

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3488 HLAB HB 313 - HB 314

HEALTH  
INSURANCE  
ASSOCIATION  
OF AMERICA

1350 East Touhy Avenue, Suite 380W, Des Plaines, IL 60018 (312) 297-1490

April 18, 1986

Representative Mike Navarre  
State Capitol, Room 104  
P.O. Box V  
Juneau, Alaska 99811

RE: Opposition to House Bill 313, Relating to Mandated Insurance  
Coverage of Mental Health Treatments

Dear Representative Navarre:

The Health Insurance Association of America (HIAA) opposes House Bill 313 as introduced, which would require insurers to provide specified benefit coverage for treatment of mental or nervous conditions.

The HIAA is a national trade association representing 338 insurance companies who write approximately 86% of the private health insurance sold in the United States. Most of the companies licensed to sell health insurance in the state of Alaska are members of the HIAA. While the volume of business that these companies conduct in Alaska is small in relation to their overall business, we nevertheless take Alaskan legislation that is adverse to the industry quite seriously.

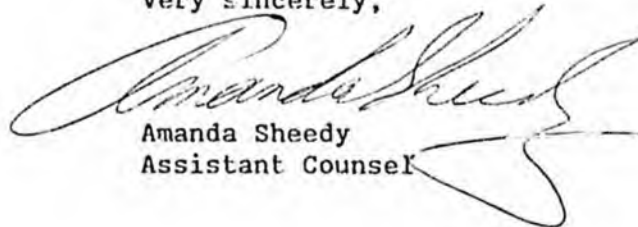
The HIAA favors the freedom of contract that allows insurance purchasers to obtain the kind of available benefit coverage they need or want and can afford. We oppose legislative mandates that restrict consumers' freedom to choose the benefits they wish to purchase and that limit insurers' ability to control costs and keep rates down. House Bill 313 would impose such mandates. Mental health benefits are among the most costly, if not the most costly of benefit coverages, and House Bill 313 would mandate mental health benefit coverage levels significantly higher than those required in any other state that has addressed the issue of mental health insurance coverage. In addition, the bill would provide no upper limit to the dollar amount of such coverage. The cost to an insurer of paying benefits for the required two months of hospitalization, three months of partial hospitalization and thirty out-patient treatment visits per year would be staggering. It is conceivable that affordable premium rates could not be established for individual policies that would be adequate to make such benefit coverage feasible to an insurer.

The net effect of mandating the level of benefits coverage in House Bill 313 would be to increase the cost of benefit coverage to insurers and to drive up the price of insurance premiums to the consumer. This would result in increasing the cost of doing business for employers who offer group coverage to their employees and could lead to their deciding either to discontinue group coverage entirely or to self-insure.

The increased costs of private insurance caused by mandated benefit laws has, in fact, caused employers nationwide to drop their commercial group coverage. Over four years, 1980 - 1984, the percentage of American employers who self-insure jumped from 19% to 57%. Self-insurers are not regulated by state insurance laws and cannot be required to offer specified insurance benefits, nor can employees of self-insureds invoke the protections afforded by insurance laws to employees covered by commercial group insurance. Self-funding therefore has the negative effect of leaving those included in such plans unprotected by insurance regulation against such things as the plan's insolvency. It also results in a loss of revenue to the states, since self-insured plans are not subject to premium tax liability.

For all of the cited reasons the HIAA opposes House Bill 313. If you have any questions concerning our position, or if I can be of any assistance in providing additional information, please do not hesitate to contact me at the Chicago Legal Office of the Association (telephone: 312/297-1490) or Gordon Evans, who is our registered lobbyist in Juneau.

Very sincerely,



Amanda Sheedy  
Assistant Counsel

AS/bb

STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 4/22/86

<b>REQUEST</b> <u>Bill/Resolution No.: HR 313</u> <u>Title: "An Act requiring insurance to cover mental and nervous conditions"</u> <u>Sponsor:</u> <u>Requestor:</u> <u>Date of Request:</u>	<b>FISCAL DETAIL</b> <u>Agency Affected: All State agencies</u> <u>BRU: Retirement &amp; Benefits</u> <u>Components: Retirement &amp; Benefits (GHLB)</u>
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**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
<b>OPERATING</b>						
PERSONAL SERVICES		419.7	453.3	489.6	528.7	571.0
RTMNT & BNFTS		759.6	820.4	886.0	956.9	1033.4
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
TRS MATCH		342.6	370.0	399.6	431.6	466.1
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>1521.9</b>	<b>1643.7</b>	<b>1775.2</b>	<b>1917.2</b>	<b>2070.5</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	1375.8	1485.9	1604.8	1733.2	1871.7
FEDERAL FUNDS	70.0	75.6	81.7	88.2	95.2
OTHER	76.1	82.2	88.7	95.8	103.6
<b>TOTAL</b>	<b>1521.9</b>	<b>1643.7</b>	<b>1775.2</b>	<b>1917.2</b>	<b>2070.5</b>

**POSITIONS:**

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

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

Prepared By: J.K. Humphreys, Director Phone: 465-4470  
 Division: Retirement & Benefits Date: 4/22/86  
 Approved by Commissioner: Eleanor Andrews Date: \_\_\_\_\_  
 Agency: Department of Administration

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

House Bill 313  
Fiscal Note Analysis  
Prepared by Division of Retirement & Benefits  
Department of Administration

April 22, 1986

IV Analysis: This bill would require increased limits of coverage for mental, emotional, or nervous disorders under the State's health plans for active employees of the state and all retirees. The estimated cost to the state shown on the attached fiscal note is in addition to the estimated cost of \$900,500 to other employers participating in the state's retirement and group health plans.

This bill is estimated to result in a \$2.65 per month increase in Health Insurance costs of an estimated 13,200 state employees. It is also estimated to result in a .12% increase in the PERS employer contribution rate and a .075% increase in the TRS employer contribution rate and a .075% increase in the TRS State Match contribution rate. The PERS state salaries for FY 87 are estimated to be \$590,176,728 and the TRS state salaries for FY 87 are estimated to be \$456,833,417. Costs are estimated to increase at a rate of 8% each year.

The FY 87 estimated state cost of \$1,440,000 is calculated as follows:

The increase of \$2.65 per month health cost times the number of state employees (13,200) times 12 months equals	\$419,760
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The change in the PERS employer contribution rate (.12%) times the estimated FY 87 State PERS salaries (\$590,176,728) equals	\$708,212
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The change in the TRS employer contribution rate (.075%) times the estimated FY 87 State TRS salaries (\$68,569,578) equals	\$ 51,427
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The change in the TRS State Match contribution rate (.075%) times the estimated FY 87 TRS system salaries (\$456,833,417) equals	<u>\$342,625</u>
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\$1,522,024

TOTAL

House Bill 313  
Fiscal Note Analysis  
Prepared by Division of Retirement & Benefits  
Department of Administration

April 22, 1986

IV Analysis: The present value of the cost of this bill in PERS is \$7,411,000 resulting in a .6% decrease in the funding ratio. The present value of the cost of this bill in TRS is \$3,916,000 resulting in a .4% decrease in the funding ratio.

HB 313 File Contents

April 10, 1985 Wednesday

- 1) Bill Summary -- Legislative Reporting Service
  - 2) Overview -- R. Poppe, Committee Staff
  - 3) Fiscal Note -- Division of Insurance, DCED -- April 9, 85
  - 4) Fiscal Note -- Dept. of Administration, Division of Retirement and Benefits -- April 10, 85
  - 5) Alaska Statutes -- AS 21.42
  - 6) Memo -- Theresa Bannister, Legislative Legal Counsel, April 4, 85
  - 7) House Research Agency Report -- April 10, 85
  - 8) "Dispelling Myths About Mental Health Benefits," from Business and Health, October, 1984, pp. 7-11
  - 9) "Health Insurance Coverage for Psychiatric Illness: Current Trends and the Private Hospital Response," White Paper by the National Association of Private Psychiatric Hospitals, pp. 1-20, plus two additional articles in the appendix.
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April 25, 1985 Thursday Meeting

- 10) New Fiscal -- Dept. of Administration -- 4/17/85
- 11) Fiscal Note Analysis -- Dept. of Administration 4/17/85
- 12) Letter from John George to Rep. Davis -- April 12, 85
- 13) Letter from Ron Hauenstein to Rep. Davis -- April 10, 85



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y, State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

HB 313

April 10, 1985

MEMORANDUM

TO: Representative Mike Davis

FROM: Jay Livey and Jonathan Sherwood, Legislative Analysts

RE: Specific Objections or Difficulties with House Bill 313

In the course of our research on mandated mental health insurance, a few suggestions and objections were made concerning the specific content of HB 313. For your information, we have briefly described these comments below.

- The bill would require coverage for all members of the immediate family of the insured, defined as the spouse and all minor children. Apparently, some insurance plans have different provisions for determining who is covered under the plan, such as covering minor children only if they are claimed as dependents for tax purposes. Therefore, the bill requires benefits for individuals not normally included in the coverage group.
- Insurers are required to establish usual, customary, and reasonable reimbursement rates (UCR) for each judicial district. These boundaries are not used by some insurers. The Second Judicial District has very few qualified providers; establishing a UCR for the area may be difficult.
- Rural residents may lack access to mental health providers. Some individuals expressed concern that mandated coverage might result in inequities, with rural members subsidizing urban utilization of mental health services. For exclusively rural groups, the mandate might not substantially improve access to care. Coverage which paid for transportation costs could be very expensive, depending on the criteria for allowing such costs.
- Individuals might be reluctant to use mandated mental health coverage for fear it would affect their standing with their employer. Individuals who did use the benefit could experience dismissal, loss of promotion opportunities or other negative consequences if their employers have knowledge of their treatment. Some states have provisions in their laws which are designed to limit access to information about employee utilization of mental health benefits and ensure some confidentiality of mental health insurance records.

JL:JS

M 11

# High court OKs expanded employer-provided health care

By PHILIP HAGER  
Los Angeles Times

WASHINGTON — The Supreme Court, upholding laws in 26 states, ruled Monday that employers can be required to provide workers with a wide array of group health insurance benefits, ranging from treatment for mental illness to pregnancy complications.

The justices, in a decision affecting millions of employees, held 8 to 0 that federal statutes do not preclude the states from requiring wider coverage than mandated under federal law.

In recent years, state legislatures throughout the nation have enacted so-called "mandated-benefit" statutes in increasing numbers. Such laws require that health insurance contracts provide coverage for certain illnesses and-or for treatment by particular medical service providers.

According to the Health Insurance Association of America, 26 states have enacted some 69 assorted mandated-benefit laws. Twenty-two states require that insurers offer, on an optional basis, about 50 types of illness coverage to employers pur-

chasing group plans. Also, in many instances, coverage by certain kinds of health care providers — such as dentists or optometrists — either must be included or offered under those state laws.

The court's ruling, issued in an opinion by Justice Harry A. Blackmun, came in the case of a Massachusetts law that forced health insurance firms to provide coverage for mental and nervous disorders.

The Metropolitan Life Insurance Co. and Travelers Insurance Co. challenged the Massachusetts law, saying it conflicted with federal law cover-

ing employee benefit plans. The insurance companies, supported by numerous business groups, contended that such laws forced costly and sometimes unwanted health care coverage on employees, increasing the cost of insurance. Adjusting employee benefit plans to suit constantly changing state laws was proving burdensome and expensive, they said.

The state of Massachusetts, joined by several states and some health care groups, argued that regulating insurance was a long and well-established function of state government.

Such laws, they said, represented the only practical means of obtaining low-cost coverage for many disordered suffered by employees.

In its decision (Metropolitan Life vs. Massachusetts, 84-325), the Supreme Court said that the Massachusetts law — and, by implication, similar laws in other states — conflicted with neither the health-insurance regulations of the federal Employees Retirement Income Security Act (ERISA), nor the collective-bargaining process governed by National Labor Relations Act.

*most recent  
draft*

1 IN THE HOUSE

BY DAVIS AND KOPONEN

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 313

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act requiring certain health insurance policies  
7 to cover the treatment of a mental or nervous condi-  
8 tion."

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

10 \* Section 1. AS 21.42 is amended by adding a new section to read:

11 Sec. 21.42.365. COVERAGE FOR TREATMENT OF A MENTAL OR NERVOUS  
12 CONDITION. (a) A health insurance policy must provide the following  
13 coverage for treatment of a mental or nervous condition of the insured  
14 or member of the insured's immediate family:

15 (1) 60 days a year of inpatient treatment;

16 (2) 90 days a year of partial hospitalization;

17 (3) 30 hours a year of outpatient treatment;

18 (4) the option of the insured to exchange a maximum of 45  
19 days of inpatient treatment for additional days of partial hospitali-  
20 zation or outpatient treatment; for the purpose of computing the  
21 exchange, two days of partial hospitalization equal one day of inpa-  
22 tient treatment, and three hours of outpatient treatment equal one day  
23 of inpatient treatment.

24 (b) The health insurance policy may impose reasonable contract  
25 limitations, but may not require that the insured pay a higher deduct-  
26 ible or co-payment for a cost for treatment of a mental or nervous  
27 condition than for a cost for treatment of another condition or ill-  
28 ness.

29 (c) In this section

1 (1) "co-payment" means the portion of the cost to be paid  
2 by the insured;

3 (2) "cost" means the lesser of the following:

4 (A) the charge made by the actual provider of the  
5 treatment for a mental or nervous condition;

6 (B) the charge usually made by the actual provider for  
7 providing the same treatment of the mental or nervous condition;  
8 or

9 (C) the customary charge that is made by other pro-  
10 viders in the same geographical area as the actual provider for  
11 the same treatment of a mental or nervous condition;

12 (3) "health insurance policy" means a hospital or medical  
13 expense policy, or nonprofit health care corporation plan, that is  
14 delivered, issued for delivery, or renewed in this state on and after  
15 the effective date of this section;

16 (4) "inpatient" treatment means continuous treatment of  
17 more than 12 hours in a 24-hour period in a facility that is licensed  
18 under AS 18.20, in a facility in this state that is specifically  
19 exempt under AS 18.20.020 from the licensing requirements of this  
20 state, or in a hospital, medical facility, or mental facility in  
21 another state that is licensed under the laws of that state;

22 (5) "member of the insured's immediate family" means the  
23 spouse of the insured, the minor children of the insured, and the  
24 adult children of the insured who are 23 years of age or less and live  
25 in the insured's home;

26 (6) "mental or nervous condition" means an impairment of  
27 psychobiological processes that is severe enough to cause social,  
28 psycho!ical, or biological malfunctioning; "mental or nervous condi-  
29 tion" includes a substantial disorder of thought, mood, perception,

Period here!

1 orientation, or memory that significantly impairs judgment, behavior,  
2 capacity to recognize, or ability to cope with the ordinary demands of  
3 life; ~~M~~ mental retardation, epilepsy, drug addiction, and alcoholism do  
4 not constitute a mental or nervous condition although a person who  
5 suffers from one or more of these conditions may also be suffering  
6 from a mental or nervous condition;

7 (7) "outpatient treatment" means treatment that is not  
8 inpatient treatment or partial hospitalization, and that is provided  
9 under the supervision of

10 (A) a psychiatrist who is licensed as a physician in  
11 this state and certified in psychiatry by the American Board of  
12 Psychiatry and Neurology or a physician who is employed by the  
13 federal government in this state and certified in psychiatry by  
14 the American Board of Psychiatry and Neurology; or

15 (B) a psychologist or psychological associate licensed  
16 under AS 08.86;

17 (8) "partial hospitalization" means continuous treatment of  
18 4 to 12 hours in a 24-hour period in a facility licensed under  
19 AS 18.20 or in a facility in this state that is specifically exempt  
20 under AS 18.20.020 from the licensing requirements of the state.

