### Powers and duties of the commission

The powers and duties of the commission will remain largely unchanged with a couple exceptions.

- The commission may act on it's own initiative, by petition or filing.
- The chairman shall empanel (3) commissioners to consider decisions before the commission. The petroleum geologist and petroleum engineer shall always make up two of the three commissioners empanelled to consider oil, gas, or pipeline issues.
- Chairman may assign an individual commissioner to act as a hearing officer.
- Appeals to the commission shall be heard by (5) commissioners, of which one shall be the chairman. Appeals will be granted at the discretion of the commission.
- The commission will no longer regulate the refuse industry.

### Role of the Chairman

- (a) The chairman of the commission shall have limited authority over other commissioners.
  - (1) The chairman shall have the responsibility and oversight of assigning and distributing work to other commissioners.
  - (2) The chairman shall have the responsibility of assigning cases to commissioners.
  - (3) The chairman shall set a maximum time allowed for completion of cases.
  - (4) The chairman shall have the responsibility and oversight of all time keeping records submitted by ~~the executive director~~ and other commissioners.

STAFF

- (5) The executive director and commissioners shall submit time keeping records to the chairman.
- (6) The chairman shall have the responsibility of all hiring and firing of staff.

#### Commissioners

- (a) The chairman shall assign commissioners issues in which they shall concentrate their respective efforts.
- (b) The commissioners shall work through staff section heads to distribute workloads as well as monitoring of work in progress.
- (c) All commissioners, including the chairman, shall maintain time keeping records of their work.

#### Staff

APUC staff shall no longer serve the dual function of advisory and advocacy roles. Staff shall serve in the capacity of advisor to the commission.

*Note: There has been a breakdown in communication in the flow of information between staff and commissioners. This is largely due to over use of the role of advocacy staff. The intent of advocacy staff was to protect and serve the public interest. This is unnecessary and duplicative, as it is the role of the commission, as a whole, to protect public interest. The APUC is considered to be the body as a whole and would therefore include both the commissioners and staff in carrying out the role of serving the public interest. In fact, "the APUC was created to protect and promote the public interest by certification and economically regulation qualified public utilities and pipeline carriers."*

# Alaska Oil and Gas Association

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121 W. Fireweed Lane, Suite 207  
Anchorage, Alaska 99503-2035  
Phone: (907)272-1481 Fax: (907)279-8114  
*Judith M. Brady, Executive Director*

April 29, 1999

The Honorable John Torgerson, Co-Chair  
Senate Finance Committee  
Alaska State Senate  
State Capitol  
Juneau, Alaska

## CSSB 133, Combine APUC & AOGCC

Dear Senator Torgerson:

Attached is the testimony I presented on CSSB 133 (Res) at the Senate Finance Committee hearing this morning.

AOGA reiterates its opposition to combining the Alaska Public Utilities Commission (APUC) and the Alaska Oil and Gas Conservation Commission (AOGCC). We would encourage the Senate Finance Committee to strike sections of CSSB 133 (Res) that would lead to such a reorganization.

At a minimum, we recommend that the bill provide for an objective and thorough review of the appropriateness and ramifications of combining APUC with the AOGCC. We would recommend such a review before any action is taken to transfer functions, particularly pipeline regulation, from APUC to AOGCC.

Please let me know if you have any questions or would like additional information.

Sincerely,

A handwritten signature in cursive script that reads 'Judith Brady'.

JUDITH BRADY  
Executive Director

Attachment

**ALASKA OIL & GAS ASSOCIATION  
POSITION ON  
SB 133, COMBINING AOGCC & APUC  
FOR PRESENTATION TO  
SENATE FINANCE COMMITTEE  
APRIL 29, 1999**

The Alaska Oil & Gas Association (AOGA) is a trade association whose 18 members account for the majority of oil and gas exploration, production, transportation, refining and marketing activities in Alaska.

AOGA originally planned to testify before the Senate Resources Committee at the hearing on Monday, however, we had not had the opportunity to review the changes that were introduced at that hearing. AOGA has now reviewed the revised version of SB 133 and has the following initial comments and concerns.

AOGA is supportive of revising the bill to provide for a Legislative Budget & Audit Committee review and report on the proposition of combining the Alaska Public Utilities Commission (APUC) with the Alaska Oil and Gas Conservation Commission (AOGCC). While AOGA appreciates that the Senate is now proposing to study the process and ramifications from such a reorganization, the bill appears to call for a study with a pre-ordained outcome - an outcome with which AOGA has concerns.

AOGA supports consolidation of State agencies where it will result in operational efficiencies and cost savings, however, it does not believe either of these goals would be served by combining the APUC and the AOGCC.

Although the stated goal for combining the APUC and AOGCC into one commission is to streamline government, AOGA member companies do not perceive that there are benefits that are likely to occur from combining the APUC and AOGCC. We do not see how combining the APUC and AOGCC will save money or result in increased efficiencies.

To the contrary, under the provisions of SB 133, the procedures provided for the Alaska Energy Conservation Commission to address issues likely would increase bureaucracy and costs for AOGCC-related issues. Most decisions currently made by AOGCC do not involve formal hearings, are not adversarial in nature, and are addressed on an informal basis. The procedures embodied in SB 133 would establish a more formal "hearing-based" process for making decisions.

**Alaska Oil & Gas Association  
Position on  
SB 133, Combining APUC & AOGCC  
April 29, 1999  
Page 2**

**At the same time, AOGA member companies are concerned that the reorganization may adversely affect the functioning of the AOGCC. In the view of these companies, the AOGCC is currently functioning appropriately. If there are concerns about the current functioning of the APUC, AOGA encourages the legislature to address the function of the APUC in a manner that will not impede operation of the AOGCC.**

**AOGA continues to endorse the position that the State of Alaska needs a fully functional, adequately funded, independent Alaska Oil and Gas Conservation Commission. It is the Alaska Oil and Gas Conservation Commission's responsibility to prevent the physical waste of crude oil and natural gas, to ensure a greater ultimate recovery of oil and gas resources and to protect correlative rights of all parties owning oil and gas interests in Alaska lands.**

**The Alaska Public Utilities Commission, on the other hand, is charged with overseeing the availability, affordability and quality of Alaska utility services.**

**The function and focus of the APUC and AOGCC are very different. AOGCC is a highly specialized technical commission. The issues before the commission and the decisions it makes primarily concern petroleum down hole operations and reservoir optimization and are technical in nature. Its commissioners need to have industry-specific qualifications necessary to make technically sound decisions.**

**AOGA is concerned that combining AOGCC with the APUC could lead to appointment of hearing panels with a majority of non-technical "public-member" commissioners. This could influence decisions and the basis upon which decisions are made. This could ultimately lead to decisions which are not technically sound. This could be particularly problematic for those decisions that are made by the full commission and appeal panels.**

**The Sponsor's Statement indicates that an intended goal of SB 133 is to improve the professionalism of the commission (APUC vs. AOGCC) by strengthening the power of the commissioners while reducing the power of staff. While the Sponsor's Statement provides a rationale as to why this would be true with respect to the APUC, it does not address the AOGCC. We believe that the effect would be the opposite for oil and gas related issues. If only two commissioners are required to have technical expertise, it would make it harder for the commissioners to question staff opinions, which would increase the influence of**

**Alaska Oil & Gas Association  
Position on  
SB 133, Combining APUC & AOGCC  
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Page 3**

**staff and decrease the power of the commissioners. Second, commissioners would have responsibility over a larger scope of matters than the present AOGCC commissioners. Whereas the present AOGCC commissioners are focused on prevention of waste, protection of correlative rights and promotion of greater ultimate recovery, the APUC has very different responsibilities that involve very different issues, responsibilities and processes. As a result, combination of the two commissions would dilute the present level of commissioner understanding of the issues and oversight over AOGCC staff.**

**AOGA would encourage the Committee, at a minimum, to revise the legislation to provide for an objective review of the issues related to achieving optimum functioning of both the AOGCC and APUC. If there are areas where efficiencies can be achieved, then an objective study by LB&A should provide recommendations for the best way to achieve them.**

**AOGA also has concerns regarding the recently proposed amendment to SB 133 which would transfer pipeline regulation from the APUC to the AOGCC without further review by the LB&A. This would be a new area of responsibility for the AOGCC to consider and we are concerned that the AOGCC lacks the expertise and staff to adequately handle regulation of pipelines and pipeline tariff issues. Our member companies are currently reviewing the effect and ramifications of such a transfer. We hope to have the opportunity to present comments specific to this proposal during the legislative process.**

**Thank you for the opportunity to present our comments.**



**FAX TRANSMITTAL**

TO: JOHN TORGERSON  
SENATE FINANCE COMMITTEE

FROM: JIM ARNESEN

DATE: 4-29-99

NUMBER OF PAGES (INCLUDING FAX COVER SHEET): 1

MESSAGE: RE: CS - SB - 133

Please adopt AMENDMENT No. 8 removing  
language that would deregulate waste collection  
+ disposal. (GARBAGE).

*Jim Arnesen*

Original is being sent by mail: Yes  No

**Commercial Refuse**

**INCORPORATED**

790 E. International Airport Rd.  
Anchorage, AK 99518

PHONE (907) 542-3700  
FAX (907) 542-3700

**LAUSEN'S  
DEPENDABLE DISPOSAL  
"THE EXCESS EXPRESS"**

P.O. Box 365 • Otto Lake Road • Healy, Alaska 99743

(907) 683-3333

4/29/99

To: Senate Finance Committee

From: Leroy J. Hausen

Re: CSSB 133

I would appreciate your support for Amendment #8, removing the language deregulating waste collection and disposal. Thank You,

Leroy J. Hausen



VALLEY REFUSE, INC.  
P.O. BOX 879109  
WASILLA, ALASKA 99687  
(907) 892-6606 PHONE & FAX

FAX TRANSMITTAL SHEET

TO: Senate Finance Committee DATE: 4/29/99

FROM: Pam Krieger FAX #: \_\_\_\_\_

RE: CS SB 133  
MESSAGE:

Please adopt Amendment #8  
removing the language deregulating  
waste collection & disposal.

*Pam Krieger*

2 PAGES SENT. IF YOU DO NOT RECEIVE ALL PAGES OF  
THIS TRANSMISSION, OR IF ANY PAGES ARE ILLEGIBLE,  
PLEASE CONTACT US AT 892-6606. THANK YOU.



# CHUGACH ELECTRIC ASSOCIATION, INC.

EUGENE N. BJORNSTAD, P.E.  
General Manager

April 13, 1999

Senator Drue Pearce  
Twentieth Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dcar Senator Pearce:

Re: SB 133 as an essential vehicle for regulatory re-invention

Chugach Electric Association, Inc. strongly favors SB 133. This bill will facilitate development of a new regulatory structure to oversee the increasing competition among utility services. The new structure can achieve savings over time through streamlining and through carefully re-defining regulatory functions. Combining functions as provided in SB 133 will allow the new commission to adapt in ways which the old structure is unlikely to achieve.

The existing structure is struggling with the following problems:

The public is not provided much protection by the Commission. The Commission appears to function, but little useful regulatory work is actually being performed. The public suffers the costs and constraints of regulation with little corresponding benefit.

The interests of regulated utilities which support the status quo are protected by the Commission's devotion to anachronistic regulatory approaches.

Regulatory inertia continues unneeded regulation where competition would work better. The APUC is overwhelmed with work in part because it persists in performing unneeded regulation. Essential transition work is not being done.

SB 133 will allow the new Energy Conservation Commission to take a "zero based regulation" approach to examining what regulatory functions are essential. The objective must be to reduce regulatory functions and corresponding public burdens to those which provide sufficiently high benefits to justify the burdens. Over several years, it is reasonable to demand that the transition to greater competition reduce the regulatory effort needed.

