

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7979

HOUSE LABOR & COMMERCE

244

Section 23. AS 21.22.030(a). Approval of Tender Offer; Hearing, page 25.

The amendment to this subsection adds to the list of conditions which, if present, allows the director to disapprove the merger of acquisition of control of an insurer. The condition added is if the acquisition is likely to be hazardous or prejudicial to the public.

Section 24. AS 21.22.030(d). Approval of Tender Offer; Hearing, page 26.

The amendment to this section is to add a new subsection to allow the director to hire experts to assist the director in reviewing a proposed acquisition of control of an insurer at the acquiring person's expense.

Section 25. AS 21.22.060(b). Registration of Insurers; Contents of Registration Statement, page 26.

The amendment to this subsection clarifies the information which must be supplied in a Form B (Holding Company) registration report. After the change all management and service contracts, cost sharing arrangements, and reinsurance agreements must be reported.

Section 26. AS 21.22.060(c). Registration of Insurers; Contents of Registration Statement, page 27.

The amendment to this subsection is to remove unnecessary language which is currently in effect in subsection (k) regarding the ability to require the filing of a registration statement by a licensed insurer.

Section 27. AS 21.22.060(d). Registration of Insurers; Contents of Registration Statement, page 27.

The amendment to this subsection is to clarify the definition of when an amount is considered not material and need not be disclosed on the holding company registration statement.

Section 28. AS 21.22.060(k). Registration of Insurers; Contents of Registration Statement, page 28.

The amendment to this subsection is to correct the subsection reference and clarify the director's authority to require filing by authorized insurers.

PRODUCER LICENSING

Sections 29 through 43 include clarification of licensing requirements, provide authority to require continuing education, require that fiduciary accounts for premium held by resident producers be in Alaska, allows a single bond to cover multiple locations, and updates language from NAIC model act on Managing General Agents and Reinsurance Intermediaries to allow the director to file civil action for damages.

Section 27. AS 21.27.010(a). License Required, page 28.

Amendment to this section is primarily editorial in nature and clarifies exceptions to general producer licensing requirements under AS 21.27.

Section 30. AS 21.27.020. Refusal to Issue License, page 28.

Amendments to this section provide for regulations to establish additional educational requirements for licensees to implement continuing education and to contract out some licensing services for increased efficiency.

Section 31. AS 21.27.025(a). Notice of Changes, page 29.

Amendments to this subsection require a licensee to report to the division a change of name or any disciplinary action taken by another jurisdiction.

Section 32. AS 21.27.060(d). Examination of Applicants, page 29.

Amendment to this subsection would allow the director, at the director's discretion, to reestablish testing for certain limited licensees.

Section 33. AS 21.27.100(e). Appointment of Agents or General Agents, page 29.

Addition of this new subsection is primarily editorial in nature and clarifies that an appointment of a firm licensee extends to persons licensed as an individual in the firm.

Section 34. AS 21.27.130. Form and Content of Licenses, page 29.

Amendment to this section is primarily editorial in nature and clarifies the type of licensee address to be shown on a license.

Section 35. AS 21.27.360(b). Fiduciary accounts, page 30.

Amendment to this subsection requires a resident licensee to maintain its fiduciary accounts in Alaska.

Section 36. AS 21.27.380(a). License Renewal, page 30.

Amendment to this subsection is primarily editorial in nature and clarifies that all license renewal documents must be received by the director on or before the renewal date.

Section 37. AS 21.27.420(c). Conditioning a license, page 30.

Adds a new subsection that provides additional licensing flexibility by allowing a license to be issued or renewed with conditions.

Section 38. AS 21.27.530. Producer Qualifications, page 31.

Amendment to this paragraph is primarily editorial in nature and clarifies that a single bond may cover multiple locations for a single licensee.

Section 39. AS 21.27.570(a)(3)(B). Controlling Insurance Producers, page 31.

Amendment to this paragraph is primarily editorial in nature and clarifies by adding punctuation suggested by the NAIC accreditation team.

Section 40. AS 21.27.620(j). Managing General Agents, page 32.

Amendment to this subsection adds language from updated NAIC Managing General Agents Act to allow the director to bring a civil action to recover damages from an MGA.

Section 41. AS 21.27.690(b). Reinsurance Intermediary Brokers, page 32.

Amendment to this subsection provides that the exemption from licensure for non-resident reinsurance intermediary brokers who are licensed in an accredited resident jurisdiction is extended to authorized insurers.