21 \* Sec. 2. AS 21.87.340 is amended to read:

22 Sec. 21.87.340. OTHER PROVISIONS APPLICABLE. In addition to the  
23 provisions contained or referred to previously in this chapter, the  
24 following chapters and provisions of this title also apply with re-  
25 spect to service corporations to the extent applicable and not in  
26 conflict with the express provisions of this chapter and the reason-  
27 able implications of the express provisions, and for the purposes of  
28 the application the corporations shall be considered to be mutual  
29 "insurers":

- 1 (1) AS 21.03
- 2 (2) AS 21.06
- 3 (3) AS 21.09, except AS 21.09.090
- 4 (4) AS 21.18.010
- 5 (5) AS 21.18.030
- 6 (6) AS 21.18.040
- 7 (7) AS 21.18.120
- 8 (8) AS 21.21.321
- 9 (9) AS 21.36
- 10 (10) AS 21.69.400
- 11 (11) AS 21.69.520
- 12 (12) AS 21.69.600, 21.69.620, and 21.69.630
- 13 (13) AS 21.78
- 14 (14) AS 21.90
- 15 (15) AS 21.42.345 - 21.42.365 [AND 21.42.355]
- 16 (16) AS 21.89.040
- 17 (17) AS 21.89.060.

approved by the Alaska Psychiatric Association  
February 6, 1986

Rep. Mike Navarre  
State Capital  
P.O. Box V  
Juneau, Ak. 99811

Dear Representative Navarre:

The Alaska Psychiatric Association, the Alaska Mental Health Association, and the Alaska Alliance for the Mentally Ill recommend the passage of H.S. 313.

Mental illness should be covered by health insurance in a manner proportional to the coverage offered for other forms of illness. The state recognized a similar principle when it required insurance companies to cover treatment for alcoholism and drug abuse in 1976. Without direct action by the state to require this type of coverage the discrimination against the mentally ill in insurance coverage will continue. Over 20 other states have passed this type of Legislation and it's been upheld by the Supreme Court.

Several studies have shown that mental illness can be covered like any other illness and can be quite cost effective. The state will benefit in several ways.

#1. Patients will be enabled to obtain specialized appropriate services for their psychiatric health needs. At the present time if a state insured employee is depressed his basic insurance will reimburse him 80% if he seeks treatment from a family physician but only 50% if he seeks help from a psychiatrist or psychologist.

#2. Patients will be enabled to make use of private mental health services instead of relying of state funded mental health clinics and the Alaska Psychiatric Institute.

#3. State funded mental health programs such as the local community mental health clinics and the Alaska Psychiatric Institute will receive additional revenues from insurance payments.

I would like to recommend certain changes in H.B. 313.

The services of a psychiatrist licensed by the state as a physician should be reimbursed. A psychiatrist is defined as any physician who has completed residency in psychiatry

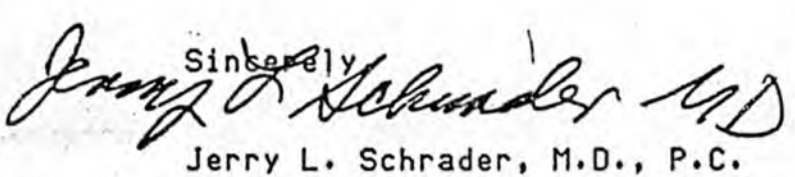
approved by the American Psychiatric Association. This language would be consistent with other medical specialties. Services by a licensed psychologist should be included. The services of a licensed psychological associate can only be provided under the supervision of a psychologist and probably should not be covered.

State Capital  
P.O. Box 11  
Annapolis, Md. 21401

Dear Mr. [Name]  
The [Name] [Name]  
Annapolis, Md. 21401

Mental illness should be treated  
as a medical condition to be treated  
of life and the state should  
it should be considered a medical  
condition and treated as such.  
The state should not  
discriminate against people  
with mental illness.  
The state should not  
discriminate against people  
with mental illness.

Sincerely,  
[Name]

Sincerely,  
  
Jerry L. Schrader, M.D., P.C.

I would like to [Name]  
The [Name] [Name]  
Annapolis, Md. 21401

Solution

April 10, 1985

Rep. Mike Davis  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99801

Dear Rep. Davis:

The Legislative Committee of the Fairbanks Life Underwriters Association has voted to oppose HB 313 in its present form.

Although the committee acknowledged the objective of the proposed legislation, we believe the bill would decrease rather than increase the level of coverage now provided for mental and nervous disorders. The committee anticipates that the following events would occur if this legislation is enacted:

(1) The cost of individual and group health insurance in Alaska will increase.

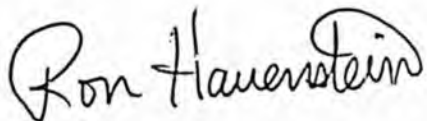
(2) Because of the higher cost, small employers would be discouraged from providing group health benefits. Existing plans might be cancelled, and other employers would be slow to add this employee benefit.

(3) Increasing the limits for mental and nervous disorders may lead to additional abuse of this benefit, which would cause further price increases.

(4) Some insurance carriers may decide not to do business in Alaska. The best situation for the consumer is to have many, not few, insurance carriers to choose from.

The committee is willing to work with you and Rep. Koponen to see if we can develop other solutions to the problem you have identified.

Sincerely,



Ron Hauenstein  
Legislative Committee  
Fairbanks Life Underwriters Association  
PO Box 75429  
Fairbanks AK 99707

HB 313 File Contents

April 10, 1985 Wednesday

- 1) Bill Summary -- Legislative Reporting Service
- 2) Overview -- R. Poppe, Committee Staff
- 3) Fiscal Note -- Division of Insurance, DCED -- April 9, 85
- 4) Fiscal Note -- Dept. of Administration, Division of Retirement and Benefits -- April 10, 85
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- 8) "Dispelling Myths About Mental Health Benefits," from Business and Health, October, 1984, pp. 7-11
- 9) "Health Insurance Coverage for Psychiatric Illness: Current Trends and the Private Hospital Response," White Paper by the National Association of Private Psychiatric Hospitals, pp. 1-20, plus two additional articles in the appendix.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: HB 313  
 Title: "An Act to mandate mental health insurance be included . . ."  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Commerce & Econ. Dev.  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
 Division of Insurance

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
300 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: John L. George, Director Phone: 465-2515  
 Division: Division of Insurance Date: 4/9/85  
 Approved by Commissioner: Loren H. Lounsbury Date: 4/9/85  
 Agency: Commerce and Economic Development

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

7/1/84



# THE ALASKA ALLIANCE FOR THE MENTALLY ILL

*"An affiliate of the National Alliance for the Mentally Ill"*

Testimony: House Commerce Committee April 10, 1985

Regarding: HB 313

Entitled: An act requiring insurance carriers to cover mental illness or nervous disorders

Presenter: Sharron Lobaugh, Vice President, Alaska Alliance for the Mentally Ill

For most Americans, 27% of the cost of medical care is covered by insurance. Those suffering from mental illness only 12-15% are covered by insurance. This is probably a result of the fact that twenty years ago, the consumer had a lot of control for one thing, and that the state of the art in mental health embraced psychoanalytic therapies which resulted in disastrous costs as some people abused their insurance coverage.

Predictably, insurance providers began to limit the number of visits, increase copayments, and control the term of care. Even though advancements in medicine, medication, and psychosocial programs have occurred, resistance to coverage persists.

Many state legislatures have passed similar legislation to HB 313. Thirteen states have improved coverage for the mentally ill. All address inpatient and out patient care, partial hospitalization, minimum time, and copayment equity. This has

resulted in increasing the benefits to 20% as a general rule. Laws in these states authorize payments for group and individual policies in state, licensed and approved facilities.

Some of you might ask "Why is a mandate needed? Can't the market simply be allowed to work?" The answer lies in the simple truth that a great deal of stigma still exists in our country against being mentally ill. Recently, I was in Washington D.C. discussing mental health research with Senator Merkowski's aide and I pointed out that Dr. Goodwin the director of the National Institute of Mental Health who spoke before our group said that "One of the reasons research in mental health is so slow and technologically expensive is that there are no animals on which to develop laboratory research projects because only man 'thinks'. As the product of the liver is blood, the product of the mind is 'thought'." This person replied that she had never thought of the mind like this.

When a person is suffering from a thought or mood disorder, the very tool with which they have to fight is gone. We are faced daily with reminders of discrimination and stigma as though the mind were not as important as the other parts of the body.

Fairbanks Alliance  
P.O. Box 2543  
Fairbanks, AK 99707

Gateway Alliance  
Box 787  
Ward Cove, AK 99928

Juneau Alliance  
Box 211247  
Auk Bay, AK 99821

Kenai Peninsula  
Box 301  
Soldotna, AK 99669

Anchorage Alliance  
P.O. Box 4-2542  
Anchorage, AK 99509

When an employee is suffering from an acute mental illness, the employee has often tried to hide this problem. Even when mental health coverage is an optional part of an insurance package, the employee is likely not to opt for the coverage feeling that they may never need something like this in their lifetime or they won't disclose their needs. I had no idea that I would become an advocate for the mentally ill until our son became ill in high school. It takes a lot of courage to talk about it even today as we have coped in our family for over five years.

Insurance companies have a fear of excess utilization but unless these companies are compelled to provide this type of coverage, they will not be able to spread it across a broad base. The plans where this coverage has been implemented found a leveling off over time. Federal health benefits leveled at 7%. Inpatient coverage averaged use by four of every 1,000 persons covered utilized care for 14 days. For outpatient care, 45-50 persons per 1,000 utilized their coverage per episode.

There have also been some studies to indicate that the use of mental health benefits actually reduces other health care costs by reducing the number of other medical costs such as lab tests, visits to physicians by persons really suffering from mental rather than other physical illnesses.

A study in Ohio showed a significant increase in utilization of outpatient coverage reduced the utilization of inpatient coverage.

Utilization of services in an outpatient program or facility cost \$135. day compared to hospitalization costs at \$795. day.

Approximately 15-20% of Americans will need some mental health care in a year. Just twenty five years ago public psychiatric hospitals were the only focus of services for persons suffering from mental illness. Today, community based care has replaced hospitalization with almost 3/4 of the episodes in the U.S. being handled by outpatient services in the communities. In spite of this, only 51% of the care of mental health is publicly funded. Public funds account for 42% of the funds for general health care. Mental

illness costs Americans \$40 billion dollars annually. Approximately, 1.8% of Americans are undercare at anytime for mental illness. Emotional illness accounts for more absenteeism than any other illness except the common cold.

Robert Kenny , Chairman of General Mills has stated:  
"Current estimates indicate that over \$1 billion each year is lost on stress related problems through loss of time and productivity, accidents, doctor and hospital bills, medicine and drugs. Add to this the \$42 Billion lost because of alchoholism and chemical dependency and you have a very high cost to industry. Obviously, it is the best interest of all business to provide help for our employees. "

To many of our members, the real issue here is that families who have believed they had adequate coverage but when they really needed it, it wasn't there. Story after story can be told about people who have serious needs but cannot have their loved ones treated because the cost of a month of intensive mental health treatment in a hospital cost over \$10,000. We urge you to act favorably on this bill and aid in obtaining equity of coverage for mental illness as other illnesses.

PO Box 82668  
Fairbanks, Alaska 99708

*Rep Navarre*

Rep. Mike Davis and Members of the  
Labor and Commerce Committee  
Alaska State Legislature  
Juneau, Alaska 98801

Dear Representative Davis and Committee:

I am sorry that there was not time to hear my testimony at today's hearing on HB 313, but I am submitting this as written testimony of the need for the passage of the bill or one similar but more comprehensive.

I have no particular expertise in insurance matters or psychiatry, but I do have the experience of a lifetime of watching my mother juggle the budget and checking coverages on the large number of insurance policies that she paid for to ensure reasonable and humane care for my father, who is chronically mentally ill. Now that my mother is dead, I have had to learn of the "lifetime allotments" and the minimal yearly limits of mental health care that these policies allow my father. I also have watched my younger sister struggle with a similar but milder form of the illness, which is thought to be, and apparently, is hereditary. Both my father and sister suffer from manic depression, an illness that is cyclical but chronic. In other words both have been productive and creative individuals, who have worked and paid taxes and for health care insurance. Unfortunately both periodically are in need of intensive medical care and supervision. At these times, our family experiences not only the pain of seeing a loved one in torture, but also a frantic search to be sure that there are means of insuring adequate and appropriate treatment. In my sister's milder case, her savings and ours are used to provide medication, a doctor's supervision, and thus far in-home care. Her health insurance does not pay for these episodic periods of care nor for the interim outpatient consultations that allow her to keep on an even keel or be productive. At these times she must go on leave without pay from her job, so she has always gone to work again with financial stress that she doesn't need in her periods of recovery and that are often alleviated by other family members' contributions.

My father's situation is more severe and complicated by the fact that he is elderly now. In a year that my mother was treated for cancer at a cost of \$60,000, all of which was paid for by her insurance policy, my father was hospitalized for severe and psychotic depression, administered shock treatments, and presented for a bill for \$40,000. Fortunately the doctors who treated my father could legitimately find physical complications that could justify hospitalization and many of the charges could be presented to his insurance company and Medicare, so we were spared the impossibility of covering all of these enormous bills in the same year that we lost my mother. However, if it had not been the fact that my father was so advanced in age and his depression caused so much physical deterioration, I don't know what we would have done. Because my father does have lengthy lucid periods and can be treated successfully temporarily, we have resisted making him a ward of the state and placing him in a state institution. If we had not been able to have this care in part paid for by insurance, we would have had no choice.

Although all of this took place in another state, I am surprised that Alaska,

where most workers have an incredible array of insurance benefits, has not already passed a bill of this nature. Dozens of adult people in Fairbanks that I know are able to straighten their teeth under their employee health insurance policy but none would be covered sufficiently or at all if they were to face a severe mental disease.

Psychiatrists and physicians are increasingly pointing to physical bases for chronic mental illness. A recent book THE BROKEN BRAIN by Nancy Andreasson is a succinct summary of the physical roots of schizophrenia and manic depression. The treatments in current use also are based on the assumption that there is a physical basis for these diseases. Drugs and shock treatments are used, rather than psychoanalysis. There is still not a cure for these conditions but there have been some moderately successful treatments. Comparing my mother's cancer and my father's mental illness and the ways and settings for treatment, I could not see a major difference. There was not a cure for the type of cancer that struck my mother, but she was cared for without regard to cost with the knowledge that the expenses would be covered. My father received lengthy and extensive care also but in his case, we held our collective breaths because we couldn't be sure what his bill would mean for us.

Mental illness is enough of a burden without the additional punishment of having it treated as an "optional" or "second-class" or unrecognized disease by insurance companies. The stigma and fear associated with mental illness has meant that people in the past have not been able to question these unfair policies, but as more is being learned and publicized about these diseases I don't think patients, their families or the general public will be satisfied with this inequity. Someday perhaps a policy without provision for coverage of mental health care will be like one that covers all conditions and illnesses except kidney stones or broken bones. Thank all of you for your careful consideration of this bill.

Sue Sherif



# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

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ALASKA PUBLIC UTILITIES COMMISSION

POSITION PAPER  
HOUSE BILL 314

The Alaska Public Utilities Commission agrees with the following conclusion of the Performance Report of the Commission, completed by the Division of Legislative Audit on November 16, 1984:

In our opinion, the Alaska Public Utilities Commission should continue to regulate public utilities and pipelines and pipeline carriers. We believe that the public interest is being served by requiring public utilities and pipeline carriers to be certificated by the Commission. This process stabilizes demand for the utility service by eliminating competition and thereby allowing economies of scale to operate. Economic regulation by the Commission, in place of that competition, ensures that the utilities provide adequate service at the lowest reasonable rates.

To the extent of its ability the Commission has implemented the four recommendations made by the audit team to improve the efficiency and effectiveness of the Commission's operations.