As a first step, the Legislature must clearly announce the policy of this state to promote competition among sellers of utility service wherever possible. The reverse policy is followed by the existing regulatory body. A clear policy directive favoring competition as the rule with exceptions only by special decision will allow the new Energy Conservation Commission begin immediately to increase customer choice and reduce regulation. The mission should be to maximize use of competition and minimize use of regulation to promote the welfare of the citizens of the State and their economic well-being.

Sincerely,

Eugene N. Bjornstad  
General Manager

RECEIVED  
APR 16 1999

Further, overriding all the above considerations, the public interest being addressed must represent a substantial portion of the State's population; unique situations should be addressed at the local level.

While we acknowledge that not everyone will subscribe to this theory of regulation, we believe it to be fundamentally sound. Utilizing these principles, we analyzed APUC's jurisdiction and determined that governmental control in the following areas was unwarranted.

- A. Alaska Statute 42.05 should be amended to cease certification and regulation of companies furnishing collection and disposal service of garbage, refuse, trash, or other waste material.

Whether an individual considers refuse collection to be an essential service for modern living depends primarily on where they reside in the State. However, even essential services should generally not be regulated unless they are natural monopolies. For example, we do not believe that essentials such as food and clothing should be regulated.

Refuse collection, as with most enterprises, has certain economies of scale that affect its operations. However, these economies of scale are not such that one company can obviously provide the area-wide services for a significantly lower total cost than could several competitors. Relative to traditionally-regulated industries, refuse collection requires less capital, and thus they have a higher percentage of variable costs and less significant economies of scale. Further, the competition within service areas in several locations defeats the natural monopoly premise in the larger markets. We believe that a natural monopoly could occur in this industry in only the very small markets and that these do not warrant regulation due to the cost to benefit relationship.

Therefore, refuse collection should not be regulated unless there are overwhelming negative side effects present under competition in this industry. We acknowledge the possible negative effects of increased truck traffic, refuse pickup scheduled throughout the week in individual neighborhoods, and consistency problems as companies adjust to the economic realities of competition. However, these problems did not overwhelm the residents of the Mat-Su Borough as a result of the residential competition which began in 1985. Further, the Alaska Municipal League has adopted a resolution asking that refuse collection be de-regulated.

In response to our previous sunset audit recommendations to deregulate this industry, APUC expressed concern over the health and sanitation problems that could occur if these companies were removed from their jurisdiction. These health and sanitation issues are presently under the jurisdiction of local communities and also the Department of Environmental Conservation.

There are presently forty-three certificated refuse companies; nine of these are economically regulated under AS 42.05.711, as they have annual gross revenues of greater than \$200,000. Although APUC has no time sheet data upon which to estimate the cost to regulate these forty-three companies, the commission states in their FY 88 Annual Report that the time dedicated to refuse is excessive relative to agency resources and the resultant public benefit, and they recommend that this industry be deregulated.

B. Alaska Statute 42.05 should be amended to cease certification and regulation of radio common carriers.

There are currently ten certificated radio common carriers in Alaska. Radio Common Carrier (RCC) services include radio paging, mobile radiotelephone, and improved mobile telephone public utility services.

The commission opened an investigative docket on the subject of deregulation of RCCs in 1981 which resulted in a 1982 decision to cease economic regulation of this industry. The commission cited as justification, among other things, that RCC service was not an essential service. As RCC service is not essential to the average Alaskan, we concur with the commission that it should not be economically regulated. We further contend that services that are not essential should not be certificated.

In that 1982 decision, APUC stated that the certification process should be continued to monitor the interconnection to the telecommunications network and to prevent cross-subsidization of non-monopoly RCC services by monopoly local exchange telephone services. However, both these concerns can be monitored through the continuing processes of certification and economic regulation of local exchange services.

Cellular phones are relatively new to Alaska, and APUC has not yet decided if or how they should be regulated. We understand these phones provide a higher sound quality at a higher cost than conventional radio phones and over a shorter range; as such, they may be even less of an essential service to the average Alaskan.

Excerpt, 1985 Legislative Audit  
of APUC 08-4230-86-5

## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

Alaska Statute 42.05 should be amended to cease certification and regulation of those utilities furnishing collection and disposal service of garbage, refuse, trash, and other waste material.

Responsibility for certificating and regulating utilities furnishing collection and disposal service of garbage, refuse, trash, and other waste material was added to the Alaska Public Utilities Commission Act by a 1973 amendment. Prior to that time those utilities were under the jurisdiction of the Alaska Transportation Commission. There are currently 34 certificated refuse utilities, of which nine are economically regulated.

The recommendation to deregulate refuse utilities was made in a prior APUC sunset audit report dated August 1, 1979 with the following economic justification. The refuse industry is not capital intensive as are the fixed utility industries regulated by the APUC. Net plant investment per customer is significantly lower than for traditional fixed utilities. The majority of capital is mobile and there is no permanent physical connection of customer to utility. Refuse collection and disposal, therefore, more closely resembles a transportation service than a fixed utility. Economic theory in transportation regulation promotes restricting competition to encourage capital investment in a growing industry, not eliminating competition as is the theory in capital intensive, fixed utility regulation.

That economic justification is still valid. Additionally, several events have occurred since 1979 which further strengthen the argument for State deregulation at this time. The first event is the initiation of an investigation in 1983 by the APUC to determine whether public utility refuse collection services in the Matanuska-Susitna Borough should be deregulated. Commission staff supported the concept, but the Commission has been unable to reach a consensus of opinion on the question. This has resulted in no action being taken on a number of applications for certificates to provide service within the Matanuska-Susitna Borough during this time.

The second event, of much greater significance, was the termination of the Alaska Transportation Commission by public ballot in 1984. This resulted in de facto deregulation of all other transportation services in the State of Alaska.

We recommend that in densely populated regions where a potential public health hazard would occur from the interruption or cessation of refuse service, that local governments provide the necessary regulation to mitigate those problems. That authority is already provided at AS 29.48.033, but is currently superseded by the AFUC.

Recommendation No. 2

Alaska Statute 42.05 should be amended to cease certification and regulation of radio common carriers.

There are currently seven certificated radio common carriers in Alaska. Radio common carriers (RCCs) are defined at 3 AAC 48.820(39) as a radio paging, mobile radiotelephone, or improved mobile telephone public utility services.

Regulation of radio common carriers has evolved substantially since the certification of the first RCC service in Alaska in 1965. The first evolutionary step came in 1976 when the Commission allowed competition between two radio common carriers in Fairbanks. During that hearing the following testimony was given by the area sales manager, Radio Common Carrier Market, Motorola Communications.

It has been my experience that competition per se in the area of radio communications has been beneficial, both to the public and to the common carriers themselves. Specifically, competition tends to expand the services offered to the public, and increases the public awareness of the radio common carrier paging services. In many cases, reduction of costs to the public in the form of lower service rates is as a result of competitive influences.

The Commission opened an investigative docket on the subject of deregulation of radio common carriers in 1981 which resulted in a 1982 decision to cease economic regulation in the industry. Cited by the Commission as major justification was:

- (1) RCC service is not an essential or necessary service.
- (2) Customer needs may be satisfied by competing firms since there is no physical connection between company and consumer.
- (3) A sufficient number of firms offer various types of RCC service and, because of the availability of close substitutes, elasticity of demand is high, thereby preventing unreasonable rates.

BILL SHEFFIELD, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

420 "L" STREET  
SUITE 100  
ANCHORAGE, ALASKA 99501  
(907) 270-6222

December 23, 1985

RECEIVED

DEC 26 1985

LEGISLATIVE  
AUDIT

Mr. Gerald L. Wilkerson  
Legislative Auditor  
Pouch W  
Juneau, Alaska 99811-3300

Dear Mr. Wilkerson:

The following is the Commission's response to the Performance Review of the Alaska Public Utilities Commission by the Division of Legislative Audit.

As a result of this review the Commission had addressed some of the auditor's documented deficiencies through a review of its internal procedures and its intent to promulgate regulations. In the areas of substantive policy changes, i.e., the deregulation of part of one utility industry (generation and transmission electric cooperatives) and all of others (garbage, cable television and radio common carrier), the Commission believes it is important for the Sunset Review process to accommodate the views of utilities and consumers directly affected by the recommendations before legislative action is concluded.

RECOMMENDATION NO. 1

Alaska Statute 42.05 should be amended to cease certification and regulation of those utilities furnishing collection and disposal service of garbage, refuse, trash, and other waste material.

As previously noted in response to the 1979 Sunset Audit, the Commission conceptually agreed, and continues to agree, with deregulation of the refuse industry, as long as essential public health and sanitation aspects of this service are monitored by some governmental entity, municipal or otherwise, especially with regard to rural areas.

## RECOMMENDATION NO. 2

Alaska Statute 42.05 should be amended to cease certification and regulation of radio common carriers.

The Commission does not object to the intent of this Recommendation. In fact, the Commission has, on its own, moved substantially in this direction by economically deregulating radio common carrier activities. But, the Commission would point out that if the Legislature accepts this Recommendation, it would eliminate the Commission's ability to react to changes in the telecommunications scene which could necessitate reexamining the role of the radio common carrier industry. If the Legislature does not accept the Recommendation, the Commission proposes to streamline the certification process through regulations. The Commission notes that since it relies on the findings of the Federal Communications Commission regarding technical fitness, examination of the financial fitness of a radio common carrier applicant is not a major time component in the Commission's workload.

## RECOMMENDATION NO. 3

Alaska Statute 42.05 should be amended to cease economic regulation of electric generation and transmission cooperatives.

The Commission disagrees with this recommendation for several reasons. First, the Commission does not believe it is in the public interest to distinguish regulation of a generation and transmission (G&T) cooperative from that of a utility which provides generation, transmission, and distribution service. AS 42.05 provides a mechanism for deregulation of cooperatives, and the Commission believes that the best approach to deregulation of G&T cooperatives is to allow the consumers of the distribution utilities who are members of the G&T to vote on whether they wish to have their G&T costs deregulated.<sup>1/</sup> This approach is consistent with their option to determine the regulatory status of other costs.

Second, generation and transmission expenses represent over 50 percent of the costs embodied in a consumer's rates.

---

<sup>1</sup>AS 42.05.712 now provides that a cooperative may elect to be exempt from regulation based on a poll of "its subscribers or members." The members of a G&T are the distribution utilities, not the ultimate consumer. Thus, the present statute may allow a G&T cooperative to elect to be exempt from regulation based on a vote of the distribution utilities without a vote of the actual consumers. An amendment clarifying that a vote of the actual consumers is required for deregulation of a G&T should be considered.

Excerpt from Legislation  
Audit of APUC, 1979

The FCC deleted the requirement of franchisor approval of rates for subscriber service effective September 1976, thereby removing all requirements of the franchisor for rate regulation. From a report of the Connecticut Cable Television Association we learned that "...as soon as the notice of the FCC action was publicized, many communities throughout the country dropped their own rate setting requirements." We feel that Alaska should also restrict its activity in this area.

A commonly accepted definition among economists of what distinguishes public utilities from other sectors of business is that public utilities are natural monopolies (operating with government approval as such), and supply a service which is indispensable to modern living. Cable television is an entertainment service, not a monopoly or a necessity. If subscribers are charged more than they feel services are worth they may disconnect and seek an alternative form of entertainment such as radio, movies, newspapers or books.

7/20/79  
J. Mac...  
Cable...  
Alaska

Deregulation of CATV in Alaska could possibly result in increased development of cable television in rural Alaska. The 1974 FCC pronouncement quoted earlier also stated:

After considerable study of the emerging cable industry and its prospects for introducing new and innovative communications services, we have concluded that, at this time, there should be no regulation of rates for such services at all by any governmental level. Attempting to impose rate regulation on specialized services that have not yet developed would not only be premature but would in all likelihood have a chilling effect on the anticipated development.