Section 42. AS 21.27.690(e). Reinsurance Intermediary Brokers, page 33.

Amendment to this subsection adds language from updated NAIC Reinsurance Intermediary Model Act to allow the director to bring a civil action to recover damages from reinsurance intermediary brokers.

Section 43. AS 21.27.760(j). Reinsurance Intermediary Managers, page 33.

Amendment to this subsection adds language from updated NAIC Reinsurance Intermediary Model Act to allow the director to bring

a civil action to recover damages from reinsurance intermediary managers.

SURPLUS LINES INSURERS

Sections 44 to 47 add to the definition of Lloyd's the inclusion of incorporated underwriters, add an alternative method to meet the requirement of notification to the insured, and correct the time period for filing fees.

Section 44. AS 21.34.040(c)(4). Incorporated Underwriters, page 34.

The amendment to this paragraph is to include incorporated underwriters as members of a group of insurers such as Lloyd's. Lloyd's recently allowed incorporated members to join the unincorporated members. The incorporated members may not be engaged in any business other than underwriting.

Section 45. AS 21.34.080(c). Evidence of Insurance, Affidavits, Duty to File, page 34.

The amendment to this subsection clearly establishes who must execute the affidavit that notice was given to the insured and when that notice must be given.

Section 46. AS 21.34.110. Surplus Lines Broker's Duty to Notify Insured, page 35.

This amendment to this section provides the surplus lines broker with an alternative method to discharge his duty to notify the insured that the company is a nonadmitted insurer not covered by the Alaska Insurance Guarantee Association Act.

Section 47. AS 21.34.190(a). Filing Fee, page 35.

The amendment to this subsection provides that the calculations for determining the filing fee should be based on the calendar year rather than quarterly.

TRADE PRACTICES

Sections 48 to 58 include correction of license types, correction of responsibilities of insurance producers, clarification when rate changes may be made, reorder of one section of the chapter, clarification application of the section, and provides that false statements made in regard to claims may result in prosecution under Alaska law.

Section 48. AS 21.36.120(d). Rebates, page 35.

Amendment to this subsection is primarily editorial in nature and updates this section of the Trade Practices and Frauds chapter to correctly reflect current license types.

Section 49. AS 21.36.195. Prohibited Acts, page 36.

Amendment to this section is primarily editorial in nature and updates this section of the Trade Practices and Frauds chapter to correctly reflect responsibilities of insurance producers under AS 21.34.

Section 50. AS 21.36.235(a). Notice of Premium or Coverage Changes upon Renewal, page 36.

This is a change in the statute cite to accommodate the moving of AS 21.36.420 to AS 21.36.305.

Section 51. AS 21.36.290(a). Policy Period, page 36.

This amendment recognizes that the addition of subsection (b) in Section 52 is an exception to this subsection (a).

Section 52. AS 21.36.290(b). Policy Period, page 36.

The amendment to this section clarifies that rate changes may be applied at the renewal date for personal auto policies which are written for a term of at least six months. Policies written for a period of less than six months are treated as six month policies.

Section 53. AS 21.36.305. Premium Increases on Personal Automobile Insurance Policies, page 36.

The addition to Chapter 36 of a new section is to move language from the existing AS 21.36.420 which is being deleted. This move is made to clarify some of the limitations existing in statute, and to locate the section in a more logical place. There are additions to this section to clarify that a surcharge may be applied on an auto policy where the insured has pleaded no contest to a moving violation, and to specify that any surcharge or premium increase may not be applied until the renewal date of the policy. The definitions section is not moved because the move to section AS 21.36.305 allowed the application of the definition of "personal automobile insurance" currently in AS 21.36.310.

Section 54. AS 21.36.360(i). Criminal Insurance Acts, page 37.

Amendment to this subsection is primarily editorial in nature and clarifies application of this subsection to all persons including risk retention groups and purchasing groups.

Section 55. AS 21.36.360(i). Criminal Insurance Acts, page 38.

Amendment to this subsection is primarily editorial in nature and clarifies application of this subsection to current license types and risk retention groups and purchasing groups.

Section 56. AS 21.36.360(k). Criminal Insurance Acts, page 39.

Amendment to this subsection is primarily editorial in nature and updates this subsection of the Trade Practices and Frauds chapter to correctly reflect current license types and risk retention groups and purchasing groups.