March 29, 1985

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

**REQUEST**

Bill/Resolution No.: HB 314  
 Title: Extending the Alaska Public Utilities Commission  
 Sponsor: Davis  
 Requestor: \_\_\_\_\_  
 Date of Request: 3/22/85

**FISCAL DETAIL**

Agency Affected: Commerce & Ec Development  
 Program Category Affected: Consumer Prot.  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
 Alaska Public Utilities Commission: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>	0	0	0	0	0	0
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS	0	0	0	0	0	0
800 MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	0	0	0	0	0	0

**POSITIONS:**

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

**ANALYSIS:** Attach a separate page if necessary.

The intent of this "0" Fiscal note is to indicate that passage of legislation would not increase our funding requirements beyond what we have submitted and will submit as budget requests.

Prepared By: C. Guess, Chairman Phone: 276-6222  
 Division: Alaska Public Utilities Commission Date: 3/29/85

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Agency: \_\_\_\_\_

**Distribution (by Agency preparing fiscal note):**

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

Introduced: 3/22/85  
Referred: Labor & Commerce  
and Finance

1 IN THE HOUSE

BY DAVIS

2

HOUSE BILL NO. 314

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act extending the termination date of the Alaska  
Public Utilities Commission; and providing for an  
effective date."

7

8

9

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

10

\* Section 1. AS 44.66.010(a)(4) is amended to read:

11

(4) Alaska Public Utilities Commission (AS 42.05.010) --

12

June 30, 1989 [1985];

13

\* Sec. 2. This Act takes effect immediately in accordance with AS 01.-

14

10.070(c).



Original sponsor: Davis

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 314 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Public Utilities  
7 Commission Act; and providing for an effective date."

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

9 \* Section 1. AS 42.05.030(a) is amended to read:

10 (a) The term of office of each member is six years. (THE GOVER-  
11 NOR SHALL DESIGNATE WHO AMONG THE INITIAL APPOINTEES SHALL SERVE,  
12 RESPECTIVELY, FOR TERMS OF TWO YEARS, FOUR YEARS AND SIX YEARS.) A  
13 commissioner, upon the expiration of a term, shall continue to hold  
14 office until a successor is appointed and qualified.

15 \* Sec. 2. AS 42.05.040 is amended to read:

16 Sec. 42.05.040. QUALIFICATIONS OF MEMBERS. Members shall be  
17 qualified as follows: one member shall be a graduate of an accredited  
18 school of law; one member shall be a graduate of an accredited univer-  
19 sity with a major in engineering; one member shall be a graduate of an  
20 accredited university with a major in finance, accounting, economics,  
21 or business administration; and two members shall be consumers. A  
22 professional member of the commission must have worked for at least  
23 five years in the member's professional field.

24 \* Sec. 3. AS 42.05.050 is amended to read:

25 Sec. 42.05.050. ACTUAL EXPERIENCE EQUIVALENT TO A DEGREE.  
26 Actual experience that is related to utilities management or regu-  
27 lation for a period of five years in the practice of law or in the  
28 field of engineering or in the field of finance, accounting, econo-  
29 ics, or business administration [OR ACCOUNTING] is equivalent to a

1 degree.

2 \* Sec. 4. AS 42.05.121 is amended to read:

3 Sec. 42.05.121. EMPLOYMENT OF COMMISSION PERSONNEL. (a) The  
4 commission may employ an executive director who shall have had at  
5 least five years of experience in public utility management or regu-  
6 lation, law, accounting, engineering, or an allied field. The execu-  
7 tive director is responsible for directing the administrative func-  
8 tions of the commission and carrying out the policies as set by the  
9 commission. The commission may employ engineers, hearing officers,  
10 administrative law judges to the extent provided by AS 42.05.171 and  
11 AS 47.06.140(b), experts, clerks, accountants, and other agents and  
12 assistants it considers necessary. The executive director, deputy  
13 director, attorneys, hearing officers, and administrative law judges  
14 are in the partially exempt service under AS 39.25.120. Other employ-  
15 ees [EMPLOYEES] and agents of the commission [WHO ARE NOT PARTIALLY  
16 EXEMPT UNDER AS 39.25.120, OTHER THAN LEGAL COUNSEL,] are in the  
17 classified service under AS 39.25.100.

18 (b) In addition to its staff of regular employees, the commis-  
19 sion may contract for and engage the services of consultants and  
20 experts the commission considers necessary if the commission resources  
21 or expertise are insufficient to perform the necessary task.

22 \* Sec. 5. AS 42.05.121 is amended by adding a new subsection to read:

23 (c) The commission shall maintain accurate records of the time  
24 devoted by a consultant or expert to each matter and the services  
25 provided. The services shall be described in reasonable detail.

26 \* Sec. 6. AS 42.05.141(a) is amended to read:

27 (a) The Alaska Public Utilities Commission may

28 (1) regulate every public utility engaged or proposing to  
29 engage in such a business inside the state, except to the extent

1 exempted by AS 42.05.171; in exercising its authority, the commission  
2 has the powers expressly conferred or reasonably implied by this  
3 chapter [ AND THE POWERS OF THE COMMISSION SHALL BE LIBERALLY CON-  
4 STRUED TO ACCOMPLISH ITS STATED PURPOSES];

5 (2) investigate, upon complaint or upon its own motion, the  
6 rates, classifications, rules, regulations, practices, services and  
7 facilities of a public utility and hold hearings on them;

8 (3) make or require just, fair and reasonable rates, clas-  
9 sifications, regulations, practices, services and facilities for a  
10 public utility;

11 (4) prescribe the system of accounts and regulate the  
12 service and safety of operations of a public utility;

13 (5) require a public utility to file reports and other  
14 information and data;

15 (6) appear personally or by counsel and represent the  
16 interests and welfare of the state in all matters and proceedings  
17 involving a public utility pending before an officer, department,  
18 board, commission or court of the state or of another state or the  
19 United States and to intervene in, protest, resist, or advocate the  
20 granting, denial or modification of any petition, application, com-  
21 plaint or other proceeding;

22 (7) examine witnesses and offer evidence in any proceeding  
23 affecting the state and initiate or participate in judicial proceed-  
24 ings to the extent necessary to protect and promote the interests of  
25 the state.

26 \* Sec. 7. AS 42.05.171 is repealed and reenacted to read:

27 Sec. 42.05.171. FORMAL HEARINGS. (a) The commission may hold a  
28 hearing on a matter that is subject to the jurisdiction of the commis-  
29 sion or may assign the matter to one or more commissioners, a hearing

1 officer, or an administrative law judge. The commission shall assign  
2 as many matters as possible to a hearing officer or administrative law  
3 judge.

4 (b) When the commission does not preside over a hearing, the  
5 presiding officer shall enter a recommended decision in the case  
6 unless the commission requires, either in a specific case or by regu-  
7 lation applying to a class of cases, that the entire record be certi-  
8 fied to the commission for decision. The recommended decision becomes  
9 the decision of the commission without further procedures unless there  
10 is an appeal to, or review on the motion of, the commission within the  
11 time limits provided in this chapter. On appeal from or review of the  
12 recommended decision, the commission has the powers that it would have  
13 in making an initial decision unless the commission has limited the  
14 issues it will consider by notice to the parties or by regulation.

15 (c) Before the commission or the presiding officer enters a  
16 decision the parties are entitled to a reasonable opportunity to  
17 review a draft of the decision and to submit

18 (1) proposed findings and conclusions, or exceptions to the  
19 draft decision; and

20 (2) supporting reasons for the exceptions or proposed  
21 findings or conclusions.

22 (d) In a matter heard by the commission, a commissioner who has  
23 not heard or read the testimony, including the argument, shall review  
24 the record before participating in the decision.

25 (e) In determining the place of a hearing the commission shall  
26 give preference to the place most convenient for those interested in  
27 the subject of the hearing.

28 (f) The commission shall employ a sufficient number of hearing  
29 officers or administrative law judges to hear and decide matters

1 arising before the commission under this chapter.

2 \* Sec. 8. AS 42.05.271(a) is amended to read:

3 (a) A public utility may not operate and receive compensation  
4 for providing a commodity or service until it has obtained [AFTER  
5 JANUARY 1, 1971 WITHOUT FIRST HAVING OBTAINED FROM THE COMMISSION  
6 UNDER THIS CHAPTER] a certificate under this chapter declaring that  
7 public convenience and necessity require or will require the service  
8 or that the service is in the public interest. If [WHERE] a public  
9 utility provides more than one type of utility service, a separate  
10 certificate of public convenience and necessity is required for each  
11 type. A certificate shall describe the nature and extent of the  
12 authority granted in it, including, as appropriate for the services  
13 involved, a description of the authorized area and scope of operations  
14 of the public utility.

15 \* Sec. 9. AS 42.05.241 is amended to read:

16 Sec. 42.05.241. CONDITIONS OF ISSUANCE. The commission shall  
17 issue a certificate if [A CERTIFICATE MAY NOT BE ISSUED UNLESS] the  
18 commission finds that the applicant is fit, willing and able under (b)  
19 of this section to provide the utility services applied for and that  
20 the services are required for the convenience and necessity of the  
21 public or are in the public interest. The commission may issue a  
22 certificate granting an application in whole or in part and attach to  
23 the grant of it the terms and conditions it considers necessary to  
24 protect and promote the public interest including the condition that  
25 the applicant may or shall serve an area or provide a necessary ser-  
26 vice not contemplated by the applicant. The commission may, for good  
27 cause, deny an application with or without prejudice.

28 \* Sec. 10. AS 42.05.241 is amended by adding new subsections to read:

29 (b) The commission shall find an applicant fit, willing, and

1 able to provide utility service if the commission finds that

2 (1) the applicant has the financial, operational, manage-  
3 ment, and maintenance capability to provide the proposed service;

4 (2) the applicant has or will have adequate equipment and  
5 facilities to provide and maintain the proposed service; and

6 (3) the applicant submits evidence demonstrating that the  
7 applicant will comply with the law.

8 (c) In a hearing on the issuance of a certificate under this  
9 section, the applicant for the certificate has the burden of showing  
10 that the proposed service is required for the convenience and neces-  
11 sity of the public or is in the public interest.

12 (d) If issuance of a certificate is not contested, the commis-  
13 sion shall grant or deny the application no later than six months  
14 after the application was filed. If the commission has not reached a  
15 decision within six months, it shall issue the certificate.

16 \* Sec. 11. AS 42.05.251 is amended to read:

17 Sec. 42.05.251. USE OF STREETS IN CITIES AND BOROUGH. Public  
18 utilities have the right to a permit to use public streets, alleys,  
19 and other public ways of a municipality [CITY OR BOROUGH, WHETHER HOME  
20 RULE OR OTHERWISE,] upon payment of a reasonable permit fee and on  
21 reasonable terms and conditions and with reasonable exceptions the  
22 municipality [CITY OR BOROUGH] requires. The fee may not exceed the  
23 actual cost to the municipality of the utility's use of the public way  
24 and of administering the permit program. A dispute as to whether  
25 fees, terms, conditions, or exceptions are reasonable shall be decided  
26 by the commission. The commission may require a utility to add the  
27 amount of any permit fee paid as a pro rata surcharge to its bills for  
28 service rendered at locations within the boundaries of any municipal-  
29 ity that [CITY OR BOROUGH WHICH] requires payment of a permit fee.

1 \* Sec. 12. AS 42.05.361(c) is amended to read:

2 (c) The commission may reject the filing of all or part of a  
3 tariff that [WHICH] does not comply with the form or filing regu-  
4 lations of the commission [OR WHICH IS NOT CONSISTENT WITH THIS CHAP-  
5 TER OR THE REGULATIONS OF THE COMMISSION]. A tariff or provision so  
6 rejected is void. If the commission rejects a filing, it shall issue  
7 a statement of the reasons for the rejection. Unless the utility and  
8 the commission agree to an extension of time, the commission may not  
9 reject a filing under this subsection after 45 days have elapsed from  
10 the date of filing.

11 \* Sec. 13. AS 42.05.381 is amended by adding a new subsection to read:

12 (e) The commission shall adopt regulations for electric coopera-  
13 tives setting a range for adjustment of rates by a simplified rate  
14 filing procedure. A cooperative may apply for permission to adjust  
15 its rates over a period of time under the simplified rate filing  
16 procedure regulations. The commission shall grant the application if  
17 the cooperative satisfies the requirements of the regulations. The  
18 commission may review implementation of the simplified rate filing  
19 procedure at reasonable intervals and may revoke permission to use the  
20 procedure or require modification of the rates to correct an error.

21 \* Sec. 14. AS 42.05.421(a) is repealed and reenacted to read:

22 (a) When a tariff filing is made containing a new or revised  
23 rate, classification, rule, regulation, practice, or condition of  
24 service the commission may, either upon written complaint or upon its  
25 own motion, after reasonable notice, conduct a hearing to determine  
26 the reasonableness and propriety of the filing. Pending the hearing  
27 and decision, the commission may suspend the operation of the tariff  
28 filing by order stating the reasons for the suspension. When the  
29 commission suspends the operation of a tariff, the commission may

1 grant an interim rate increase. The period of suspension may not  
2 exceed 10 months unless

3 (1) the proceedings involve substantial affiliated interest  
4 transactions or complex rate design issues;

5 (2) the utility has delayed the proceedings, but the period  
6 of suspension may not exceed 10 months plus the length of the delay;

7 (3) the utility requests an extension, but the period of  
8 suspension may not exceed 30 months plus the length of the extension;

9 (4) another legal or regulatory body is considering the  
10 issue and has not entered its decision;

11 (5) a consumer of the utility raises issues that require  
12 additional time to resolve;

13 (6) the proceedings involve unusual or complex situations  
14 or issues.

15 \* Sec. 15. AS 42.05.421(b) is amended to read:

16 (b) An order suspending a tariff filing may be vacated if, after  
17 investigation, the commission finds that it is in all respects proper.  
18 Otherwise the commission shall hold a hearing on the suspended filing  
19 and issue its order, before the end of the suspension period, grant-  
20 ing, denying, or modifying the suspended tariff in whole or in part.  
21 If the commission does not act on the tariff filing within the period  
22 of suspension allowed under (a) of this section, the tariff filing  
23 takes effect at the end of the suspension period.

24 \* Sec. 16. AS 42.05.421(c) is amended to read:

25 (c) If the commission authorizes an interim [IN THE CASE OF A  
26 PROPOSED INCREASED] rate, the commission may by order require the  
27 interested public utility or utilities to place to amounts subject to  
28 refund in escrow in a financial institution approved by the commission  
29 and keep accurate account of [ALL AMOUNTS RECEIVED BY REASON OF THE

1 INCREASE. SPECIFYING] by whom and in whose behalf the amounts are  
2 paid. Upon completion of the hearing and decision the commission may  
3 by order require the public utility to refund to the persons in whose  
4 behalf the amounts were paid, that portion of the increased rates  
5 which was found to be unreasonable or unlawful. The commission shall  
6 immediately authorize release of the balance of funds to the utility.  
7 Funds may not be released from escrow without the commission's prior  
8 written consent and the utility shall instruct the escrow agent of  
9 this requirement [SHALL BE SO INSTRUCTED BY THE UTILITY,] in writing  
10 and send [, WITH] a copy to the commission. The utility may, at its  
11 expense, substitute a bond for [IN LIEU OF] the escrow requirement.

12 \* Sec. 17. AS 42.05.421 is amended by adding a new subsection to read:

13 (e) At the time of a tariff filing or at any time the tariff  
14 filing is under suspension, the utility may request the commission to  
15 allow the tariff filing to take effect on an interim basis. The  
16 commission shall process the request as a tariff filing under AS 42.-  
17 05.411. If the filing contains a proposed new rate or rate increase,  
18 the commission may allow that rate or a lesser rate to take effect on  
19 an interim basis, subject to refund or other appropriate disposition  
20 at the discretion of the commission.