It does not appear that deregulation of this industry would have a detrimental impact on the Alaskan public and could, in fact, provide an incentive for development in rural Alaska and allow the Alaska Public Utilities Commission to devote its limited time and resources towards more important issues.

Recommendation No. 3

AS 42.05 should be amended to allow the Public Utilities Commission to cease certification and regulation of those utilities furnishing collection and disposal service of garbage, refuse, trash and other waste material.

Responsibility for certifying and regulating utilities furnishing collection and disposal service of garbage, refuse, trash and other waste material was added to the Alaska Public Utilities Commission Act by a 1973 amendment. Prior to that time those utilities fell under the jurisdiction of the Alaska Transportation Commission. There are currently 29 private refuse utilities certificated and regulated by the APUC and one municipal system certificated but not regulated.

Considering the Public Utilities Commission's heavy workload and limited resources, the public interest would be best served by allowing the Commission to cease certification and regulation of this industry. The economic justification for this action is twofold.

- (1) The refuse industry is not capital intensive as are the fixed utilities regulated by the APUC. The largest capital expense is in the vehicles and this expense is lessened since, as staff of the APUC has indicated, a majority of refuse utilities lease, rather than purchase, those vehicles. Sanitary landfills (dumps) are not allowed into the rate base, and therefore are not considered part of the capital investment of the utility.
- (2) Competition in this industry would not be as detrimental to the public's interest as competition among more capital intensive industries. Refuse collection and disposal is a transportation utility not a fixed utility. The economic theory and practice of transportation regulation originally was to restrict competition to encourage capital investment in a growing industry and provide a healthy utility to serve the public's needs not to eliminate competition entirely as is the theory in the fixed utility regulation by the APUC.

The results of a review of refuse collection and disposal service regulation in other states also support this recommendation. From our questionnaire to regulatory commissions in the other forty-nine states and the District of Columbia we learned the following:

Number of states responding:	32
Number of states not regulating refuse utilities:	29
Percentage of respondents not regulating:	91%

We were unable to determine in how many states this service is regulated at the local government level but are aware that it is in some states. AS 29.48.033 provides municipalities in Alaska the authority to regulate at the local level but this authority is superseded by the APUC.

Local governments in Alaska already exercise a great deal of control over the level and quality of service and rates charged by the private utilities through special contracts with those utilities. Therefore, the impact of deregulation would be felt primarily by those consumers residing outside municipal boundaries, a small percentage of the total number of consumers currently receiving these services.

include facilities for television distribution. Ultimately, basic telephone and television service could become so commingled that the economic viability of regulated communication services could be affected.

In some jurisdictions, municipalities award a franchise to a CATV utility. While on the surface this appears to be an attractive alternative to state regulation, the record in recent CATV certification proceedings involving Anchorage and Fairbanks indicates that in the "Lower 48" there has been political abuse of this process and that municipalities which do not have technical and rate-making expertise are unduly burdened by the responsibility to assess which applicant best serves the public interest. In place of economic regulation, municipal bodies have in some instances substituted a shortening of the franchise period, hoping to influence the franchise holder to charge reasonable rates and provide adequate service -- a practice that could backfire and leave the consumer without any service.

The APUC has determined that the public interest is not necessarily served by economic regulation of small cable television utilities and has exempted small CATV's from regulation in a number of instances. These are Eielson Air Force Base, Metlakatla, Craig, Klawock and Thorne Bay. While independently assessing the "nonessential" quality of cable television services, the Legislature should be aware that the APUC files are replete with complaints against CATV utilities, particularly from rural parts of Alaska where there is a captive audience with no alternative form of entertainment and where the entities providing the service have their base of operations outside the State of Alaska.

Recommendation No. 3

APUC Response Oct. 5, 1979

AS 42.05 should be amended to allow the Public Utilities Commission to cease certification and regulation of those utilities furnishing collection and disposal service of garbage, refuse, trash, and other waste material.

The Commission supports the elimination of regulation of garbage utilities from its responsibilities and agrees with the economic justification articulated by the sunset auditors.

The Commission would be remiss, however, if it failed to apprise the Legislature of its concerns regarding deregulation

of this public utility service. Based on Commission experience there is a need for some governmental entity to oversee garbage, refuse and disposal operations. Garbage and refuse disposal has long been considered an essential public health and sanitation service, more frequently than not owned, operated or contracted for by municipal governments. The impact of deregulation in this area would be felt primarily by a small percentage of consumers residing outside municipal boundaries. The Commission believes it would be in the public interest to ensure that the municipalities have sufficient extraterritorial jurisdiction under AS 29.48.037 and AS 29.48.040 to oversee the entirety of these operations.

The Commission would also point out to the Legislature that the Department of Environmental Conservation (DEC) currently issues permits for sanitary landfill use and promulgates regulations governing solid waste management. In this regard, the Legislature may wish to consider the DEC as an alternative to municipal regulation of garbage and refuse. The adequacy and availability of a sanitary landfill to a garbage utility is frequently a significant problem which has been brought to the Commission's attention. Because of DEC's current responsibilities in this area, it is appropriate to consider this alternative which would provide end-to-end regulation of garbage utility services.

If a legislative determination is made that garbage utilities should come under the jurisdiction of a state regulatory commission, it may be more in keeping with transportation regulatory practices for the Transportation Commission to resume this function.

Recommendation No. 4

AS 42.05 should be amended to allow non-profit telephone and electric cooperatives to petition for withdrawal from APUC economic regulation.

The Alaska Public Utilities Commission will concur with this recommendation. However, it is the Commission's experience that consumers of electric and telephone cooperatives frequently perceive little difference between co-ops and other public utilities, even though the members own the business and elect the board of directors. The Commission believes that if AS 42.05 is amended to incorporate this recommendation, it would be desirable to promulgate regulations establishing

04/30/99 10:35:49 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
MESSAGE FROM: LIOCJEN IN ANCHORAGE

LTN1120  
JNU

RE TCN: 90684 SCHEDULED FOR:04/30/99 09:00 TO 11:00  
SPONSOR: SENATE FINANCE PURPOSE: PUBLIC HEARING

MESSAGE TEXT: ROBERT E MINTZ, DEPT OF LAW, WILL ADD  
HIS NAME IN PARTS LIST AS TESTIFIER

1-LS0771\K ✓  
Cramer  
4/29/99

**CS FOR SENATE BILL NO. 133(FIN)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIRST LEGISLATURE - FIRST SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATOR PEARCE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act creating and providing for the Regulatory Commission of Alaska and  
2 transferring to it certain powers and duties of the Alaska Public Utilities  
3 Commission; transferring regulation of pipelines to the Alaska Oil and Gas  
4 Conservation Commission; repealing the Alaska Public Utilities Commission;  
5 relating to the powers of the chair of the Regulatory Commission of Alaska;  
6 relating to regulatory cost charges for public utilities; relating to the appellate  
7 procedures of the Regulatory Commission of Alaska; and providing for an  
8 effective date."

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

10 \* Section 1. AS 42 is amended by adding a new chapter to read:  
11 **Chapter 04. Regulatory Commission of Alaska.**  
12 **Article 1. Commission and Staff.**

1           **Sec. 42.04.010. Regulatory Commission of Alaska created.** (a) There is  
2 created as an independent agency of the state the Regulatory Commission of Alaska.

3           (b) The commission may nominate one of its members to serve as chair. The  
4 governor shall designate the chair of the commission, either by selecting the member  
5 nominated by the commission or another member. The term as chair is four years.  
6 The chair may not be appointed to successive terms as chair.

7           **Sec. 42.04.020. Commissioners.** (a) The commission consists of five  
8 commissioners appointed by the governor and confirmed by the legislature in joint  
9 session.

10          (b) The term of office of each member is six years. A commissioner, upon  
11 the expiration of a term, shall continue to hold office until a successor is appointed and  
12 qualified.

13          (c) A vacancy arising in the office of a commissioner shall be filled by  
14 appointment by the governor and confirmed by the legislature in joint session, and,  
15 except as provided in AS 39.05.080(4), an appointee selected to fill a vacancy shall  
16 hold office for the balance of the full term for which the predecessor on the  
17 commission was appointed.

18          (d) A vacancy in the commission does not impair the authority of a quorum  
19 of commissioners to exercise all the powers and perform all the duties of the  
20 commission.

21          (e) The governor may remove a commissioner from office for cause, including  
22 incompetence, neglect of duty, or misconduct in office or because the member, while  
23 serving on the commission, is convicted of a misdemeanor for violating a statute or  
24 regulation related to public utilities or is convicted of a felony. A commissioner, to  
25 be removed for cause, shall be given a copy of the charges and afforded an opportunity  
26 to be publicly heard in person or by counsel in the commissioner's own defense upon  
27 not less than 10 days' notice. If a commissioner is removed for cause, the governor  
28 shall file with the lieutenant governor a complete statement of all charges made against  
29 the commissioner and the governor's finding based on the charges, together with a  
30 complete record of the proceedings.

31          (f) Members of the commission are in the exempt service and are entitled to

1 a monthly salary equal to Step C, Range 26, of the salary schedule in AS 39.27.011(a)  
2 for Juneau, Alaska. The chair of the commission is entitled to a monthly salary equal  
3 to Step C, Range 27, of the salary schedule in AS 39.27.011(a) for Juneau, Alaska.

4 (g) Each commissioner, before entering upon the duties of office, shall take  
5 and subscribe to the oath prescribed for principal officers of the state.

6 **Sec. 42.04.030. Principal office; seal.** (a) The commission shall establish a  
7 principal office and branch offices necessary to discharge its business efficiently. For  
8 the convenience of the public or of parties to a proceeding, the commission may hold  
9 meetings, hearings, or other proceedings at other locations.

10 (b) The commission shall have an official seal.

11 **Sec. 42.04.040. Legal counsel.** (a) The Department of Law shall provide full-  
12 time legal counsel to the commission. The legal counsel provided by the Department  
13 of Law is subject to the approval of the commission.

14 (b) The commission may contract for the services of specialized legal counsel  
15 or legal consultants.

16 **Sec. 42.04.050. Employment of commission personnel.** (a) The chair of the  
17 commission is responsible for directing the administrative functions of the commission  
18 and carrying out the policies as set by the commission. The commission chair may  
19 employ engineers, hearing officers, experts, clerks, accountants, and other agents and  
20 assistants considered necessary. Employees of the commission who are not in the  
21 exempt service under AS 39.25.110, other than legal counsel, are in the classified  
22 service under AS 39.25.100.

23 (b) The chair of the commission may enter into a contract for no more than  
24 \$5,000 to engage the services of a consultant or expert the chair considers necessary.  
25 The commission may contract for and engage the services of consultants and experts  
26 the commission considers necessary.

27 **Sec. 42.04.060. Restrictions on members and employees.** (a) A member of  
28 the commission or an employee of the commission may not have an official connection  
29 with, hold stock or securities in, or have a pecuniary interest in a public utility within  
30 the state. Membership in a cooperative association is not a "pecuniary interest" within  
31 the meaning of this section; however, a member or employee of the commission may

1 not be an officer, board member, or employee of a cooperative association. A member  
2 or employee may not act upon a matter in which a relationship of the member or  
3 employee with any person creates a conflict of interest.

4 (b) A member or employee of the commission may not, after leaving the  
5 position as a member or employee of the commission, act as agent for or on behalf of  
6 a public utility in any matter before the commission that was before the commission  
7 during the employee's employment or the member's term of office. A violation of this  
8 subsection is a class A misdemeanor.

9 (c) Members and employees of the commission, except clerical and secretarial  
10 staff, are subject to AS 39.50. Members and employees of the commission are subject  
11 to AS 39.52.

12 (d) A member of the commission is disqualified from voting upon any matter  
13 before the commission in which the member has a conflict of interest.