Section 57. AS 21.36.360(n). Criminal Insurance Acts, page 39.

Amendment to this subsection is primarily editorial in nature and correctly reflects current license types.

Section 58. AS 21.36.380. Notice on claim form, page 40.

Amendment to this section is primarily editorial in nature and clarifies that false statements made in regard to claims may result in prosecution under Alaska law.

RATE AND POLICY FILINGS

Sections 59 to 62 provide that insurers who have applied for certificate of authority may file rates and policy forms, provides that the director may specify format and content of rate and policy form filings, and clarifies coverage for newborn or adoptive children.

Section 59. AS 21.39.040. Rate Filings, page 40.

The amendment to this section is by adding two new subsections. Subsection (j) allows insurers who have applied for a certificate of authority and who have filed their policy forms with the division to file their requested rates with the division, before the certificate of authority has been granted. Subsection (k) specifically authorizes the director to adopt regulations regarding the format and content of rate filings.

Section 60. AS 21.39.055. Rate Filings, page 40.

The addition of a new subsection provides that when a certificate of authority is surrendered or not continued, any approvals of rate filings are automatically cancelled unless affirmed by the director.

Section 61. AS 21.42.120. Filing, Approval of Forms, page 40.

The amendment to this section is by adding three new subsections. Subsection (f) excludes credit insurance forms from this section (since they are covered in AS 21.57.080). Subsection (g) allows insurers who have applied for a certificate of authority to file their requested policy forms with the division, before the certificate of authority has been granted. Subsection (h) specifically authorizes the director to adopt regulations regarding the format and content of form filings.

Section 62. AS 21.42.345(b). Newly born or adopted children, page 40.

Amendment is primarily editorial in nature and clarifies that the mandatory offer of coverage for newborn or adoptive children applies to all parents.

CONSUMER CREDIT INSURANCE

Sections 63 through 77 are the result of this chapter being revised to correspond more closely with the NAIC model law on credit insurance. The major changes to this chapter are 1) an expansion of the disclosures that must be made to debtors before the insurance may be sold, 2) the inclusion of credit unemployment insurance in the chapter, 3) the removal of the restriction limiting the scope of this chapter to loans less than \$5000 and of less than 5 years duration, and 4) the limitation on the amount of credit life insurance to no more than the amount of the loan. These changes are detailed by section below.

Section 63. AS 21.57.010. Purpose, page 41.

This is an editorial change to change the reference from credit life and disability insurance to consumer credit insurance.

Section 64. AS 21.57.020. Applicability, page 41.

This broadens the scope of this chapter to include credit insurance on all loans except for ones secured by a first mortgage. The restriction of this chapter in the existing law to loans of less than \$5000 for periods of less than 5 years has been eliminated.

Section 65. AS 21.57.030. Authorized Types of Credit Insurance, page 41.

This allows the defined types of credit insurance (credit life, disability, and unemployment) be written separately or combined in a package.

Section 66. AS 21.57.040. Amount of Consumer Credit Insurance,

page 41.

This section gives a detailed description of the amount of credit life insurance that may be written in different situations. In general, the amount of credit insurance may be no more than the balance of the loan. The existing law allows the amount of credit life insurance to equal the balance of the loan plus all unearned finance charges.

The amount of credit disability or unemployment insurance may equal the total of the unpaid installments of the loan.

Section 67. AS 21.57.050. Duration of Coverage, page 43.

This section explains when a credit insurance policy may become effective in different situations, and how long the insurance may extend beyond the date the loan is paid. It also specifies that if the insurance is terminated before the scheduled termination date, the debtor is entitled to a refund.

Section 68. AS 21.57.055. Disclosure to Debtors, page 45.

This is a new section detailing specific disclosures that must be made to debtors before a credit insurance policy may be sold, and the manner and time that the disclosures must be made. The disclosures that must be made include: 1) that the purchase of credit insurance is optional, and not required to obtain the loan, 2) whether or not the debtor is able to select which types of consumer credit insurance to purchase, or whether the types are only sold as a package, 3) who is eligible for the credit insurance, 4) the fact that the debtor may not need or want credit insurance if they have other insurance, 5) the fact that the debtor has a 30 day free look during which time they can cancel the policy without charge, 6) a description of the coverage provided, 7) any finance charge to be applied to the premium, and 8) whether or not the benefits of the policy are sufficient to pay off the debt in full in the event of a claim.

