

**ALASKA**

**LEGISLATURE**

**COMMITTEE FILES**

**1991-1992**

**8672**

**7590**

**SENATE**

**LABOR**

**&**

**COMMERCE**

CSCSHB 247: "An Act relating to licensure of dentists."

The department supports CSHB 247 because it brings the statute into conformity with recent court decisions. It further mandates access to clearinghouses of disciplinary information which makes it possible to render an informed judgment on the applicant.

CSHB 247 makes several amendments to the dental statutes concerning examinations and licensure by credentials. It adds a new section which indicates the time frame for the Board of Dental Examiners to accept WREB scores.


The new subsection, 08.36.160, sets out a standard for acceptance of WREB examinations. This section applies only to candidates by exam. If a candidate took the WREB in 1987 but did not practice dentistry between 1987-92, it appears this provision would require the board to license the applicant. Ironically, this same person would be ineligible by credentials as credentialing would require active practice within the immediate past five years.

Section 4, 08.36.234(5), appears overly broad in that the applicant must provide certification to the board that he/she is not the subject of an unresolved complaint, investigation, review procedure, or disciplinary proceeding of a dental licensing jurisdiction or agency, law enforcement agency, or "other governmental agency." "Other governmental agency" should be clarified to include only those agencies and issues which pertain to matters relating to dentistry.

Section 5, 08.36.234, adds a new subsection (b) which provides that a license issued by credentials may be revoked by the board upon evidence of misinformation or substantial omission. This sets up a different standard for credential applicants versus exam applicants. Existing statute 08.36.315(1) appears to sufficiently cover both credential and exam applicants. The division feels "misinformation" and "substantial omission" would more properly be added to 08.36.315(1) and delete entirely subsection (b) of Section 3, 08.36.234.

The department recommends the following amendments be made:

- o Add a definition of "impaired practitioner" as it is referred to in Sec. 2, 08.36.234(15). The definition should read that "an impaired practitioner is one who has become unfit to practice due to addition or dependence on alcohol or other drugs that impairs the practitioner's ability to practice safely." (This is similar wording to the existing authorities to revoke or suspend a dental license under 08.36.315(7)(C).
- o Amend 08.36.234(12): "... relates to criminal or fraudulent activity, or competency issues."

  
Glenn A. Olds, Commissioner

Date: 5-3-91

REPRESENTATIVE  
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VICE CHAIRMAN,  
TRANSPORTATION COMMITTEE

# Alaska State Legislature



WHILE IN JUNEAU  
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## House of Representatives

### Senate CS for CSHB 247 (L&C)

The following changes have been made in the draft Labor and Commerce Committee Substitute:

- Section 2 (D) and (F) were combined to provide that an applicant for licensure is not the subject of an adverse or unresolved complaint, investigation or review procedure.
- Section 4 (B) page 4, lines 3 - 4 "in scope, quality and difficulty" deleted; it now provides that an applicant for licensure by credentials must be licensed in another state, territory or region of the U.S. with licensing requirements at least generally equivalent to those in Alaska at the time of application; deleted "time of licensure in the other state, territory or region".
- (C) page 4, line 7 - inserted "while practicing in those jurisdictions" after licensed.
- (D) page 4, lines 9-15 - adopted the amendment proposed by the sponsor which specifies that an applicant for credentialing must have been engaged for 5 years in active clinical practice in good standing while (1) licensed in another state, or (2) working for the federal government after having been licensed by a jurisdiction.
- (E) and (J) were combined as in section 1.
- (H) deleted language that the applicant has not failed the state clinical examination. Was (G) in House Rules CS.
- (2)(c) page 5, lines 15-16 - rewrote the subsection providing that the board shall adopt regulations to implement this section, deleting former (c)(2) which required that all paperwork had to be provided directly to the board from the institution, agency or jurisdiction.

HISTORY IN THE HOUSE

1991  
4/2 Read first time and referred to:  
HES L&C

4/29 HES RPT CS(HES)  New Title  
 4 DP  DNP  NR  AM  
 FN  OFN Previous FN

5/13 L&C RPT CS(L&C)  New Title  
 3 DP  DNP  NR  AM  
 FN  OFN  Previous FN

1992  
1/24 R15 RPT CS(R15)  New Title  
 7 DP  DNP  NR  AM  
 FN  1 OFN Previous FN

1/24 Read second time  
CS(R15) Adopted

Amended

1/24 Advanced

1/24 Read third time

Return to second for specific amendment

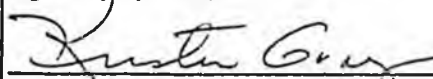
1/24 PASSED EFD Same  or  
 Yeas 30 Yeas  
 Nays 0 Nays  
 Excused 8 Excused  
 Absent 2 Absent

Intent adopted

Reconsideration  
 Reconsideration not taken up

PASSED ON RECON. EFD Same \_\_\_ or  
 Yeas 7 Yeas  
 Nays Nays  
 Excused Excused  
 Absent Absent

Intent adopted

1/24 Reported correctly engrossed  
 Signed by Speaker, to the Senate  
  
 Chief Clerk of the House

HISTORY IN THE SENATE

1992  
1/27 Read first time and referred to:  
L&C HES

RPT( ) CS DP NR DNP AM  
 New Title Same Title Previous FN  
 FN OFN To

RPT( ) CS DP NR DNP AM  
 New Title Same Title Previous FN  
 FN OFN To

RPT( ) CS DP NR DNP AM  
 New Title Same Title Previous FN  
 FN OFN To

Rules Calendar( ) CS AM Other  
 New Title Same Title Previous FN  
 FN OFN

Read second time

CS Adopted ( ) New Title  
 Amended Advanced

Read third time

Letter of Intent adopted  
 Return to second for specific amendment

PASSED EFD Same \_\_\_ or  
 Yeas Yeas  
 Nays Nays  
 Excused Excused  
 Absent Absent

Reconsideration  
 Reconsideration not taken up

PASSED EFD Same \_\_\_ or  
 Yeas Yeas  
 Nays Nays  
 Excused Excused  
 Absent Absent

Reported correctly engrossed  
 Signed by President, to the House

Secretary of the Senate

REPRESENTATIVE  
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WHILE IN JUNEAU  
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JAN 30 1992

JAN 30 1992

## House of Representatives

January 29, 1992

### MEMORANDUM

TO: Senator Drue Pearce, Chair *Drue Pearce*  
Senate Labor and Commerce Committee

FROM: Representative Jerry Mackie *Jerry Mackie*

RE: Scheduling of CSHB 247 (Rules) - An Act relating to  
licensure of dentists.

I respectfully request that you schedule HB 247, which has been referred to your committee, for a hearing at the earliest possible time.

I introduced this bill in response to a summary judgement issued by the Superior Court in January of 1991, ordering the Board of Dental Examiners to begin licensing dentists by credentials. This legal action settles a ten year dispute over the credentialing issue, and allows dentists who have come to Alaska as military or Public Health Service employees to set up a private practice and remain in the state.

I am including back up materials with this request; please contact me if you need any additional information.

attach

## SECTIONAL ANALYSIS

### CSHB 247 (RULES)

- Section 1 Requires the Board of Dental Examiners to require all dentists applying for license or renewal to have a current CPR certification.
- Section 2 Repeals and reenacts AS 08.36.110, adding a new subsection (E), which provides that an applicant for a license shall not have an adverse report relating to criminal or fraudulent activity or malpractice in the national clearinghouse or data bank. Also provides that the applicant is not the subject of an adverse peer review report or an impaired practitioner.
- Section 3 Adds a new subsection (e) to AS 08.36.160, Contents of Examination, which provides that a passing score on a clinical exam given by the Western Regional Examining Board in the 5 years preceeding application will constitute a passing school on the Alaskan clinical examination.
- Section 4 Repeals and reenacts AS 08.36.234, Licensure by Credentials, to provide that the Board of Dental Examiners will provide for licensing without examination, except for an examination on the Alaskan dental statutes. An applicant for licensure by credentials must provide certification to the board that the dentist:
- 1) is a graduate of an accredited dental school;
  - 2) has passed clinical and written examinations in another state or territory and been licensed to practice in that jurisdiction under licensing requirements equivalent in scope, quality and difficulty to this state;
  - 3) is in good standing with the licensing jurisdiction or federal agency;
  - 4) has been engaged in continuous practice at least 20 hours per week in the previous five years;
  - 5) is not the subject of an unresolved complaint or proceeding; has not had a license revoked, suspended or surrendered; is not the subject of an adverse peer review;

6) has not failed a clinical examination in Alaska in the past three years or the WREB exam;

7) has completed 42 hours of continuing education in the 3 years preceeding application;

8) is personally interviewed by the board, pays all fees, authorizes release of records to the Board and certifies that they are not an impaired practitioner;

9) provides that the board can revoke a license for evidence of misinformation or substantial omission, and that the board must adopt regulations to implement this section.

Section 5 Adds a new definition of "impaired practitioner" to AS 08.36.370.

Section 6 Provides for an immediate effective date.

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

FISCAL NOTE

Bill Version: CSHB 247(RLS)

(H) Publish Date: 1/24/92

Revision Date: 01/22/92 Department Affected: Commerce & Economic Development  
 Title: An Act relating to licensure of dentists. BRU: Occupational Licensing  
 Component: Administration

Sponsor: Rep. Mackie  
 Requestor: House Rules COMPONENT SERIAL NO. 

0	3	5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

CSHB 247(L&C) amends the dental statutes (AS 08.36) to bring the statutes into conformity with recent court decisions concerning licensure without examination; and further mandates access to clearinghouses of disciplinary information making it possible to render an informed judgement on the applicant. New funds are not required to implement provisions of the bill.

Prepared By: Jennifer Strickler *Jennifer Strickler* Phone: 465-2144  
 Division: Occupational Licensing Date: 01/22/92  
 Approved by Commissioner: Glenn A. Olds *Glenn A. Olds*  
 Agency: Commerce & Economic Development Date: 1.22.92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CHAPTER 36.  
DENTISTRY.

## Article

1. Board of Dental Examiners  
(§ 08.36.010—§ 08.36.091)
2. Examination and Licensing  
(§ 08.36.100—§ 08.36.300)
3. Unlawful Acts (§ 08.36.310—§ 08.36.340)
4. General Provisions (§ 08.36.350—§ 08.36.370)

ARTICLE 1.  
BOARD OF DENTAL EXAMINERS.

## Section

10. Creation and membership of board
20. Term of office
25. Suspension of board members
30. Election of officers
40. Meetings
50. Quorum
61. Reimbursement for expenses
70. General powers
80. Applicability of Administrative Procedure Act
91. Records and reports

Sec. 08.36.010. Creation and membership of board. There is created the Board of Dental Examiners consisting of nine members. Six members shall be licensed dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment, two members shall be dental hygienists licensed under AS 08.32 who have been engaged in the practice of dental hygiene in the state for five years immediately preceding appointment, and one member shall be a public member.

Sec. 08.36.020. Term of office. The term of office of a member of the board begins on February 1.

Sec. 08.36.025. Suspension of board members. A member against whom an accusation has been filed under AS 44.62 for violation of AS 08.32.160 or AS 08.36.315 is suspended from the board until the decision of the board on the accusation takes effect under AS 44.62.520.

Sec. 08.36.030. Election of officers. The board shall elect a president and a secretary from among its members, each to serve for a term not to exceed two years.

Sec. 08.36.040. Meetings. The board shall meet at the call of the president at least four times annually and at other times necessary to conduct its business. In the absence of a call of the president, a majority of the board may call a meeting.

**Sec. 08.36.050. Quorum.** A majority of the board constitutes a quorum for the transaction of business.

**Sec. 08.36.061. Reimbursement for expenses.** Board members are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180. The department shall reimburse a member for other actual, reasonable expenses incurred in carrying out duties as a board member.

**Sec. 08.36.070. General powers.** (a) The board shall

(1) provide for the examination of applicants and issue licenses to those applicants it finds qualified;

(2) register licensed dentists and licensed dental hygienists who are in good standing;

(3) report annually to the governor and the department on the board's proceedings during the year, findings concerning the standards and availability of dental services in the state including the number of licensees, examination and licensing activities, other matters related to dental practice, and board receipts and expenditures;

(4) affiliate with the American Association of Dental Examiners, and pay annual dues to the association;

(5) hold hearings, and order the disciplinary sanction of a person who violates this chapter, AS 08.32, or a regulation of the board;

(6) supply forms for applications, licenses, permits, certificates, and other papers and records;

(7) enforce the provisions of this chapter and AS 08.32, and adopt or amend the regulations necessary to make the provisions of this chapter and AS 08.32 effective;

(8) adopt regulations ensuring that renewal of registration is contingent upon proof of continued professional competence by a licensed dentist or licensed dental hygienist;

(9) provide the department with the requirements for proof of continued professional competence and request the department to make these requirements available to each licensed dentist and licensed dental hygienist at least one year before the date on which the dentist or dental hygienist must renew his registration;

(10) at least annually cause to be published in a newspaper of general circulation in each major city in the state, a summary of disciplinary actions the board has taken during the preceding calendar year;

(11) issue permits or certificates to licensed dentists, licensed dental hygienists, and dental assistants who meet standards determined by the board for specific procedure that require specific education and training;

(12) regulate the reentry into practice of inactive dentists and dental hygienists.

(b) The board may

(1) order a licensed dentist or licensed dental hygienist to submit to a reasonable physical or mental examination if the dentist's or dental hygienist's physical or mental capacity to practice safely is at issue; and

(2) authorize its representative to inspect the practice facilities or patient or professional records of a dentist at reasonable times and in a reasonable manner to monitor compliance with this chapter and with AS 08.32.

**Sec. 08.36.080. Applicability of Administrative Procedure Act.** The board shall comply with the Administrative Procedure Act (AS 44.62).

**Sec. 08.36.091. Records and reports.** The board shall maintain

(1) a record of its proceedings;

(2) a register containing the name, office and home addresses, and other information considered necessary by the board, of each person licensed as a dentist or dental hygienist, and a register of the licenses revoked by the board, and information on the status of each licensee.

## ARTICLE 2. EXAMINATION AND LICENSING.

### Section

- 100. License required
- 110. Qualifications for license
- 120. Signing, photograph and filing date of application
- 130. Examination
- 160. Contents of examination
- 180. Re-examination
- 190. Grading of examination
- 230. Practice outside the state
- 234. Licensure by credentials
- 238. Exemption from license requirement
- 240. Issuance and display of license
- 244. License to practice as specialist required
- 246. Qualification for a specialist license
- 247. Limitation of special practice
- 248. Suspension or revocation of specialty licenses
- 250. Renewal of registration
- 260. Branch office registration
- 271. Permits for isolated areas
- 290. Fees

**Sec. 08.36.100. License required.** Except as provided in AS 08.36.238 a person may not practice, or attempt to practice, dentistry without a license and a current certificate of registration.

**Sec. 08.36.110. Qualifications for license.** An applicant for a license to practice dentistry shall

(1) be a graduate of a dental school that at the time of graduation is accredited by the Commission on Accreditation of the American Dental Association;

(2) hold a certificate from the American Dental Association Joint Commission on National Dental Examinations that the applicant has successfully passed the written examination given by the commission;

(3) submit proof satisfactory to the board that the applicant

(A) has not had a license to practice dentistry revoked or suspended in this state or another state; and

(B) is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding in another state;

(4) pass, to the satisfaction of the board, written, clinical, and other examinations administered or approved by the board; and

(5) meet the other qualifications for a license established by the board by regulation.

**Sec. 08.36.120. Signing, photograph and filing date of application.** Each applicant shall submit a recent unmounted, autographed photograph of the applicant. Applications shall be signed by the applicant and filed at least 45 days before the date scheduled for an examination.

**Sec. 08.36.130. Examination.** An examination shall be given at least once a year and at other times and at places determined by the board to be convenient and economical for the applicants and the state. At least once each year the board shall appoint an examination committee of at least three licensed dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment to conduct or to supervise the examination process for applicants for licenses to practice dentistry. The board shall also appoint an examination committee of at least two licensed dentists who have been engaged in the practice of dentistry in the state for five years immediately preceding appointment and one person licensed to practice dental hygiene in the state to conduct the examination for applicants for licenses to practice dental hygiene. The examination committees shall report the results to the board for official action.

**Sec. 08.36.160. Contents of examination.** (a) The examination conducted or approved by the board shall be designed to test the qualifications of the applicant to practice dentistry and shall consist of a written and a clinical examination.

(b) The subjects of the written examination shall include dental radiology, the state's laws on the practice of dentistry, and other subjects selected in accordance with the trend of dental education and professional and technical advances.