14 **Sec. 42.04.070. Powers and duties of commission chair.** (a) The chair of  
15 the commission shall

16 (1) employ the commission staff;

17 (2) establish and implement a time management system for the  
18 commission;

19 (3) assign the work of the commission to members and staff of the  
20 commission so that matters before the commission are resolved as expeditiously and  
21 competently as possible; when assigning a matter, the chair shall also set a date by  
22 which time the matter should be completed.

23 (b) The chair of the commission may appoint a hearing officer to hear a matter  
24 that has come before the commission; a member of the commission may serve as  
25 hearing officer.

26 (c) When the chair of the commission believes that it is in the public interest  
27 for the commission to participate as a party in an adjudicatory matter, the chair shall  
28 direct the public advocacy section to do so.

29 **Sec. 42.04.080. Decision-making procedures.** (a) Except as provided in  
30 AS 42.05.171, when a matter comes for decision before the commission under  
31 AS 42.05, the chair shall appoint a hearing panel composed of three or more members

1 to hear and decide the case. The panel shall exercise the powers of the commission  
2 with respect to the matter.

3 (b) A decision of a hearing panel under AS 42.05 may be appealed to the  
4 commission if there is an allegation in the appeal that action or a decision taken by the  
5 commission is contrary to commission precedent and is not based on an intervening  
6 change in law. The commission may grant or deny the application to appeal. If a  
7 decision of a hearing panel is not subject to appeal to the commission or if the  
8 commission denies an application to appeal, the decision of the hearing panel is a final  
9 decision for purposes of appeal to the courts.

10 (c) The commission shall adopt regulations by December 31, 2000, that  
11 establish standards of timeliness for the types of cases that come before the  
12 commission. The commission shall establish standards based in part on degrees of  
13 complexity of the cases.

#### 14 **Article 2. Communications Carriers Section.**

15 **Sec. 42.04.100. Communications carriers section.** There is established  
16 within the commission a communications carriers section that shall develop,  
17 recommend, and administer policies and programs with respect to the regulation of  
18 rates, services, accounting, and facilities of communications common carriers within  
19 the state involving the use of wire, cable, radio, and space satellites.

#### 20 **Article 3. Public Advocacy Section.**

21 **Sec. 42.04.150. Public advocacy section.** There is established within the  
22 commission a public advocacy section. The section shall participate as a party in  
23 adjudicatory matters that come before the commission to represent the public interest  
24 when it is in the public interest to do so. The public advocacy section shall operate  
25 separately from the rest of the commission.

26 \* **Sec. 2.** AS 29.35.137(6) is amended to read:

27 (6) "local exchange telephone company" means a telephone utility  
28 certificated under AS 42.05 [BY THE ALASKA PUBLIC UTILITIES  
29 COMMISSION] to provide local exchange service;

30 \* **Sec. 3.** AS 37.05.146(b) is amended to read:

31 (b) The program receipts listed in this subsection are accounted for separately,

1 and appropriations from these program receipts are not made from the unrestricted  
2 general fund:

3 (1) federal receipts;

4 (2) University of Alaska receipts (AS 14.40.491);

5 (3) designated program receipts; in this paragraph, "designated program  
6 receipts" means money received by the state from a source other than the state or  
7 federal government that is restricted to a specific use by the terms of a gift, grant,  
8 bequest, or contract;

9 (4) receipts of the following:

10 (A) highway working capital fund (AS 44.68.210);

11 (B) correctional industries fund (AS 33.32.020);

12 (C) loan funds;

13 (D) international airport revenue fund (AS 37.15.430);

14 (E) corporate receipts earned or managed by a public  
15 corporation of the state;

16 (F) fish and game fund (AS 16.05.100);

17 (G) school fund (AS 43.50.140);

18 (H) training and building fund (AS 23.20.130);

19 (I) retirement funds (AS 14.25, AS 22.25, AS 26.05.222,  
20 AS 39.35, and former AS 39.37);

21 (J) permanent fund (art. IX, sec. 15, Alaska Constitution);

22 (K) public school trust fund (AS 37.14.110);

23 (L) second injury fund (AS 23.30.040);

24 (M) fishermen's fund (AS 23.35.060);

25 (N) FICA administration fund (AS 39.30.050);

26 (O) receipts of the employee benefits program established under  
27 AS 39.30.150 - 39.30.180;

28 (P) receipts of the deferred compensation program established  
29 under AS 39.45;

30 (Q) clean air protection fund (AS 46.14.260);

31 (R) receipts of the group insurance programs established under

1 AS 39.30.090;

2 (S) mental health trust fund (AS 37.14.031);

3 (T) Alaska children's trust (AS 37.14.200);

4 (U) commercial fisheries test fishing operations  
5 (AS 16.05.050(15));

6 (V) Regulatory Commission of Alaska [PUBLIC UTILITIES  
7 COMMISSION] under AS 42.05 [AND AS 42.06];

8 (W) Alaska Oil and Gas Conservation Commission under  
9 AS 42.06;

10 (5) receipts of or from the trust established by AS 37.14.400 -  
11 37.14.450, except reimbursements described in AS 37.14.410.

12 \* Sec. 4. AS 39.50.200(b)(24) is amended to read:

13 (24) Regulatory Commission of Alaska (AS 42.04.010) [PUBLIC  
14 UTILITIES COMMISSION (AS 42.05.010)];

15 \* Sec. 5. AS 42.05.151(b) is amended to read:

16 (b) The commission shall adopt regulations governing practice and procedure,  
17 consistent with due process of law, including the conduct of formal and informal  
18 investigations, pre-hearing conferences, hearings, and proceedings, and the handling  
19 of procedural motions by a single commissioner. The regulations must provide for  
20 the hearing of a matter by a hearing panel and appeal of the matter in  
21 accordance with AS 42.04.080. Technical rules of evidence need not apply to  
22 investigations, pre-hearing conferences, hearings, and proceedings before the  
23 commission. The commission shall provide for representation by out-of-state attorneys  
24 substantially in accordance with Rule 81, Alaska Rules of Civil Procedure.

25 \* Sec. 6. AS 42.05.171 is amended to read:

26 Sec. 42.05.171. Formal hearings. A formal hearing that the commission has  
27 power to hold may be held by or before a hearing panel appointed under  
28 AS 42.04.080 [THREE OR MORE COMMISSIONERS], a hearing officer, or an  
29 administrative law judge designated for the purpose by the chair of the commission.  
30 In appropriate cases, a formal hearing may be held before an arbitrator  
31 designated for the purpose by the commission. The testimony and evidence in a

1 formal hearing may be taken by the panel [COMMISSIONERS], by the hearing  
2 officer, by the arbitrator, or by the administrative law judge to whom the hearing has  
3 been assigned. A commissioner who has not heard or read the testimony, including  
4 the argument, may not participate in making a decision of the commission. In  
5 determining the place of a hearing, the commission shall give preference to holding  
6 the hearing at a place most convenient for those interested in the subject of the  
7 hearing.

8 \* Sec. 7. AS 42.05.254(a) is amended to read:

9 (a) A regulated public utility operating in the state shall pay to the commission  
10 an annual regulatory cost charge in an amount not to exceed the maximum  
11 percentage of adjusted gross revenue that applies to the utility sector of which the  
12 utility is a part. The percentage may not exceed .8 percent of the total adjusted  
13 gross revenue of all regulated public utilities [DERIVED FROM OPERATIONS IN  
14 THE STATE, AS MODIFIED UNDER (c) OF THIS SECTION IF APPROPRIATE].  
15 An exempt utility shall pay the actual cost of services provided to it by the  
16 commission.

17 \* Sec. 8. AS 42.05.254(b) is amended to read:

18 (b) The commission shall by regulation establish a method to determine  
19 annually the amount of the regulatory cost charge for a public utility. If the amount  
20 the commission expects to collect under (a) of this section [AND UNDER  
21 AS 42.06.286(a)] exceeds the authorized budget of the commission, the commission  
22 shall, by order, reduce the percentages determined under (i) [SET OUT IN (a)] of  
23 this section so that the total amount of the fees collected approximately equals the  
24 authorized budget of the commission for the fiscal year.

25 \* Sec. 9. AS 42.05.254(h) is amended by adding a new paragraph to read:

26 (5) "adjusted gross revenue" means the gross revenue of a utility as  
27 modified under (c) of this section, if appropriate.

28 \* Sec. 10. AS 42.05.254 is amended by adding a new subsection to read:

29 (i) The commission shall by regulation establish a method to determine  
30 annually the maximum percentage of adjusted gross revenue that will apply to each  
31 regulated public utility sector. The method established shall allocate the commission's

1 costs, other than the cost of services provided to exempt utilities, among the regulated  
2 public utility sectors based on the relative amount of the commission's annual costs  
3 that is attributable to regulating each sector.

4 \* Sec. 11. AS 42.05.990(2) is amended to read:

5 (2) "commission" means the Regulatory Commission of Alaska  
6 [PUBLIC UTILITIES COMMISSION];

7 \* Sec. 12. AS 42.05.990(4) is amended to read:

8 (4) "public utility" or "utility" includes every corporation whether  
9 public, cooperative, or otherwise, company, individual, or association of individuals,  
10 their lessees, trustees, or receivers appointed by a court, that owns, operates, manages,  
11 or controls any plant, pipeline, or system for

12 (A) furnishing, by generation, transmission, or distribution,  
13 electrical service to the public for compensation;

14 (B) furnishing telecommunications service to the public for  
15 compensation;

16 (C) furnishing water, steam, or sewer service to the public for  
17 compensation;

18 (D) furnishing by transmission or distribution of natural or  
19 manufactured gas to the public for compensation to the extent the  
20 transmission and distribution are not regulated by the Alaska Oil and Gas  
21 Conservation Commission under AS 42.06;

22 (E) furnishing for distribution or by distribution petroleum or  
23 petroleum products to the public for compensation when the consumer has no  
24 alternative in the choice of supplier of a comparable product and service at an  
25 equal or lesser price and to the extent the distribution is not regulated by  
26 the Alaska Oil and Gas Conservation Commission under AS 42.06;

27 (F) furnishing collection and disposal service of garbage, refuse,  
28 trash, or other waste material to the public for compensation;

29 \* Sec. 13. AS 42.05.995 is amended to read:

30 **Sec. 42.05.995. Short title.** This chapter may be cited as the Alaska Public  
31 Utilities Regulatory [COMMISSION] Act.

1 \* Sec. 14. AS 42.06.286(b) is amended to read:

2 (b) The commission shall by regulation establish a method to determine  
3 annually the amount of the regulatory cost charge. If the amount the commission  
4 expects to collect under (a) of this section [AND UNDER AS 42.05.254(a)] exceeds  
5 the authorized budget of the commission that is related to the implementation of this  
6 chapter, including an appropriate share of the commission's administrative  
7 expenses, the commission shall, by order, reduce the percentage set out in (a) of this  
8 section so that the total amount of the fees collected approximately equals the  
9 authorized budget of the commission for the fiscal year.

10 \* Sec. 15. AS 42.06.445(e) is amended to read:

11 (e) A commissioner [, AND THE EXECUTIVE DIRECTOR,] may certify as  
12 to all official records of the commission under this section and may certify as to all  
13 official acts of the commission under this chapter.

14 \* Sec. 16. AS 42.06.630(2) is amended to read:

15 (2) "commission" means the Alaska Oil and Gas Conservation  
16 [PUBLIC UTILITIES] Commission (AS 31.05.005);

17 \* Sec. 17. AS 42.45.020(b) is amended to read:

18 (b) Subject to AS 42.45.060, the department may make loans from the rural  
19 electrification revolving loan fund to electric utilities certified under AS 42.05 [BY  
20 THE ALASKA PUBLIC UTILITIES COMMISSION]. A loan from the fund may be  
21 made only for the purpose of extending new electric service into an area of the state  
22 that an electric utility may serve under a certificate of public convenience and  
23 necessity issued under AS 42.05 [BY THE ALASKA PUBLIC UTILITIES  
24 COMMISSION]. A loan may be made from the fund to an electric utility if the utility  
25 invests the money necessary to provide one pole, one span of line, one transformer,  
26 and one service drop for each consumer for whom immediate service would be  
27 provided by the extension of electric service. However, a loan may not be made from  
28 the fund unless

29 (1) the loan is recommended by a loan advisory committee appointed  
30 under AS 42.45.030; and

31 (2) the extension of electric service would provide immediate service

1 to at least three consumers.