Section 69. AS 21.57.060. Provisions of Policies and Certificates of Insurance, page 46.

This section lists required policy provisions that must be specified on the individual policy or certificate of insurance. Most of these provisions are not significantly changed from the current law. There are new requirements for the policy to clearly specify: 1) how refunds will be calculated in the event of policy termination, and 2) whether or not the credit insurance benefits are sufficient to pay off the loan in the event of death, disability, and unemployment.

Section 70. AS 21.57.070. Requirements for Evidence of

Insurance, page 47.

This section makes mostly editorial changes to the requirements regarding when the policy or certificate must be delivered to the debtor and what must be included on it. It also adds a requirement that the debtor be given a 30 day free look period to review the policy. If the debtor decides within the 30 days that they don't want the policy, they are entitled to a full refund.

Section 71. AS 21.57.080. Filing of Forms and Rates, page 48.

This section details that all policy forms, rates, etc must be filed with and approved by the director, and is not substantially different from the existing law. The main additions to the section are an addition of filing requirements for insurers' disclosure notices and advertising.

Section 72. AS 21.57.090. Premium and Refunds, page 50.

This section involves some editorial changes, and specifies the formula that must be used to calculate premium refunds in the event of policy termination.

Section 72. AS 21.57.090. Premium and Refunds, page 50.

This section adds a new subsection clarifying that nothing in this chapter authorizes payments prohibited under other laws governing credit transactions.

Section 74. AS 21.57.120. Selection Rights of Insured, page 51.

This section specifies that the debtor is not obligated to purchase credit insurance from the lender as security for a debt, but may substitute insurance that the debtor already has, or by purchasing similar insurance elsewhere. The changes here are purely editorial.

Section 75. AS 21.57.125. Duties of an Insurer, page 51.

Throughout Chapter 57, various duties or responsibilities are placed on insurers. This is a new section which states that the duties assigned to an insurer may be carried out by a creditor as long as the creditor is licensed under AS 21.27.

Section 76. AS 21.57.150. Penalties, page 51.

This section lists the penalties which may be applied to an insurer, creditor, or other person for violating this chapter or an order of the director. The penalties are increased substantially from the existing law, and are consistent with the penalties listed in AS 21.27.440.

Section 77. AS 21.57.160. Definitions, page 52.

Several new definitions are added to this section, primarily to clarify some of the terms that are used in this chapter and may have been misinterpreted in the past.

REDOMESTICATION AND VOLUNTARY SURRENDER OF CERTIFICATE OF AUTHORITY

Section 78 adds two new sections. New procedures have been added for (1) seeking approval for redomestication of an insurer, and (2) voluntary surrender of a certificate of authority issued by this state.

Section 78. AS 21.69.645. Redomestication, page 54

The addition of this section is to provide guidance when an Alaska domestic insurer wishes to move its domestic status to another state or when an insurer that is domiciled in another state wishes to change its domicile to Alaska.

Subsection (a) requires that an insurer domiciled in another state that is licensed in this state may become a domestic of this state if they comply with all Alaska laws regarding organization and licensing of a domestic insurer and designates a principal place of business in this state.

Subsection (b) allows an Alaska domestic insurer to transfer domicile status to another state and shall be licensed in Alaska with the director's approval. The director shall give approval unless it is not in the interest of policyholders or the marketplace. The insurer is required to meet qualifications for being licensed in this state for three years after transfer.

Subsection (c) says that when domestic status is transferred in or out of this state, the certificate of authority, producer appointments, rates, and other items that the director may allow will continue in effect. Outstanding policies of the insurer shall be endorsed with the new name and location of the insurer and any other information required by the director. The director shall be notified of the details of the transfer 30 days in advance.

Subsection (d) says that if the transfer is by merger or consolidation it must meet the statute requirements for mergers in Chapter 69. Certificate of authority, producer appointments, rates and other items allowed by the director shall continue in effect. Outstanding policies of the insurer shall be endorsed with the new name and location of the insurer and any other information required by the

director.

Subsection (e) requires the insurer transferring to this state to file revised policy forms for approval.

Subsection (f) says that an Alaska domestic transferring to another state does not have to file new forms if the forms have already been approved in this state.

AS 21.69.648. Voluntary Surrender of Certificate of Authority, page 62.