21 \* Sec. 18. AS 42.05.651 is amended to read:

22 Sec. 42.05.651. EXPENSES OF INVESTIGATION OR HEARING. After  
23 completion of a hearing or investigation held under this chapter, the  
24 commission shall allocate the costs of the hearing or investigation  
25 among the parties, including the commission, as is just under the  
26 circumstances. In allocating costs, the commission may consider the  
27 results, ability to pay, evidence of good faith, other relevant fac-  
28 tors and mitigating circumstances. The costs allocated may include  
29 the costs of any time devoted to the investigation or hearing by hired

1 consultants, whether or not the consultants appear as witnesses or  
2 participants, but only if the consultants were necessary under AS 42.-  
3 05.121(b). The costs allocated may not include the cost of permanent  
4 staff for the commission but may include other necessary expenses not  
5 allocated in the operating budget [ALSO INCLUDE ANY OUT-OF-POCKET  
6 EXPENSES INCURRED BY THE COMMISSION IN THE PARTICULAR PROCEEDING].  
7 The commission shall provide an opportunity for a [ANY] person object-  
8 ing to an allocation to be heard before the allocation becomes final.

9 \* Sec. 19. AS 42.05.711(b) is repealed and reenacted to read:

10 (b) Except as otherwise provided in this subsection, public  
11 utilities owned and operated by a political subdivision of the state,  
12 or electric operating entities established as the instrumentality of  
13 two or more public utilities owned and operated by political subdivi-  
14 sions of the state, are exempt from this chapter, other than AS 42.-  
15 05.221 - 42.05.281 and 42.05.311 - 42.05.321. However,

16 (1) a telephone utility owned by a political subdivision is  
17 subject to this chapter;

18 (2) the governing body of a political subdivision may elect  
19 to be subject to this chapter; and

20 (3) a utility or electric operating entity that is owned  
21 and operated by a political subdivision and that directly competes  
22 with another utility or electric operating entity is subject to this  
23 chapter; however, except as otherwise provided in this subsection, any  
24 other utility or electric operating entity owned and operated by the  
25 political subdivision is not subject to this chapter.

26 \* Sec. 20. AS 42.05.711(e) is amended to read:

27 (e) Notwithstanding any other provisions of this chapter, an  
28 [ANY] electric [OR TELEPHONE] utility that does not gross \$50,000  
29 annually is exempt from regulation under this chapter unless 25

1 percent of the subscribers petition the commission for regulation.

2 \* Sec. 21. AS 42.05.711(f) is repealed and reenacted to read:

3 (f) A public utility, except a local exchange telephone util-  
4 ity, that receives gross annual revenue of less than \$500,000 may,  
5 under the procedures in AS 42.05.712, elect to be exempt from this  
6 chapter other than AS 42.05.221 - 42.05.281.

7 \* Sec. 22. AS 42.05.711(h) is amended to read:

8 (h) An electric [A] cooperative organized under AS 10.25 may  
9 elect to be exempt from [THE PROVISIONS OF] this chapter, other than  
10 AS 42.05.221 - 42.05.281, under the procedure described in AS 42.05.-  
11 712.

12 \* Sec. 23. AS 42.05.712(a) is amended to read:

13 (a) A utility or cooperative that [WHICH] may elect to be exempt  
14 from [THE PROVISIONS OF] this chapter shall poll its subscribers or  
15 members in the manner described in this section. A cooperative formed  
16 for the generation and transmission of electrical service may not  
17 elect to be deregulated under this section unless each of its members  
18 that is organized as a distribution cooperative has held an election  
19 among its subscribers to determine the cooperative's vote on deregu-  
20 lation.

21 \* Sec. 24. AS 42.05.720(4) is amended to read:

22 (4) "public utility" or "utility" includes every corpora-  
23 tion (whether public, cooperative, or otherwise), company, individual,  
24 or association of individuals, their lessees, trustees, or receivers  
25 appointed by a court, that owns, operates, manages or controls any  
26 plant, pipeline or system for

27 (A) furnishing, by generation, transmission or distri-  
28 bution, electrical service to the public for compensation;

29 (B) furnishing telecommunications service to the

1 public for compensation;

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

4 (D) furnishing natural or manufactured gas to the  
5 public for compensation by transmission or distribution, except  
6 as necessary for a producer to supply first sale gas to an entity  
7 that is not an affiliated interest if the distribution or trans-  
8 mission facilities are either located entirely within the produc-  
9 tion leasehold of the producer, or to the extent that the facil-  
10 ities are not located within the leasehold, are valued at  
11 \$1,000,000 or less or are declared by the producer to be a common  
12 carrier subject to regulation under AS 42.06 [OF NATURAL OR  
13 MANUFACTURED GAS TO THE ALASKA PUBLIC FOR COMPENSATION];

14 (E) furnishing for distribution or by distribution  
15 petroleum or petroleum products to the Alaska public for compen-  
16 sation when the consumer has no alternative in the choice of  
17 supplier of a comparable product and service at an equal or  
18 lesser price;

19 (F) furnishing collection and disposal service of  
20 garbage, refuse, trash or other waste material;

21 \* Sec. 25. AS 44.66.010(4) is amended to read:

22 (4) Alaska Public Utilities Commission (AS 42.05.010) --  
23 June 30, 1989 [1986];

24 \* Sec. 26. Notwithstanding AS 42.05.030, as soon as the term of a  
25 consumer member under AS 42.05.040 expires, the governor shall reappoint or  
26 replace the member for a term of four years so that the terms of the con-  
27 sumer members of the board are staggered.

28 \* Sec. 27. Notwithstanding the amendments to AS 42.05.040 made by  
29 sec. 2 and to AS 42.05.050 made by sec. 3 of this Act, a member of the

1 commission on the effective date of this Act may continue to serve as a  
2 commission member and may be reappointed to the commission without meeting  
3 the additional qualifications.

4 \* Sec. 28. The amendments made by secs. 4 - 12, 14 - 16, and 18 of this  
5 Act do not apply to a proceeding begun before the effective date of this  
6 Act.

7 \* Sec. 29. Notwithstanding the amendments made by secs. 19 - 23 of this  
8 Act, a utility that was exempt from AS 42.05.221 on the day before the  
9 effective date of this Act may continue to operate and to receive compen-  
10 sation without holding a certificate from the Public Utilities Commission  
11 until the commission has acted on the utility's application for certifica-  
12 tion if the utility files an application for certification within 60 days  
13 after the effective date of this Act.

14 \* Sec. 30. Notwithstanding AS 42.05.371, a utility that was exempt from  
15 regulation by the Public Utilities Commission on the day before the effec-  
16 tive date of this Act may continue to charge the tariffs it charged on the  
17 day before the effective date of this Act, until otherwise ordered by the  
18 commission, if it files its complete tariff with the commission within 60  
19 days after the effective date of this Act.

20 \* Sec. 31. AS 42.05.711(g) and 42.05.711(i) are repealed.

21 \* Sec. 32. This Act takes effect immediately in accordance with AS 01.-  
22 10.076(c).

Cramer  
2/26/86

Original sponsor: Davis

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 314 (L&amp;C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Public Utilities  
7 Commission; and providing for an effective date."

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

9 \* Section 1. AS 42.05.030(a) is amended to read:

10 (a) The term of office of each member is six years. [THE GOVER-  
11 NOR SHALL DESIGNATE WHO AMONG THE INITIAL APPOINTEES SHALL SERVE,  
12 RESPECTIVELY, FOR TERMS OF TWO YEARS, FOUR YEARS AND SIX YEARS.] A  
13 commissioner, upon the expiration of a term, shall continue to hold  
14 office until a successor is appointed and qualified.

15 \* Sec. 2. AS 42.05.040 is amended to read:

16 Sec. 42.05.040. QUALIFICATIONS OF MEMBERS. Members shall be  
17 qualified as follows: one member shall be a graduate of an accredited  
18 school of law; one member shall be a graduate of an accredited univer-  
19 sity with a major in engineering; one member shall be a graduate of an  
20 accredited university with a major in finance, accounting, or business  
21 administration; and two members shall be consumers. A professional  
22 member of the commission must have worked for at least five years in  
23 the member's professional field.

24 \* Sec. 3. AS 42.05.050 is amended to read:

25 Sec. 42.05.050. ACTUAL EXPERIENCE EQUIVALENT TO A DEGREE.  
26 Actual experience that is related to utilities management or regu-  
27 lation for a period of five years in the practice of law or in the  
28 field of engineering or in the field of finance, business administra-  
29 tion, economics, or accounting is equivalent to a degree.

1 \* Sec. 4. AS 42.05.121 is amended to read:

2       Sec. 42.05.121. EMPLOYMENT OF COMMISSION PERSONNEL. (a) The  
3 commission may employ an executive director who shall have had at  
4 least five years of experience in public utility management or regu-  
5 lation, law, accounting, engineering, or an allied field. The execu-  
6 tive director is responsible for directing the administrative func-  
7 tions of the commission and carrying out the policies as set by the  
8 commission. The commission may employ engineers, hearing officers,  
9 administrative law judges to the extent provided by AS 42.05.171 and  
10 AS 42.06.140(b), experts, clerks, accountants, and other agents and  
11 assistants it considers necessary. The executive director, deputy  
12 director, attorneys, hearing officers, and administrative law judges  
13 are in the partially exempt service under AS 39.25.120. Other employ-  
14 ees [EMPLOYEES] and agents of the commission [WHO ARE NOT PARTIALLY  
15 EXEMPT UNDER AS 39.25.120, OTHER THAN LEGAL COUNSEL,] are in the  
16 classified service under AS 39.25.100.

17       (b) In addition to its staff of regular employees, the commis-  
18 sion may contract for and engage the services of consultants and  
19 experts the commission considers necessary.

20       ALTERNATE: (b) In addition to its staff of regular employees,  
21 the commission may contract for and engage the services of consultants  
22 and experts the commission considers necessary to advise, recommend,  
23 or testify in a specific proceeding. The commission may not contract  
24 for advice on legal matters unless the attorney general is represent-  
25 ing the public interest under AS 42.05:111.

26 \* Sec. 5. AS 42.05.121 is amended by adding a new subsection to read:

27       (c) The commission shall maintain accurate records of the time  
28 devoted by a consultant or expert to each matter and the services  
29 provided. The services shall be described in reasonable detail.

1 \* Sec. 6. AS 42.05.141(a) is amended to read:

2 (a) The Alaska Public Utilities Commission may

3 (1) regulate every public utility engaged or proposing to  
4 engage in such a business inside the state, except to the extent  
5 exempted by AS 42.05.711; in exercising its authority, the commission  
6 has the powers expressly conferred or reasonably implied by this  
7 chapter [, AND THE POWERS OF THE COMMISSION SHALL BE LIBERALLY CON-  
8 STRUED TO ACCOMPLISH ITS STATED PURPOSES];

9 (2) investigate, upon complaint or upon its own motion, the  
10 rates, classifications, rules, regulations, standards, practices,  
11 services and facilities of a public utility and hold hearings on them;

12 (3) make or require just, fair and reasonable rates, clas-  
13 sifications, regulations, practices, services and facilities for a  
14 public utility;

15 (4) prescribe the system of accounts and regulate the  
16 service and safety of operations of a public utility;

17 (5) require a public utility to file reports and other  
18 information and data;

19 (6) appear personally or by counsel and represent the  
20 interests and welfare of the state in all matters and proceedings  
21 involving a public utility pending before an officer, department,  
22 board, commission or court of the state or of another state or the  
23 United States and to intervene in, protest, resist, or advocate the  
24 granting, denial or modification of any petition, application, com-  
25 plaint or other proceeding;

26 (7) examine witnesses and offer evidence in any proceeding  
27 affecting the state and initiate or participate in judicial proceed-  
28 ings to the extent necessary to protect and promote the interests of  
29 the state.

*Oct  
is change of safety code (inst 1)  
need better enforcement  
not  
more up*

*Clarify who should*

1 \* Sec. 7. AS 42.05.171 is repealed and reenacted to read:

2       Sec. 42.05.171. FORMAL HEARINGS. (a) The commission may hold a  
3 hearing on a matter that is subject to the jurisdiction of the commis-  
4 sion or may assign the matter to one or two commissioners, a hearing  
5 officer, or an administrative law judge. The commission shall assign  
6 as many matters as possible to a hearing officer or administrative law  
7 judge.

8       (b) After the hearing, the presiding officer or the commission-  
9 ers shall enter a final order of the commission. The decision of one  
10 or two commissioners or of a hearing officer or administrative law  
11 judge may be appealed to the commission under AS 42.05.196. The  
12 appeal must be filed no later than 30 days after service of the deci-  
13 sion on the party filing the appeal.

14       ALTERNATE: (b) After the hearing the commission shall enter a  
15 final order. If a matter was heard by one or two commissioners or a  
16 hearing officer or administrative law judge, a proposed decision shall  
17 be entered. The commission shall enter a final order affirming,  
18 modifying, or reversing the proposed decision within 60 days after the  
19 filing of the proposed decision. The parties shall have an opportuni-  
20 ty to comment on the proposed decision before the commission enters a  
21 final order. When considering a proposed decision, the commission may  
22 permit the parties to submit additional evidence for good cause and  
23 may hear oral argument.

24       (c) In a matter heard by the commission, a commissioner who has  
25 not heard or read the testimony, including the argument, shall review  
26 the record before participating in the decision.

27       (d) In determining the place of a hearing the commission shall  
28 give preference to the place most convenient for those interested in  
29 the subject of the hearing.

1 (e) The commission shall employ a sufficient number of hearing  
2 officers or administrative law judges to hear and decide matters  
3 arising before the commission under this chapter.

4 \* Sec. 8. AS 42.05 is amended by adding a new section to read:

5 Sec. 42.05.196. APPEAL OF FINAL DECISIONS TO THE COMMISSION.  
6 When a decision of a hearing officer, administrative law judge, or one  
7 or two commissioners is appealed to the commission, the commission  
8 shall review the record and the briefs of the parties. The commission  
9 may permit the parties to submit additional evidence for good cause  
10 and may hear oral argument. If an appeal is taken from the decision  
11 of one or two commissioners, the commission members who did not serve  
12 on the panel shall attend the hearing. The commission shall issue a  
13 decision affirming, modifying, or reversing the decision of the pre-  
14 siding officer or panel within 60 days after the filing of the appeal.  
15 A majority of the commission must concur in the decision.

16 \* Sec. 9. AS 42.05.221(a) is amended to read:

17 (a) A public utility may not operate and receive compensation  
18 for providing a commodity or service until it has obtained [AFTER  
19 JANUARY 1, 1971 WITHOUT FIRST HAVING OBTAINED FROM THE COMMISSION  
20 UNDER THIS CHAPTER] a certificate declaring that public convenience  
21 and necessity require or will require the service under this chapter.  
22 If [WHERE] a public utility provides more than one type of utility  
23 service, a separate certificate of public convenience and necessity is  
24 required for each type. A certificate shall describe the nature and  
25 extent of the authority granted in it, including, as appropriate for  
26 the services involved, a description of the authorized area and scope  
27 of operations of the public utility.

28 \* Sec. 10. AS 42.05.241 is amended to read:

29 Sec. 42.05.241. CONDITIONS OF ISSUANCE. The commission shall

1 issue a certificate if [A CERTIFICATE MAY NOT BE ISSUED UNLESS] the  
2 commission finds that the applicant is fit, willing and able under (b)  
3 of this section to provide the utility services applied for and that  
4 the services are in the public interest. The commission may issue a  
5 certificate without finding that an applicant is fit, willing, and  
6 able if the service is necessary for the public interest [REQUIRED FOR  
7 THE CONVENIENCE AND NECESSITY OF THE PUBLIC]. The commission may  
8 issue a certificate granting an application in whole or in part and  
9 attach to the grant of it the terms and conditions it considers neces-  
10 sary to protect and promote the public interest including the condi-  
11 tion that the applicant may or shall serve an area or provide a neces-  
12 sary service not contemplated by the applicant. The commission may,  
13 for good cause, deny an application with or without prejudice.