(c) The clinical examination shall test the applicant's skill in operative and the prosthetic dentistry or any procedures as selected by the board from procedures recommended by the American Dental Association Joint Commission on National Dental Examinations.

(d) The board may require an applicant to pass a laboratory examination as a prerequisite to admission to the clinical examination if the board has reason to believe the applicant cannot practice safely on a clinical patient.

**Sec. 08.36.180. Reexamination.** An applicant shall pass the examination conducted or approved by the board with a score equal to or exceeding the minimal acceptable score set by the board by regulation. If an applicant fails the examination, the applicant may be reexamined. If an applicant fails the examination on two separate occasions, the board shall refuse to examine the applicant further until the applicant produces evidence satisfactory to the board that the applicant has pursued further study in preparation for the examination.

**Sec. 08.36.190. Grading of examination.** Upon the conclusion of the written examination and as soon as practicable, the papers shall be rated by an examiner. The examiner shall prepare a report in duplicate on each written examination and a report in duplicate on each practical examination. The examiner shall forward one copy of each report on each candidate to the secretary of the board and one copy to the Division of Occupational Licensing. The secretary shall prepare a composite report on each applicant and file one copy of that report with the Division of Occupational Licensing. As soon as practicable the Division of Occupational Licensing shall notify each candidate of the results of the examination.

**Sec. 08.36.230. Practice outside the state.** A dentist licensed to practice in this state and residing and practicing dentistry outside this state, may maintain his eligibility to practice in this state by registering the dentist's name and place of residence with the Division of Occupational Licensing every four years and submitting proof of continued professional competence as required by the board. If the dentist fails to register, the board may reinstate the dentist's license without examination upon payment of applicable fees established by regulations adopted under AS 08.01.080, payment of a penalty established under AS 08.01.100(b), presentation of proof of continued professional competence, and presentation of proof of active practice certified by the dental board having jurisdiction or, if there is no board with jurisdiction, by evidence satisfactory to the board.

**Sec. 08.36.234. Licensure by credentials.** The board may provide for the licensing without examination of a dentist who

(1) is a graduate of a dental college accredited by the Commission on Accreditation of the American Dental Association, or its successor agency and holds a certificate from the American Dental Association Joint Commission on National Dental Examinations that the dentist has passed the written examination given by the commission;

(2) has been licensed to practice dentistry in another state, territory, or region with licensing requirements at least equivalent in scope, quality and difficulty to those of this state at the time of licensure;

(3) has been engaged in continuous active practice averaging at least 20 hours per week for each of the five years immediately preceding the application;

(4) is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding undertaken by a dental licensing jurisdiction;

(5) has not previously had a license to practice dentistry revoked;

(6) has not failed the clinical examination of this state;

(7) is personally interviewed by the board;

(8) pays all required fees.

**Sec. 08.36.238. Exemption from license requirement.** (a) A person enrolled as a full-time student in an accredited school of dentistry may perform procedures as part of a course of study without a license if

(1) the procedures are performed under the direct supervision of a member of the faculty who is licensed under this chapter, or under the direct supervision of a team of licensed faculty dentists, at least one of whom is licensed under this chapter; and

(2) the clinical program has received written approval from the board.

(b) A person practicing dentistry under (a) of this section is subject to all other provisions of this chapter and to other laws and regulations which apply to the practice of dentistry.

**Sec. 08.36.240. Issuance and display of license.** The board shall issue a license to each successful dentist applicant who has paid the required fees. The licensee shall display the license in a conspicuous place where the licensee practices.

**Sec. 08.36.244. License to practice as specialist required.** A licensed dentist may not hold out to the public as being especially qualified in a branch of dentistry by announcing through the press, sign, card, letterhead or printed matter, or any means of public advertising, using such terms as "specialist," or inserting the name of the specialty, or using other phrases customarily used by qualified specialists that would imply to the public that the dentist is so qualified, without first securing a specialist's license as provided in this chapter.

**Sec. 08.36.246. Qualification for a specialist license.** (a) An applicant for a specialty license shall

(1) possess a license to practice dentistry in the state;

(2) have completed as many academic years of advanced education in the specialty as are required by the appropriate specialty board in a program accredited by the Commission on Accreditation of the American Dental Association or its successor agency; and

(3) be a diplomat or the equivalent of the appropriate specialty board, or be eligible to be examined for diplomat status as documented by an organization recognized by the American Dental Association.

(b) The provisions of (a)(2) and (3) of this section do not apply to dentists who limit their practice exclusively and who ethically announce limitation of practice in accordance with the Principles of Ethics and Code of Professional Conduct of the American Dental Association.

**Sec. 08.36.247. Limitation of special practice.** (a) A specialty license may not be issued unless the applicant presents proof satisfactory to the board that the applicant is qualified to practice that specialty. A specialist appointed by the board and licensed in that specialty shall assist the board in the licensing procedures.

(b) This section may not be construed as limiting or preventing a licensed and qualified dentist from performing, without a specialty license, dental acts or services to the public in any of the branches of dentistry, except that no dentist may administer a general anesthetic to a patient without a valid permit as required by regulations of the dental examiners board.

**Sec. 08.36.248. Suspension or revocation of specialty licenses.** The board may suspend or revoke a specialty license upon any grounds set out in AS 08.36.315, and the procedure shall be the same as for the revocation or suspension of a license to practice dentistry.

**Sec. 08.36.250. Renewal of registration.** (a) At least 60 days before expiration of a licensee's registration certificate, the division of occupational licensing shall mail a form for renewal of registration to each licensed dentist. Each licensee who wishes to renew a license shall complete the form and return it with the appropriate fee and evidence of continued professional competence as required by the board. The division of occupational licensing shall, as soon as practicable, issue a registration certificate valid for a stated number of years. Each licensee shall keep the registration certificate beside or attached to the licensee's license. Failure to receive the registration form does not exempt a licensee from renewing registration.

(b) When applying for license renewal, a dentist shall report to the board each instance during the prior registration period in which the quality of the licensee's professional services was the subject of legal action.

**Sec. 08.36.260. Branch office registration.** A licensee who practices in an established office with an address other than that address for which the licensee's registration certificate is issued shall obtain a branch office registration certificate for each office.

**Sec. 08.36.271. Permits for isolated areas.** (a) The Department of Health and Social Services shall designate as isolated areas those specific places and regions remote from major population centers which are not served by dentists licensed under this chapter and which have a geographical location which works financial hardship, extended loss of time, or arduous and costly travel upon residents needing dental care.

(b) The board shall, upon recommendation of the Department of Health and Social Services, issue an annual permit authorizing the treatment of residents in an area designated under (a) of this section, who are not entitled to dental care by the state or federal government, by a dentist employed by the United States Public Health Service or qualified member of the armed services who serves in that area.

**Sec. 08.36.290. Fees.** The department shall, by regulations adopted under AS 08.01.065, establish fees for dentists for the following:

- (1) filing an examination and licensing application;
- (2) examination fee;
- (3) credential review;
- (4) initial license;
- (5) registration fee;
- (6) filing a reexamination application;
- (7) specialty license;
- (8) branch office registration;
- (9) duplicate license;
- (10) delinquent registration.

### ARTICLE 3. UNLAWFUL ACTS.

#### Section

315. Grounds for discipline, suspension or revocation of license  
320. Disciplinary sanctions  
340. Penalties

**Sec. 08.36.315. Grounds for discipline, suspension or revocation of license.** The board may revoke or suspend the license of a dentist, may reprimand, censure, or discipline a dentist, or both, if the board finds after a hearing that the dentist

(1) used or knowingly cooperated in deceit, fraud, or intentional misrepresentation to obtain a license;

(2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing or billing for professional dental services or engaging in professional activities;

(3) advertised professional dental services in a false or misleading manner;

(4) has been convicted of a felony or other crime that affects the dentist's ability to continue to practice dentistry competently and safely;

(5) engaged in the performance of patient care, or permitted the performance of patient care by persons under the dentist's supervision, that does not conform to minimum professional standards of dentistry regardless of whether actual injury to the patient occurred;

(6) failed to comply with this chapter, with a regulation adopted under this chapter, or with an order of the board;

(7) continued to practice after becoming unfit due to

(A) professional incompetence;

(B) failure to keep informed of or use current professional theories or practices;

(C) addiction or dependence on alcohol or other drugs that impairs the dentist's ability to practice safely;

(D) physical or mental disability;

(8) engaged in lewd or immoral conduct in connection with the delivery of professional service to patients;

(9) permitted a dental hygienist or dental assistant who is employed by the dentist or working under the dentist's supervision to perform a dental procedure in violation of AS 08.32.110 or AS 08.36.070(a)(11);

(10) failed to report to the board a death that occurred on the premises used for the practice of dentistry within 48 hours.

**Sec. 08.36.320. Disciplinary Sanctions.** (a) *[Repealed, § 49 ch 94 SLA 1987.]*

(b) *[Repealed, § 49 ch 94 SLA 1987.]*

(c) The board may summarily suspend the license of a licensee who refuses to submit to a physical or mental examination under AS 08.36.070(b)(1). A person whose license is suspended under this section is entitled to a hearing by the board within seven days after the effective date of the order. If, after a hearing, the board upholds the suspension, the licensee may appeal the suspension to a court of competent jurisdiction.

(d) *[Repealed, § 49 ch 94 SLA 1987.]*

(e) *[Repealed, § 49 ch 94 SLA 1987.]*

**Sec. 08.36.340. Penalties.** A person who violates any provision of this chapter or regulations adopted under this chapter for which no specific penalty is provided is guilty of a class B misdemeanor.

**ARTICLE 4.  
GENERAL PROVISIONS.**

**Section**

350. Application of chapter  
360. Practice of dentistry defined  
365. Rights of dentists  
370. Definitions

**Sec. 08.36.350. Application of chapter.** (a) This chapter applies to a person who practices, or offers, or attempts to practice dentistry in the state except

(1) dental surgeon or dentist in the military service in the discharge of official duties;

(2) a dentist in the employ of the United States Public Health Service, United States Veterans' Administration, Alaska Native Service, or other agency of the federal government, in the discharge of official duties;

(3) a physician or surgeon;

(4) a dentist providing care in an isolated area by authority of a permit issued under AS 08.36.271;

(5) a dentist licensed in another state who is teaching or demonstrating clinical techniques at a meeting, seminar or limited course of instruction sponsored by a dental or dental auxiliary society or association or by an accredited dental or dental auxiliary educational institution;

(6) a dentist licensed in another state who provides emergency care to an injured or ill person who reasonably appears to the dentist to be in immediate need of emergency aid in order to avoid serious harm or death if the care is provided without remuneration.

(b) A person excepted from this chapter under (a) of this section shall be held to the same standard of care as a person covered by this chapter.

**Sec. 08.36.360. Practice of dentistry defined.** A person engages in the practice of dentistry who

(1) performs or holds out to the public as being able to perform dental operations;

(2) diagnoses, treats, operates on, corrects, attempts to correct, or prescribes for, a disease, lesion, pain, injury, deficiency, deformity, or physical condition, malocclusion or malposition of the human teeth, alveolar process, gingiva, maxilla, mandible, or adjacent tissues;

(3) performs or attempts to perform an operation incident to the replacement of teeth;

(4) furnishes, supplies, constructs, reproduces, or repairs dentures, bridges, appliances or other structures to be used and worn as substitutes for natural teeth, except on prescription of a duly licensed and registered dentist and by the use of impressions or casts made by a duly licensed and registered dentist;

(5) uses the words "dentist" or "dental surgeon" or the letters D.D.S. or D.M.D. or other letter or title that represents the dentist as engaging in the practice of dentistry;

(6) extracts or attempts to extract human teeth;

(7) exercises control over professional dental matters or the operation of dental equipment in a facility where the acts and things described in this section are performed or done.

**Sec. 08.36.365. Rights of Dentists.** A dentist licensed in this state may

(1) practice in an association, partnership, corporation or other lawful entity with other dentists including specialists;

(2) practice under the name of "dental center" or other descriptive term that does not deceive the public about the nature of the services provided;

(3) supervise research that would otherwise violate this chapter or regulations adopted under this chapter when the research does not involve treatment of dental patients if the research is performed by a nonprofit dental research institution chartered by this state or by a dental or dental auxiliary school accredited by the Commission on Accreditation of the American Dental Association, or its successor agency;

(4) supervise research that would otherwise violate this chapter or regulations adopted under this chapter when the research involves the treatment of dental patients if the research is performed by a nonprofit dental research institution chartered by this state or by a dental or dental auxiliary school accredited by the commission on accreditation of the American Dental Association, or its successor agency, and if the dentist notifies the board in writing, at least 60 days before beginning the treatment, of the intended practices or procedures and the board does not disapprove the research.

**Sec. 08.36.370. Definitions.** In this chapter, unless the context requires otherwise,

(1) "board" means the Board of Dental Examiners;

(2) "department" means the Department of Commerce and Economic Development.



Official Business

# Alaska State Legislature

House of Representatives

Committee on Rules

P. O. Box V  
Juneau, Alaska 99811

Phone:  
(907) 465-3764  
465-3765

## HB 247 LICENSURE OF DENTISTS

"An act relating to licensure of dentists."

Sponsor: REPRESENTATIVE MACKIE

### H. B. 247 Bill History

04/02/91	648	(H)	READ THE FIRST TIME - REFERRAL(S)
04/02/91	648	(H)	HES, L&C
04/10/91	765	(H)	COSPONSOR REMOVED: BAKER
04/29/91	1002	(H)	HES RPT CS(HES) NEW TITLE 6DP 1NR Recommending do pass (6): Carney, Lincoln, Gonzales, B.Davis, Hanley, M.A.Miller No recommendation (1): C. Davis
04/29/91	1002	(H)	-ZERO FISCAL NOTE (DCED) 4/29/91
05/13/91	1304	(H)	L&C RPT CS(L&C) NEW TITLE 3DP 1DNP Recommending do pass (3): Parnell, Ivan, Finkelstein Recommending do not pass (1): Bruckman
05/13/91	1304	(H)	-PREV ZERO FN (DCED) 4/29/91
05/13/91	1304	(H)	REFERRED TO RULES
01/23/92		(H)	RLS AT 8:00 AM SPEAKER'S CHAMBERS

### H. B. 247 - House HESS Committee Minutes

April 25, 1991

Chair Lincoln mentioned that HB 247 and HB 248, which were also on the calendar, would be heard over till Friday, April 26, 1991.

The meeting was adjourned at 10:12 a.m.

### H. B. 247 - House HESS Committee Minutes

April 26, 1991

Chair Carney stated that HB 247 was next on the agenda and asked Rep. Jerry Mackie to address the Committee. The Chair announced that the meeting was on teleconference to

Anchorage, but the individual who had wished to testify was not present. The Chair declared that if that person arrived, he would be heard.

REP. JERRY MACKIE, Prime Sponsor of HB 247, reported that he had introduced the legislation to clear up confusion in the licensing of dentists by credentials. He indicated that a January 30, 1991, decision by Judge Weeks of the Superior Court, First Judicial District, invalidated the regulations of 12 AAC 28.950 which the Board of Dental Examiners ("Board") adopted. Rep. Mackie stated that the court decision required the Board to license dentists who had applied for licensure by credential and to use AS 08.36.234 as a basis.

Rep. Mackie noted that dentists most affected were in federal practice on military bases or with the Public Health Service. He added that HB 247 presented requirements for licensure by credential with standards to be met, and mandated that the Board shall license by credential.

Rep. Mackie presented a proposed CS. He acknowledged that the proposed legislation had been controversial and the CS was an effort to bring together all parties, including attorneys who had litigated on both sides, and the American Dental Association and the Alaska Dental Society. To his knowledge all had accepted the CS, which made the following changes:

1. Page 2, line 31 through page 3, line 1, pertained to license renewal requirement of cardiopulmonary resuscitation abilities in response to concerns that all dentists be qualified.
2. Section 2 was originally Section 1, and changed the date from January 1, 1987, to January 1, 1986, to allow the Board to accept a passing score on the Western Regional Examining Board within the last five years.
3. Page 2, line 27, had required 50 hours of continuing education every three years; current requirement was 42 hours in three years.
4. Page 4, line 7, deleted language which was contrary to the intent of the legislation, to allow licensure by credential, and had potential to become arbitrary.
5. Page 4, line 31, added an effective date.

Rep. Mackie expressed his intent to allow for oral interview only to verify credentials and education and not based on politics or other factors.

Number 140

Rep. M.A. Miller announced that a constituent was a party to the Superior Court case and had personally expressed his

approval of the CS.

Mr. Mackie acknowledged that this doctor was on the prevailing side of the lawsuit. Mr. Mackie added that the Assistant Attorney General who litigated for the state had agreed that CSHB 247 was appropriate.