The addition of this section is to provide guidance when an Alaska domestic insurer wishes to voluntarily surrender its certificate of authority and discontinue operations as an insurer. The insurer must make a request to extinguish the certificate of authority six months prior to the planned effective date of extinguishment of the charter. The director must conduct an examination within 12 months of the effective date of the extinguishment and all issues noted in that report must be resolved. Any business of the insurer must be cancelled or reinsured.

DOMESTIC INSURER ORGANIZATIONS AND PROCEDURES

Sections 79 through 86 requires quarterly financial statements for insurance entities which did not clearly require quarterly statements, adjustment of requirements for advisory committees and special meetings of advisory committees of reciprocal insurers, clarification of definition of member insurer of the life guarantee fund, and clarification that risk retention groups are not covered by the property/casualty guarantee fund.

Section 79. AS 21.72.125. Quarterly Statements, page 55

The amendment of a new section allows that a benevolent association may be required by the director to submit a quarterly financial statement which must include the information required for the annual financial statement.

Section 80. AS 21.75.135. Quarterly Statements, page 56.

The amendment of a new section allows that a reciprocal insurer may be required to submit a quarterly financial statement and the director may require supplemental information on the transactions of the reciprocal insurer.

Section 81. AS 21.75.170(e). Advisory Committee, page 56.

The amendment to this subsection adds that a special meeting of the subscribers committee may be called by no less than three

individual subscribers. The current language of one percent of the subscribers can be burdensome for very small reciprocals.

Section 82. AS 21.75.170(g) Advisory Committee, page 56.

This new subsection allows a domestic reciprocal insurer to have a subscribers committee of not less than five persons with prior written approval of the director. This change is to remove the burden of having a nine member subscribers committee when the reciprocal is very small.

Section 83. AS 21.79.900(6). Definitions, page 56.

Amendment to this subsection is primarily editorial in nature and clarifies the definition of "member insurer" in the Alaska Life and Disability Insurance Guaranty Association Act.

Section 84. AS 21.80.020. Risk Retention Group, Page 57.

Amendment to this section is primarily editorial in nature and clarifies that risk retention groups are not covered by the Alaska Insurance Guaranty Association Act consistent with the Liability Risk Retention Act.

Section 85. AS 21.84.340(d). Annual Statement, page 57.

The amendment of a new section allows that a fraternal benefit society may be required by the director to submit a quarterly financial statement.

Section 86. AS 21.86.080(b). Annual Statements, page 57.

The amendment of a new section allows that a health maintenance organization may be required by the director to submit a quarterly financial statement.

MISCELLANEOUS SECTIONS, DEFINITIONS, REPEALERS AND EFFECTIVE DATES

Sections 87 through 97 allow insurers to pay claims using electronic funds transfer, provides authority to the director to specify requirement of electronic data transfer, gives requirements and procedures for the operation of risk retention groups and purchasing groups, adds new definitions and clarifies old definitions, and repeals sections which were rewritten or found to be conflicting. The effective date for legislation is July 1, 1994 except for sections regarding consumer credit insurance which will be effective on October 1, 1994.

Section 87. AS 21.89.030. Payment, page 57.

The amendment to this section allows insurers to pay claims using electronic funds transfer.

Section 8. AS 21.89.070, AS 21.89.080. Electronic Data Transfer, Risk Retention Groups and Purchasing Groups, page 57.

Amendment adds two new sections to this chapter. The sections provide (1) authority to specify requirements to facilitate electronic data transfer and (2) give the director authority to require risk retention groups and purchasing groups to register before transacting business in Alaska as consistent with the Liability Risk Retention Act.

Detail description of the new section on requirements for risk retention groups and purchasing groups are as follows.

Subsection (a) requires risk retention groups and purchasing groups to register with the director.

Subsection (b) states that registration shall be on forms prescribed by the director and a fee will be required.

Subsection (c) requires the groups to submit an annual continuation application and fee.

Subsection (d) states that a risk retention group which is domiciled in Alaska and holds an Alaska certificate of authority does not need to register.

Subsection (e) states that a group that is not complying with federal law may not register or continue the registration.

Subsection (f) states that failure to comply with federal law on risk retention groups and purchasing groups is a violation of Alaska statute.

Subsection (g) states that violation of statute may result in a penalty of not more than \$10,000 per violation or \$25,000 if the director determines that the violation was wilful.

Subsection (h) allows the director to adopt regulations on operating and reporting requirements which do not conflict with federal law.

Section 89. AS 21.90.900(26). Definitions, page 58.