14 \* Sec. 11. AS 42.05.241 is amended by adding new subsections to read:

15 (b) The commission shall find an applicant fit, willing, and  
16 able to provide utility service if the commission finds that

17 (1) the applicant has the financial, operational, manage-  
18 ment, and maintenance capability to provide the proposed service;

19 (2) the applicant has or will have adequate equipment and  
20 facilities to provide and maintain the proposed service; and

21 (3) the applicant submits evidence, satisfactory to the  
22 commission, demonstrating that the applicant will comply with the law.

23 (c) In a hearing on the issuance of a certificate under this  
24 section, the applicant for the certificate has the burden of showing  
25 that the proposed service is in the public interest.

26 (c) If issuance of a certificate is not contested, the commis-  
27 sion shall grant or deny the application no later than six months  
28 after the application was filed. If the commission has not reached a  
29 decision within six months, it shall issue the certificate.

1 \* Sec. 12. AS 42.05.251 is amended to read:

2       Sec. 42.05.251. USE OF STREETS IN CITIES AND BOROUGH. Public  
3 utilities have the right to a permit to use public streets, alleys,  
4 and other public ways of a municipality [CITY OR BOROUGH, WHETHER HOME  
5 RULE OR OTHERWISE,] upon payment of a reasonable permit fee and on  
6 reasonable terms and conditions and with reasonable exceptions the  
7 municipality [CITY OR BOROUGH] requires. The fee may not exceed the  
8 actual cost to the municipality of the utility's use of the public way  
9 and of administering the permit program. A dispute as to whether  
10 fees, terms, conditions, or exceptions are reasonable shall be decided  
11 by the commission. The commission may require a utility to add the  
12 amount of any permit fee paid as a pro rata surcharge to its bills for  
13 service rendered at locations within the boundaries of any municipal-  
14 ity that [CITY OR BOROUGH WHICH] requires payment of a permit fee.

15 \* Sec. 13. AS 42.05.361(c) is amended to read:

16       (c) The commission may reject the filing of all or part of a  
17 tariff that [WHICH] does not comply with the form or filing regu-  
18 lations of the commission or that [WHICH] is not consistent with this  
19 chapter or the regulations of the commission. A tariff or provision  
20 so rejected is void. If the commission rejects a filing, it shall  
21 issue a statement of the reasons for the rejection. Unless the utili-  
22 ty and the commission agree to an extension of time, the commission  
23 may not reject a filing under this subsection after 45 days have  
24 elapsed from the date of filing.

25 \* Sec. 14. AS 42.05.381 is amended by adding a new subsection to read:

26       (e) The commission shall adopt regulations establishing a sim-  
27 plified rate filing procedure for electric cooperatives.

28 \* Sec. 15. AS 42.05.421(a) is repealed and reenacted to read:

29       (a) When a tariff filing is made containing a new or revised

1 rate, classification, rule, regulation, practice, or condition of  
2 service the commission may, either upon written complaint or upon its  
3 own motion, after reasonable notice, conduct a hearing to determine  
4 the reasonableness and propriety of the filing. Pending the hearing  
5 and decision, the commission may suspend the operation of the tariff  
6 filing by order stating the reasons for the suspension. The period of  
7 suspension for an interim rate increase may not exceed 45 days from  
8 the date that the commission receives the completed application. The  
9 period of suspension for a permanent rate may not exceed 12 months  
10 from the date the commission receives the completed application unless

11 (1) the proceedings involve substantial affiliated interest  
12 transactions or complex rate design issues;

13 (2) the utility has delayed the proceedings, but the period  
14 of suspension may not exceed 12 months plus the length of the delay;

15 (3) the utility requests an extension, but the period of  
16 suspension may not exceed 12 months plus the length of the extension;

17 (4) another legal or regulatory body is considering the  
18 issue and has not entered its decision;

19 (5) an intervenor raises issues that require additional  
20 time to resolve;

21 ~~ALTERNATE~~ (6) the proceedings involve a utility whose  
22 total company revenue exceeds \$100,000,000;

23 ALTERNATE (7) the proceedings involve issues of safety,  
24 quality of service, or reasonableness of management practices that  
25 cannot be decided separately from the tariff filing;

26 ALTERNATE (8) the proceedings involve a utility whose  
27 records and accounts are kept at a location outside the state;

28 ALTERNATE (9) the proceedings involve unusually complex  
29 situations or issues;

1                    ALTERNATE (10) The commission finds there is other good  
2 cause.

3 \* Sec. 16. AS 42.05.421(b) is amended to read:

4                    (b) An order suspending a tariff filing may be vacated if, after  
5 investigation, the commission finds that it is in all respects proper.  
6 Otherwise the commission shall hold a hearing on the suspended filing  
7 and issue its order, before the end of the suspension period, grant-  
8 ing, denying, or modifying the suspended tariff in whole or in part.  
9 If the commission does not act on the tariff filing within the period  
10 of suspension allowed under (a) of this section, the tariff filing  
11 takes effect at the end of the suspension period.

12 \* Sec. 17. AS 42.05.421(c) is amended to read:

13                    (c) If the commission authorizes an interim [IN THE CASE OF A  
14 PROPOSED INCREASED] rate increase, the commission may by order require  
15 the interested public utility or utilities to place the amounts re-  
16 ceived from the increase in escrow in a financial institution approved  
17 by the commission and keep accurate account of [ALL AMOUNTS RECEIVED  
18 BY REASON OF THE INCREASE, SPECIFYING] by whom and in whose behalf the  
19 amounts are paid. Upon completion of the hearing and decision the  
20 commission may by order require the public utility to refund to the  
21 persons in whose behalf the amounts were paid, that portion of the  
22 increased rates which was found to be unreasonable or unlawful. The  
23 commission shall immediately authorize release of the balance of funds  
24 to the utility. Funds may not be released from escrow without the  
25 commission's prior written consent and the utility shall instruct the  
26 escrow agent of this requirement [SHALL BE SO INSTRUCTED BY THE UTILI-  
27 TY,] in writing and send [, WITH] a copy to the commission. The  
28 utility may, at its expense, substitute a bond for [IN LIEU OF] the  
29 escrow requirement.

1 \* Sec. 18. AS 42.05.421 is amended by adding a new subsection to read:

2 (e) At the time of a tariff filing or at any time the tariff  
3 filing is under suspension, the utility may request the commission to  
4 allow the tariff filing to take effect on an interim basis. The  
5 commission shall process the request as a tariff filing under AS 42.-  
6 05.411. If the filing contains a proposed new rate or rate increase,  
7 the commission may allow that rate or a lesser rate to take effect on  
8 an interim basis, subject to refund or other appropriate disposition  
9 at the discretion of the commission.

10 Sec. 19. AS 42.05.431 is amended to read:

11 Sec. 42.05.431. POWER OF COMMISSION TO FIX RATES. When the  
12 commission, after an investigation and hearing, finds that a rate  
13 demanded, observed, charged or collected by a public utility for a  
14 service, subject to the jurisdiction of the commission, or that a  
15 classification, rule, regulation, practice, or contract affecting the  
16 rate, is unjust, unreasonable, unduly discriminatory or preferential,  
17 the commission shall determine a just and reasonable rate, classifica-  
18 tion, rule, regulation, practice, or contract to be observed or al-  
19 lowed and shall establish it by order. A municipality may covenant  
20 with bond purchasers regarding rates of a municipally owned utility,  
21 and the covenant is valid and enforceable and is considered to be a  
22 contract with the holders from time to time of the bonds. A coopera-  
23 tive utility organization under AS 10.25 may enter covenants contained  
24 in mortgages and other debt instruments. The covenant is valid and  
25 enforceable and rates set by the commission must be adequate to meet  
26 the covenants. The commission may require a municipal or cooperative  
27 utility to file a copy of each debt instrument affecting its rates.

28 ALTERNATE: Sec. 42.05.431. POWER OF COMMISSION TO FIX RATES.

29 When the commission, after an investigation and hearing, finds that a

*already done*  
*(but would allow utilities to file for suspension of rates when going to a stronger position when going to the market for financing)*

1 rate demanded, observed, charged or collected by a public utility for  
 2 a service, subject to the jurisdiction of the commission, or that a  
 3 classification, rule, regulation, practice, or contract affecting the  
 4 rate, is unjust, unreasonable, unduly discriminatory or preferential,  
 5 the commission shall determine a just and reasonable rate, classifica-  
 6 tion, rule, regulation, practice, or contract to be observed or al-  
 7 lowed and shall establish it by order. A municipality may covenant  
 8 with bond purchasers regarding rates of a municipally owned utility,  
 9 and the covenant is valid and enforceable and is considered to be a  
 10 contract with the holders from time to time of the bonds. A coopera-  
 11 tive utility organization under AS 10.25 may enter covenants contained  
 12 in mortgages and other debt instruments. The covenant is valid and  
 13 enforceable and rates set by the commission must be adequate to meet  
 14 the covenants. The commission may require a municipal or cooperative  
 15 utility to file a copy of each debt instrument affecting its rates or  
 16 to secure advance commission approval of the covenants.

*Already done*

17 \* Sec. 20. AS 42.05.431 is amended by adding new subsections to read:

18 (b) The commission may not amend a wholesale power agreement  
 19 after it is in effect.

*Does the Comm. have the power  
 to review these before they go  
 into effect?*

20 ALTERNATE Do not add this subsection.

21 (c) The commission may not require a utility to refund a perma-  
 22 nent rate after it is in effect.

23 ALTERNATE Do not add this subsection.

24 \* Sec. 21. AS 42 05.651 is amended to read:

25 EXISTING TEX. Sec. 42.05.651. EXPENSES OF INVESTIGATION OR  
 26 HEARING. After completion of a hearing or investigation held under  
 27 this chapter, the commission shall allocate the costs of the hearing  
 28 or investigation among the parties, including the commission, as is  
 29 just under the circumstances. In allocating costs, the commission may

1 consider the results, ability to pay, evidence of good faith, other  
 2 relevant factors and mitigating circumstances. The costs allocated may  
 3 include the costs of any time devoted to the investigation or hearing  
 4 by hired consultants, whether or not the consultants appear as wit-  
 5 nesses or participants. The costs allocated may also include any  
 6 out-of-pocket expenses incurred by the commission in the particular  
 7 proceeding. The commission shall provide an opportunity for any  
 8 person objecting to an allocation to be heard before the allocation  
 9 becomes final.

*should be allowed to allocate the costs to those who are being regulated, but not a blank check*

10 ALTERNATE: Sec. 42.05.651. EXPENSES OF INVESTIGATION OR HEAR-  
 11 ING. After [COMPLETION OF] a hearing or investigation held under this  
 12 chapter, the commission shall allocate the costs of the hearing or  
 13 investigation among the parties, including the commission, as is just  
 14 under the circumstances. In allocating costs, the commission may  
 15 consider the results, ability to pay, evidence of good faith, other  
 16 relevant factors and mitigating circumstances. The costs allocated  
 17 may include the costs of any time devoted to the investigation or  
 18 hearing by hired consultants, whether or not the consultants appear as  
 19 witnesses or participants, but only if the consultants were necessary  
 20 and the costs are reasonable. The costs allocated may not include the  
 21 cost of legal counsel, unless legal counsel was required because the  
 22 attorney general was representing the public interest, or the cost of  
 23 staff for the commission [ALSO INCLUDE ANY OUT-OF-POCKET EXPENSES  
 24 INCURRED BY THE COMMISSION IN THE PARTICULAR PROCEEDING] The commis-  
 25 sion shall provide an opportunity for a [ANY] person objecting to an  
 26 allocation to be heard before the allocation becomes final.

*TPS scenario*

27 \* Sec. 22. AS 42.05.711(b) is repealed and reenacted to read:

28 (b) Except as otherwise provided in this subsection, a public  
 29 utility or electric operating entity to which this subsection applies

*options should be allowed to X on -12- min. above*

1 is exempt from this chapter except AS 42.05.221 - 42.05.281 and 42.-  
 2 05.311 - 42.05.321. If a utility of a public utility or electric  
 3 operating entity competes with another utility, then the public util-  
 4 ity or entity is subject to this chapter. A telephone utility of a  
 5 public utility is subject to this chapter. If the governing body of a  
 6 political subdivision elects to be subject to this chapter, then the  
 7 public utility or entity is subject to this chapter. This subsection  
 8 applies to

9 (1) a public utility owned and operated by a political  
 10 subdivision of the state; or

11 (2) an electric operating entity established as an instru-  
 12 mentality of at least two public utilities owned and operated by a  
 13 political subdivision of the state.

14 \* Sec. 23. AS 42.05.711(f) is repealed and reenacted to read:

15 (f) A public utility, except a local exchange telephone util-  
 16 ity, that receives gross annual revenue of less than \$500,000 may,  
 17 under the procedures in AS 42.05.712, elect to be exempt from this  
 18 chapter other than AS 42.05.221 - 42.05.281.

19 \* Sec. 24. AS 42.05.711(h) is amended to read:

20 (h) An electric [A] cooperative organized under AS 10.25 may  
 21 elect to be exempt from [THE PROVISIONS OF] this chapter, other than  
 22 AS 42.05.221 - 42.05.281, under the procedure described in AS 42.05.-  
 23 712.

24 \* Sec. 25. AS 42.05.711(k) is amended to read:

25 (k) A utility that [WHICH] furnishes cable television service or  
 26 service as a radio common carrier is exempt from the provisions of  
 27 this chapter. In this subsection, "radio common carrier" means a  
 28 radio, paging, mobile radiotelephone, or improved mobile telephone  
 29 service [OTHER THAN AS 42.05.221 - 42.05.281 UNLESS 25 PERCENT OF THE

*750 customers rather than figure*

*WAY (one directional)*

1 SUBSCRIBERS PETITION THE COMMISSION FOR REGULATION].

2 \* Sec. 26. AS 42.05.712(a) is amended to read:

3 (a) A utility or cooperative that [WHICH] may elect to be exempt  
4 from [THE PROVISIONS OF] this chapter shall poll its subscribers or  
5 members in the manner described in this section. A cooperative formed  
6 for the generation and transmission of electrical service may not  
7 elect to be deregulated under this section unless each of its members  
8 that is organized as a distribution cooperative has held an election  
9 among its subscribers to determine the cooperative's vote on deregu-  
10 lation.

11 ALTERNATE: (a) A utility or cooperative that [WHICH] may elect  
12 to be exempt from [THE PROVISIONS OF] this chapter shall poll its  
13 subscribers or members in the manner described in this section. A  
14 cooperative organized under AS 10.25 may not elect to be exempt from  
15 this chapter unless the cooperative has held an election among its  
16 members and subscribers to determine whether the cooperative should be  
17 deregulated.