Number 155

Rep. C. Davis asked if any dentists in Southeast Alaska had been consulted.

Rep. Mackie responded that some did not like the original version. He reported that he sponsored the legislation at the request of the Lt. Governor, who had received a request from the Attorney General's Office to "fix it." Rep. Mackie believed that dentists who had objected were now in agreement.

LINDA BOWTHORPE, Aide to Rep. Mackie, advised members that Dr. Moritz had expressed interest in the legislation and agreed that he would support it if a test was reinstated for dentists who were licensed by credential. Dr. Moritz agreed to support it so that it would be moved to the Labor & Commerce Committee.

Rep. Mackie indicated there had been a decline in licensing of dentists in Alaska and he believed that if more were licensed through credentialing, dentistry would be more competitive.

Number 195

Rep. Hanley commented for the record and for future committee that if anyone had an objection and wanted change, it should be done in each committee. Rep. Hanley pointed out that it was to be licensing by credentials, as required by the Superior Court decision, and not by oral testing. Rep. Hanley felt it was not the intent of the Committee to have an examination procedure; that was not credentialing.

Rep. Hanley expressed concern over the title which did not indicate "credential"

Chair Carney suggested amendment of the title.

Rep. Mackie had no objection, but wanted to discuss it with Legislative Council who had attempted to draft in response to the court decision.

Rep. Hanley indicated it was not a serious concern to him and noted that the Labor & Commerce Committee could change the title if they desired; it was broad enough to allow insertion of "testing" and would probably be addressed on the floor.

Number 228

Rep. M.A. Miller moved to adopt CSHB 247. There was no objection and it was so ordered.

Rep. M.A. Miller moved to pass CSHB 247 with individual recommendations. There was no objection, it was so ordered.

Number 240

Discussion followed concerning adoption of fiscal notes. The Committee staff was directed to ascertain the correct procedure with regard to adoption of fiscal notes.

H. B. 247 - House Labor and Commerce Committee Minutes  
May 1, 1991

REPRESENTATIVE JERRY MACKIE, prime sponsor of HB 247, testified. He explained that the bill was introduced after the Superior Court determined that regulations set by the Board of Dental Examiners were invalid. The bill would provide for licensure of dentists by credentials. Representative Mackie then explained the bill and a proposed CS. [A copy of the sectional provided by Representative Mackie can be found in the House Labor and Commerce Committee room, Room #17, Capital Building, until the end of the second session of the 17th Alaska Legislature; after that, it may be found in the Legislative Reference Library.]

Number 380

Rep. Zawacki moved that the committee adopt the CS for HB 247.

Rep. Donley objected, then withdrew his objection.

Chair Finkelstein asked if there was any objection to the motion. There being none, the CS for HB 247 was adopted.

Number 410

ROBERT ROBINSON, with the Alaska Dental Society, testified in support of HB 247.

Number 415

Rep. Parnell asked Mr. Robinson about the exam requirements for dentists.

Mr. Robinson stated that a clinical exam could be substituted with five years of experience, and that the written exam requirements would stay the same as in current statute.

Representative Mackie stated that HB 247 would bring the state into compliance with requirements from the Superior Court, noting that an oral exam would no longer be required: if a dentist met the requirements for credentials, they would be allowed to be licensed to practice dentistry in Alaska.

Number 440

Rep. Bruckman stated that on page 5, line 2, after "previous three years," "not" should appear before "failed".

Number 473

MIKE MCKRILL, with the Alaska Dental Society, testified in support of HB 247.

Number 476

CONNIE STEWART, a dental hygienist, testified in opposition to HB 247. She stated that she objected to the removal of stains and prophylactic agents being eliminated from the list of responsibilities afforded dental hygienists.

Number 521

SONDRA SHRYOCK, a member of the Board of Dental Examiners, testified in opposition to HB 247. She stated that she objected to the removal of stains and application of prophylactic agents from the list of responsibilities for dental hygienists.

Number 526

Representative Mackie stated that he had spoken with the dental hygienists, and their concerns were addressed in a letter of intent.

Number 550

BILL SELLE testified in support of HB 247.

Number 557

GAIL BEMIS, a dental hygienist, testified in opposition to HB 247. She stated that she, too, objected to the removal of stains and the application of prophylactic agents. She stated that the Alaska State Dental Hygienists Association was in favor of allowing certified dental assistants perform those duties, but that hygienists should be allowed to, as well. She also recommended that HB 164 be amended so that the Board of Dental Examiners would sunset on June 30, 1998, saving money and legislators' time.

Number 581

PAT GROVER testified in opposition to HB 247. She supported the comments Gail Bemis made concerning stains and prophylactic agents.

Number 601

Mr. Robinson stated that the dental hygienists had agreed that dental assistants should be able to be certified to perform pit and fissure sealants; in recommending the proposed changes in HB 247, he was trying to comply with a ruling from the Attorney General's office mandating a change in statute.

Number 623

Rep. Zawacki moved that the CS for HB 247 pass from committee with individual recommendations.

Chair Finkelstein stated that he was unsure as to why the duties were being taken away from the hygienists, and wondered why the responsibilities had to be removed in order to give dental assistants the authority to do them.

Representative Mackie stated that that was the case, and he would be happy to speak with those concerned about the issue.

TAPE 049, SIDE B  
Number 011

Chair Finkelstein stated the committee should hold HB 247 until 10:00 a.m. the following day.

Rep. Taylor called the question on the motion to pass CSHB 247 from committee.

Rep. Bruckman stated that she wouldn't vote on a bill to pass from committee unless she understood it, which she didn't in the case of HB 247.

Representative Mackie assured the committee that any valid concerns would be addressed by the time HB 247 reached the floor.

Discussion ensued on the appropriateness and logistics of continuing debate on HB 247.

Number 200

Rep. Parnell proposed a substitute motion to hold HB 247 until 10:00 a.m. the following day, with the understanding that the intent at that time would be to move the bill from committee.

Rep. Zawacki objected.

Chair Finkelstein asked who was in favor the motion. Reps. Donley, Bruckman, Parnell, and Chair Finkelstein voted in favor of the motion; Rep. Taylor, Zawacki, and Ivan voted against the motion.

**H. B. 247 - House Labor and Commerce Committee Minutes**  
May 10, 1991

Chair Finkelstein called the meeting to order at 10:25 a.m. He informed the committee they would be considering changes to HB 247.

Number 015

ANN BOUDREAU, Director, Division of Occupational Licensing, Department of Commerce and Economic Development, testified. She stated that on page 5, line 13, there was concern that a reference to "the" exam would be construed as limiting the exam to only the Western Regional exam, which would preclude a dentist from being licensed in Alaska who had passed another nationally recognized exam.

Number 044

KEN MESSING, with the Division of Occupational Licensing, Department of Commerce and Economic Development, testified. He stated that statute requires that the exam given be approved by the Board of Dental Examiners; the new wording, referring to "the" exam might require them to require dentists take the Western Regional exam.

Number 067

Rep. Parnell suggested that the exam be defined in the bill as a nationally or regionally recognized exam.

Number 076

REPRESENTATIVE JERRY MACKIE, prime sponsor of HB 247, testified. He stated that current statute requires that the Western Regional exam be given, and that would have to be changed in a separate bill.

Number 092

Rep. Parnell stated that the Western Regional exam wasn't in statute.

Ms. Boudreaux stated that statute references the exam given by the Board, and that that exam has always been the Western Regional exam.

Number 103

Rep. Bruckman noted that the Western Regional exam was referenced in HB 247 in other places.

Ms. Boudreaux stated that the one reference to the Western Regional exam was in reference to the clinical exam, rather than the written exam.

Rep. Parnell stated that they would be by reference adopting the national exam or the regional exam as the exams they would be able to use.

Number 128

Representative Mackie pointed out other requirements for dentists.

Chair Finkelstein stated that the request from the Department of Commerce and Economic Development was reasonable.

Number 166

Representative Mackie stated that board approves "the" exam, which is adequate, and would include any exam the board chose; stating that "a" exam would be too broad.

Chair Finkelstein stated that because "the" doesn't reference a specific exam, it would be unnecessary to change it to say "a" exam.

Ms. Boudreaux stated that that would be fine, as long as everyone understood the intent.

Number 211

Rep. Parnell presented a proposed amendment to page 3, line 24, after "negligent dental care", adding "(malpractice)", to the list of items that were reported to the national computer reference clearing house for dentists.

Representative Mackie stated that he had no problem with the amendment.

Ms. Boudreaux stated that the Department had no problems with the amendment, either.

Number 225

Rep. Parnell moved the amendment. There being no objection, the amendment was adopted.

Number 235

Chair Finkelstein, noting that the amendment hadn't been adopted during the previous meeting, moved that on page 5, line 2, the word "not" be added after "three years,".

Chair Finkelstein asked if there was any objection. There being none, it was adopted.

Number 258

Rep. Bruckman stated that she had had a long discussion with dental hygienists, whom she considered to be professionals, and they were concerned about the word "stains" being deleted from the list of allowable duties. She suggested that the bill be amended to make it clear that they were still allowed that duty.

Chair Finkelstein suggested that a letter of intent could be adopted.

Rep. Bruckman stated that a letter of intent would not be sufficient because statute was being changed, unless the letter of intent became statute.

Number 295

Chair Finkelstein read the letter of intent:

"The Board of Dental Examiners in the Division shall develop educational training standards for dental assistants who may apply pit and fissure sealants. Also, the Board shall develop procedures to issue permits or certificates to dental assistants who have met those standards."

Rep. Bruckman stated that the letter of intent would help, but she stated that the dental assistant should have to be certified by the Board before they could apply pit and fissure sealants.

Chair Finkelstein stated that that was in the letter of intent. He stated that it could be passed as a conceptual amendment.

Rep. Bruckman then stated she was concerned that on page 1, line 8, of the Committee Substitute (CS), the words "and stains" were removed. She moved that the words "and stains" be reinserted in the bill following the word "accretion".

Number 318

Rep. Donley stated that the bill was standardizing Board policy and regulations with regards to other areas of the dental assistant profession.

Number 325

Representative Mackie stated that the legal opinion in the committee members' packets addressed Rep. Bruckman's concerns; with the letter of intent, all of the problems should have been addressed. The bill wasn't intended to take away anyone's responsibilities.

Number 340

Rep. Donley stated that the bill did appear to be taking away responsibilities from the dental examiners, but that they would still be available through another means, not explicit in statute.

Number 354

Rep. Bruckman stated that she was concerned that the bill had been changed to include dental hygienists; now dentists had to approve procedures that were once performed at the discretion of hygienists.

Number 370

Ms. Boudreaux stated that the bill would broaden the bounds of dental hygienists responsibilities, but would only now require that those duties be delegated.

Number 384

Representative Mackie noted that dental assistants would still have to be certified to perform the duties of dental hygienists.

Number 392

Rep. Bruckman stated that the last sentence of the legal opinion states that responsibility would be taken away from dental hygienists.

Chair Finkelstein stated that he was convinced the issue was whether or not to allow dental assistants to perform the duties of dental hygienists, and that the letter of intent would address many of the concerns around that topic.

Number 418

Rep. Bruckman moved that language in the letter of intent be inserted in the bill.

Representative Mackie stated that he had no objection to the amendment.

Chair Finkelstein asked if there was any objection to the motion. There being none, the amendment was adopted.

Chair Finkelstein stated that the committee had three options on the "stains" issue: leave the CS as it was, without the stain language in it; put the stain language back in; or take out the section on the hygienists.

Number 453

Representative Mackie stated that he would prefer the proposed CS stay as it was.

Number 462

MIKE MCKRILL, with the Alaska Dental Society, testified. He stated that the purpose of section 1 was to allow dental assistants to do pit and fissure sealants, and part of that procedure is cleaning the teeth. The reason HB 247 was written that way was to allow the dental assistants to clean the teeth so they could apply the sealant.

Chair Finkelstein asked the Mr. McKrill if dental hygienists would still be allowed to perform the procedures as well.

Mr. McKrill stated that they would.

Number 469

Rep. Bruckman stated that she had no problem allowing unlicensed dental assistants apply pit and fissure sealants, but did object to unlicensed dental assistants cleaning teeth.

Number 493

Rep. Parnell asked Mr. McKrill if there was a problem with the words "and stains" in HB 247.

Mr. McKrill stated that the teeth had to be cleaned in order to do the sealant; the procedure wasn't a full cleaning.

Chair Finkelstein suggested that the words "and stains" be left in, as long as the intent was noted that in order for pit and fissure sealants with attendant cleaning. By stating this on the record, he said, there wouldn't necessarily be a contradiction.

Chair Finkelstein then stated that it might make sense to pass HB 247 as it was, and if the intent as everyone understood it, that dental assistants could apply pit and fissure sealants after the tooth had been cleaned, was not, in actuality, how

the bill was legally interpreted, a letter of intent to the could be adopted on the floor that would reflect the intention of the committee.

Rep. Bruckman stated that she didn't feel comfortable with that, and that she felt that dental hygienists should be the ones that clean teeth.

Mr. McKrill stated that it wouldn't make sense to have dental hygienists do the teeth cleaning before a pit and fissure sealant application, because it was an easy procedure that could be performed by dental assistants, thereby saving the dental hygienists time.

Chair Finkelstein asked Rep. Bruckman what her preference was.

Rep. Bruckman stated that she would like the words "and stains" reinserted into the bill.

Chair Finkelstein asked if there was any objection to the motion. He objected. Chair Finkelstein then put the issue to a voice vote. Rep. Bruckman voted in favor of the motion. The motion failed.

Number 568

Rep. Donley moved HB 247 pass from committee with individual recommendations. Rep. Bruckman objected, and HB 247 passed from committee with individual recommendations.

Rep. Donley moved HB 164 pass from committee with individual recommendations. There being no objections, HB 164 passed from committee with individual recommendations.

Rep. Donley moved the letter of intent for HB 164 pass from committee with individual recommendations. There being no objections, the letter of intent for HB 164 passed from committee with individual recommendations.

Number 571

Chair Finkelstein adjourned the meeting at 11:05 a.m.

## H. B. 247 - House Rules Committee Minutes January 23, 1992

Chairperson Ellis stated that the next item before the Committee was HB 247, Licensure of Dentists, and invited Rep. Mackie, the bill sponsor, to join the Committee. Chairperson Ellis pointed out that there is a draft Rules CS as well, and the Committee staff would go through those changes after the sponsor statement.

REPRESENTATIVE MACKIE joined the Committee and explained that the basic change was to strip out Section 1 and Section 2, which dealt with dental hygienists. He commented that the Labor and Commerce Committee had entertained a substantial amount of debate last year and had decided that it was prudent to eliminate the areas of contention that existed between the dentists and the hygienists to create what is essentially a credentialing bill. Rep. Mackie clarified that there was a court decision that the State lost, that they had to license by credentials and not get into a situation where they are only licensing people that fit their litmus test, so this bill was designed to correct that, comply with the court decision and allow for the statutory change.

Number 634

Rep. Grussendorf requested a brief summary of the disagreement between the hygienists and dentists. Rep. Mackie stated that the original version of the bill allowed for dental assistants to apply a topical fluoride or pit and fissure sealants without a dental hygienist assisting, which is something the dentists wanted their assistants to be allowed to do. He further explained that it would also permit dental hygienists to administer nitrous oxide under supervision. These changes in regulations basically made the working conditions a little better for the hygienists and a little better for the dentists. He further explained that both sides wanted more here and there and couldn't come to agreement. Therefore, it was decided to remove the areas of contention and deal with the original intent of the bill, which was to address the court case and change the statutes to deal with the dentists, which everybody seemed to be happy with.

Chairperson Ellis congratulated Rep. Mackie on the attempt and interjected that as the turf war progressed, they kept getting further away from the consumer interest, which was to attract more health providers in underserved areas. He stated that licensing by credentials is a great thing, battled for years in the HESS Committee. With the court finally backing them up, it would be made very clear in the statutes. He further noted that while some of the dentists weren't pleased in the past, they do like the idea now because of the court action and they are actually receiving more specificity than they had from the court decision.

Rep. Mackie shared that he anticipates the dental hygienists organization may approach the Legislature with their own legislation. Rep. Mackie explained that this was not a major issue in his district, that the Lieutenant Governor had requested the legislation be introduced to address the court case. He further stated that the current intent was to basically be a housekeeping bill.

Rep. Gruenberg shared that this had been an issue since he was on the HESS Committee in 1985 and 1986, and that the Board had refused to license by credentials. He felt that they still wouldn't comply because there was no date by which they must provide for licensing by examination and that we should allow them six months to do so. He further stated that he felt they should be given as little leeway as possible or they wouldn't comply.