2 \* **Sec. 18.** AS 44.66.010(a)(4) is amended to read:

3 (4) Regulatory Commission of Alaska (AS 42.04.010) [PUBLIC  
4 UTILITIES COMMISSION (AS 42.05.010)] – June 30, 2004 [1999];

5 \* **Sec. 19.** AS 44.83.425(3) is amended to read:

6 (3) "qualified utility" means an electric utility or an electric operating  
7 entity established as an instrumentality of two or more electric utilities certified under  
8 AS 42.05 [BY THE ALASKA PUBLIC UTILITIES COMMISSION] to serve all or  
9 part of a market area that is served or will be served by the power project, that the  
10 authority determines is capable of operating and maintaining the power project.

11 \* **Sec. 20.** AS 46.04.020(i) is amended to read:

12 (i) The superior court and, with respect to intrastate voyages, either the  
13 Regulatory Commission of Alaska [PUBLIC UTILITIES COMMISSION,] under  
14 AS 42.05.361 - 42.05.431 or the Alaska Oil and Gas Conservation Commission  
15 under AS 42.06, as appropriate, have concurrent jurisdiction to review and enjoin  
16 a charge, contract term, or financial responsibility requirement described under (h) of  
17 this section at the request of a vessel owner, operator, or charterer. Except as provided  
18 in this subsection, nothing in this section affects the jurisdiction of the Regulatory  
19 Commission of Alaska or the Alaska Oil and Gas Conservation Commission  
20 [PUBLIC UTILITIES COMMISSION].

21 \* **Sec. 21.** REPEAL OF STATUTES. AS 39.25.120(c)(6); AS 42.05.010, 42.05.020,  
22 42.05.030, 42.05.035, 42.05.040, 42.05.050, 42.05.071, 42.05.081, 42.05.091, 42.05.101,  
23 42.05.111, 42.05.121, 42.05.123, and 42.05.131 are repealed.

24 \* **Sec. 22.** REPORT CONCERNING RESTRUCTURING OF THE ALASKA OIL AND  
25 GAS CONSERVATION COMMISSION AND THE REGULATORY COMMISSION OF  
26 ALASKA. The Legislative Budget and Audit Committee shall prepare a report containing  
27 recommendations for restructuring the Regulatory Commission of Alaska and the Alaska Oil  
28 and Gas Conservation Commission into a single commission. The governor shall appoint one  
29 member from the Regulatory Commission of Alaska and one member from the Alaska Oil and  
30 Gas Conservation Commission to work with the Legislative Budget and Audit Committee on  
31 the report. The report shall be delivered to the governor and the legislature by the first day

1 of the second session of the Twenty-First Alaska State Legislature.

2 \* **Sec. 23. MANAGEMENT INFORMATION SYSTEM.** The Regulatory Commission of  
3 Alaska shall develop its management information system and make the system accessible to  
4 the general public through the Internet for the purpose of tracking, scheduling, and managing  
5 all dockets within the commission.

6 \* **Sec. 24. LOCATION OF THE ALASKA OIL AND GAS CONSERVATION**  
7 **COMMISSION.** (a) The principal office of the Alaska Oil and Gas Conservation  
8 Commission shall move to the same location as the principal office of the Regulatory  
9 Commission of Alaska as soon as feasible, but in any case, no later than July 1, 2000.

10 (b) As soon as the Alaska Oil and Gas Conservation Commission moves to the same  
11 location as the Regulatory Commission of Alaska, the two commissions shall share record  
12 keeping facilities and clerical staff.

13 \* **Sec. 25. REGULATORY COMMISSION OF ALASKA EMPLOYMENT OF HEARING**  
14 **OFFICER.** (a) To the extent that sufficient funds are appropriated for the purpose, during  
15 the state fiscal year ending June 30, 2000, the Regulatory Commission of Alaska shall employ,  
16 in addition to the hearing officers that the former Alaska Public Utilities Commission was  
17 authorized to employ on June 30, 1999, an additional hearing officer.

18 (b) The Alaska Oil and Gas Conservation Commission may use the services of the  
19 additional hearing officer employed under (a) of this section to assist with pipeline regulation  
20 matters under AS 42.06.

21 \* **Sec. 26. INITIAL TERMS OF MEMBERS OF THE REGULATORY COMMISSION**  
22 **OF ALASKA.** Notwithstanding AS 39.05.055, the terms of the initially appointed members  
23 of the Regulatory Commission of Alaska shall be set by the governor as follows:

24 (1) one member shall serve a five-year term;

25 (2) one member shall serve a four-year term;

26 (3) one member shall serve a three-year term;

27 (4) one member shall serve a two-year term; and

28 (5) one member shall serve a one-year term.

29 \* **Sec. 27. TRANSITIONAL PROVISIONS.** (a) Litigation, hearings, investigations, and  
30 other proceedings pending under a law repealed or amended by this Act, or in connection with  
31 functions transferred from the Alaska Public Utilities Commission to the Regulatory

1 Commission of Alaska by this Act, continue in effect and may be completed notwithstanding  
2 a transfer or repeal provided for in this Act.

3 (b) Litigation, hearings, investigations, and other proceedings pending under a law  
4 repealed or amended by this Act, or in connection with functions transferred from the Alaska  
5 Public Utilities Commission to the Alaska Oil and Gas Conservation Commission by this Act,  
6 continue in effect and may be completed notwithstanding a transfer or repeal provided for in  
7 this Act.

8 (c) Regulations in effect on June 30, 1999, that were adopted to implement a function  
9 that is transferred by this Act remain in effect and shall be enforced by the Alaska Oil and  
10 Gas Conservation Commission or the Regulatory Commission of Alaska, as appropriate, until  
11 amended by the appropriate commission.

12 (d) Wherever in Alaska Statutes affected by this Act there is a reference to regulations  
13 adopted under a section of law and there are no regulations adopted under that section because  
14 previous regulations adopted under another section are being enforced under (c) of this  
15 section, the reference shall be construed to refer to the previously adopted regulations until  
16 they are amended by the new agency.

17 (e) Contracts, rights, liabilities, and obligations created by or under a law repealed or  
18 amended by this Act, and in effect on June 30, 1999, remain in effect notwithstanding this  
19 Act's taking effect.

20 (f) Records, equipment, appropriations, and other property of the Alaska Public  
21 Utilities Commission relating to regulation of public utilities under AS 42.05 shall be  
22 transferred to the Regulatory Commission of Alaska to implement the provisions of this Act.

23 (g) Records, equipment, appropriations, and other property of the Alaska Public  
24 Utilities Commission relating to regulation of pipelines under AS 42.06 shall be transferred  
25 to the Alaska Oil and Gas Conservation Commission to implement the provisions of this Act.  
26 The Alaska Public Utilities Commission shall also transfer at least two employees of the  
27 Alaska Public Utilities Commission who are employed in the tariff section to the Alaska Oil  
28 and Gas Conservation Commission.

29 \* Sec. 28. FIVE-YEAR SUNSET. The amendment to AS 44.66.010(a)(4), made by  
30 sec. 18 of this Act, is made notwithstanding AS 44.66.010(c).

31 \* Sec. 29. REVISOR INSTRUCTIONS. (a) In the following statutes, the revisor of

1 statutes is instructed to change "Alaska Public Utilities Commission" to "Regulatory  
2 Commission of Alaska":

- 3 (1) AS 29.35.131(c);
- 4 (2) AS 29.35.137(5);
- 5 (3) AS 42.05.141(a);
- 6 (4) AS 42.05.325(c);
- 7 (5) AS 42.05.381(f) in both places;
- 8 (6) AS 42.05.712(c);
- 9 (7) AS 42.05.712(d);
- 10 (8) AS 42.45.010(e);
- 11 (9) AS 42.45.110(a);
- 12 (10) AS 42.45.170(a);
- 13 (11) AS 42.45.170(e);
- 14 (12) AS 44.83.090(b) in both places;
- 15 (13) AS 45.50.473(a);
- 16 (14) AS 45.50.473(b);
- 17 (15) AS 45.50.475(b);
- 18 (16) AS 45.50.475(c); and
- 19 (17) AS 45.63.080(12).

20 (b) In the following statutes, the revisor of statutes is instructed to change "Alaska  
21 Public Utilities Commission" to "former Alaska Public Utilities Commission or the Regulatory  
22 Commission of Alaska":

- 23 (1) AS 09.65.085(a);
- 24 (2) AS 10.25.020(6); and
- 25 (3) AS 18.57.020(c).

26 (c) In the following statutes, the revisor of statutes is instructed to change "by the  
27 Alaska Public Utilities Commission" to "by the former Alaska Public Utilities Commission  
28 or by the Regulatory Commission of Alaska":

- 29 (1) AS 29.35.050(b) in both places;
- 30 (2) AS 29.35.050(c);
- 31 (3) AS 29.35.060(a);

1 (4) AS 29.35.060(b); and

2 (5) AS 42.45.200(e).

3 (d) In the following statutes, the revisor of statutes is instructed to change "Alaska  
4 Public Utilities Commission" to the "Alaska Oil and Gas Conservation Commission":

5 (1) AS 38.35.120(a) in three places;

6 (2) AS 38.35.230(2);

7 (3) AS 43.55.150(b); and

8 (4) AS 43.56.210(7).

9 \* Sec. 30. This Act takes effect July 1, 1999.

SENATE FINANCE COMMITTEE

SIGN-IN

SB 133-COMBINE APUC AND AOGCC

NAME: Ginny Fay Sub./Bill No: SB133  
Co./Dept./Title: DCED Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond to Questions

NAME: ERIC YOULD Sub./Bill No: \_\_\_\_\_  
Co./Dept./Title: ARECA - Ex Dir. Phone: 463-3634  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond to Questions

NAME: MEERA KOLLIER Sub./Bill No: \_\_\_\_\_  
Co./Dept./Title: MIA P - Auchman Phone: 263-5202  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond to Questions

NAME: \_\_\_\_\_ Sub./Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Do you wish to testify?  Yes  No  Respond to Questions

04/29/99  
09:33:30

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (TESTIFIERS ONLY)  
TCN:90653 SCHEDULED FOR:04/29/99 09:00 TO 11:00  
PUBLIC HEARING SENATE FINANCE

LTN1150  
BY:JNU  
FOR:ALL

LOCATION: ANCHORAGE

SB 29	EYAL	HERZOG	M.D.	TESTIFY
SB 133	JUDY	BRADY	AOGCC	TESTIFY
SB 133	MARK	WORESTER	ARCO	TESTIFY
SB 133	TIM	COOK	APUC	TESTIFY
SB 133	STEVE	MULDER	ANS ?	TESTIFY
HB 94	DOUG	GRIFFIN	ABC	TESTIFY

LOCATION: GLENNALLEN

SB 133	MR.	DOUGLAS SY	NEELEY	TESTIFY
SB 133	MRS.	SHARON	DANIEL	TESTIFY

LOCATION: OFFNET 1 VANCOUVER, WA

LOCATION: OFFNET 2 PORTLAND OR

**SB**

**134**

**HFIN**

**FILE**

(11)

# HOUSE COMMITTEE REPORT

Date Referred to Committee: May 6, 1999

FURTHER REFERRALS:

Date of Committee Action: 5/12/99

The FINANCE Committee considered:

CSSB 134(RLS)