18 \* Sec. 27. AS 42.05.720(3) is amended to read:

19 (3) "public" or "general public" means

20 (A) any group of 10 or more customers that purchase  
21 the service or commodity furnished by a public utility [AS DE-  
22 FINED IN (2) OF THIS SECTION]; and

23 (B) any utility purchasing the product or service or  
24 paying for the transmission of electric energy, natural or man-  
25 ufactured gas, or petroleum products which are re-sold to a group  
26 included in (A) of this paragraph or which are used to produce  
27 the service or commodity sold to the public by the utility;

28 ALTERNATE: (B) any utility purchasing the product or  
29 service or paying for the transmission of electric energy,

1 natural or manufactured gas, or petroleum products that [WHICH]  
2 are re-sold to a group included in (A) of this paragraph or that  
3 [WHICH] are used to produce the service or commodity sold to the  
4 public by the utility except a producer of oil and gas;

5 \* Sec. 28. AS 42.05.720(4) is amended to read:

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

11 (A) furnishing, by generation, transmission or distri-  
12 bution, electrical service to the public for compensation;

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

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

17 (D) transmitting or distributing [FURNISHING BY TRANS-  
18 MISSION OR DISTRIBUTION OF] natural or manufactured gas to the  
19 Alaska public for compensation, but not including a producer who  
20 transmits or distributes natural or manufactured gas for first  
21 sale to a person unless the purchaser has an affiliated interest  
22 with the producer;

23 ALTERNATE: (D) furnishing natural or manufactured gas  
24 to the public for compensation by transmission or distribu-  
25 tion, except as necessary for a producer to supply first  
26 sale gas to an entity that is not an affiliated interest if  
27 the distribution or transmission facilities are either  
28 located entirely within the production leasehold of the  
29 producer, or to the extent that the facilities are not

1                    located within the leasehold, are valued at \$1,000,000 or  
2                    less [OF NATURAL OR MANUFACTURED GAS TO THE ALASKA PUBLIC  
3                    FOR COMPENSATION];

4                    (E) furnishing for distribution or by distribution  
5                    petroleum or petroleum products to the Alaska public for compen-  
6                    sation when the consumer has no alternative in the choice of  
7                    supplier of a comparable product and service at an equal or  
8                    lesser price;

9                    ~~W~~(F) FURNISHING COLLECTION AND DISPOSAL SERVICE OF  
10                    GARBAGE, REFUSE, TRASH OR OTHER WASTE MATERIAL;]

11                    \* Sec. 29. AS 44.66.010(4) is amended to read:

12                                       (4) Alaska Public Utilities Commission (AS 42.05.010) --  
13                                       June 30, 1990 [1986];

14                    \* Sec. 30. Notwithstanding AS 42.05.030, as soon as the term of a  
15                    consumer member under AS 42.05.040 expires, the governor shall reappoint or  
16                    replace the member for a term of four years so that the terms of the con-  
17                    sumer members of the board are staggered.

18                    \* Sec. 31. Notwithstanding the amendments to AS 42.05.040 made by  
19                    sec. 2 and to AS 42.05.050 made by sec. 3 of this Act, a member of the  
20                    commission on the effective date of this Act may continue to serve as a  
21                    commission member and may be reappointed to the commission without meeting  
22                    the additional qualifications.

23                    \* Sec. 32. AS 29.35.050(b); 42.05.711(g), and 42.05.711(i) are re-  
24                    pealed.

25                    \* Sec. 33. Sections                    of this Act take effect immediately in accor-  
26                    dance with AS 01.10.070(c).

Cramer  
2/27/86

Original sponsor: Davis

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 314 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Public Utilities  
7 Commission; and providing for an effective date."

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

9 \* Section 1. AS 42.05.030(a) is amended to read:

10 (a) The term of office of each member is six years. [THE GOVER-  
11 NOR SHALL DESIGNATE WHO AMONG THE INITIAL APPOINTEES SHALL SERVE,  
12 RESPECTIVELY, FOR TERMS OF TWO YEARS, FOUR YEARS AND SIX YEARS.] A  
13 commissioner, upon the expiration of a term, shall continue to hold  
14 office until a successor is appointed and qualified.

15 \* Sec. 2. AS 42.05.040 is amended to read:

16 Sec. 42.05.040. QUALIFICATIONS OF MEMBERS. Members shall be  
17 qualified as follows: one member shall be a graduate of an accredited  
18 school of law; one member shall be a graduate of an accredited univer-  
19 sity with a major in engineering; one member shall be a graduate of an  
20 accredited university with a major in finance, accounting, or business  
21 administration; and two members shall be consumers. A professional  
22 member of the commission must have worked for at least five years in  
23 the member's professional field.

24 \* Sec. 3. AS 42.05.050 is amended to read:

25 Sec. 42.05.050. ACTUAL EXPERIENCE EQUIVALENT TO A DEGREE.  
26 Actual experience that is related to utilities management or regu-  
27 lation for a period of five years [in the practice of law] or [in the  
28 field of engineering or in the field of finance, business administra-  
29 tion, economics, or accounting is equivalent to a degree.

1 \* Sec. 4. AS 42.05.121 is amended to read:

2       Sec. 42.05.121. EMPLOYMENT OF COMMISSION PERSONNEL. (a) The  
3 commission may employ an executive director who shall have had at  
4 least five years of experience in public utility management or regu-  
5 lation, law, accounting, engineering, or an allied field. The execu-  
6 tive director is responsible for directing the administrative func-  
7 tions of the commission and carrying out the policies as set by the  
8 commission. The commission may employ engineers, hearing officers,  
9 administrative law judges to the extent provided by AS 42.05.171 and  
10 AS 42.06.140(b), experts, clerks, accountants, and other agents and  
11 assistants it considers necessary. The executive director, deputy  
12 director, attorneys, hearing officers, and administrative law judges  
13 are in the partially exempt service under AS 39.25.120. Other employ-  
14 ees [EMPLOYEES] and agents of the commission [WHO ARE NOT PARTIALLY  
15 EXEMPT UNDER AS 39.25.120, OTHER THAN LEGAL COUNSEL,] are in the  
16 classified service under AS 39.25.100.

17       (b) In addition to its staff of regular employees, the commis-  
18 sion may contract for and engage the services of consultants and  
19 experts the commission considers necessary if the commission resources  
20 or expertise are insufficient to perform the necessary task.

21 \* Sec. 5. AS 42.05.121 is amended by adding a new subsection to read:

22       (c) The commission shall maintain accurate records of the time  
23 devoted by a consultant or expert to each matter and the services  
24 provided. The services shall be described in reasonable detail.

25 \* Sec. 6. AS 42.05.141(a) is amended to read:

26       (a) The Alaska Public Utilities Commission may  
27       (1) regulate every public utility engaged or proposing to  
28 engage in such a business inside the state, except to the extent  
29 exempted by AS 42.05.711; in exercising its authority, the commission

1 has the powers expressly conferred or reasonably implied by this  
2 chapter [, AND THE POWERS OF THE COMMISSION SHALL BE LIBERALLY CON-  
3 STRUED TO ACCOMPLISH ITS STATED PURPOSES];

4 (2) investigate, upon complaint or upon its own motion, the  
5 rates, classifications, rules, regulations, practices, services and  
6 facilities of a public utility and hold hearings on them;

7 (3) make or require just, fair and reasonable rates, clas-  
8 sifications, regulations, practices, services and facilities for a  
9 public utility;

10 (4) prescribe the system of accounts and regulate the  
11 service and safety of operations of a public utility;

12 (5) require a public utility to file reports and other  
13 information and data;

14 (6) appear personally or by counsel and represent the  
15 interests and welfare of the state in all matters and proceedings  
16 involving a public utility pending before an officer, department,  
17 board, commission or court of the state or of another state or the  
18 United States and to intervene in, protest, resist, or advocate the  
19 granting, denial or modification of any petition, application, com-  
20 plaint or other proceeding;

21 (7) examine witnesses and offer evidence in any proceeding  
22 affecting the state and initiate or participate in judicial proceed-  
23 ings to the extent necessary to protect and promote the interests of  
24 the state.

25 \* Sec. 7. AS 42.05.171 is repealed and reenacted to read:

26 Sec. 42.05.171. FORMAL HEARINGS. (a) The commission may hold a  
27 hearing on a matter that is subject to the jurisdiction of the commis-  
28 sion or may assign the matter to one or more commissioners, a hearing  
29 officer, or an administrative law judge. The commission shall assign

1 as many matters as possible to a hearing officer or administrative law  
2 judge.

3 (b) After a hearing the commission shall enter a final order.  
4 If a matter was not heard by the commission, a proposed decision may  
5 be entered. The commission shall enter a final order affirming,  
6 modifying, or reversing the proposed decision within 60 days after the  
7 filing of the proposed decision. The parties shall have an opportuni-  
8 ty to comment on the proposed decision before the commission enters a  
9 final order. When considering a proposed decision, the commission may  
10 permit the parties to submit additional evidence for good cause and  
11 may hear oral argument.

12 (c) In a matter heard by the commission, a commissioner who has  
13 not heard or read the testimony, including the argument, shall review  
14 the record before participating in the decision.

15 (d) In determining the place of a hearing the commission shall  
16 give preference to the place most convenient for those interested in  
17 the subject of the hearing.

18 → (e) The commission shall employ a sufficient number of hearing  
19 officers or administrative law judges to hear and decide matters  
20 arising before the commission under this chapter.

21 \* Sec 8. AS 42.05 is amended by adding a new section to read:

22 \* Sec. 42.05.196. RECONSIDERATION. Within 15 days after an order  
23 of the commission is served, a party may file a petition for reconsid-  
24 eration of the order setting out specifically the grounds upon which  
25 the petitioner believes the order is unreasonable, erroneous, unlaw-  
26 ful, or otherwise defective. The petitioner may also submit a pro-  
27 posed order designed to cure the alleged defects of the commission's  
28 order. A party opposing a petition for reconsideration has 10 days  
29 after the date on which the petition is filed with the commission to

1 respond. The commission's power to order reconsideration expires 30  
2 days after the date on which the petition for reconsideration is filed  
3 with the commission. If the commission does not take action on a  
4 petition for reconsideration within the time allowed for ordering  
5 reconsideration, the petition is automatically denied. The commission  
6 may order reconsideration in writing of all or part of the record in a  
7 proceeding together with additional evidence and argument that may be  
8 permitted either in writing or orally. The filing of a petition for  
9 reconsideration does not excuse the petitioning party from compliance  
10 with a decision or order of the commission.

11 \* Sec. 9. AS 42.05.221(a) is amended to read:

12 (a) A public utility may not operate and receive compensation  
13 for providing a commodity or service until it has obtained [AFTER  
14 JANUARY 1, 1971 WITHOUT FIRST HAVING OBTAINED FROM THE COMMISSION  
15 UNDER THIS CHAPTER] a certificate declaring that public convenience  
16 and necessity require or will require the service under this chapter.  
17 If [WHERE] a public utility provides more than one type of utility  
18 service, a separate certificate of public convenience and necessity is  
19 required for each type. A certificate shall describe the nature and  
20 extent of the authority granted in it, including, as appropriate for  
21 the services involved, a description of the authorized area and scope  
22 of operations of the public utility.

23 \* Sec. 10. AS 42.05.241 is amended to read:

24 Sec. 42.05.241. CONDITIONS OF ISSUANCE. The commission shall  
25 issue a certificate if [A CERTIFICATE MAY NOT BE ISSUED UNLESS] the  
26 commission finds that the applicant is fit, willing and able under (b)  
27 of this section to provide the utility services applied for and that  
28 the services are in the public interest. The commission may issue a  
29 certificate without finding that an applicant is fit, willing, and

1 able if the service is necessary for the public interest [REQUIRED FOR  
2 THE CONVENIENCE AND NECESSITY OF THE PUBLIC]. The commission may  
3 issue a certificate granting an application in whole or in part and  
4 attach to the grant of it the terms and conditions it considers neces-  
5 sary to protect and promote the public interest including the condi-  
6 tion that the applicant may or shall serve an area or provide a neces-  
7 sary service not contemplated by the applicant. The commission may,  
8 for good cause, deny an application with or without prejudice.

9 \* Sec. 11. AS 42.05.241 is amended by adding new subsections to read:

10 (b) The commission shall find an applicant fit, willing, and  
11 able to provide utility service if the commission finds that

12 (1) the applicant has the financial, operational, manage-  
13 ment, and maintenance capability to provide the proposed service;

14 (2) the applicant has or will have adequate equipment and  
15 facilities to provide and maintain the proposed service; and

16 (3) the applicant submits evidence demonstrating that the  
17 applicant will comply with the law.

18 (c) In a hearing on the issuance of a certificate under this  
19 section, the applicant for the certificate has the burden of showing  
20 that the proposed service is in the public interest.

21 (d) If issuance of a certificate is not contested, the commis-  
22 sion shall grant or deny the application no later than six months  
23 after the <sup>completed</sup> application was filed. If the commission has not reached a  
24 decision within six months, it shall issue the certificate.

25 \* Sec. 12. AS 42.05.251 is amended to read:

26 Sec. 42.05.251. USE OF STREETS IN CITIES AND BOROUGHES. Public  
27 utilities have the right to a permit to use public streets, alleys,  
28 and other public ways of a municipality [CITY OR BOROUGH, WHETHER HOME  
29 RULE OR OTHERWISE,] upon payment of a reasonable permit fee and on

1 reasonable terms and conditions and with reasonable exceptions the  
2 municipality [CITY OR BOROUGH] requires. The fee may not exceed the  
3 actual cost to the municipality of the utility's use of the public way  
4 and of administering the permit program. A dispute as to whether  
5 fees, terms, conditions, or exceptions are reasonable shall be decided  
6 by the commission. The commission may require a utility to add the  
7 amount of any permit fee paid as a pro rata surcharge to its bills for  
8 service rendered at locations within the boundaries of any municipal-  
9 ity that [CITY OR BOROUGH WHICH] requires payment of a permit fee.

10 \* Sec. 13. AS 42.05.361(c) is amended to read:

11 (c) The commission may reject the filing of all or part of a  
12 tariff that [WHICH] does not comply with the form or filing regu-  
13 lations of the commission, or that [WHICH] is not consistent with this  
14 chapter or the regulations of the commission. A tariff or provision  
15 so rejected is void. If the commission rejects a filing, it shall  
16 issue a statement of the reasons for the rejection. Unless the utili-  
17 ty and the commission agree to an extension of time, the commission  
18 may not reject a filing under this subsection after 45 days have  
19 elapsed from the date of filing.

20 \* Sec. 14. AS 42.05.381 is amended by adding a new subsection to read:

21 (e) The commission shall adopt regulations establishing a sim-  
22 plified rate filing procedure for electric cooperatives.

23 ALTERNATE: (e) The commission shall adopt regulations setting a  
24 range for adjustment of rates by a times-interest-earned-ratio (TIER)  
25 for electric cooperatives. A cooperative may apply for permission to  
26 adjust its rates over a period of time and without further filings  
27 under the TIER regulations. The commission shall grant the applica-  
28 tion if the cooperative satisfies the requirements of the regulations.  
29 The commission may review implementation of the TIER at reasonable

1 intervals and may revoke permission to use the TIER or require modi-  
2 fication of the rates to correct an error.

3 \* Sec. 15. AS 42.05.421(a) is repealed and reenacted to read:

4 (a) When a tariff filing is made containing a new or revised  
5 rate, classification, rule, regulation, practice, or condition of  
6 service the commission may, either upon written complaint or upon its  
7 own motion, after reasonable notice, conduct a hearing to determine  
8 the reasonableness and propriety of the filing. Pending the hearing  
9 and decision, the commission may suspend the operation of the tariff  
10 filing by order stating the reasons for the suspension. When the  
11 commission suspends the operation of a tariff, the commission may  
12 grant an interim rate increase. The period of suspension may not  
13 exceed 12 months unless

14 (1) the proceedings involve substantial affiliated interest  
15 transactions or complex rate design issues;

16 (2) the utility has delayed the proceedings, but the period  
17 of suspension may not exceed 12 months plus the length of the delay;

18 (3) the utility requests an extension, but the period of  
19 suspension may not exceed 12 months plus the length of the extension;

20 (4) another legal or regulatory body is considering the  
21 issue and has not entered its decision;

22 (5) a consumer of the utility raises issues that require  
23 additional time to resolve;

24 ~~ALTERNATE~~ (6) <sup>AKS</sup> the proceedings involve a utility that  
25 provides intrastate toll service;

26 ~~ALTERNATE~~ (7) the proceedings involve issues of safety,  
27 quality of service, or reasonableness of management practices that  
28 cannot be decided separately from the tariff filing;

29 ~~ALTERNATE~~ (8) the proceedings involve a utility whose

1 records and accounts are kept at a location outside the state;

2 ALTERNATE (9) the proceedings involve unusually complex  
3 situations or issues.

4 \* Sec. 16. AS 42.05.421(b) is amended to read:

5 (b) An order suspending a tariff filing may be vacated if, after  
6 investigation, the commission finds that it is in all respects proper.  
7 Otherwise the commission shall hold a hearing on the suspended filing  
8 and issue its order, before the end of the suspension period, grant-  
9 ing, denying, or modifying the suspended tariff in whole or in part.  
10 If the commission does not act on the tariff filing within the period  
11 of suspension allowed under (a) of this section, the tariff filing  
12 takes effect at the end of the suspension period.