Chairperson Ellis invited Jim Nordlund, Committee Staff to join the Committee and go briefly through the Rules CS. Chairperson Ellis explained that Mr. Nordlund was aide to the HESS Committee when several of the issues were before that Committee.

Number 1038

JIM NORDLUND joined the Committee and concurred with Rep. Mackie that Section 1 and Section 2, which were removed from the bill, dealt with the conflict that existed between the hygienists and the dentists. Section 1 of the bill simply required that the dentists be certified in CPR. Section 2 of the bill required the dentists that were going to be licensed by examination go through the same criteria as the dentists to be licensed by credentials. He explained that after the court case, the Dental Society came to the Legislature and requested that the process be adequate. He further stated that there were two factions involved, one in favor of licensing by credentials and the other opposed to credentialing. He clarified that both of these factions have reviewed the bill, are happy with it and feel that the public is adequately protected also.

Chairperson Ellis inquired whether there was anything contained in the court case as to time frame for adoption of credentials. Mr. Nordlund responded that the court stated "you shall license by credentials", and that this bill would add a few more criteria that no one has objections to. Chairperson Ellis concluded that there was a court order and this process is clarifying the requirements in the statute.

Rep. Gruenberg and Rep. Martin expressed concern as to compliance without a time limit. However, Chairperson Ellis stated that he would hesitate to impose such a restriction without a public hearing, which would be difficult to do in Rules Committee meetings.

Number 1423

Rep. Grussendorf commented that people would have ample opportunity to study the bill and that an uncomplicated floor amendment might be in order. Chairperson Ellis concurred and inquired as to Rep. Mackie's feelings on that issue.

Rep. Mackie stated that he would like to be able to talk to Legislative Counsel and review what the time frame would be as to when the Board meets and how it would be handled. Chairperson Ellis requested that Rep. Mackie take responsibility in exploring an amendment, if appropriate.

Rep. Martin suggested that some things may be automatic if a person were well qualified and it was simply a matter of paperwork. Chairperson Ellis shared that he had discerned a new attitude on the part of the dentists. Rep. Mackie agreed with Chairperson Ellis that the court order put the previous arguments to rest.

Number 1713

Rep. Taylor moved to adopt the Committee substitute for HB 247 (Rules). With no objection, it was so moved. Rep. Taylor then made a motion to move the bill out of Committee. With no objection, it was so moved.

With no further business to discuss, Chairperson Ellis adjourned the meeting at 8:23 p.m.

IN THE SUPERIOR COURT OF THE STATE OF ALASKA  
FIRST JUDICIAL DISTRICT AT JUNEAU

DR. STEVE ANDREWS, DR. JAMES R. )  
ARNESON, DR. DAVID BACKUS, DR. )  
STEPHEN BOESCH, DR. THOMAS )  
BORNSTEIN, DR. RICHARD CRITTENDEN, )  
DR. DONALD DENUCCI, DR. ROBERT )  
FELKER, DR. ED GRAVES, DR. WILLIAM )  
HALL, DR. RICHARD HOPKINS, DR. )  
GREG KALAL, DR. TOM KOVALESKI, DR. )  
MIKE KULIKOWSKI, DR. CHRIS MAEDER, )  
DR. ROBERT S. MATTHEWS, DR. )  
FREDERICK NOLAN, JR., DR. JASON )  
RAMPTON, DR. OLIVIA S. ROMINGER, )  
DR. CYNTHIA THIEL, DR. ED TRIPP, )  
DR. ROMMIE G. WHEELER, and )  
DR. BARRY WYMAN, )

Plaintiffs,

v.

BOARD OF DENTAL EXAMINERS,  
STATE OF ALASKA,

Defendant.

Case No. 1JU-90-974 Civil

FILED IN THE TRIAL COURT  
STATE OF ALASKA, FIRST DISTRICT  
AT JUNEAU

JAN 30 1991

Clerk of Court

By                      Deputy

RECEIVED

Department of Law

FEB 13 1991  
7:18 AM

2

FINAL JUDGMENT

This case having come on before the court for hearing on  
January 28, 1991, the court having considered both plaintiffs'  
Motion for Summary Judgment and defendant's Cross-Motion for  
Summary Judgment, the briefs and arguments of the parties, and  
having concluded that there are no issues of material fact, now  
ORDERS, ADJUDGES AND DECREES that:

- 1) 12 AAC 28.950 is invalid and contrary to law;

FINAL JUDGMENT  
ORDER FOR COSTS

PROFESSIONAL CORPORATION  
434 NORTH FRANKLIN STREET  
JUNEAU, ALASKA 99801  
(907) 986 3777

1-29-91 DM

1 2) the terms of AS 08.36.234 and AS 08.36.240 require the  
2 State Board of Dental Examiners to accept and consider  
3 applications for licensing by credentials and to grant licenses  
4 to practice dentistry in this State to all applicants who meet  
5 the requirements of AS 08.36.234;

6 3) the Board is ordered to receive and consider all  
7 applications submitted by plaintiffs for admission by  
8 credentials on or before 60 days from January 28, 1991;

9 4) Plaintiffs' Motion for Summary Judgment is granted in  
10 its entirety;

11 5) Defendant's Cross-Motion for Summary Judgment is  
12 denied in its entirety;

13 6) Final judgment is entered in favor of plaintiffs.

14 DATED at Juneau, Alaska, this 30<sup>th</sup> day of January, 1991.

15  
16 Jon W. Woods  
Superior Court Judge

17 Copy of proposed judgment received;  
18 no objections as to form.

19 Sarah J. Felix  
Sarah J. Felix  
20 Assistant Attorney General

CERTIFICATION  
The undersigned certifies that on the 31<sup>st</sup> day of  
January, 1991, a true copy of this  
document was served on the following attorneys:

Armen Hovh  
Sarah J. Felix  
By Jon W. Woods

21 ORDER AWARDING COSTS

22 Defendant is ordered to pay costs to the Plaintiff in the  
23 amount of \$152.00.

24  
25 Sharon Lennox 2-12-91  
Clerk of Courts  
26 CERTIFICATION

The undersigned certifies that on the 13<sup>th</sup> day of  
February, 1991, a true copy of this  
document was served on the following attorneys:

Armen M. Gross  
-2- Sarah J. Felix  
By Sharon Lennox

FINAL JUDGMENT  
ORDER FOR COSTS

HB

286

# Alaska Telephone Association

3305 Arctic Blvd./Suite 102

Anchorage, Alaska 99503

(907)568-4000/FAX (907)568-8776

Claude Zike  
President

Gordon Parker  
Executive Director

April 15, 1991

To: Tom Wright  
From: Gordon Parker  
Re: Rate Case Expenses

I have not yet been able to get information from all the companies who have had recent rate cases. There are two yet outstanding. I will get their figures to you as soon as I have them. Meanwhile, I want to get what I have to you.

Please keep in mind that these figures represent solely the cost of prosecuting the rate case. Therefore, the per access line cost presented is on top of the rate adjustment which was eventually granted.

<u>Company</u>	<u>Rate Case Expense</u>	<u>Per Access Line</u>
Interior	\$187,000	\$74.56
United	25,000	8.49
Bristol Bay	35,000	32.68
Yukon	30,000	88.24

FISCAL NOTE

No. 1  
 Bill Version: CSHB 286 (CRA)  
 (H) Publish Date: 5/1/91

STATE OF ALASKA  
 1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: DCED  
 Title: Regulation of Local Exchange ARU: APUC  
telephone utilities Component: \_\_\_\_\_  
 Sponsor: Rep. Ivan, Jacko  
 Requestor: Rep. Ivan, Jacko COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact for FY91

Prepared By: Ray H. Hoffmann, Acting Exec. Director Phone: 276-6222  
 Division: Alaska Public Utilities Commission Date: 4/26/91  
 Approved by Commissioner: W. H. Adams, Com. R. Hillman, Act. Com.  
 Agency: Department of Commerce & Economic Development Date: 4-26-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

# STATE OF ALASKA

## ALASKA PUBLIC UTILITIES COMMISSION DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

WALTER J. HICKEL, GOVERNOR

1016 WEST 6TH AVENUE  
SUITE 400  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-6222

### ALASKA PUBLIC UTILITIES COMMISSION

#### COMMENTS ON CS HB 286

MAY 7, 1991

The Commission unequivocally supports simplified rate making that will reduce rate case costs while still protecting consumers.

The Commission opposes CS HB 286 because it does not meet these objectives, and it is premature.

-CS HB 286 lets all telephone companies in the state, even the largest monopolies, raise rates by up to 8 percent or more a year.<sup>1</sup> These increases are allowed whether needed or not and even if the company is already overearning.

-The Commission would have no direct control over these increases. This deprives consumers of vital protection now provided by Commission review of rate increases. And it puts the burden on the consumers to control the increases. No other regulated utilities in the state can raise the rates to their consumers without regulatory review.

-Rate filings for local telephone companies will be simplified and rate case costs will be reduced under legislation passed last session (HB 168) without compromising consumer protection. Until these regulations are in place and tested, it is premature and confusing to require a further level of simplified ratemaking.

-RECOMMENDATION: Allow the Commission to complete the work already underway to implement HB 168. If the legislature wants to impose a time certain or other conditions on the HB 168 process, it can do so. (See proposed legislation in this packet.)

Other States have required simplified procedures for local telephone companies, but they have left the details to their public utility commissions. This allows for all sides to be heard, including both industry AND consumers, and for the full range of alternatives to be considered in an open forum.

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<sup>1</sup>Combining Section 1 and Section 2 increases could result in annual rate increases much higher than 8 percent a year.

CS for CSHB 286 (L&C)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE-FIRST SESSION

A BILL  
FOR AN ACT ENTITLED

"An Act relating to regulation of local exchange telephone utilities; and providing for an effective date."

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

\* Section 1. AS 42.05.381(e) is amended to read:

(e) The commission shall adopt regulations for electric cooperatives and for local exchange telephone utilities setting a range for adjustment of rates by a simplified rate filing procedure. In developing the simplified rate filing procedure for local exchange telephone utilities the commission shall consider the size of the utility and the impact of rate case expenses on rates. A cooperative or telephone utility may apply for permission to adjust its rates over a period of time under the simplified rate filing procedure regulations. The commission shall grant the application if the cooperative or telephone utility satisfies the requirements of the regulations. The commission may review implementation of the simplified rate filing procedure at reasonable intervals and may revoke permission to use the procedure or require modification of the rates to correct an error.

\* Sec. 2. AS 42.05.381 is amended by adding a new subsection to read:

(f) By January 1, 1992, the commission shall adopt regulations to establish simplified rate filing procedures for local exchange telephone companies as required by AS 41.05.381(e).

\* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. CSHB0286b

Revision Date: \_\_\_\_\_ Department Affected: DCED  
 Title: Regulation of Local Exchange telephone utilities BRU: APUC  
 Component: \_\_\_\_\_  
 Sponsor: Rep. Ivan, Jacko  
 Requestor: Rep. Ivan, Jacko COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS. CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact:

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact for FY91

Prepared By: Ray Wilberding, Acting Exec. Director Phone: 276-6222

Division: Alaska Public Utilities Commission Date: 4/26/91

Approved by Commissioner: \_\_\_\_\_

Agency: Department of Commerce & Economic Development Date: 5-9-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

# MY TURN

*The story behind the telephone rate bill*

By GORDON PARKER

Thank you for your recent article on HB 286, relating to Rate Regulation of Local Exchange Telephone Utilities. Unfortunately, several pertinent points were omitted.

HB 286 was introduced after it became apparent that the Alaska Public Utilities Commission (APUC) was taking no action to implement HB 168, passed with near unanimity by the Legislature a year ago. HB 168 simply mandated the APUC to implement a simplified rate filing procedure. It was passed after two years of hearings by various legislative committees. The APUC opposed that legislation and they continue to oppose its implementation though their arguments fly in the face of the experience in the many other states where such legislation was implemented years ago.

More than 30 states have implemented some form of streamlined regulation for local exchange tele-

phone utilities in recent years. In no instance has one of those states found it desirable to revoke simplified regulation because of abuse. The fact of the matter is such systems are working well in those states and are saving money for both companies and consumers. Here in Alaska, similar procedures have been in effect in the electric industry for several years and, likewise, are working effectively, saving money for companies and consumers.

The movement toward simplified regulation and reform of the regulatory system in general was spurred by the technological explosion which began in the 1980s. The telecommunications industry is one of rapidly evolving technology and greatly increased customer expectations. Yet in Alaska we continue to utilize a regulatory system created in 1934. As has been found desirable in so many of our sister states, the system of regulation in Alaska must evolve

to match the evolution of the industries it is charged with overseeing.

HB 286 simply allows companies to make modest adjustments in rates, either up or down, without going through the complete rate case process. As in use in the electric industry here in Alaska and in the telephone industry in many other states, the system requires notification of affected customers and allows them to demand an APUC investigation. The bill does not exempt companies from the requirements of AS 42.05.381, which requires rates to be just and reasonable, nor does it exempt companies from the APUC's authority to launch an independent investigation with reason to believe a company is in violation of statutory requirements.

Telephone utilities have always filed annual financial reports with the APUC. Since January 1, 1991, each company is also required to file

a complete revenue requirements study annually. This document is very close to a complete rate case. With this information on hand annually, the APUC has all the documentation necessary to allow them to effectively monitor local exchange telephone companies.

The evidence from other states is that simplified regulation works well to the benefit of consumers and industry. It has been shown to work well for the electric industry in Alaska. We are convinced it would be a benefit to the state in the provision of telecommunications services. It is unfortunate that the APUC chooses to delay the implementation of state laws and to stubbornly resist the natural evolution of a highly technical industry.

♦♦♦♦

**Gordon Parker is the executive director of the Alaska Telephone Association.**

ALASKA TELEPHONE ASSOCIATION

POSITION PAPER ON HB 286

"An Act Relating To Regulation Of Local Exchange Telephone Utilities"

Since the late 1970s, policymakers throughout the nation have been moving toward streamlined regulation and deregulation of local exchange telephone utilities. Varied versions of simplified ratemaking and deregulation have been implemented in different jurisdictions. In all cases, however, two commonalities exist: motivation and results.

A prime motivating factor in this trend has been cost. The cost of regulation has risen to the point which makes it a significant contributor to rate levels. States have found that establishing a simplified procedure and deregulating certain classes of companies reduces the cost of service, thereby reducing pressure on the pocketbooks of customers.

These states have also found that simplified ratemaking and deregulation omits the necessity of committing regulatory resources to the minor cases, freeing them to concentrate on the more complex procedures and policy issues before them.

Timeliness is another factor leading more and more states to restructure their regulatory procedures. The current system of regulation in Alaska, for instance, is modeled on that created by the federal government in 1934. It is a cumbersome, time-consuming process which ill fits an industry attempting to combine customer needs with the technology of the 1990s.

The most significant result is the level of customer satisfaction. Simply put, the experience has been that customers are comfortable with simplified ratemaking and deregulation.

Attached is a copy of the latest study of state action on simplified ratemaking and deregulation. The study was compiled by the National Regulatory Research Institute, the research arm of the National Association of Regulatory Utility Commissioners.

The Alaska Telephone Association (ATA), a trade association representing the 22 local exchange telephone utilities authorized to provide service within the State of Alaska, has been concerned about the cost and timeliness of regulation for

many years. Our first discussion with Alaska Public Utilities Commission regarding methods of reducing the cost and increasing the efficiency of regulation occurred in 1984.

In 1990, at ATA's urging, the legislature passed overwhelmingly HB 168, calling on the APUC to implement a simplified rate filing procedure for local exchange telephone utilities. ATA had originally proposed language which described such a procedure in detail. However, at the request of the APUC, we agreed to a more general bill which left the details up to the APUC.

Almost a year later, HB 168 has not been implemented. No docket has been opened by the APUC. The only action taken thus far by the APUC was the summary rejection of proposed regulations filed by ATA in an effort to initiate the implementation of the legislation. Consequently, the legislature has before it HB 286.

#### SECTIONAL ANALYSIS OF HB 286

Section 1: This section allows the automatic applications of shifts in jurisdictional allocations resulting from regulatory decisions. Under current practice, if either the Federal Communications Commission or the APUC issues a decision requiring that costs previously allocated to either the interstate toll, intrastate toll or local jurisdictions be allocated to another jurisdiction, the company is required to file for subsequent commission approval to carry out the order.

This language would simply allow the company to accomplish the required shift without submitting to an additional complicated regulatory procedure.