CS FOR SENATE BILL NO. 134(RLS)

WELL REGULATORY COST CHARGE/CONS. TAX

"An Act authorizing the Alaska Oil and Gas Conservation Commission to determine the amount of and to collect a charge for operating wells subject to the commission's jurisdiction, and to allocate expenses of investigation and hearing; authorizing the commission to employ additional professional staff; repealing the oil and gas conservation tax; and providing for an effective date."

recommends it be replaced with the following committee substitute HCS CS SB 134 (FIN)  the same title  a new title

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

attached amendment(s)

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

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS:

(Dept/Date)

fiscal note(s) DOA

fiscal note(s) Senate DOR, 4/23/99

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

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

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<u>Tom Therriault</u>	Therriault			X	
<u>Alan Austerman</u>	Austerman			X	
<u>Edon Mulder</u>	Mulder	-			
<u>Tom Bunde</u>	Bunde			X	
<u>William's</u>	William's			X	
<u>John Kohring</u>	Kohring	X			
<u>J. DAVIS</u>	J. DAVIS			X	
<u>J. DAVIS</u>	J. DAVIS	X			
<u>Grussendorf</u>	Grussendorf			X	
		(3)		(7)	

CO CHAIR'S SIGNATURE

Tom Therriault  
CHAIRMAN

Edon Mulder  
MEMBER

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO. HCS CSSB 134 (FIN)

Revision Date/Time (Note if correction) Revised 5/12/99 Dept. Affected \_\_\_\_\_ Dept. of Admin \_\_\_\_\_  
 Title Well Regulatory Cost Charge/Cons. Tax BRU AOGCC  
 Component AOGCC  
 Sponsor Senator Pearce  
 Requester House FIN Component Serial No. 2010

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

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	1,832.9	1,832.9	1,832.9	1,832.9	1,832.9	1,832.9
Travel	139.0	139.0	139.0	139.0	139.0	139.0
Contractual	656.3	656.3	656.3	656.3	656.3	656.3
Supplies	23.0	23.0	23.0	23.0	23.0	23.0
Equipment	50.1	50.1	50.1	50.1	50.1	50.1
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>2,701.3</b>	<b>2,701.3</b>	<b>2,701.3</b>	<b>2,701.3</b>	<b>2,701.3</b>	<b>2,701.3</b>

CAPITAL EXPENDITURES Stat Desig	321.9	0.0	0.0	0.0	0.0	0.0
---------------------------------	-------	-----	-----	-----	-----	-----

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

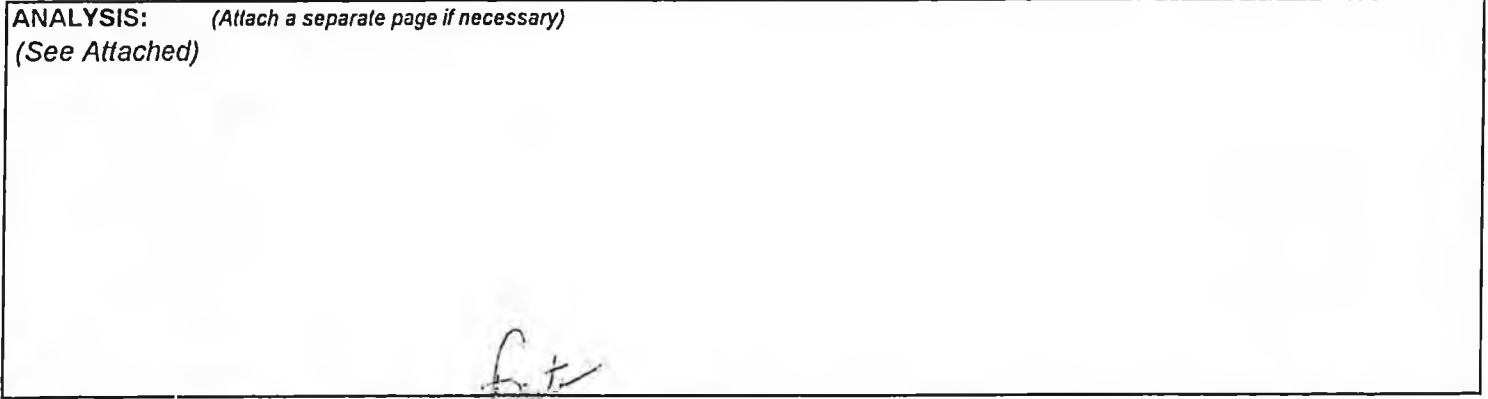
1002 Federal Receipts	100.0	100.0	100.0	100.0	100.0	100.0
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Stat Desig	2,601.3	2,601.3	2,601.3	2,601.3	2,601.3	2,601.3
<b>TOTAL</b>	<b>2,701.3</b>	<b>2,701.3</b>	<b>2,701.3</b>	<b>2,701.3</b>	<b>2,701.3</b>	<b>2,701.3</b>

Estimate of any current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time	23	23	23	23	23	23
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)  
(See Attached)



Prepared by Sharon Barton, Director  
 Division Administrative Services  
 Approved by Commissioner  
 Agency \_\_\_\_\_

Phone 465-5654  
 Date/Time \_\_\_\_\_  
 Date 5/13/99 5/13/99

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## FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION  
Analysis

BILL NO. HCS CSSB 134 (FIN) 

This bill provides for the AOGCC to set and collect a regulatory cost charge from companies operating oil and gas wells in the State of Alaska, and to use the collections to fund the operating costs of the agency. This will change the primary AOGCC operating budget fund source from General Fund to Statutory Designated Program Receipts.

The AOGCC is the state oversight agency for all subsurface activity in the state and provides permits to drill, well workovers, reservoir management, data management, inspection of drilling activities, gas flaring, conservation measures, and protection of lessors rights. The proposed funding mechanism is a more representative way of allocating our costs among those who require our services. Our workload is directly related to industry activity and under this plan would be paid for directly by industry. It recognizes the long-term effort required of the Commission to follow the events that constitute the lifetime of a well and its reservoir. The expenditures are minimums required to provide adequate oversight and to comply with the Oil and Gas Conservation Act.

### **Operating Budget**

This fiscal note includes a FY2000 operating budget increment of \$811.1. The operating budget increment includes funding for four new positions (338.3), increased inspector travel (34.5), professional services funding for reservoir management projects and for records management and electronic data conversion (200.0), rent for new office space (147.0), membership dues for the Interstate Oil and Gas Compact Commission and the Ground Water Protection Council (65.0), office and computer supplies for the four new positions (4.5), and funding for new computers for the four new positions and for computer and software upgrades necessary for reservoir management (21.8).

### **Capital Budget**

The capital request of \$321.9 is for funding necessary to relocate the AOGCC offices.

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

No. 2  
Bill Version: SB 134  
(S) Publish Date: 4-23-99

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Revenue  
Title Well Regulatory Cost Charge/ BRU Oil and Gas Audit Div.  
Conservation Tax Component Oil and Gas Audit Div.  
Sponsor Senator Pearce  
Requester Senate Finance Component Serial No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

<b>CHANGE IN REVENUES ( )</b>	<b>(1,310.0)</b>	<b>(1,330.0)</b>	<b>(1,300.0)</b>	<b>(1,320.0)</b>	<b>(1,360.0)</b>	<b>(1,300.0)</b>
-------------------------------	------------------	------------------	------------------	------------------	------------------	------------------

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The decrease in revenue would come from Section 6 of the legislation, which would repeal the Oil and Gas Conservation Tax that is collected by the division.

Though the Oil and Gas Conservation Tax would be eliminated from the division's job duties, the division's operating budget would not change. The Conservation Tax is simply an add-on to the state's severance tax and does not require additional direct staff time to administer.

Prepared by Mary Marshburn  
Division Commissioner's Office  
Approved by Wilson L. Condon  
Agency Department of Revenue

Phone 465-2301  
Date/Time April 14, 1999  
Date April 14, 1999

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# FISCAL NOTE

**STATE OF ALASKA  
1999 LEGISLATIVE SESSION**

No. 2  
Bill Version: SR 134  
(S) Publish Date: 4-23-99

Revision Date/Time (Note if correction) _____	Dept. Affected	Revenue _____
Title <u>Well Regulatory Cost Charge/ Conservation Tax</u>	BRU	<u>Oil and Gas Audit Div.</u>
Sponsor <u>Senator Pearce</u>	Component	<u>Oil and Gas Audit Div.</u>
Requester <u>Senate Finance</u>	Component Serial No.	_____

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

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>	(1,310.0)	(1,330.0)	(1,300.0)	(1,320.0)	(1,360.0)	(1,300.0)

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

The decrease in revenue would come from Section 6 of the legislation, which would repeal the Oil and Gas Conservation Tax that is collected by the division.

Though the Oil and Gas Conservation Tax would be eliminated from the division's job duties, the division's operating budget would not change. The Conservation Tax is simply an add-on to the state's severance tax and does not require additional direct staff time to administer.

Prepared by Mary Marshburn  
 Division Commissioner's Office  
 Approved by Wilson L. Condon  
 Commissioner  
 Agency Department of Revenue

Phone 465-2301  
 Date/Time April 14, 1999  
 Date April 14, 1999

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5/12/99

Adopted

#1

AMENDMENT

OFFERED IN THE HOUSE

BY \_\_\_\_\_

TO: CSSB 134(RLS)

- 1 Page 3, line 23:
- 2 Delete "AS 31.05.093"
- 3 Insert "AS 31.05"

5/12/99

Adopted

#2

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR

TO: CSSB 134(RLS)

1 Page 2, line 12, following "day,":

2 Insert "been"

3 Page 2, line 13:

4 Following "abandoned":

5 Delete "the well"

6 Following "reported":

7 Delete "abandonment of the well"

8 Insert "as abandoned"

9 Page 2, line 23, following "year":

10 Delete "of"

11 Insert "for"

12 Page 2, lines 23-24:

13 Delete "for which permits to drill have been issued under AS 31.05.090."

Failed 1-~~10~~9

5/12/99

AMENDMENT

1-LS0259VT.2  
Chenoweth  
5/12/99  
PEARCE  
5/12

#3

OFFERED IN THE HOUSE

TO: CSSB 134(RLS)

- 1 Page 3, following line 16:  
2 Insert a new subsection to read:  
3 "(e) In developing its annual program and fiscal plan, the commission, in  
4 addition to meeting its obligations under AS 37.07.050, shall, not less than 30 days  
5 before submitting the information required under AS 37.07.050(a), prepare and  
6 transmit to every operator of a well that may be subject to this section a letter or  
7 notice setting out the commission's estimate of its proposed operating budget  
8 requested to carry out its proposed plans in the succeeding fiscal year and its estimate  
9 of the proposed regulatory cost charges to be levied under this section, and inviting  
10 the operator to submit to the commission written comments on the proposed operating  
11 budget. When submitting the information required under AS 37.07.050(a), the  
12 commission shall also provide copies of all comments received from operators."
- 13 Reletter the following subsection accordingly.
- 14 Page 4, line 21:  
15 Delete "AS 31.05.093(e)"  
16 Insert "AS 31.05.093(f)"

# Alaska State Legislature



*During Interim: (June - Dec.)*  
716 West 4th Avenue, Suite 500  
Anchorage, Alaska 99501-2133  
(907) 269-0200  
Fax (907) 269-0204

*During Session: (Jan. - May)*  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4993  
Fax (907) 465-3872

**Drue Pearce**  
*President of the Senate*

## Sponsor Statement

### Senate Bill 134 Alaska Oil & Gas Conservation Commission

The Alaska Oil and Gas Conservation Commission (AOGCC) was created to protect the public interest through enforcement of the Alaska Oil and Gas Conservation Act. The commission's primary goal is to ensure that no hydrocarbons are wasted and that operations are conducted in manner that provides maximum recovery of the resource. SB 134 repeals the existing Oil & Gas Conservation Tax and institutes a stable funding source to assure that the commission is capable of carrying out their objectives.