13 \* Sec. 17. AS 42.05.421(c) is amended to read:

14 (c) If the commission authorizes an interim [IN THE CASE OF A  
15 PROPOSED INCREASED] rate, the commission may by order require the  
16 interested public utility or utilities to place the amounts subject to  
17 refund in escrow in a financial institution approved by the commission  
18 and keep accurate account of [ALL AMOUNTS RECEIVED BY REASON OF THE  
19 INCREASE, SPECIFYING] by whom and in whose behalf the amounts are  
20 paid. Upon completion of the hearing and decision the commission may  
21 by order require the public utility to refund to the persons in whose  
22 behalf the amounts were paid, that portion of the increased rates  
23 which was found to be unreasonable or unlawful. The commission shall  
24 immediately authorize release of the balance of funds to the utility.  
25 Funds may not be released from escrow without the commission's prior  
26 written consent and the utility shall instruct the escrow agent of  
27 this requirement [SHALL BE SO INSTRUCTED BY THE UTILITY,] in writing  
28 and send [, WITH] a copy to the commission. The utility may, at its  
29 expense, substitute a bond for [IN LIEU OF] the escrow requirement.

1 \* Sec. 18. AS 42.05.421 is amended by adding a new subsection to read:

2 (e) At the time of a tariff filing or at any time the tariff  
3 filing is under suspension, the utility may request the commission to  
4 allow the tariff filing to take effect on an interim basis. The  
5 commission shall process the request as a tariff filing under AS 42.-  
6 05.411. If the filing contains a proposed new rate or rate increase,  
7 the commission may allow that rate or a lesser rate to take effect on  
8 an interim basis, subject to refund or other appropriate disposition  
9 at the discretion of the commission.

10 \* Sec. 19. AS 42.05.431 is amended by adding new subsections to read:

11 (b) The commission may not amend a wholesale power agreement  
12 after it is in effect.

13 ALTERNATE Do not add this subsection.

14 (c) The commission may not require a utility to refund a perma-  
15 nent rate after it is in effect.

16 ALTERNATE Do not add this subsection.

17 \* Sec. 20. AS 42.05.511(a) is amended to read:

18 EXISTING TEXT: (a) The commission may investigate the  
19 management of a public utility, including but not limited to staffing  
20 patterns, wage and salary scales and agreements, investment policies  
21 and practices, purchasing and payment arrangements with affiliated  
22 interests, for the purpose of determining inefficient or unreasonable  
23 practices which adversely affect the cost or quality of service of the  
24 public utility.

25 ALTERNATE: (a) After a finding in a proceeding before the  
26 commission that a public utility has questionable management  
27 practices, the [THE] commission may investigate the management of the  
28 [A PUBLIC] utility, including but not limited to staffing patterns,  
29 wage and salary scales and agreements, investment policies and

1 practices, purchasing and payment arrangements with affiliated  
2 interests, for the purpose of determining inefficient or unreasonable  
3 practices that [WHICH] adversely affect the cost or quality of service  
4 of the public utility. The commission must conclude the investigation  
5 within 12 months.

6 \* Sec. 21. AS 42.05.651 is amended to read:

7 Sec. 42.05.651. EXPENSES OF INVESTIGATION OR HEARING. After  
8 [COMPLETION OF] a hearing or investigation held under this chapter,  
9 the commission shall allocate the costs of the hearing or investiga-  
10 tion among the parties, including the commission, as is just under the  
11 circumstances. In allocating costs, the commission may consider the  
12 results, ability to pay, evidence of good faith; other relevant fac-  
13 tors and mitigating circumstances. The costs allocated may include  
14 the costs of any time devoted to the investigation or hearing by hired  
15 consultants, whether or not the consultants appear as witnesses or  
16 participants, but only if the consultants were necessary under AS 42.-  
17 05.121(b). The costs allocated may not include the cost of permanent  
18 staff for the commission [ALSO INCLUDE AN: OUT-OF-POCKET EXPENSES  
19 INCURRED BY THE COMMISSION IN THE PARTICULAR PROCEEDING]. The commis-  
20 sion shall provide an opportunity for a [ANY] person objecting to an  
21 allocation to be heard before the allocation becomes final.

22 ALTERNATE: Sec. 42.05.651. EXPENSES OF INVESTIGATION OR HEAR-  
23 ING. After [COMPLETION OF] a hearing or investigation held under this  
24 chapter, the commission shall allocate the costs of the hearing or  
25 investigation among the parties, including the commission, as is just  
26 under the circumstances. In allocating costs, the commission may  
27 consider the results, ability to pay, evidence of good faith, other  
28 relevant factors and mitigating circumstances. The costs allocated  
29 may include the costs of any time devoted to the investigation or

1 hearing by hired consultants, whether or not the consultants appear as  
 2 witnesses or participants, but only if the consultants were necessary  
 3 under AS 42.05.121(b). The costs allocated may not include the cost  
 4 of permanent staff for the commission but may include other necessary  
 5 expenses not allocated in the operating budget [ALSO INCLUDE ANY  
 6 OUT-OF-POCKET EXPENSES INCURRED BY THE COMMISSION IN THE PARTICULAR  
 7 PROCEEDING]. The commission shall provide an opportunity for a [ANY]  
 8 person objecting to an allocation to be heard before the allocation  
 9 becomes final.

Renewable?

10 \* Sec. 22. AS 42.05.711(b) is repealed and reenacted to read:

11 (b) Except as otherwise provided in this subsection, public  
 12 utilities owned and operated by a political subdivision of the state,  
 13 or electric operating entities established as the instrumentality of  
 14 two or more public utilities owned and operated by political  
 15 subdivisions of the state, are exempt from this chapter, other than  
 16 AS 42.05.221 - 42.05.281 and 42.05.311 - 42.05.321. However,

17 (1) a telephone utility owned by a political subdivision is  
 18 subject to this chapter;

19 (2) the governing body of a political subdivision may elect  
 20 to be subject to this chapter; and

21 (3) a utility or electric operating entity that is owned  
 22 and operated by a political subdivision and that directly competes  
 23 with another utility or electric operating entity is subject to this  
 24 chapter and any other utilities or electric operating entities owned  
 25 and operated by the political subdivision are also subject to this  
 26 chapter.

27 \* Sec. 23. AS 42.05.711(f) is repealed and reenacted to read:

28 (f) A public utility, except a local exchange telephone util-  
 29 ity, that receives gross annual revenue of less than \$500,000 may,

1 under the procedures in AS 42.05.712, elect to be exempt from this  
2 chapter other than AS 42.05.221 - 42.05.281.

3 \* Sec. 24. AS 42.05.711(h) is amended to read:

4 (h) An electric [A] cooperative organized under AS 10.25 may  
5 elect to be exempt from [THE PROVISIONS OF] this chapter, other than  
6 AS 42.05.221 - 42.05.281, under the procedure described in AS 42.05.-  
7 712.

8 \* Sec. 25. AS 42.05.711(k) is amended to read:

9 (k) A utility that [WHICH] furnishes cable television service or  
10 service as a radio common carrier is exempt from the provisions of  
11 this chapter. In this subsection, "radio common carrier" means a  
12 radio, paging, mobile radiotelephone, or improved mobile telephone  
13 service [OTHER THAN AS 42.05.221 - 42.05.281 UNLESS 25 PERCENT OF THE  
14 SUBSCRIBERS PETITION THE COMMISSION FOR REGULATION].

15 \* Sec. 26. AS 42.05.712(a) is amended to read:

16 (a) A utility or cooperative that [WHICH] may elect to be exempt  
17 from [THE PROVISIONS OF] this chapter shall poll its subscribers or  
18 members in the manner described in this section. A cooperative formed  
19 for the generation and transmission of electrical service may not  
20 elect to be deregulated under this section unless each of its members  
21 that is organized as a distribution cooperative has held an election  
22 among its subscribers to determine the cooperative's vote on deregu-  
23 lation.

24 \* Sec. 27. AS 42.05.720(3) is amended to read:

25 (3) "public" or "general public" means

26 (A) any group of 10 or more customers that purchase  
27 the service or commodity furnished by a public utility [AS DE-  
28 FINED IN (2) OF THIS SECTION]; and

29 (B) any utility purchasing the product or service or

1 paying for the transmission of electric energy, natural or man-  
2 ufactured gas, or petroleum products which are re-sold to a group  
3 included in (A) of this paragraph or which are used to produce  
4 the service or commodity sold to the public by the utility;

5 ALTERNATE: (B) any utility purchasing the product or  
6 service or paying for the transmission of electric energy, natu-  
7 ral or manufactured gas, or petroleum products that [WHICH] are  
8 re-sold to a group included in (A) of this paragraph or that  
9 [WHICH] are used to produce the service or commodity sold to the  
10 public by the utility except a producer of oil and gas;

11 \* Sec. 28. AS 42.05.720(4) is amended to read:

12 (4) "public utility" or "utility" includes every corpora-  
13 tion (whether public, cooperative, or otherwise), company, individual,  
14 or association of individuals, their lessees, trustees, or receivers  
15 appointed by a court, that owns, operates, manages or controls any  
16 plant, pipeline or system for

17 (A) furnishing, by generation, transmission or distri-  
18 bution, electrical service to the public for compensation;

19 (B) furnishing telecommunications service to the  
20 public for compensation;

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

23 (D) transmitting or distributing [FURNISHING BY TRANS-  
24 MISSION OR DISTRIBUTION OF] natural or manufactured gas to the  
25 Alaska public for compensation, but not including a producer who  
26 transmits or distributes natural or manufactured gas for first  
27 sale to a person unless the purchaser has an affiliated interest  
28 with the producer;

29 ALTERNATE: (D) furnishing natural or manufactured gas

1           to the public for compensation by transmission or distribu-  
2           tion, except as necessary for a producer to supply first  
3           sale gas to an entity that is not an affiliated interest if  
4           the distribution or transmission facilities are either  
5           located entirely within the production leasehold of the  
6           producer, or to the extent that the facilities are not  
7           located within the leasehold, are valued at \$1,000,000 or  
8           less [OF NATURAL OR MANUFACTURED GAS TO THE ALASKA PUBLIC  
9           FOR COMPENSATION];

10           (E) furnishing for distribution or by distribution  
11 petroleum or petroleum products to the Alaska public for compen-  
12 sation when the consumer has no alternative in the choice of  
13 supplier of a comparable product and service at an equal or  
14 lesser price;

15           [(F) FURNISHING COLLECTION AND DISPOSAL SERVICE OF  
16 GARBAGE, REFUSE, TRASH OR OTHER WASTE MATERIAL;]

17 \* Sec. 29. AS 44.66.010(4) is amended to read:

18           (4) Alaska Public Utilities Commission (AS 42.05.010) --  
19 June 30, 1990 [1986];

20 \* Sec. 30. Notwithstanding AS 42.05.030, as soon as the term of a  
21 consumer member under AS 42.05.040 expires, the governor shall reappoint or  
22 replace the member for a term of four years so that the terms of the con-  
23 sumer members of the board are staggered.

24 \* Sec. 31. Notwithstanding the amendments to AS 42.05.040 made by  
25 sec. 2 and to AS 42.05.050 made by sec. 3 of this Act, a member of the  
26 commission on the effective date of this Act may continue to serve as a  
27 commission member and may be reappointed to the commission without meeting  
28 the additional qualifications.

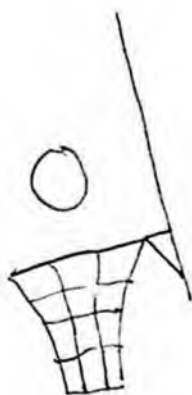
29 \* Sec. 32. AS 29.35.050(b); 42.05.711(g), and 42.05.711(i) are

1 repealed.

2 \* Sec. 33. Sections of this Act take effect immediately in accor-  
3 dance with AS 01.10.070(c).  
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Cramer  
3/6/86 ✓

Original sponsor: Davis



*Mike N*

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 314 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Public Utilities  
7 Commission Act; and providing for an effective date."

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

9 \* Section 1. AS 42.05.030(a) is amended to read:

10 (a) The term of office of each member is six years. [THE GOVER-  
11 NOR SHALL DESIGNATE WHO AMONG THE INITIAL APPOINTEES SHALL SERVE,  
12 RESPECTIVELY, FOR TERMS OF TWO YEARS, FOUR YEARS AND SIX YEARS.] A  
13 commissioner, upon the expiration of a term, shall continue to hold  
14 office until a successor is appointed and qualified.

15 \* Sec. 2. AS 42.05.040 is amended to read:

16 Sec. 42.05.040. QUALIFICATIONS OF MEMBERS. Members shall be  
17 qualified as follows: one member shall be a graduate of an accredited  
18 school of law; one member shall be a graduate of an accredited univer-  
19 sity with a major in engineering; one member shall be a graduate of an  
20 accredited university with a major in finance, accounting, or business  
21 administration; and two members shall be consumers. <sup>economics</sup> A professional  
22 member of the commission must have worked for at least five years in  
23 the member's professional field.

24 \* AS 42.05.050 is amended to read:

25 Sec. 42.05.050. ACTUAL EXPERIENCE EQUIVALENT TO A DEGREE.  
26 Actual experience that is related to utilities management or regu-  
27 lation for a period of five years ~~in the practice of law or~~ in the  
28 field of engineering or in the field of finance, business administra-  
29 tion, economics, or accounting is equivalent to a degree.

1 \* Sec. 4. AS 42.05.121 is amended to read:

2       Sec. 42.05.121. EMPLOYMENT OF COMMISSION PERSONNEL. (a) The  
3 commission may employ an executive director who shall have had at  
4 least five years of experience in public utility management or regu-  
5 lation, law, accounting, engineering, or an allied field. The execu-  
6 tive director is responsible for directing the administrative func-  
7 tions of the commission and carrying out the policies as set by the  
8 commission. The commission may employ engineers, hearing officers,  
9 administrative law judges to the extent provided by AS 42.05.171 and  
10 AS 42.06.140(b), experts, clerks, accountants, and other agents and  
11 assistants it considers necessary. The executive director, deputy  
12 director, attorneys, hearing officers, and administrative law judges  
13 are in the partially exempt service under AS 39.25.120. Other employ-  
14 ees [EMPLOYEES] and agents of the commission [WHO ARE NOT PARTIALLY  
15 EXEMPT UNDER AS 39.25.120, OTHER THAN LEGAL COUNSEL,] are in the  
16 classified service under AS 39.25.100.

17       (b) In addition to its staff of regular employees, the commis-  
18 sion may contract for and engage the services of consultants and  
19 experts the commission considers necessary if the commission resources  
20 or expertise are insufficient to perform the necessary task.

21 \* Sec. 5. AS 42.05.121 is amended by adding a new subsection to read:

22       (c) The commission shall maintain accurate records of the time  
23 devoted by a consultant or expert to each matter and the services  
24 provided. The services shall be described in reasonable detail.