Section 2: This language implements HB 168, passed by the legislature in 1990. It allows a local exchange telephone utility to adjust rates, up or down, by a maximum of eight per cent by notifying affected customers and the commission. The commission may investigate the adjustment upon receipt of requests by five per cent of the utility's customers. This concept is similar to that already in place for the electric industry.

As with any industry, costs of doing business for local exchange telephone utilities go up. This procedure will allow the utilities to accomplish modest adjustments and avoid the shock of large increases.

Section 3: The effective date of the legislation is immediate.

# SURVEY OF STATE UTILITY COMMISSIONS ON REGULATORY OPTIONS FOR SMALL TELEPHONE COMPANIES

by  
William Pollard  
Dr. Raymond W. Lawton  
David C. Wagman  
James Landers

**Introduction:** The purpose of this report is to delineate the regulatory options adopted by public utility commissions regarding the regulation of small telephone companies.<sup>1</sup> The impetus for this report is House Bill 563 that allows the Public Utility Commission of Ohio (PUCO) to establish or place into effect alternative ratemaking and regulatory procedures for basic local exchange service for telephone companies having fewer than 15,000 access lines. The alternative regulatory structures allows the PUCO to exempt such companies from many provisions and sections of Title 49. Considerable latitude was given to the PUCO in developing and implementing a regulatory environment specifically suited to the situation of small telephone companies in Ohio. In examining regulatory options for small telephone companies, the PUCO staff contracted with The National Regulatory Research Institute (NRRI) to conduct a survey of state utility Commissions to discover changes in regulatory structures aimed specifically at small telephone companies. The NRRI focused the survey on deregulation, exemptions, and simplified regulatory procedures for small telephone companies.

The NRRI assembled a research team, wrote a questionnaire, reviewed the questionnaire with PUCO staff and conducted a telephone survey of state utility commissions. Alternative regulatory structures have been adopted for small telephone companies and these alternatives fall into three general categories. They are:

1. Deregulation of ratemaking for local exchange services offered by small telephone companies of a specified size, with provisions for reregulation.
2. Simplification of reporting and filing requirements, and hearing procedures for small telephone companies for rate increases for local exchange services.
3. Other options not aimed exclusively at small telephone companies, but which affect how small telcos are regulated.

Under these three alternative regulatory structures, a commission retains regulatory control over quality of service standards and maintains a complaint and monitoring

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<sup>1</sup>This report was prepared by The National Regulatory Research Institute (NRRI) with funding provided by the Public Utilities Commission of Ohio (PUCO). The views and opinions of the authors do not necessarily state or reflect the views, opinions, or policies of the NRRI, the PUCO or the National Association of Regulatory Utility Commissioners.

structure. The emphasis of this report is on the changes in regulatory structure aimed specifically at small companies.

This letter report is organized into three sections. The first section covers state commissions that have deregulated small telephone companies whether they are cooperatives, mutuals or for-profit companies. The second section focuses on state Commission regulatory structures that simplify the reporting, filing and hearing procedures for small companies operating under commission jurisdiction.

**Deregulation: Mutual or Cooperative Telephone Companies:** Ten Commissions responded to the telephone survey by indicating that they did not regulate cooperative or mutual telephone companies in their state. The states are: Idaho, Iowa, Minnesota, Missouri, Nevada, North Dakota, Oregon, South Dakota, Texas, and Utah. No rationale for the nonregulation of cooperatives was given.

#### For-Profit Telephone Companies

Three of the states that extended the deregulation of small telephone companies to for-profit telephone companies are: Iowa, North Dakota, and South Dakota. In each state, maximum size limitations are specified for the number of access lines or subscribers for deregulation to apply. One other state, Indiana, indicated that it had an enabling statute that allowed deregulation, but no company had yet been deregulated. The laws, rules, and procedures and other information obtained through the survey for each of these states are summarized below.

##### Iowa

Telephone companies operating in Iowa and having fewer than 15,000 access lines are not rate regulated, but do keep tariffs on file with the Commission, which monitors quality of service standards. If a telephone company has fewer than 3,000 access lines, the state utility Commission has never regulated these telephone companies. In both cases, the companies do not file rate increases, file cost support for rate increases, or go through rate cases.

The NARUC Annual Report on Utility and Carrier Regulation 1988 indicated that Iowa has 123 local exchange companies in its jurisdiction, 48 of which are cooperatives. The exact size distribution of these companies was not available because the telephone association in the state did not respond to the survey. However, no other state had more local exchange companies operating in its jurisdiction than Iowa. The Iowa law has been in effect for ten to twelve years with few reported complaints from subscribers, telephone companies, or other parties, according to the survey respondent.

##### North Dakota

North Dakota Annotated Code, Section 49-02-01.1 addresses the limitation of the Commission's jurisdiction to certain utilities. It states:

The rates for local exchange telecommunications service of any nonprofit telecommunications company or telecommunications company having less than three thousand subscribers, upon the vote of the company's owners or

board of directors, shall not be subject to the jurisdiction of the Commission.

According to the NARUC Annual Report on Utility and Carrier Regulation 1988, North Dakota had twenty-three local exchange companies operating in its jurisdiction. Fifteen of these companies were cooperatives or mutuals which operate on a not-for-profit basis. Thus, there are eight for-profit companies operating in the state with only five subject to the Commission's jurisdiction.<sup>2</sup>

### South Dakota

South Dakota's small telephone companies have been deregulated under statute 49-315.1. This law applies to companies having fewer than 10,000 subscribers. South Dakota has acted since 1979 to eliminate regulation of small companies. Cooperatives were deregulated in 1980 and independents with fewer than 7,500 subscribers were deregulated in 1982. The 10,000-subscriber limit was instituted in 1987. The Commission still has authority to act upon complaints and examine problems concerning access charges and quality of service issues.

According to the NARUC Annual Report on Utility and Carrier Regulation 1988, there are thirty-odd local exchange companies operating in South Dakota, only one of which is subject to the Commission's jurisdiction for ratemaking. There was no indication of the number of cooperatives operating in the state.

### Indiana

The rules and regulations for the Indiana Utility Regulatory Commission delineates procedures for the "Removal of Telephone Companies From the Jurisdiction of Commission for Approval of Rate and Charges." Under these rules and regulations, a telephone company must serve less than six-thousand access lines and not be a rural telephone cooperative. According to these rules and regulations, the telephone company or the lesser of 10 percent of the current access line subscribers of the telephone company or five-hundred subscribers must petition the Commission to schedule a public hearing to determine whether or not the telephone company should be removed from the Commission's jurisdiction over rates, charges, and financing. After a finding that the removal is in the public interest, such an exemption is granted to the petitioning telephone company.

The Commission may revoke or impose restrictions on this exemption from rate regulation on its own motion, or after receiving a petition filed by the utility consumer counsel; or the lesser of 10 percent of the telephone company's current access line subscribers, or five-hundred of the company's current subscribers.

Even though a telephone company may be exempt from the Commission's jurisdiction, it has to file an annual report with the Commission that includes certain kinds of information. The company must file a standardized income statement and balance sheet and any other information that the Commission

---

<sup>2</sup> Two local exchange companies are subject to rate regulation, one exchange company is price-cap regulated, and two foreign companies are price-cap regulated.

prescribes. The telephone company also must notify its customers that the income statement and balance sheet are on file with the Commission. A telephone company exempted from rate regulation must file with the Commission its tariffs for rates and charges and any subsequent changes in tariffs.

Indiana has not yet deregulated any telephone companies with less than six-thousand lines. The legislation went in to effect on July 1, 1988. The state has forty-two local exchange companies operating in the state, eight of which are cooperatives. Indiana's law seems to differ fundamentally from laws in Iowa, North Dakota, and South Dakota. In particular, the deregulation in Indiana requires a finding that the deregulation is in the public interest where in the other three states the deregulation was directly granted or required a vote of the qualifying companies' board of directors or a petition from subscribers. Whether or not the Indiana law as written will result in deregulation of a qualifying utility is still open to question. One company did apply and was unsuccessful.

Summary on Deregulation: Three of the four states that have deregulated small telephone companies tend to be sparsely populated, low-density states with a large number of companies operating under Commission jurisdiction. In the nine states that deregulated not-for-profit cooperatives, the action seems to be based on the notion that since the subscribers are the implied owners, management, elected by the subscribers, will operate in their interest in setting rates. Whether or not complaint procedures or quality-of-service inquiries were instituted for cooperatives or mutuals was not revealed by the survey data. In the three states that have deregulated for-profit telephone companies, both complaint procedures and quality of service monitoring remained a central feature of the Commission's involvement in the operation of the small companies.

For companies not subject to rate regulation in the four states, the size limitations are Iowa, 15,000 access lines; North Dakota, 3,000 subscribers; South Dakota, 10,000 subscribers; and Indiana, 6,000 access lines. South Dakota's size restriction leaves only one local exchange company subject to the Commission jurisdiction for rate regulation. Four local exchange companies are rate regulated in Iowa and five in North Dakota.

Simplified Ratemaking Model for Small Telephone Utilities: In the last several years a number of state Commissions have changed the way in which small telephone utilities are regulated. Based upon NRRI's survey of state Commissions, it was observed that eleven states have adopted regulatory structures for small telephone utilities in which rate hearings, cost studies, and other supporting data may not be required unless the Commission is petitioned by the telephone company, a consumers' counsel, or by a specified percentage or number of customers. Based on these observations, NRRI has constructed a generic model that gives an overview of how states have simplified their ratemaking process for small telephone utilities. While no Commission has revised its regulatory treatment in a way that incorporates all of the features of the model, this model is useful because it provides a benchmark against which alternative approaches can be compared.

The simplified ratemaking model (SRM) is illustrated in figure 1 and may be described as a "complaint-driven" approach to regulatory reform. Although the details of each state's approach differ, each *variation* of the SRM has traded off simplification for "a lack of complaints." The SRM approach essentially says that if

a small telephone utility initiates rate increases that do not cause consumers (or the Commission) to complain, then the full formal review of proposed rates is waived and the rates proposed by the utility will go into effect. If complaints are heard, then a ratemaking investigation will be conducted by the Commission.

Each of the features of the SRM is briefly described below in the same order they appear below. In a subsequent section the actual actions of eleven states are described.

### A Listing of the Generic Features of the Simplified Ratemaking Model (SRM)

<u>Feature</u>	<u>Description</u>
Joint task force	The process to initiate a SRM may begin with a task force with members from the Commission, industry, legislators, and other interested parties.
Legislative action	Because the shift to a "complaint-driven" model from a traditional "administrative-due-process" model of ratemaking represents a significant change, state legislatures have passed laws instructing and/or authorizing Commissions to engage in simplified ratemaking for small telephone utilities.
Alternatives to rate-of-return regulation	SRM may or may not be included in a larger effort to have the Commission consider alternatives to rate setting through traditional rate-of-return regulation (AROR). Accordingly SRM may be embedded in an AROR effort or may simply run parallel to it. The legislation accompanying the SRM may or may not make this distinction clear.
Recognition that small telephone utilities are different from large telephone utilities	Small size, having a non-Bell corporate history, serving a rural/suburban population, and having a relatively homogeneous customer base are some of the features that distinguish small telephone utilities from large telephone utilities. From an SRM perspective rate case costs for small telephone utilities seem disproportionately high for the benefits received. The SRM may work for small telcos because notification may be easier and because of the homogeneity of interests (for example, getting 10 percent of the customers of a large local exchange carrier to petition may be extremely difficult because of the different economic interests and wider geographical area served, whereas this may not be the case for the customers of a small utility).
Definition of a small telephone utility	All SRM approaches have a specific definition of small telephone utility. Most of the definitions focus on the number of access lines, although some count the number of subscribers.

Annual reporting requirements	Small telephone companies may have different annual reporting requirements from large utilities under an SRM approach. This may be specified by legislation or derived from the generic rulemaking authority of the Commission.
Monopoly services	The central focus of SRM is on monopoly services provided by a small local telephone company. A state may have other proceedings that address the issues associated with the provisioning of nontraditional and nonmonopoly services by a small telephone company.
Commission oversight and authority on non-ratemaking issues	SRM deals with ratemaking and Commission authority to deal with other issues, such as quality of service or rate discrimination, and is often explicitly recognized in the SRM legislation.
Petition for permanent regulation	SRM legislation may offer two instances where permanent regulation may be petitioned. Here the utility would be subject to whatever form of regulation was being practiced by the Commission. One form of petition is to have the customers of the utility petition, the other is to have the board of directors of the utility petition. The focus here is not on a complaint that is connected with one proposed rate increase, but rather on allowing the utility or its customers to opt out of SRM and to use some other method for setting rates.
Utility initiated rate increase	The heart of the SRM approach is the initiation of the process by the small utility. Traditional ROR has this same feature, but what distinguishes SRM is that the utility knows that if it can establish a rate below a complaint threshold, the rate will automatically be adopted. Some SRM have complaint thresholds defined by the number of petitioners needed to complain and others use various financial measures.
Commission notification of proposed rate increase	SRM requires the utility to send the Commission a notice of the proposed rate increase and may specify the form and content of the information needed. The utility must notify the Commission within a specified number of days prior to the date the utility wishes the rate to take effect.
Customer notification of proposed rate increase	The utility must notify its customers a specified number of days prior to the date of the scheduled increase and this notification must follow certain rules.
Complaint initiated by customers	If a specified number of customers complain and petition the Commission before the notification period expires, the Commission is required to investigate the proposed rates.

Petitions typically need to be signed by 5 to 10 percent of a utility's customers.

Action by a Commission on its own motion to initiate an investigation of a proposed rate increase. Complaint initiation by the consumer's counsel or others

In addition to a customer complaint an investigation may be initiated by the Commission after its inspection of the rate material sent to it under the notification procedure. Guidelines may or may not exist that would explicitly mark the occasions when the Commission must initiate a rate investigation and when it may not investigate.

Some SRM approaches allow the consumers' counsel and others to initiate a complaint that must be investigated by the Commission. These parties must follow any applicable time constraints.

Investigation of complaint

SRM legislation specifies that once an official complaint has been received, the Commission must have a formal rate investigation.

Ratemaking guidelines

If a small utility has a proposed rate increase that fits within certain guidelines, the Commission may not be able to act, absent a complaint from consumers. The guidelines can focus on the dollar value of the increase, the size of the monthly bills of an average residential consumer, the percentage increase, or the financial condition of the utility.

External factors

Small telephone companies may have their cost of operation significantly affected by changes in access and in pooling arrangements. Commissions, in an SRM proceeding, may need to recognize the impact of these factors.

Rate increase moratorium

When a Commission sets rates after an investigation, there may be a time limit such that the utility cannot restart the SRM process for a specified time period. When there is no investigation the small telephone utility may or may not have a limit on when it can next propose a rate increase.

Implement rules

Even where detailed SRM legislation exists it may be necessary for a Commission to institute a rulemaking procedure in order to clarify potential problem areas and to inform all parties of how the Commission interprets the statute. Commissions may not revise their rules if consensus exists among all parties regarding the intent of the SRM statute.

Eleven states have adopted regulatory structures in which rate hearings, cost filings, and other supporting data are not required unless the Commission is petitioned by the telephone company, a consumers' counsel, or a specified percentage or number of subscribers. There are maximum size limitations for

telephone companies to qualify for these exemptions. States having this regulatory structure are Illinois, Indiana, Montana, Nebraska, Kansas, Virginia, Oklahoma, Oregon, Texas, Utah and Wisconsin. Each of these regulatory arrangements is discussed below, beginning with Nebraska. Following this discussion, similar proposals made by the Ohio Telephone Association are compared and contrasted to these procedures in the eleven states.

### Nebraska

Pursuant to Nebraska law, telephone companies having less than five-thousand subscribers are not subject to rate regulation by the Public Service Commission unless:

1. The Board of Directors of the company elects to be regulated by the PSC,
2. A proposed rate increase exceeds 30 percent in any one year for any subscriber's service,
3. 5 percent of the subscribers petition the Commission to regulate the rates of the company,
4. The PSC declares that the company is subject to rate regulation.

Exempt companies are required to notify their subscribers and the PSC at least sixty days in advance of the effective date for any proposed rate change. In turn, the subscribers of the exempt company may petition the PSC to determine rates in lieu of those proposed by the company. Unless petitions from at least 5 percent of the company's subscribers are attained by the effective date of the proposed rate change, the Commission will not step in to determine the rates for the company. In addition, the subscribers of an exempt company may petition the PSC in order for the Commission to declare the company subject to rate regulation. If at least 51 percent of the company's subscribers petition for rate regulation, the company will become subject to rate regulation until at least 51 percent of the company's subscribers petition to have the company exempted from rate regulation.