The original intent of the Legislature was to have the oil & gas industry pay for the function of the commission through the Oil & Gas Conservation Tax. While this system may have been adequate in the past, it no longer is sufficient to cover the costs associated with the operation of the commission. This conservation tax is directly proportional to production with a 4 mils per barrel fee rate. The work of the commission, however, is not proportional to the production of oil and gas. Production is declining but the work of the commission is not.

SB 134 creates a program receipt system in which the regulatory cost charge is directly associated with the total volume of fluids produced or injected. This type of system more accurately reflects the factors directly associated with the workload of the commission. This approach would only assess costs where there is production or injection. Therefore, exploratory wells would not have a burden until they began production. SB 134 also contains a provision to provide for recovery of costs associated with an investigation or hearing. These costs would be allocated to the parties involved.

The commission experienced budget difficulties in the past, even when tax proceeds exceeded annual appropriations. The AOGCC is currently encountering budget difficulties that are directly related to the decline in oil production. SB 134 creates a stable funding source that will enable the AOGCC to provide the monitoring services necessary to protect the future of Alaskan interests.

# LEGAL SERVICES

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STATE OF ALASKA

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Mail Stop 3101


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

## MEMORANDUM

April 6, 1999

**SUBJECT:** Senate Bill 134, relating to the Alaska Oil and Gas Conservation Commission -- sectional analysis (Work Order No. 1-LS0259V)

**TO:** Senator Drue Pearce

**FROM:** Jack Chenoweth  
Assistant Revisor of Statutes 

The measure amends various provisions of the chapter establishing the Alaska Oil and Gas Conservation Commission (AS 31.05), adding provisions that relate to the commission's recovery of its regulatory costs and expenses through calculation and imposition of a regulatory cost charge and to allowing the commission to allocate the costs of its hearings and investigations. The bill also repeals the oil and gas conservation tax (AS 43.57.010); though the revenue from the tax is deposited into the general fund and may be used for various state purposes, the tax is commonly regarded as a source of money for the work of the commission.

**Bill section 1:** The provision adds a new section, AS 31.05.085, under which the commission is authorized to allocate costs of investigations and hearings among the parties--the lessees subject to the commission's jurisdiction and the commission itself. The provision prescribes the basis for allocation of the costs.

**Bill section 2:** The provision adds a new section, AS 31.05.093, under which the commission is authorized to determine, by regulation, the amount of a regulatory cost charge. Under subsection (a), the charge is to be levied on "[e]very person operating a well for which a permit to drill has been issued under AS 31.05" and from which oil or gas is produced or into which oil, gas, water, or other fluids are re-injected. Subsection (b) specifies a formula by which the commission's regulatory cost charge shall be determined. Subsection (c) directs the commission to adjust the amount of the regulatory cost charge so that, when added to other fees, the charges and fees equal the amount appropriated for the work of the commission. Subsection (d) speaks to the collection and allocation of the amounts recovered from the regulatory cost charges. Subsection (e) authorizes adoption of implementing regulations.

**Bill section 3:** The subparagraph adds the amounts recovered by the Alaska Oil and Gas Conservation Commission under its regulatory cost charge authority to the list of non-general fund agency program receipts in the Executive Budget Act.

Senator Drue Pearce

April 6, 1999

Page 2

**Bill section 7:** This transitional provision sets the initial regulatory cost charge of the Alaska Oil and Gas Conservation Commission at \$1,000 per well.

\*

The repeal of AS 43.57.010 by **bill section 6** repeals the state's oil and gas conservation tax—currently calculated at four mills per barrel of oil or per 50,000 cubic feet of natural gas.

**Bill sections 4 and 5:** The amendments eliminate references to the oil and gas conservation tax in the chapters levying and collecting state severance (AS 43.55) and pipeline property (AS 43.56) taxes.

The repeal of AS 43.82.210(a)(3) by **bill section 6** eliminates a reference to the oil and gas conservation tax in the "Alaska Stranded Gas Development Act," AS 43.82.

\*

**Bill section 8** proposes to give the measure a July 1, 1999, effective date.

JBC:jdr

99-192.jdr

CY 1998 AOGCC Fee Calculation vs. CY 1998 Estimated Conservation Tax.

Fee Based on Total Fluids Produced and Injected. Conservation Tax based on Net Oil and Gas (after royalty) taxed at \$.004 per BBL and \$.004 per 50 Mcf.

Case 2. Exclude Produced Water From Calculation of Total Fluids.

		Gross Liquid	Gross Gas	Gas,	Total	Budget	(Less Royalty)	(Less Royalty)	Conservation Tax Revenue	Calendar Yr 98			
		Stb	Mscf	BOE	Volume	\$1,520,000	Net Oil Vol	Net Gas	Estimated	Estimated	Conservation Tax	Conservation Tax	
					Liq+BOE	0	Sib	Mcf	Oil	Gas			
						Fee Calculation			\$	\$		\$	
						\$							
Cook In + NSB	1998	69,104,863	238,402,516	39,743,753	108,848,616	\$65,037	10,326,431	189,248,808	41,306	\$ 15,140		56,446	Cook In + NSB
No Slope	1998	1,421,973,398	6,078,722,961	1,013,120,497	2,435,093,895	\$1,454,963	365,201,657	29,703,288	1,460,807	\$ 2,376		1,463,183	No Slope
					2,543,942,511	0	375,528,087	218,952,096				1,519,629	

Field	Field	Gross Liquid	Gross Gas	Gas,	Total	Budget	(Less Royalty)	(Less Royalty)	Conservation Tax Revenue	Calendar Yr 98	Field		
Field	Field	Stb	Mscf	BOE	Volume	\$1,520,000	Net Oil Vol	Net Gas	Estimated	Total	Field		
Field	Field				Liq+BOE	Fee Calculation	Sib	Mcf	Oil	Conservation Tax	Field		
Field	Field					Fee, \$/Field			\$	\$	Field		
Field	Field										Field		
Badami	060	1,130,326	404,847	77,475	1,207,801	722	639,529	51,643	2,558	4	2,562	Badami	
Beaver Ck	080	111,774	3,743,166	623,861	735,635	440	89,734	3,275,270	359	262	621	Beaver Ck	
Beluga R.	092	18,591	33,391,407	5,565,235	5,583,826	3,336	-	29,217,481	-	2,337	2,337	Beluga R.	
Duck Isl U.	220	96,987,725	231,664,510	38,610,752	135,598,477	81,020	15,192,612	1,454,237	60,770	116	60,887	Duck Isl U.	
E. Barrow	150	-	145,563	24,261	24,261	14	-	127,368	-	10	10	E. Barrow	
Granite Pt.	280	4,443,565	2,635,226	439,204	4,882,769	2,917	1,818,879	2,305,823	7,276	184	7,460	Granite Pt.	
Ivan R.	360	-	4,531,576	755,263	755,263	451	-	3,965,129	-	317	317	Ivan R.	
Kenai GF	448	44,386	12,757,150	2,126,192	2,170,578	1,297	-	11,162,506	-	893	893	Kenai GF	
Kuparuk R.	490	387,287,735	227,116,823	37,852,804	425,140,539	254,021	84,245,824	1,992,689	336,903	159	337,143	Kuparuk R.	
Lewis R.	500	1,839	101,770	16,902	18,801	11	-	89,049	-	7	7	Lewis R.	
McArthur R.	520	46,789,865	73,819,275	12,303,213	59,093,078	35,308	4,214,560	64,591,866	16,858	5,167	22,026	McArthur R.	
Mid. Gr. Shoal	524	5,419,656	1,882,426	313,738	5,733,394	3,426	1,886,204	1,647,123	7,545	132	7,677	Mid. Gr. Shoal	
Milne Pt.	525	50,808,565	16,487,386	2,747,898	53,556,463	32,000	17,866,551	331,305	71,466	27	71,493	Milne Pt.	
No Cook Inlet	564	-	53,963,860	8,993,977	8,993,977	5,374	-	47,218,378	-	3,777	3,777	No Cook Inlet	
Pretty Crk	580	-	435,347	72,558	72,558	43	-	380,929	-	30	30	Pretty Crk	
Prudhoe B. Unit	640	744,629,300	5,482,885,154	913,814,192	1,658,443,492	990,916	205,648,413	23,322,560	822,594	1,866	824,459	Prudhoe B. Unit	
Pt McIntyre	666	141,129,747	120,104,261	20,017,377	161,147,124	96,205	41,608,728	2,451,461	166,435	196	166,631	Pt McIntyre	
So Barrow	764	-	80,717	13,453	13,453	8	-	70,627	-	6	6	So Barrow	
Sterling GF	768	-	279	47	47	0	-	244	-	0	0	Sterling GF	
Stump Lake	770	-	80,374	13,396	13,396	8	-	70,327	-	6	6	Stump Lake	
Swanson R.	772	5,491,632	48,008,411	8,001,069	13,492,701	8,062	797,094	22,599,716	3,188	1,808	4,996	Swanson R.	
Trading Bay Fld	800	4,538,687	1,537,479	256,247	4,794,934	2,865	612,595	1,345,294	2,450	108	2,558	Trading Bay Fld	
W McArthur R.	930	2,244,868	240,952	40,159	2,285,027	1,365	907,364	210,833	3,629	17	3,646	W McArthur R.	
Walakpa	880	-	1,109,538	184,923	184,923	110	-	970,846	-	78	78	Walakpa	
Cons Tax or Budget					2,543,942,511	\$1,520,000	Est. Budget		\$1,502,112	\$17,508		\$1,519,621	Conservation Tax

\* Assumes 13% No Slope Gas is Taxable

**SB**

**134**

**SFIN**

**FILE**



REPORTED OUT OF  
SFC 4/23/99

# FISCAL NOTE

No. 1  
Bill Version: SB 134  
(S) Publish Date: 2/13/99

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected \_\_\_\_\_ Dept. of Admin. \_\_\_\_\_  
Title WELL REGULATORY COST CHARGE/CONJ. TAX BRU AOGCC  
Component AOGCC  
Sponsor Sen. Pearce  
Requester Senate Resources Component Serial No. 2010

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

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	240.0	240.0	240.0	240.0	240.0	240.0
Travel	48.1	48.1	48.1	48.1	48.1	48.1
Contractual	135.0	135.0	135.0	135.0	135.0	135.0
Supplies	4.0	4.0	4.0	4.0	4.0	4.0
Equipment	7.7	7.7	7.7	7.7	7.7	7.7
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>

CAPITAL EXPENDITURES (GF)	440.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(1,790.0)	(1,790.0)	(1,790.0)	(1,790.0)	(1,790.0)	(1,790.0)
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Stat Desig	2,224.8	2,224.8	2,224.8	2,224.8	2,224.8	2,224.8
<b>TOTAL</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>	<b>434.8</b>

Estimate of any current year (FY99) cost: 0.0

**POSITIONS**

Full-time	3	3	3	3	3	3
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)  
(See Attached)

Prepared by Robert Christenson, PE  
Division Alaska Oil and Gas Conservation Commission  
Approved by Commissioner [Signature]  
Agency \_\_\_\_\_

Phone 279-1433  
Date April 12, 1999  
Date 4/12/99

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#1

## FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION  
Analysis

BILL NO. SB134

This bill provides for the AOGCC to set and collect a regulatory cost charge from companies operating oil and gas wells in the State of Alaska, and to use the collections to fund the operating costs of the agency. This will change the primary AOGCC operating budget fund source from General Fund to Statutory Designated Program Receipts.