25 \* Sec. 6. AS 42.05.141(a) is amended to read:

26       (a) The Alaska Public Utilities Commission may

27       (1) regulate every public utility engaged or proposing to  
28 engage in such a business inside the state, except to the extent  
29 exempted by AS 42.05.711; in exercising its authority, the commission

has the powers expressly conferred or reasonably implied by this chapter [, AND THE POWERS OF THE COMMISSION SHALL BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS STATED PURPOSES];

(2) investigate, upon complaint or upon its own motion, the rates, classifications, rules, regulations, practices, services and facilities of a public utility and hold hearings on them;

(3) make or require just, fair and reasonable rates, classifications, regulations, practices, services and facilities for a public utility;

(4) prescribe the system of accounts and regulate the service and safety of operations of a public utility;

(5) require a public utility to file reports and other information and data;

(6) appear personally or by counsel and represent the interests and welfare of the state in all matters and proceedings involving a public utility pending before an officer, department, board, commission or court of the state or of another state or the United States and to intervene in, protest, resist, or advocate the granting, denial or modification of any petition, application, complaint or other proceeding;

(7) examine witnesses and offer evidence in any proceeding affecting the state and initiate or participate in judicial proceedings to the extent necessary to protect and promote the interests of the state.

\* Sec. 7. AS 42.05.161 is amended by adding a new subsection to read:

(c) A commission proceeding is open to the public under AS 44.62.310(a) unless closed under AS 44.62.310(b). Commission proceedings are not considered adjudicatory proceedings under AS 44.62.310(d)(1).

\* Sec. 8. AS 42.05.171 is repealed and reenacted to read:

*Rate making  
certification  
are not  
adjudicatory*

*open meeting*

*open mtg law*

1 ✓ Sec. 42.05.171. FORMAL HEARINGS. (a) The commission may hold a  
2 hearing on a matter that is subject to the jurisdiction of the commis-  
3 sion or may assign the matter to one or more commissioners, a hearing  
4 officer, or an administrative law judge. The commission shall assign  
5 as many matters as possible to a hearing officer or administrative law  
6 judge.

7 (b) When the commission does not preside over a hearing, the  
8 presiding officer shall enter a recommended decision in the case  
9 unless the commission requires, either in a specific case or by regu-  
10 lation applying to a class of cases, that the entire record be certi-  
11 fied to the commission for decision. The recommended decision becomes  
12 the decision of the commission without further procedures unless there  
13 is an appeal to, or review on the motion of, the commission within the  
14 time limits provided in this chapter. On appeal from or review of the  
15 recommended decision, the commission has the powers that it would have  
16 in making an initial decision unless the commission has limited the  
17 issues it will consider by notice to the parties or by regulation.

18 (c) Before the commission or the presiding officer enters a  
19 decision the parties are entitled to a reasonable opportunity to  
20 review a draft of the decision and to submit

21 (1) proposed findings and conclusions, or exceptions to the  
22 draft decision; and

23 (2) supporting reasons for the exceptions or proposed  
24 findings or conclusions.

25 (d) In a matter heard by the commission, a commissioner who has  
26 not heard or read the testimony, including the argument, shall review  
27 the record before participating in the decision.

28 (e) In determining the place of a hearing the commission shall  
29 give preference to the place most convenient for those interested in



1 the subject of the hearing.

2 (f) The commission shall employ a sufficient number of hearing  
3 officers or administrative law judges to hear and decide matters  
4 arising before the commission under this chapter.

5 \* Sec. 9. AS 42.05.221(a) is amended to read:

6 (a) A public utility may not operate and receive compensation  
7 for providing a commodity or service until it has obtained [AFTER  
8 JANUARY 1, 1971 WITHOUT FIRST HAVING OBTAINED FROM THE COMMISSION  
9 UNDER THIS CHAPTER] a certificate declaring that [PUBLIC CONVENIENCE  
10 AND NECESSITY REQUIRE OR WILL REQUIRE] the service is not contrary to  
11 the public interest under this chapter. If [WHERE] a public utility  
12 provides more than one type of utility service, a separate certificate  
13 of public convenience and necessity is required for each type. A  
14 certificate shall describe the nature and extent of the authority  
15 granted in it, including, as appropriate for the services involved, a  
16 description of the authorized area and scope of operations of the  
17 public utility.

18 \* Sec. 10. AS 42.05.241 is amended to read:

19 Sec. 42.05.241. CONDITIONS OF ISSUANCE. The commission shall  
20 issue a certificate if [A CERTIFICATE MAY NOT BE ISSUED UNLESS] the  
21 commission finds that the applicant is fit, willing and able under (b)  
22 of this section to provide the utility services applied for and that  
23 the services are not contrary to the public interest [REQUIRED FOR THE  
24 CONVENIENCE AND NECESSITY OF THE PUBLIC]. The commission may issue a  
25 certificate granting an application in whole or in part and attach to  
26 the grant of it the terms and conditions it considers necessary to  
27 protect and promote the public interest including the condition that  
28 the applicant may or shall serve an area or provide a necessary ser-  
29 vice not contemplated by the applicant. The commission may, for good

1 cause, deny an application with or without prejudice.

2 \* Sec. 11. AS 42.05.24 is amended by adding new subsections to read:

3 ✓ (b) The commission shall find an applicant fit, willing, and  
4 able to provide utility service if the commission finds that

5 (1) the applicant has the financial, operational, manage-  
6 ment, and maintenance capability to provide the proposed service;

7 (2) the applicant has or will have adequate equipment and  
8 facilities to provide and maintain the proposed service; and

9 (3) the applicant submits evidence demonstrating that the  
10 applicant will comply with the law.

11 (c) In a hearing on the issuance of a certificate under this  
12 section, the applicant for the certificate has the burden of showing  
13 that the proposed service is not contrary to the public interest.

14 (d) If issuance of a certificate is not contested, the commis-  
15 sion shall grant or deny the application no later than six months  
16 after the application was filed. If the commission has not reached a  
17 decision within six months, it shall issue the certificate.

18 \* Sec. 12. AS 42.05.251 is amended to read:

19 Sec. 42.05.251. USE OF STREETS IN CITIES AND BOROUGH. Public  
20 utilities have the right to a permit to use public streets, alleys,  
21 and other public ways of a municipality [CITY OR BOROUGH, WHETHER HOME  
22 RULE OR OTHERWISE,] upon payment of a reasonable permit fee and on  
23 reasonable terms and conditions and with reasonable exceptions the  
24 municipality [CITY OR BOROUGH] requires. The fee may not exceed the  
25 actual cost to the municipality of the utility's use of the public way  
26 and of administering the permit program. A dispute as to whether  
27 fees, terms, conditions, or exceptions are reasonable shall be decided  
28 by the commission. The commission may require a utility to add the  
29 amount of any permit fee paid as a pro rata surcharge to its bills for

1 service rendered at locations within the boundaries of any municipal-  
2 ity that [CITY OR BOROUGH WHICH] requires payment of a permit fee.

3 \* Sec. 13. AS 42.05.361(c) is amended to read:

4 (c) The commission may reject the filing of all or part of a  
5 tariff that [WHICH] does not comply with the form or filing regu-  
6 lations of the commission [OR WHICH IS NOT CONSISTENT WITH THIS CHAP-  
7 TER OR THE REGULATIONS OF THE COMMISSION]. A tariff or provision so  
8 rejected is void. If the commission rejects a filing, it shall issue  
9 a statement of the reasons for the rejection. Unless the utility and  
10 the commission agree to an extension of time, the commission may not  
11 reject a filing under this subsection after 45 days have elapsed from  
12 the date of filing.

13 \* Sec. 14. AS 42.05.381 is amended by adding a new subsection to read:

14 (e) The commission shall adopt regulations for electric coopera-  
15 tives setting a range for adjustment of rates by a simplified rate  
16 filing procedure. ~~The commission shall consider implementing a times-~~  
17 ~~interest-earned-rate (TIER) rate procedure.~~ A cooperative may apply  
18 for permission to adjust its rates over a period of time ~~and without~~  
19 ~~further filings~~ under the simplified rate filing procedure regula-  
20 tions. The commission shall grant the application if the cooperative  
21 satisfies the requirements of the regulations. [The commission may  
22 review implementation of the simplified rate filing procedure at  
23 reasonable intervals and may revoke permission to use the procedure or  
24 require modification of the rates to correct an error.]

25 \* Sec. 15. AS 42.05.421(a) is repealed and reenacted to read:

26 (a) When a tariff filing is made containing a new or revised  
27 rate, classification, rule, regulation, practice, or condition of  
28 service the commission may, either upon written complaint or upon its  
29 own motion, after reasonable notice, conduct a hearing to determine

1 the reasonableness and propriety of the filing. Pending the hearing  
2 and decision, the commission may suspend the operation of the tariff  
3 filing by order stating the reasons for the suspension. When the  
4 commission suspends the operation of a tariff, the commission may  
5 grant an interim rate increase. The period of suspension may not  
6 exceed ~~nine~~<sup>10</sup> months unless

7 (1) the proceedings involve substantial affiliated interest  
8 transactions or complex rate design issues;

9 (2) the utility has delayed the proceedings, but the period  
10 of suspension may not exceed ~~nine~~<sup>10</sup> months plus the length of the delay;

11 (3) the utility requests an extension, but the period of  
12 suspension may not exceed ~~nine~~<sup>10</sup> months plus the length of the exten-  
13 sion;

14 (4) another legal or regulatory body is considering the  
15 issue and has not entered its decision;

16 (5) a consumer of the utility raises issues that require  
17 additional time to resolve.

18 \* Sec. 16. AS 42.05.421(b) is amended to read:

19 (b) An order suspending a tariff filing may be vacated if, after  
20 investigation, the commission finds that it is in all respects proper.  
21 Otherwise the commission shall hold a hearing on the suspended filing  
22 and issue its order, before the end of the suspension period, grant-  
23 ing, denying, or modifying the suspended tariff in whole or in part.  
24 If the commission does not act on the tariff filing within the period  
25 of suspension allowed under (a) of this section, the tariff filing  
26 takes effect at the end of the suspension period.

27 \* Sec. 17. AS 42.05.421(c) is amended to read:

28 (c) If the commission authorizes an interim [IN THE CASE OF A  
29 PROPOSED INCREASED] rate, the commission may by order require the

1 interested public utility or utilities to place the amounts subject to  
 2 refund in escrow in a financial institution approved by the commission  
 3 and keep accurate account of [ALL AMOUNTS RECEIVED BY REASON OF THE  
 4 INCREASE, SPECIFYING] by whom and in whose behalf the amounts are  
 5 paid. Upon completion of the hearing and decision the commission may  
 6 by order require the public utility to refund to the persons in whose  
 7 behalf the amounts were paid, that portion of the increased rates  
 8 which was found to be unreasonable or unlawful. The commission shall  
 9 immediately authorize release of the balance of funds to the utility.  
 10 Funds may not be released from escrow without the commission's prior  
 11 written consent and the utility shall instruct the escrow agent of  
 12 this requirement [SHALL BE SO INSTRUCTED BY THE UTILITY,] in writing  
 13 and send [, WITH] a copy to the commission. The utility may, at its  
 14 expense, substitute a bond for [IN LIEU OF] the escrow requirement.

15 \* Sec. 18. AS 42.05.421 is amended by adding a new subsection to read:

16 (e) At the time of a tariff filing or at any time the tariff  
 17 filing is under suspension, the utility may request the commission to  
 18 allow the tariff filing to take effect on an interim basis. The  
 19 commission shall process the request as a tariff filing under AS 42.-  
 20 05.411. If the filing contains a proposed new rate or rate increase,  
 21 the commission may allow that rate or a lesser rate to take effect on  
 22 an interim basis, subject to refund or other appropriate disposition  
 23 at the discretion of the commission.

24 \* Sec. 19. AS 42.05.431 is amended by adding new subsections to read:

25 (b) The commission may not amend a wholesale power agreement  
 26 after it is in effect.

27 ~~(c) The commission may not require a utility to refund a perma-~~  
 28 ~~ment rate after it is in effect.~~

29 \* Sec. 20. AS 42.05.651 is amended to read:

1           Sec. 42.05.651. EXPENSES OF INVESTIGATION OR HEARING. After  
 2 completion of a hearing or investigation held under this chapter, the  
 3 commission shall allocate the costs of the hearing or investigation  
 4 among the parties, including the commission, as is just under the  
 5 circumstances. In allocating costs, the commission may consider the  
 6 results, ability to pay, evidence of good faith, other relevant fac-  
 7 tors and mitigating circumstances. The costs allocated may include  
 8 the costs of any time devoted to the investigation or hearing by hired  
 9 consultants, whether or not the consultants appear as witnesses or  
 10 participants, but only if the consultants were necessary under AS 42.-  
 11 05.121(b). The costs allocated may not include the cost of permanent  
 12 staff for the commission but may include other necessary expenses not  
 13 allocated in the operating budget [ALSO INCLUDE ANY OUT-OF-POCKET  
 14 EXPENSES INCURRED BY THE COMMISSION IN THE PARTICULAR PROCEEDING].

15 \* The commission shall provide an opportunity for a [ANY] person object-  
 16 ing to an allocation to be heard before the allocation becomes final.

17 (X) Sec. 21. AS 42.05.711(b) is repealed and reenacted to read:

18           (b) Except as otherwise provided in this subsection, public  
 19 utilities owned and operated by a political subdivision of the state,  
 20 or electric operating entities established as the instrumentality of  
 21 two or more public utilities owned and operated by political subdivi-  
 22 sions of the state, are exempt from this chapter, other than AS 42.-  
 23 05.221 - 42.05.281 and 42.05.311 - 42.05.321. However, (X) (X)

24 (X) → (1) a telephone utility owned by a political subdivision is  
 25 subject to this chapter; FMUS - Ketch.

26           (2) the governing body of a political subdivision may elect  
 27 to be subject to this chapter; and

28           (3) a utility or electric operating entity that is owned  
 29 and operated by a political subdivision and that directly competes



1 with another utility or electric operating entity is subject to this  
 2 chapter and any other utilities or electric operating entities owned  
 3 and operated by the political subdivision are ~~also~~ <sup>not</sup> subject to this  
 4 chapter.

5 \* Sec. 22. AS 42.05.711(e) is amended to read:

6 (e) Notwithstanding any other provisions of this chapter, an  
 7 [ANY] electric [OR TELEPHONE] utility that does not gross \$50,000  
 8 annually is exempt from regulation under this chapter unless 25 per-  
 9 cent of the subscribers petition the commission for regulation.

10 \* Sec. 23. AS 42.05.711(f) is repealed and reenacted to read:

11 (f) A public utility, except a local exchange telephone util-  
 12 ity, that receives gross annual revenue of less than \$500,000 may,  
 13 under the procedures in AS 42.05.712, elect to be exempt from this  
 14 chapter other than AS 42.05.221 - 42.05.281.

15 \* Sec. 24. AS 42.05.711(h) is amended to read:

16 (h) An electric [A] cooperative organized under AS 10.25 may  
 17 elect to be exempt from [THE PROVISIONS OF] this chapter, other than  
 18 AS 42.05.221 - 42.05.281, under the procedure described in AS 42.05.-  
 19 712.

20 \* Sec. 25. AS 42.05.711(k) is amended to read:

21 (k) A utility that [WHICH] furnishes one-way cable television  
 22 service or service as a radio common carrier ~~is exempt~~ from the pro-  
 23 visions of this chapter. In this subsection, "radio common carrier"  
 24 means a radio, paging, mobile radiotelephone, or improved mobile  
 25 telephone service [OTHER THAN AS 42.05.221 - 42.05.281 UNLESS 25  
 26 PERCENT OF THE SUBSCRIBERS PETITION THE COMMISSION FOR REGULATION].

*old language*

27 \* Sec. 26. AS 42.05.712(a) is amended to read:

28 (a) A utility or cooperative that [WHICH] may elect to be exempt  
 29 from [THE PROVISIONS OF] this chapter shall poll its subscribers or