In addition to this exemption for telephone companies with less than five-thousand subscribers, Nebraska has a more general exemption for basic local exchange service rates. Telephone companies in Nebraska are not subject to basic local exchange service rate regulation by the PSC unless one of the following occurs:

1. A company requests the Commission to prescribe fair and reasonable rates,
2. The Commission reviews the basic local exchange rate of any company if the rates for its local service area have increased by more than 10 percent within any consecutive twelve-month period,

3. The Commission reviews basic local exchange rates if a petition is filed within sixty days of notice of the rate change to affected subscribers by:
  - a. 5 percent of all affected subscribers if the company has up to 50,000 access lines
  - b. 3 percent of all affected subscribers if the company has 50,000 but not more than 250,000 access lines
  - c. 2 percent of all affected subscribers if the company has more than 250,000 access lines.

Under this rule, basic local exchange rates are the flat monthly charge for an access line, whether the service is provided on a flat or measured basis. These rates do not include charges resulting from action by a federal agency or taxes imposed by a governmental body which are billed by a telecommunications company to its customers.

As a result of these laws, small telephone companies have three alternative processes for rate filings: (1) the traditional ratemaking process before the PSC, (2) procedures under the law exempting small companies which are defined as having five-thousand or less subscribers, and (3) procedures under the law exempting from regulation all basic local exchange service rates.

Some problems have occurred with regard to the implementation of these laws and center on the confusion created by the coexistence of laws for small companies and basic local exchange rates. The above rules and regulations were drafted pursuant to Nebraska telecommunications law and promulgated under typical administrative procedures, which included timely notice and public hearings. Small telephone companies have filed applications pursuant to all three laws regarding rate filings. The three laws applying to telephone company rate filings have caused considerable confusion with regard to the filing of petitions by the affected customers. This confusion is related to the ability of the Commission to become involved in small company rate filings. According to the respondent to the questionnaire at the Nebraska Commission, a solution to these problems would be to amend the law that exempts small companies from basic local exchange service rate regulation. Thus, small company rate filings would be handled by the traditional ratemaking process or the process set up by the small company law.

The Nebraska law sets out a framework, elements of which can be found in Illinois, Indiana, Kansas, Montana, Oklahoma, Oregon, Texas, Utah, Virginia, and Wisconsin. Each of these states has its own variations on this framework and each state Commission's implementation of these rules is discussed below.

#### Illinois

Pursuant to Section 13-504 of the Illinois Public Utilities Act, small local exchange telecommunications carriers may file noncompetitive tariffs under a streamlined tariff filing process. Provisions of the telecommunications law relating to ratemaking for noncompetitive telecommunications services do not apply to proposed changes in rates or activity which would affect rates if the service in

question is provided by a local exchange telecommunications carrier which (1) has no more than fifteen-thousand subscriber access lines, and (2) is not a subsidiary of a holding company incorporated outside Illinois. Changes in rates proposed by companies meeting the above criteria are permitted as long as (1) the changes are filed with the Commission, and (2) thirty days' notice of the changes is provided the Commission and potentially affected customers. The proposed changes are not subject to suspension by the Commission, but may be investigated by the Commission upon (1) its own motion, or (2) after at least 5 percent of the potentially affected customers of the carrier files a complaint with the Commission requesting an investigation. If the Commission finds the proposed changes to be unjust or unreasonable it is authorized, subsequent to proper notice and hearing, to establish just and reasonable tariffs. Proposed tariffs become effective thirty days after filing with the Commission.

### Indiana

The Indiana Utility Regulatory Commission has, in addition to its deregulatory option discussed above, a set of procedures that delineate a streamlined filing, reporting, and hearing process. Article 14 of the Indiana Annotated Code delineates the rules for small utilities. Rule 1 deals with rate changes. A small utility under this rule is defined as having fewer than five-thousand customers as of the date any applications for rate change are filed. The rule applies to water, gas, and telephone utilities as well as to any municipal utility or distribution cooperative. Under this article a small utility must file an application with the secretary of the Commission and serve a copy of the application on the office of the utility consumer counsel. In addition to the application, the small utility must furnish evidence of publication of a notice of filing of the application for rate change no later than ten days after the filing of the application. This must be done in a newspaper of general circulation in counties in which the utility renders service. The notice should advise the public of the date of rate changes and indicate that the rate change is to occur without the costs of a public service Commission hearing unless ten individuals, firms, corporations, or associations or ten complainants of all or any of these forgoing classes affected by the proposed rate change request a hearing, or the utility consumer counsel requests a public hearing. The public notice should also state the approximate percentage increase in revenues requested if the increase is across-the-board, or the approximate percentage increase to each class of customer. In addition to the public notice, the company is required to notify each customer in writing that the application has been filed with the same information requirements as for the public notice.

Once the application for a change in rates is made, the Commission staff has up to ninety calendar days to review the application and report to the secretary of the Commission with recommendations. The Commission staff may recommend approval, amendment of, or a public hearing on the application. The Commission must issue an order on the application for rate change, however, the order may not be issued sooner than thirty days after the filing date. The Commission has the power to extend the ninety-day period when needed. If a request for a formal public hearing on an application is received or instigated by the Commission, the Commission has at least thirty calendar days to render a decision. Ten customers are needed to petition the Commission for a hearing. If no formal hearing is required, the Commission may issue an order on the application for rate change based on the data in the application and the reports filed by the Commission's staff.

## Kansas

Rule 82-1-204, classifies electric, gas, water, and telephone utilities, distinguishing between large and small utilities. A Class "A" telephone utility is defined to include local exchange companies with twenty-thousand or more access lines and all interexchange companies and resellers. A Class "B" telephone utility is defined to include local exchange companies with less than twenty-thousand access lines.

Pursuant to Rule 82-1-231, fixed utilities other than Class "A" utilities may elect to follow simplified procedures for filing applications in rate cases outlined in Rule 82-1-231b. Under Rule 82-1-231b, "electric, gas, water and telephone utilities, other than Class A, may elect to prepare a less extensive application with schedules that are more appropriate to the operations of smaller utilities." To be considered pursuant to this rule, written notice of intent to file a rate case application must be received by the Commission not less than thirty nor more than ninety days prior to the filing date of the application. The applicant utility must inform the Commission's technical staff regarding (1) its approximate revenue requirement, (2) any proposed changes in the apportionment of the revenue requirement among rate classes, and (3) any proposed rate design changes. Further, the applicant must have held a public meeting, for which adequate notice was provided, in order to inform customers of the proposed rate filing. Subsequent to consideration of the application, the Commission may (1) approve the application as filed, (2) approve the application with modifications, (3) suspend the application pending a hearing regarding the application and further investigation by the technical staff, or (4) deny the application. If the Commission approves the application as filed or with modifications, the proposed rates are temporarily set for a comment period of ninety days. If "substantial comment" is received from customers, then further investigation and a hearing may be necessary. Subsequent to the comment period, the temporary rates may be instituted as permanent rates or set aside for further investigation and hearing by the Commission. For "good cause," requirements of this rule may be waived by the Commission.

The rule relating to classification of small and large telephone utilities and expedited rate filings for small telephone utilities in Kansas were not the result of a recent enactment. Rather, the Corporation Commission pursuant to its own regulatory authority implemented the classification system and expedited the rate filing process at the recommendation of the Commission staff. The specific rule changes resulted from negotiations between the Commission staff and representatives (which included various telephone company officials) of the Kansas Telephone Association. Furthermore, comments from interested parties (namely individual telephone companies) were considered in implementing the two revisions. The Commission is awaiting its first use of the classification scheme and expedited rate filing process, though problems arising from the revisions are not expected. In addition, the Commission recently adopted an expedited access charge proceeding for all telephone companies operating in the state of Kansas, except Southwestern Bell and United Telephone. In terms of future revisions, the telephone companies are now seeking rules permitting rate increases up to \$2 per customer per year without a hearing, provided a specified threshold of customers opposed to the rate increase is not surpassed.

## Montana

The Montana Public Service Commission has a set of rules and procedures that simplify the rate regulation of small telephone companies. Under this set of rules, a small telecommunications provider means a person, partnership, corporation, or other entity providing regulated telecommunications service to less than five-thousand subscribers in Montana. This definition does not include rural telephone cooperatives. The rules and procedures for rate increases contain provisions for (1) notifying Commission, customers, and the consumers counsel, (2) petitioning the Commission to review the proposed increase, and (3) Commission action on the proposed increase.

The rules specify that a notice of the proposed rate increase by a small telecommunications provider be mailed to each affected subscriber, the Commission, and the Montana consumers' counsel. The notice must include a summary of the justification for the proposed rate increase, a list of the number of affected subscribers in each category of rate proposed to be increased, and, if requested by the Commission, a list of the names of the affected subscribers. The notification to customers is required to include a schedule of the proposed rates, the effective date of the proposed rate increase, and a description of the petition procedure.

Commission review and determination of rate increases only takes place if a petition for review is received within the sixty-day period. The petition must come from at least 10 percent of the affected customers, or from the consumers' counsel, or the Commission may act on its own motion. If by the sixtieth day following notice to subscribers of a proposed rate increase the Commission has not received a petition for review, the Commission must certify this fact to the small telecommunications provider and the proposed rate increase becomes effective as published in the notice of proposed rate increase.

## Oklahoma

Telephone companies which serve less than fifteen-thousand line subscribers within the state and telephone cooperative are not subject to local exchange rate regulation by the Oklahoma Corporation Commission. These regulations and rules have no effect whatsoever over the Commission's authority to regulate rates for intrastate toll, access rates, and charges. However, there are certain circumstances in which local exchange rates are subject to rate regulation. They are:

1. The company elects by action of its board of directors to be subject to such local exchange rate regulation by the Commission,
2. The proposed local exchange rate increase exceeds \$2 per access line per month in any one year,
3. 15 percent of the subscribers petition the Commission to regulate local exchange rates, or
4. The Commission declares that the company shall be subject to local exchange rate regulation by the Commission.

Exempted companies are required to notify the Commission and each of the subscribers of the company of the proposed local exchange rate change at least sixty days prior to the date the proposed rate is to become effective. The notice to subscribers should be in a form prescribed by the Commission and include the schedule of the proposed local exchange rates, the effective date of the rate increase, and the procedure necessary for the subscribers to petition the Commission to examine and determine the reasonableness of the proposed rates. If by the effective date of the proposed rates the Commission has not received petitions from at least 15 percent of the subscribers, the proposed rates become effective as published in the notice to subscribers. If an appropriate petition is received, the Commission notifies the company that the proposed rate shall be examined and a determination made as to the reasonableness of the proposed local exchange rates. Rates so determined by the Commission shall be in effect for at least one year.

The subscribers of a telephone company not subject to the rate regulation of the Commission may petition the Commission to declare the company subject to rate regulation. If 51 percent of the subscribers of the company have properly petitioned the Commission, the company is subject to rate regulation for local exchange rates. Similarly, a petition from 51 percent of the subscribers to a company can remove the company from the rate regulation of local exchange rates.

#### Oregon

The Public Utility Commission of Oregon exempts telecommunications utilities serving less than fifteen-thousand access lines in Oregon from regulation of rates, regulation of purchasing, and regulation of issuance of securities. The small telephone company must petition the Commission for this exemption, and the Commission must find the exemption to be in the public interest. The regulations stipulate that the Commission may hold hearings with regard to the reasonableness of proposed rates if the small telephone company or the lesser of 10 percent of the subscribers or five-hundred subscribers petition the Commission. Under these stipulations, the company is required to provide notice to customers at least forty-five days prior to the date the rates take effect.

#### Texas

In Texas, Section 43B of the Public Utilities Reform Act gives authority to the Commission to adopt streamlined regulatory treatment for utilities serving fewer than five-thousand access lines. The change was intended to allow the small companies the flexibility to respond to significant competitive challenges in certain service markets. It also allows small companies to have small rate increases through a greatly streamlined process.

The new filing requires the company to notify its customers and the Commission at least sixty days in advance and to provide the Commission with certain specified financial information. Upon a complaint signed by at least 5 percent of all affected subscribers, the Commission must review the proposed change. Unless a complaint is heard, the Commission only reviews proposed changes if the total gross revenues are increased by more than 2 1/2 percent or if the proposed change would increase any rate by more than 25 percent with the exception of basic local service. The rate for basic local service is limited to a maximum increase of 2 1/2 percent of the companies' total gross annual revenue.

No particular changes have been made to the substantive rules of the Commission. Staff felt that this meant that all parties understood the legislative changes and that no further elaboration was necessary. Texas is also undergoing a number of regulatory reforms primarily directed at the larger companies, and some of these changes have been elaborated in the substantive rules.

One small telephone company filed under Section 43B and modified its tariff filing in order to meet certain objections of the Commissioner examiner. No complaints were received from this company during the hearing.

#### Utah

Utah has streamlined its rate filing procedures for telephone utilities with less than five-thousand subscriber access lines. A utility's proposed rate increase may become effective upon filing of the tariff revisions and necessary information to support a determination by the Commission that the proposed rate increase is just and reasonable. The utility must provide thirty days' notice to the Commission and to all potentially affected access line subscribers of the proposed increase.

The Commission may initiate an investigation on its own or in response to a complaint and may approve the proposed rates or set rates that it finds to be just and reasonable. An investigation is required if 10 percent of the utility's potentially affected subscribers file a complaint or petition requesting an investigation and a hearing. This approach follows the basic outlines used in the other states examined in this section.

#### Virginia

Pursuant to Section 56-531 of the Code of Virginia, a small investor-owned telephone utility is defined as (1) not including any cooperative, (2) having gross annual operating revenue not exceeding \$10 million, or (3) having gross annual operating revenue greater than \$10 million but less than \$30 million and not being a subsidiary of an interstate utility holding company and owning, managing or controlling the plant and equipment operated in Virginia.

Pursuant to Section 56-532 of the Code of Virginia, any change in tariffs of a small investor-owned telephone utility becomes effective thirty days after notice of the tariff change has been mailed to customers. This provision does not apply if (1) a protest is filed by either 5 percent or 150 of the customers subject to the company's tariffs, whichever is less, or (2) the Commission investigates the utility's tariffs after at least thirty days' notice.

Whenever a protest is filed by the customers, the Commission is authorized to suspend the proposed tariffs for up to 150 days subsequent to the filing date of the proposal. Also, the Commission is authorized to suspend the utility's proposed tariffs on its own motion. If the proposal is suspended, the Commission is required to hold a hearing to determine whether the proposed tariffs are just and reasonable. Notice of the suspension and hearing time are to be given prior to the expiration of the utility's thirty-day notice for changing tariffs. After the hearing, the Commission is authorized to set aside tariffs proposed by the utility and substitute those it deems just and reasonable. If consideration of the tariff

proceeding is not concluded and an order not issued by the end of the 150-day suspension period, the proposed tariffs become effective. Whenever proposed tariffs become effective in such a manner, the Commission must:

1. Require the utility to post bond for any refund ordered by the Commission,
2. Require the utility to maintain detailed accounts of the amounts received as a result of the proposed tariff increase,
3. Require the company to refund the portion of the tariff increase deemed to be unjustified after the hearing is completed and the decision rendered.

### Wisconsin

The 1989 Wisconsin Act 344 defined small telephone companies as having less than nine-thousand access lines in use<sup>3</sup> and gave the Commission the explicit rulemaking authority to modify regulatory practices and procedures for small telephone utilities. This act revised the small telecommunication flexible regulation portion of Act 297, passed in 1986. The act deals both with simplification and ratemaking.

The small telephone utility can change its rates on its own initiative as long as it follows specific notification rules, and a valid customer petition is not received. The act specifies a rate of return that fluctuates with a utility's equity. The range is based upon the Moody average of yields on Baa public utility bonds existing on January 1st of each year. The rate may be up to 3.65 percent above the Moody's index for telephone companies with a common stock equity of 70 percent or more. It increases to 8.65 percent above the Moody's index for utilities with 25 percent equity. Utilities with equities below 25 percent are not subject to review if they pay less than 50 percent of earnings in dividends or submit financial plans to show how they are building equity.

The act establishes time frames for customers to petition for permanent regulation, or to challenge proposed rates, or on other matters. At least 9.5 percent of the affected customers must petition the Commission within a sixty-day period. The act sets 150 days (or 180 days if a hearing is involved) for cases to be reviewed by the Commission.

Act 344 took effect May 11, 1990 and the process to begin to incorporate the provisions of the act into the formal rules and procedures of the Commission is expected to begin in Fall 1990.<sup>4</sup> A task force composed of Commission and Wisconsin telephone association staff, plus various intervenors worked to revise the old law and recommend Act 344. It is anticipated that a similar task force structure may be used to help in the preparation of the rules and procedures.