The AOGCC is the state oversight agency for all subsurface activity in the state and provides permits to drill, well workovers, reservoir management, data management, inspection of drilling activities, gas flaring, conservation measures, and protection of lessees rights. The proposed funding mechanism is a more representative way of allocating our costs among those who require our services. Our workload is directly related to industry activity and under this plan would be paid for directly by industry. It recognizes the long-term effort required of the Commission to follow the events that constitute the lifetime of a well and its reservoir. The expenditures are minimums required to execute the Commission's program and to comply with the Oil and Gas Conservation Act.

This fiscal note includes a FY2000 operating budget increment of \$434.8 and a one time capital budget request of \$440.0. The operating budget increment is based on the AOGCC's estimate of the total necessary to fund the agency's operations. The capital request is for funding necessary to relocate the AOGCC offices and to provide for necessary computer enhancements.

# FISCAL NOTE

REPORTED COST 4/23/99  
BILL NO. SB 134

**STATE OF ALASKA**  
**1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____	Dept. Affected	Revenue
Title <u>Well Regulatory Cost Charge/</u>	BRU	<u>Oil and Gas Audit Div.</u>
<u>Conservation Tax</u>	Component	<u>Oil and Gas Audit Div.</u>
Sponsor <u>Senator Pearce</u>		
Requester <u>Senate Finance</u>	Component Serial No.	_____

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

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
<b>CHANGE IN REVENUES ( )</b>	<b>(1,310.0)</b>	<b>(1,330.0)</b>	<b>(1,300.0)</b>	<b>(1,320.0)</b>	<b>(1,360.0)</b>	<b>(1,300.0)</b>

**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

POSITIONS	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Full-time						
Part-time						
Temporary						

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

The decrease in revenue would come from Section 6 of the legislation, which would repeal the Oil and Gas Conservation Tax that is collected by the division.

Though the Oil and Gas Conservation Tax would be eliminated from the division's job duties, the division's operating budget would not change. The Conservation Tax is simply an add-on to the state's severance tax and does not require additional direct staff time to administer.

Prepared by Mary Marshburn  
 Division Commissioner's Office  
 Approved by Wilson L. Condon  
 Commissioner  
 Agency Department of Revenue

Phone 465-2301  
 Date/Time April 14, 1999  
 Date April 14, 1999

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**Senator Drue Pearce**

## **- Sponsor Statement**

### **Senate Bill 134 Alaska Oil & Gas Conservation Commission**

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The original intent of the Legislature was to have the oil & gas industry pay for the function of the commission through the Oil & Gas Conservation Tax. While this system may have been adequate in the past, it no longer is sufficient to cover the costs associated with the operation of the commission. This conservation tax is directly proportional to production with a 4 mils per barrel fee rate. The work of the commission, however, is not proportional to the production of oil and gas. Production is declining but the work of the commission is not.

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## MEMORANDUM

April 6, 1999

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**TO:** Senator Drue Pearce

**FROM:** Jack Chenoweth  
Assistant Revisor of Statutes 

The measure amends various provisions of the chapter establishing the Alaska Oil and Gas Conservation Commission (AS 31.05), adding provisions that relate to the commission's recovery of its regulatory costs and expenses through calculation and imposition of a regulatory cost charge and to allowing the commission to allocate the costs of its hearings and investigations. The bill also repeals the oil and gas conservation tax (AS 43.57.010); though the revenue from the tax is deposited into the general fund and may be used for various state purposes, the tax is commonly regarded as a source of money for the work of the commission.

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Senator Drue Pearce

April 6, 1999

Page 2

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\*

**Bill section 8** proposes to give the measure a July 1, 1999, effective date.

JBC:jdr

99-192.jdr

1-LS0259V ✓  
Chenoweth  
4/20/99

*moved by Sen. Donley  
w/o obj. ADOPTED  
work draft*

**CS FOR SENATE BILL NO. 134( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIRST LEGISLATURE - FIRST SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): SENATOR PEARCE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act authorizing the Alaska Oil and Gas Conservation Commission to  
2 determine the amount of and to collect a charge for operating wells subject to  
3 the commission's jurisdiction, and to allocate expenses of investigation and hearing;  
4 repealing the oil and gas conservation tax; and providing for an effective date."

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

6 \* Section 1. AS 31.05 is amended by adding a new section to article 1 to read:

7 **Sec. 31.05.085. Expenses of investigation or hearing.** (a) During a hearing  
8 or investigation held under this chapter, the commission may allocate the costs of the  
9 hearing or investigation among the parties, including the commission, as is just under  
10 the circumstances. In allocating costs, the commission shall consider the regulatory  
11 cost charge paid by a person under AS 31.05.093 and may consider the results, ability  
12 to pay, evidence of good faith, other relevant factors, and mitigating circumstances.

13 The costs allocated may include

14 (1) the costs of any time devoted to the investigation or hearing by

*Amended by  
Donley  
w/o obj.  
ADOPTED*

1 hired consultants, whether or not the consultants appear as witnesses or participants;  
2 and

3 (2) any out-of-pocket expenses incurred by the commission in the  
4 particular proceeding.

5 (b) The commission shall provide an opportunity for any person objecting to  
6 an allocation to be heard before the allocation becomes final.

7 \* **Sec. 2.** AS 31.05 is amended by adding a new section to read:

8 **Sec. 31.05.093. Regulated well regulatory cost charge.** (a) Every person  
9 that on the first day of a state fiscal year is the operator of a well for which a permit  
10 to drill has been issued under AS 31.05.090 and that has not, before that day, plugged  
11 and abandoned the well and reported abandonment of the well in accordance with  
12 regulations of the commission shall pay to the commission an annual regulatory cost  
13 charge for that fiscal year. A regulatory cost charge may not be collected from a  
14 person unless the operation for which the person is responsible is within the  
15 jurisdiction of the commission.

16 (b) The commission shall annually determine regulatory cost charges under this  
17 section. The regulatory cost charge to be paid by a person for a state fiscal year must  
18 be based on the total volume during the most recently concluded calendar year for the  
19 wells described in (a) of this section of which the person was the operator on the first  
20 day of the fiscal year as a percentage of the total volume during the same calendar  
21 year of all wells described in (a) of this section for which permits to drill have been  
22 issued under AS 31.05.090. For purposes of this subsection, "total volume" means the  
23 sum of the volume of all oil, gas, and water produced from a well, and all oil, gas,  
24 water, and other fluids, including waste slurry, injected into the well. For purposes of  
25 determining volume under this subsection, 6,000 cubic feet of gas has a volume that  
26 is the equivalent of one barrel of oil.

27 (c) The commission shall determine the regulatory cost charges levied under  
28 this section so that the total amount to be collected approximately equals the  
29 appropriations made for the operating costs of the commission under this chapter for  
30 the fiscal year, less the estimated total of the fees to be collected under AS 31.05.090.  
31 If the amount the commission expects to collect under this section and under

1 AS 31.05.090 exceeds the appropriations made for the operating costs of the  
2 commission under this chapter, the commission shall, by order, adjust the regulatory  
3 cost charges so that the total amount of the regulatory cost charges and fees that are  
4 collected approximately equals the appropriations made for the operating costs of the  
5 commission under this chapter for the fiscal year.

6 (d) The commission shall administer the collection of the regulatory cost  
7 charges imposed under this section. The Department of Administration shall identify  
8 the amount of the appropriations made for the operating costs of the commission under  
9 this chapter that lapses into the general fund each year. The legislature may  
10 appropriate to the commission for its operating costs under this chapter for the next  
11 fiscal year an amount that is at least equal to the lapsed amount. If the legislature  
12 makes an appropriation to the commission under this subsection that is at least equal  
13 to the lapsed amount, the commission shall reduce the total regulatory cost charge  
14 collected for that fiscal year by a comparable amount.

15 (e) The commission may adopt regulations under AS 44.62 (Administrative  
16 Procedure Act) necessary to administer this section, including regulations for  
17 investigation of the accuracy of reported information and for collecting required  
18 payments.

19 \* Sec. 3. AS 37.05.146(b)(4) is amended by adding a new subparagraph to read:

20 (W) Alaska Oil and Gas Conservation Commission under  
21 AS 31.05.093.

22 \* Sec. 4. AS 43.55.017(c) is amended to read:

23 (c) The taxes imposed by this chapter are not in place of the tax imposed by  
24 [AS 43.57 OR] income taxes, franchise taxes, or taxes upon the retail sale of oil or gas  
25 products.

26 \* Sec. 5. AS 43.56.030 is amended to read:

27 **Sec. 43.56.030. In place of other taxes.** Except for those taxes imposed under  
28 AS 43.55 [AND AS 43.57], the taxes levied or authorized under AS 43.56.010(b) are  
29 in place of

30 (1) all other ad valorem taxes or other taxes imposed by a municipality  
31 on property subject to tax under this chapter or exempted from taxation by

1 AS 43.56.020; [,] and

2 (2) all other taxes imposed by a municipality on or with respect to the  
3 property subject to tax under this chapter or exempted from taxation by AS 43.56.020,  
4 including, but not limited to,

5 (A) taxes on the retail sale or use of the property except for the  
6 retail sales tax on the first \$1,000 of each sale;

7 (B) taxes on the sale or use of gas or unrefined oil;

8 (C) taxes on the sale or use of services used in or associated  
9 with the property or in its maintenance or operation except for the sales tax on  
10 the first \$1,000 of each sale;

11 (D) taxes on or measured by gross or net income from the  
12 property, including income from the exploration for, production of, or pipeline  
13 transportation of gas or unrefined oil or property; and

14 (E) any license, excise, fee, charge or other tax on or pertaining  
15 to the property or services.

16 \* Sec. 6. AS 43.57.010 and AS 43.82.210(a)(3) are repealed.

17 \* Sec. 7. INITIAL REGULATORY COST CHARGE OF THE ALASKA OIL AND GAS  
18 CONSERVATION COMMISSION. In the absence of regulations adopted under  
19 AS 31.05.093(e), added by sec. 2 of this Act, the Alaska Oil and Gas Conservation  
20 Commission may determine regulatory cost charges under AS 31.05.093, added by sec. 2 of  
21 this Act, for the state fiscal year beginning July 1, 1999, and notify persons liable to pay the  
22 regulatory cost charges of the amounts so determined at any time on or after July 1, 1999.  
23 The commission may specify a time, no less than 20 days after notification, by which payment  
24 of the regulatory cost charges shall be made.

25 \* Sec. 8. This Act takes effect July 1, 1999.



Official Business

# ALASKA STATE LEGISLATURE

## SENATE RESOURCES COMMITTEE

State Capitol  
Juneau, AK 99801

Chairman: Senator Rick Halford  
Vice Chair: Senator Robin Taylor  
Senator Lyda Green  
Senator Pete Kelly  
Senator Jerry Mackie  
Senator Sean Parnell  
Senator Georgianna Lincoln

### MEMORANDUM

TO: Senator Sean Parnell, Co-Chairman  
Senator John Torgerson, Co-Chairman  
Senate Finance Committee

FROM: Senator Rick Halford, Chairman  
Senate Resources Committee

DATE: 16 April 1999

SUBJECT: Alaska Oil and Gas Conservation Commission

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During the Senate Resources Committee discussion of Senate Bill 134, it came to our attention that the Alaska Oil and Gas Conservation Commission (AOGCC) is facing a shortfall in FY 99 funding that will require them to suspend operation.

Although the AOGCC requested a supplemental appropriation of \$180,000 through OMB, it was not forwarded to the legislature. Without the additional operating funds, the AOGCC is faced with the prospect of shutting their doors for the month of June. In addition, the building in which they are housed has developed a roof leak that is threatening the integrity of their record storage. The estimated cost to fix the roof is in the range of \$20,000 to \$30,000.

Considering the importance of their functions, and the potential impact of a break in their operations, I believe the Finance Committee should look into this matter as soon as possible. In light of the proposed BP/ARCO merger, it is particularly important that the AOGCC has the resources necessary to provide for an even greater degree of scrutiny to the industry.

Thank you for your consideration.