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<sup>3</sup> Previously this had been legislatively defined as less than 7,500 customers.

<sup>4</sup> The Wisconsin Commission is in the process of reorganizing itself from a functional structure into one organized along industry lines, such that a new telecommunications division will be in place to regulate telecommunications utilities.

Due to the heavy work load at the Commission it is not now known how long it will take to develop the rules and procedures. Section 42 of the act establishes the following nonstatutory provisions that affect implementation of the Act by having the Commission

1. Issue an order establishing the Moody's average of yields on Baa public utility bonds in order to determine the target rate per the act,
2. Prepare a report to the legislature summarizing the experience of the Commission in regulating small telephone utilities and including recommendations on the need for changes,
3. Govern rate changes pending but not in effect, or a rate review commenced before the effective date by the law existing before the effective date of this subsection,
4. Submit proposed rules establishing percentages used to calculate target rates to the legislative council staff no later than the first day of the tenth month beginning after the effective date of this subsection.

Revising the rules should help in dealing with the waiver requests of small telephone utilities. Under Act 344 utilities can ask the Commission for a waiver; three did so within one week of the effective date of the act. One waiver was denied because it did not comply with existing Commission policy on directory assistance. Another waiver was approved because it resolved an abnormality created by raising pay phone charges to 25 cents. Waivers not acted upon within twenty days are automatically denied. Staff feel that 20 days is sufficient time for truly routine items, but inadequate for items requiring staff research and scheduling of reasonable discussion time on the calendar of the official Commission's agenda.

Annual reports are filed in April and companies are expected to be told by October whether they are overearning according to the several criteria. Eight telephone utilities have voluntarily initiated rate reductions or refunds since publication of the act.

Summary of Simplified Ratemaking Approaches: The eleven state Commissions that have adopted simplified ratemaking procedures have many key features in common. First, each law or procedure specifies a maximum size for telephone companies that can avail itself of the law. Second, there is a specified notice period during which the Commission and affected customers must be notified of the proposed change in rates. Third, some percentage of customers or number of customers may petition the Commission to review the reasonableness of the rates. Fourth, procedures specify which parties may petition the Commission and whether the Commission on its own accord may review the reasonableness of the rates. Finally, the procedures for some state Commissions specify an upper limit on the proposed rate increase, while other state Commissions have no set criteria for determining the reasonableness of the proposed rate increase. Each of these features is summarized in Table 1.

Table 1  
Summary of Key Features of Streamlined Regulatory Hearings

<u>State</u>	<u>Size of Company</u>	<u>Days Notice</u>	<u>Petition Size</u>	<u>Petitioners</u>	<u>Limit on Rate Change</u>
Illinois	15,000 lines	30	5% of affected subscribers	Notification required customers or commission	Commission review and approval.
Indiana	5,000 customers	90	10 customers	Any customer or consumers counsel notification required	Commission staff reviews and makes recommendation
Kansas	20,000 lines	90	Substantial comment	Notice and public hearing	Commission review and approval
Montana	5,000 customers	60	10% of subscribers	Notification required subscribers and consumers counsel	None mentioned
Nebraska	5,000 customers	60	5% of subscribers	Customers, the company's board or commission	30% for any one customer group or 10% for local
Oklahoma	15,000 lines	60	15% of subscribers	Notification required customers, the company's board or commission	\$2 for local exchange rates
Oregon	15,000 lines	45	Lesser of 10% or 500 subscribers	Notification required customers, the company's board or commission	None mentioned
Texas	5,000 lines	60	5% of affected subscribers	Notification required customers, commission	25%, except for local service

Table 1 (Continued)  
Summary of Key Features of Streamlined Regulatory Hearings

<u>State</u>	<u>Size of Company</u>	<u>Days Notice</u>	<u>Petition Size</u>	<u>Petitioners</u>	<u>Limit on Rate Change</u>
Utah	5,000 lines	30	10% of affected subscribers	Notification required customers, commission	None mentioned
Virginia	\$10 mil. in gross operating revenues	30	Lesser of 5% or 150 customers	Notification required customers or commission	Commission review and approval
Wisconsin	9,000 lines	60	Less of 9.5% or 500 subscribers	Notification required customers, the company's board or commission	Based on rate of return criteria

Source: Survey Data.

Other Regulatory Options: The actions by state Commissions in the previous two sections followed common lines of reasoning and focused on certain key variables or factors. For example, nearly all states in section three included a provision for a customer petition, with the major differences being whether a 5 percent threshold versus a 10 percent level was chosen. In this section, approaches Commissions have used that are not complaint driven are examined.

#### Alternatives to Rate of Return Regulation

Three states have modified their treatment of their small telephone utilities within the context of their movement away from rate base/rate of return regulation. These states are Missouri, Colorado and Florida. Each is described below.

##### Missouri

Missouri has modified its regulatory treatment for all telecommunications utilities. H.B. 360 established a set of procedures and definitions that classify services offered by telecommunications companies as competitive, transitional and noncompetitive. Telephone companies having fewer than 25,000 subscriber access lines are defined as small companies and have accelerated procedures for Commission approval of a proposed rate increase.

Acceleration occurs because of the time the Commission has for consideration of the proposed increase. Large utilities may have their rate increase suspended six months beyond the initial 120-day suspension period. Small companies can only have a suspension period of 150 days, after which the rates shall be considered approved for all purposes.

The Commission has the authority to require different forms of annual reports and may exempt any telecommunications utility from filing annual reports until further order of the Commission. The Commission has not acted to modify the reporting requirements for small utilities.

### Colorado

Colorado has undergone a change in its regulatory regime similar to that in Missouri. Legislation (H.B. 1336) has the Commission classify services according to their competitive characteristics and prescribes the type of regulation appropriate for each type. Title 40, article 5 of this bill treats small telephone companies differently for access charges. Small companies are defined as having fewer than fifty-thousand access lines and may elect to have services remain under rate-of-return regulation rather than have them classified as competitive services. The intent of H.B. 1336 is to create a three-tier structure whereby telecommunications services are defined as fully regulated, subject to flexible regulation, and deregulated. The regulation of small telephone utilities would otherwise follow this pattern. Small companies receive different treatment for reporting. Colorado allows its average schedule companies to use a simplified form.

### Florida

Florida has legislation authorizing the Commission to undertake alternative regulation for telephone utilities having fewer than 100,000 access lines. S.B. 2398 requires large telephone utilities to file financial reports every four years and small companies to file every five years. Both are to use the same filing reports.

The frequency of the surveillance report (earnings report) for small companies has also been changed. Large companies are required to file monthly, whereas only quarterly reports are necessary from small companies.

S.B. 2398 will not become effective until October 1, 1990. Staff is considering whether to reduce the information required in the five year filing for small telephone companies.

## Small Rate Increases

Three states address the issue of small utilities through the use of criteria that are used to evaluate the size of the rate increase. "Small" increases are not subject to rate case investigation, whereas those exceeding the criteria are investigated. The three states are New York, California, and Mississippi. Each is described below.

### New York

The New York Commission has a long-standing method for treating small telephone, electric, gas, and water utilities differently from large utilities. More than a

decade ago the New York legislature passed a statute requiring the Commission to hold rate case hearings except when the utility's requested increase was less than \$100,000 or less than 2.5 percent.

Staff noted that the state telephone association has from time to time raised the issue of increasing the \$100,000 limit. No action has been undertaken at the Commission or by the legislature to raise this limit.

New York also has an existing law that allows simplified filings and rate case proceedings for small utilities. The utilities are differentiated by their class size, with class A telephone utilities having the most detailed requirements and procedures and class D the least detailed requirements and simplified procedures.

### California

California has an approach that is similar in some respects to New York's. The California Commission issued general order 96-A that stated that "Any utility or district of a utility may request authority for a general rate increase by an advice letter filing (rather than by a formal application) if the projected annual operating revenues, including the requested increase, are no greater than \$750,000."

There have been no small company rate cases since 1985. Staff report that the companies claim that the expense and difficulty in forecasting a forward-looking test year in a climate of regulatory change, increased competition, the 1986 tax reform, and the Commission's investigation into alternative regulatory frameworks have been responsible, in part, for the lack of filings.

### Mississippi

H.B. 885 was enacted into law in 1989 and encouraged the Commission to investigate innovative ratemaking procedures, including the use of "formula type rate of return." If a formula approach is used, each revenue adjustment will be separately considered for the purpose of determining whether a hearing is required. A hearing shall be required to determine a utility's compliance with the formula rate plan and the accuracy of the data prior to making any change in the revenues if the cumulative change in any calendar year exceeds the greater of \$200,000 or 4 percent of the annual revenues of the utility.

Like New York, Mississippi uses the size of the increase, rather than the size of the utility to determine the need for a Commission investigation. The Commission still retains the necessary authority to set just and reasonable rates.

## Accelerated Procedures

### Minnesota

Minnesota has legislation authorizing the Commission to adopt alternative regulatory structures, but prescribes that the end product be an incentive regulation plan. In a separate statute small companies are identified as having fewer than thirty-thousand access lines. These companies have a simplified rate filing and may not require a full hearing if the preliminary investigation by the Department of Public

Service does not reveal the need for a full hearing. Small telephone utilities file a simple one-page annual report.

#### Summary

Two main approaches were examined in this section. New York, California, and Mississippi address the issue of "small rate increases" rather than small companies. For all practical purposes, however, these limits are generally used only for small utilities.

The Missouri, Colorado, and Florida Commissions' treatment of small telephone utilities is entirely within the context of their larger alternative rate-of-return proceedings. Their focus is on changes that are not complaint driven, but which are largely guided by the principles governing the larger reform effort. Under this approach small telephone utilities simply have fewer requirements placed on them compared with large utilities.

FISCAL NOTE

No. 1  
 Bill Version: CSHB 286 (FIN)  
 (H) Publish Date: 5/16/91

STATE OF ALASKA  
 1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: DCED  
 Title: Regulation of Local Exchange BRU: APUC  
telephone utilities Component: \_\_\_\_\_  
 Sponsor: Rep. Ivan, Jacko  
 Requestor: Rep. Ivan, Jacko COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

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

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact for FY91

Prepared By: Randy Wipperfurth Acting Exec. Director Phone: 276-6222  
 Division: Alaska Public Utilities Commission Date: 5/25/91  
 Approved by Commissioner: Henry Adams  
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Representative Ivan M. Ivan

M E M O R A N D U M

TO: Senator Drue Pearce  
Senate Labor and Commerce Committee

FROM: Representative Ivan M. Ivan *Ivan*

DATE: May 18, 1991

RE: Request for Hearing

Please consider this request to hear Committee Substitute for House Bill 286 (Fin); An Act requiring the Alaska Public Utilities Commission to adopt regulations concerning the adjustment of rates by local exchange telephone utilities; permitting the adjustment of rates of local telephone utilities in conformance with changes in jurisdictional cost allocation factors; and providing for an effective date. Back up material is attached.

The main parts of the bill are as follows:

- \* Requires the APUC to adopt regulations in regards to adjustment of rates by local telephone utilities, as required by passage of HB 168 last session, on or before October 1, 1991.
- \* Allows telephone utilities to adjust rates in compliance with regulatory orders issued by the Federal Communications Commission or the APUC. Under current procedures whenever a shift in cost allocation among the interstate toll, intrastate toll and local jurisdictions, companies must go through rate case procedures just to comply with required adjustments. The language in the bill allows the shifts to take place without the expense of a rate case.

I appreciate your consideration of my request. If I can be of assistance or answer any questions, please do not hesitate to contact me or Tom Wright of my staff at 4527.

Thank you.

DISTRICT 25

Alaska State Legislature  
House of Representatives

COMMITTEES  
CHAIRMAN  
SPECIAL COMMITTEE ON  
MILITARY & VETERANS AFFAIRS  
MEMBER  
LABOR & COMMERCE  
RESOURCES

FINANCE SUBCOMMITTEES  
MILITARY & VETERANS AFFAIRS  
PUBLIC SAFETY

PO. BOX 886  
BETHEL, AK 99559  
(907) 543-3541

DURING SESSION  
PO. BOX V  
JUNEAU, AK 99811  
(907) 465-4527



Representative Juan M. Juan

SECTIONAL ANALYSIS FOR CSHB 286 (FIN)

**SECTION 1:** Requires the Alaska Public Utilities Commission to adopt regulations concerning adjustment of rates by local telephone utilities on or before October 1, 1991.

**SECTION 2:** This section allows telephone utilities to adjust rates in compliance with regulatory orders issued by the Federal Communications Commission or the APUC. Under current procedures, whenever a shift in cost allocation among the interstate toll, intrastate toll and local jurisdictions, companies must go through rate case procedures just to comply with required adjustments. The provision in section one allows the shifts to take place without the expense or burden of a rate case procedure.

**SECTION 3:** Immediate effective date.

DISTRICT 25

AKIACHAK, AKIAK, ATMAUTLUAK, BETHEL, CHEFORNAK, EEK, GOODNEWS BAY, KASIGLUK, KIPNUK, KONGIGANAK, KWETHLUK, KWILLINGOR, MEKOYAK, NAPAKIAK, NAPASNAK, NEWTON, NIGHTMUTE, NUNAPICHUK, OSCARVILLE, PLATINUM, QUINHAGAK, TOOKSOOK BAY, TUNUTULIAK, TUNUNAK

HB

297

# REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE  
DISTRICT ELEVEN  
SEAT A

3111 "C" STREET, SUITE 450  
ANCHORAGE, ALASKA 99503  
(907) 561-7629 (FAX) 562-4376

ALASKA LANDINGS • BENTZEN • BIRCHWOOD • CHESTER CREEK • HEATHER MEADOWS • LINCOLN PARK • MIDTOWN • NORTHSTAR  
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CHAIRMAN  
JUDICIARY COMMITTEE  
VICE CHAIRMAN  
REGULATION REVIEW COMMITTEE  
MEMBER  
RULES COMMITTEE  
LABOR AND COMMERCE COMMITTEE

## HB 297 Insurance Coverage for Adopted Children

This bill establishes, in law, that insurance companies must cover a new child in the family from the moment that child comes into the family, whether by birth or adoption.

Currently a number of insurance companies require a thirty day waiting period before coverage for an adopted child begins. If the child has any medical problems or even if the child is involved in an accident during that thirty days, the insurance company declines to pay for treatment.

The net effect of this approach is that it is undue and inappropriate discrimination against adopted children. A child is a member of the family, and a dependent from the moment the child enters the family whether that be by birth or adoption.

HB 297 redresses this problem.



P.O. B-

*Sponsor Statement*

3-5661

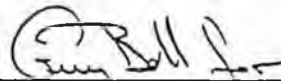
2238

HB 297: "An Act relating to insurance coverage for adopted children and children placed for adoption."

The department is in favor of this legislation.

The department has generally been opposed to health insurance mandates. However, AS 21.42.345, passed in 1975, is one "mandate" that the department supported when it was introduced. It represents more of an unfair discrimination issue than it does a coverage mandate. Prior to passage of the section, newborn children were not considered family members until they were 14 days of age. This placed substantial financial stress on the parents of newborn children with medical problems.

Recently, it has been noted that insurers are treating newly adopted children in a similar manner as were newborn children prior to 1975. Insurers are imposing their own definition of "family member" causing in some cases, the same kind of financial stress noted above. Insurers are relying on preexisting conditions restrictions to deny coverage for adopted children, thus, impeding the adoption process. In such cases, immediate medical attention is often preventive and can identify and treat situations that will only become more expensive and potentially life threatening if not treated early. We view this legislation as a clarification of existing statute, not an additional mandate.



Glenn A. Olds, Commissioner

Date: 5-1-91

# FISCAL NOTE

No. 4  
 Bill Version: HB 297  
 (H) Publish Date: 2/14/92

STATE OF ALASKA  
 1992 LEGISLATIVE SESSION

Revision Date April 22, 1991 Dept. Affected Health and Social Services  
 Title: An Act relating to insurance coverage BRU: Family and Youth Services  
for adopted children and children placed... Component: SCRO, SERO, NRO  
 Sponsor: Rep. Donley  
 Requestor: House Labor and Commerce COMPONENT SERIAL NO. 0254, 0255, 0258

Expenditures/Revenues	(Thousands of Dollars)					
	FY93	FY94	FY95	FY96	FY97	FY98
<b>OPERATING</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING:	(Thousands of Dollars)					
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: NONE

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

The Division of Family and Youth Services supports HB 297, an Act relating to insurance coverage for adopted children and children placed for adoption.

Adoption guarantees a child a permanent family. This bill will ensure that children placed for adoption will receive the same insurance coverage and medical care that a child born to the family would receive. The bill also

Prepared by: Brian Saylor, Deputy Commissioner *BRS* Phone: 465-3030  
 Division: Family and Youth Services Date: February 7, 1992

Approved by Commissioner: Theodore A. Mala *T. Mala* Date: 2/12/92  
 Agency: Department of Health and Social Services

Distribution (by preparer):  
 Legislative Finance            OMB  
 Legislative Sponsor        Impacted Agency(ies)  
 Requestor

COMMITTEE COPY

2-14-92

**ANALYSIS (cont.):**

requires coverage for pre-existing conditions, just as a birth child is covered at birth.

DFYS places special needs children for adoption. These children frequently have pre-existing medical or psychological needs. Under our subsidy program, we cover the costs of meeting those needs that are not met by the adoptive families insurance coverage. Some of those costs would be transferred to the family's insurance if this bill is enacted. No exact figure can be given as these costs vary per child per year, and are not paid directly by DFYS, but rather through payments to the adoptive family.

However most adoptions in Alaska are done privately or through private agencies. Those children do not have subsidies and they and their adoptive families will benefit considerably from this proposed change.

FISCAL NOTE

No. 3

Bill Version: HB 297

(H) Publish Date: 2/14/92

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: 12/27/91

Department Affected: Commerce & Econ. Dev.

Title: An Act relating to insurance coverage for

BRU: Insurance

adopted children and children placed for adoption

Component: Operations

Sponsor: House Labor & Commerce

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

COMPONENT SERIAL NO. 

0	3	5	4
---	---	---	---

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE FUND RESOURCE:	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS (Attach a separate page if necessary.)

Prepared By: Don Koch, Chief of Market Surveillance *(Signature)* Phone: 465-2577

Division: Insurance Date: 1/2/92

Approved by Commissioner: Glenn A. Olds *(Signature)*

Agency: Department of Commerce & Economic Development Date: 1-10-92

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., and Impacted Agency(ies).

FISCAL NOTE

10. 2

Bill Version: HB 297

(H) Publish Date: 2/14/92

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: An Act relating to insurance coverage for adopted children

Department Affected: Administration  
BRU: Retirement and Benefits

Sponsor: House Labor and Commerce  
Requestor: House Labor and Commerce

Component: Retirement and Benefits

COMPONENT SERIAL NO. 61

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	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 FUND SOURCE	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS

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

Estimate of current year impact:

ANALYSIS: (attach a separate page if necessary.) The State's insurance plans for retirees and active employees already provide the same level of coverage for adopted children as for natural, foster or step children. This bill will have no fiscal impact on the insurance plans.

Prepared By: Gary Bader *Amy M. Bader*  
Division: Retirement and Benefits

Phone: 465-4470  
Date: 1/28/92

Approved by Commissioner: Nancy Bear Usual  
Agency: Department of Administration *Nancy Bear Usual*

Date: 1/30/92

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB & Impacted Agency(ies).  
Rev 10/90

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ALASKA STATE LEGISLATURE  
HOUSE BILL NO. 297

HISTORY IN THE HOUSE

1991  
4/22 Read first time and referred to:  
HES L&C FIN

5/13 HRS RPT CS( ) New Title  
3 DP 0 DNP 3 NR 0 AM  
FN 0 OFN Previous FN

1992  
2/14 L&C RPT CS( ) New Title  
3 DP 0 DNP 2 NR 0 AM  
FN 3 OFN Previous FN

5/8 FIN Ref. waived  
RPT CS( ) New Title  
DP DNP NR AM  
FN OFN Previous FN

5/9 Read second time  
CS( ) Adopted

Amended

5/9 Advanced

5/9 Read third time

Return to second for specific amendment

5/9 PASSED EFD Same \_\_\_ or  
Yeas 37 Yeas  
Nays 0 Nays  
Excused 3 Excused  
Absent 0 Absent

Intent adopted

5/9 Reconsideration by Greenberg  
5/9 Reconsideration taken up same day

5/9 PASSED ON RECON. EFD Same \_\_\_ or  
Yeas 37 Yeas  
Nays 0 Nays  
Excused 3 Excused  
Absent 0 Absent

Intent adopted

5/9 Reported correctly engrossed  
Signed by Speaker, to the Senate  
Kristin Gray, Lamb  
Chief Clerk of the House

HISTORY IN THE SENATE

1992  
5/10 Read first time and referred to:  
L&C

RPT( ) CS DP NR DNP AM  
New Title Same Title Previous FN  
FN OFN To

RPT( ) CS DP NR DNP AM  
New Title Same Title Previous FN  
FN OFN To

RPT( ) CS DP NR DNP AM  
New Title Same Title Previous FN  
FN OFN To

Rules Calendar( ) CS AM Other  
New Title Same Title Previous FN  
FN OFN

Read second time

CS Adopted ( ) New Title  
Amended Advanced

Read third time

Letter of Intent adopted  
Return to second for specific amendment

PASSED EFD Same \_\_\_ or  
Yeas Yeas  
Nays Nays  
Excused Excused  
Absent Absent

Reconsideration  
Reconsideration not taken up

PASSED EFD Same \_\_\_ or  
Yeas Yeas  
Nays Nays  
Excused Excused  
Absent Absent

Reported correctly engrossed  
Signed by President, to the House  
Secretary of the Senate

HOUSE-SENATE HISTORY Continued

19

Received from the Senate \_\_\_\_\_

Concur in Senate amendment  
 Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_  
 \_\_\_ Efd same or Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_

Failed to concur Senate amendment, ask Senate recede  
 Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_

Senate failed to \ receded from amendment  
 Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_

CC appointed by House \_\_\_\_\_ Chair

CC appointed by Senate \_\_\_\_\_ Chair

(H) Granted Limited Powers of Free Conference

(S) Granted Limited Powers of Free Conference

19

(H) Adopted CC Rpt \_\_\_\_\_  
 Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_  
 \_\_\_ Efd same or Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_

(S) Adopted CC Rpt \_\_\_\_\_  
 Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_  
 \_\_\_ Efd same or Y \_\_\_ N \_\_\_ E \_\_\_ A \_\_\_

To enrolling  
 Reported enrolled and sent to Governor

\_\_\_\_\_ By Governor

Legislative Resolve Number \_\_\_\_\_

Filed with Lieutenant Governor

HB

305

# HONDA *of Anchorage*

1118 E. 5TH AVENUE  
ANCHORAGE, ALASKA 99501  
279-9478

April 15, 1992

MR. DAVID J. WALSH  
DIRECTOR OF INSURANCE  
DEPT. OF COMMERCE AND ECONOMIC DEVELOPMENT  
P.O. BOX D  
JUNEAU, ALASKA 99811-0800

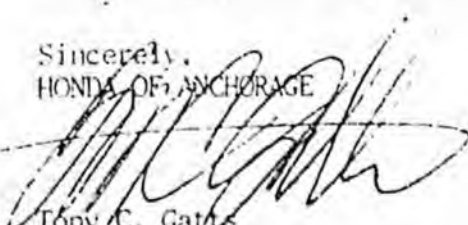
Dear Mr. Walsh,

Enclosed you will find letters from some of my customers and employees (over 100) protesting the insurance legislation introduced by Dave Donley last year.

On the surface this legislation would seem to be well meaning, in depth however the repercussions will result in a negative financial impact that will not only limit the availability of motorcycle users to acquire coverage it will take another revenue and employment source from an already embattled Alaskan economy. The loss of jobs and businesses due to the legislation will be devastating. In my small business alone I provide jobs for 25 Alaskans we are the largest motorcycle dealership in Alaska, more than 60% of our sales are financed. As you know financial organizations require insurance as a prerequisite to a loan. With the withdrawal of the insurance lines carried by the insurance brokers I will not be able to sell to a majority of my customers, many of whom are using a motorcycle as a means of basic transportation as well as an alternate source of transportation. While I may be able to withstand a 50%-60% drop in business most dealers would be forced to close their doors putting a great many people out of work, in an economy already starved for jobs.

Therefore I feel that this legislation should be modified to allow the re-entry of the insurance carriers that have withdrawn from this market.

Sincerely,  
HONDA OF ANCHORAGE



Tony C. Gatto  
President/Honda of Anchorage  
Chairman/Alaska Coalition of Motorcyclists

TCG/gmo

Mr. David J. Walsh  
Director of Insurance  
Dept. of Commerce and Economic Development  
P.O. Box D  
Juneau, Alaska 99811-0800

Dear Mr. Walsh

From a motorcyclist's point of view I wish to express my concern about insurance laws that have made it difficult, expensive, and time consuming to get motorcycle insurance. In some cases it is impossible!

As I understand it, legislation introduced by Dave Donley last year has increased the limits to the extent that many insurance companies will no longer write motorcycle insurance - or worse yet have left the State completely. Those who do offer motorcycle insurance only do so if another policy is in effect-(i.e.) house or car policy. This leaves many of us unable to get insurance at all - no car, rental home, etc.

I ask that you investigate this situation and take whatever action is necessary to rectify it. Our riding season is here, and it is short. So, needless to say, time is of the essence.

Thank you for your consideration.

Sincerely yours,

*Carmen M. Martin*  
*P.O. Box 190814*  
*Anchorage, AK 99519-0814*

CC: Representative Dave Donley  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

# REPRESENTATIVE DAVE DONLEY

ALASKA STATE LEGISLATURE  
DISTRICT ELEVEN  
SEAT A

3111 "C" STREET, SUITE 450  
ANCHORAGE, ALASKA 99503  
(907) 561-7629 (FAX) 562-4376

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VICE CHAIRMAN  
REGULATION REVIEW COMMITTEE

MEMBER  
RULES COMMITTEE  
LABOR AND COMMERCE COMMITTEE

TO: Senator Drue Pearce  
Chair, Labor and Commerce Committee

FROM: Representative Dave Donley   
Chair, House Judiciary Committee

RE: HB 305, an act excluding motorcycle liability from certain  
policy limits required to be offered

DATE: May 8, 1992

I am writing to respectfully request that you schedule HB 305, an act excluding motorcycle liability from certain policy limits required to be offered, for a hearing before your committee.

The Judiciary Committee Substitute for House Bill 305 was revised to address an unintended effect of auto insurance legislation I sponsored in 1990. This legislation provided that auto insurance carriers offer its policy holders minimum auto insurance coverage to cover any accidents that may involve uninsured or under-insured motorists. Although it is my belief that the intent was not to require these provisions to affect motorcycle insurance the result was otherwise. Many insurance carriers left the motorcycle insurance market in Alaska as a result.

The intent of HB 305 is to exclude motorcycle liability insurance from these minimum limits. This change should increase competition in the motorcycle insurance market.

Thank you.

DD/jmn

JUNEAU OFFICE

(During Legislative Session January through May)

P.O. BOX V, JUNEAU, ALASKA 99811 • (907) 465-3892 (FAX) 463-5661



FISCAL NOTE

No. 4

Bill Version: HB 305

(H) Publish Date: 3-25-92

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

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

Department Affected: Department of Law

Title: "...repealing...law that would repeal the mandatory motor vehicle insurance law."

BRU: Prosecution

Sponsor: House Judiciary Committee

Component: All

Requestor: House Judiciary Committee

COMPONENT SERIAL 

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Expenditures/Revenues: (Thousands of Dollars)

85 through 91

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER FUND SOURCE:						
<b>TOTAL</b>						

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

This bill repeals provisions of law that would have repealed the mandatory motor vehicle insurance law, and it will not have a fiscal impact on the Department of Law.

Prepared by: Richard I. Pegues (Director)  
Division: Administrative Services

Phone: 465-3672

Date: March 10, 1992

Approved by Commissioner: Charles E. Cole, Attorney General  
Agency: Department of Law

Date: March 10, 1992

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

**COMMITTEE COPY**

STATE OF ALASKA  
1992 LEGISLATIVE SESSION

Revision Date: 4/26/91  
 Title: Repeal Sunset Provisions of Auto Insurance Law  
 Sponsor: House Judiciary Committee  
 Requestor: \_\_\_\_\_

Department Affected: Commerce & Economic Dev.  
 BRU: Insurance  
 Component: Operations

COMPONENT SERIAL NO. 

0	3	5	4
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact.

Prepared By: Joan Brown Administrative Officer Phone: 465-2597

Division: Insurance Date: 3/19/92

Approved by Commissioner: Glenn A. Olds Date: 3.19.92

Agency: Commerce and Economic Development Date: 3/19/92

STATE OF ALASKA  
 1992 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: Public Safety  
 Title: An Act repealing provisions BRU: Motor Vehicles  
mandatory motor vehicle insurance law Component: Driver Services  
 Sponsor: House Judiciary  
 Requestor: House Judiciary COMPONENT SERIAL NO. 

5	0	0
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EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
FUND SOURCE:						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)  
 No fiscal impact upon the Division of Motor Vehicles is anticipated.

Prepared By: Juanita Hensley Phone: 465-4335  
 Division: Motor Vehicles Date: 1/9/92  
 Approved by Commissioner: for Richard L. Burton *Boyle*  
 Agency: Department of Public Safety Date: 1/13/92

ALASKA STATE LEGISLATURE  
HOUSE BILL NO. 305

HISTORY IN THE HOUSE

1991  
4/26 Read first time and referred to:  
TRA Jud FIN

5/9 TRA RPT CS( ) New Title  
4 DP 0 DNP 1 NR 0 AM  
FN 1 OFN Previous FN

1992  
3/3 JUD RPT CS( ) New Title  
7 DP 0 DNP 2 NR 0 AM  
FN 1 OFN Previous FN

3/25 FIN RPT CS( ) New Title  
0 DP 0 DNP 3 NR 0 AM  
FN 2 OFN Previous FN

4/29 Spkr. returned to JUD com (from RLS)

5/6 JUD RPT CS(JUD) New Title  
5 DP 0 DNP 1 NR 0 AM  
FN 3 OFN Previous FN

5/8 Read second time  
CS(5th) Adopted

Amended

5/8 Advanced

5/8 Read third time

Return to second for specific amendment

5/8 PASSED EFD Same \_\_\_ or  
Yeas 35 Yeas  
Nays 0 Nays  
Excused 2 Excused  
Absent 4 Absent

Intent adopted

Reconsideration  
Reconsideration not taken up

PASSED ON RECON. EFD Same \_\_\_ or  
Yeas Yeas  
Nays Nays  
Excused Excused  
Absent Absent

Intent adopted

5/8 Reported correctly engrossed  
Signed by Speaker, to the Senate

Kristin Gray Lomb  
Chief Clerk of the House

HISTORY IN THE SENATE

1992  
5/8 Read first time and referred to:  
Lec

RPT( ) CS DP NR DNP AM  
New Title Same Title Previous FN  
FN OFN To

RPT( ) CS DP NR DNP AM  
New Title Same Title Previous FN  
FN OFN To

RPT( ) CS DP NR DNP AM  
New Title Same Title Previous FN  
FN OFN To

Rules Calendar( ) CS AM Other  
New Title Same Title Previous FN  
FN OFN

Read second time

CS Adopted ( ) New Title  
Amended Advanced

Read third time

Letter of Intent adopted  
Return to second for specific amendment

PASSED EFD Same \_\_\_ or  
Yeas Yeas  
Nays Nays  
Excused Excused  
Absent Absent

Reconsideration  
Reconsideration not taken up

PASSED EFD Same \_\_\_ or  
Yeas Yeas  
Nays Nays  
Excused Excused  
Absent Absent

Reported correctly engrossed  
Signed by President, to the House

Secretary of the Senate

HOUSE-SENATE HISTORY Continued

19	<p>Received from the Senate _____</p> <p>Concur in Senate amendment  Y ___ N ___ E ___ A ___  _____ Efd same or Y ___ N ___ E ___ A ___</p> <p>Failed to concur Senate amendment, ask Senate recede  Y ___ N ___ E ___ A ___</p> <p>Senate failed to recede from amendment  Y ___ N ___ E ___ A ___</p> <p>CC appointed by House _____ Chair  _____</p> <p>CC appointed by Senate _____ Chair  _____</p> <p>(H) Granted Limited Powers of Free Conference</p> <p>(S) Granted Limited Powers of Free Conference</p>
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19	<p>(H) Adopted CC Rpt _____  Y ___ N ___ E ___ A ___  _____ Efd same or Y ___ N ___ E ___ A ___</p> <p>(S) Adopted CC Rpt _____  Y ___ N ___ E ___ A ___  _____ Efd same or Y ___ N ___ E ___ A ___</p> <p>To enrolling  Reported enrolled and sent to Governor</p> <p>_____ By Governor</p> <p>Legislative Resolve Number _____</p> <p>Filed with Lieutenant Governor</p>
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