Amendment is primarily editorial in nature and clarifies definition of "managing general agent" as requested by the NAIC accreditation team.

Section 90. Repeal, page 59.

This section repeals two parts of current statute AS 21.27.650(f)(3) contradicts AS 21.27.100(a) which does not allow a third-party administrator to appoint subagents and is repealed. The language in AS 21.36.420 is included in AS 21.36.305 in Section 50, page 40 of this legislation. This move to a new section is made to clarify some of the limitations existing in statute, and to locate the section in a more logical place.

Section 91. Repeal, page 59.

This section repeals two sections of current statute regarding consumer credit insurance. AS 21.57.110 duplicates sections in AS 21.36 and is unnecessary. AS 21.57.170 is not appropriate in our law, and is removed.

Section 92. Alaska Rule of Civil Procedure, page 59.

This section notes that the new subsection in AS 21.09.300(c) affects Alaska Rule of Civil Procedure 45 by not allowing reports of material transactions to be given when under subpoena.

Section 93. Effective date on policies of insurance, page 59.

This section provides that the Act applies to insurance policies entered into or renewed on or after the Act's effective date.

Section 94. Effective Date, page 59.

This specifies that sections 14 and 15 will become effective upon adoption of legislation dealing with risk-based capital. Until risk-based capital legislation is adopted, AS 21.09.310 will be as shown in section 13 of this bill.

Section 95. Effective Date, page 59.

This specifies that sections 14 and 15 will take effect when statute regarding risk based capital requirements for insurers takes effect.

Section 96. Effective Date, page 59.

This specifies that the effective date for the changes to AS 21.57 dealing with Consumer Credit Insurance will be October 1, 1994.

Section 97. Effective Date, page 59.

This specifies that all other sections of this legislation, other than effective dates specified above in Sections 95 and 96, will be effective on July 1, 1994.

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HOUSE COMMITTEE REPORT

(7)

Date Referred: March 23, 1994

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/29/94

The LABOR AND COMMERCE Committee considered:

HB 538

HOUSE BILL NO. 538

UNIFORM HEALTH CARE CLAIMS PROCEDURES

"An Act relating to uniform claims forms, uniform standards, and uniform procedures for processing data relating to billing and payment of health care services; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 538(L+C) [] the same title [] a new title

[] have attached amendments(s)

[X] do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[] fiscal impact _____

[] fiscal note(s) _____

[X] zero fiscal note Commerce

[] zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR
<i>Brian O'Hara</i>	✓			
<i>Joseph P. ...</i>	✓			
<i>Bob Williams</i>	✓			
<i>Tom ...</i>	✓			
<i>Bill Hudson</i>	✓			

Bill Hudson
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 538

Revision Date: _____
Title: Uniform Health Care Claims Procedures

Department Affected: Commerce and Economic Development
BRU: Insurance
Component: Operations

Sponsor: House HESS Committee
Requestor: _____

COMPONENT SERIAL NO. 354

Expenditures/Revenues:

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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 EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) cost: \$ 0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact.

Prepared by: Joan Brown, Administrative Officer
Division: insurance

Phone: 465-2597
Date: 3/25/94

Approved by Commissioner: Paul Fuhs
Agency: Commerce and Economic Development

Date: 3/25/94

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HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

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HB 538

An Act relating to uniform claims forms, uniform standards, and uniform procedures for processing data relating to billing and payment of health care services.

This bill would give the Division of Insurance the ability to adopt, by regulation, uniform insurance claims forms.

This piece of legislation was derived from HB 414, the governor's comprehensive health care bill. While there is definitely the need for overall health care reform, there is the possibility that these comprehensive changes will not pass this year. I feel that it is important to have some mechanism in place for the development of the uniform claims form, which will at least get us started in the right direction.

The Division of Insurance has submitted a zero fiscal note for HB 538. I urge your favorable consideration of this important piece of legislation.

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

STATE CAPITOL JUNEAU 99801
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DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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MEMORANDUM

March 29, 1994

SUBJECT: Sectional Summary of CSHB 539 (L&C). (Extending the APUC and relating to regulation of public utilities and to regulatory cost charges)

TO: Representative Bill Hudson, Chair
House Labor and Commerce Committee

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 increases the ceiling on the annual regulatory cost charge that the Alaska Public Utility Commission (APUC) may impose on regulated utilities from .61 percent of gross revenue to .8 percent of gross revenue.

Sec. 2 requires that in determining the regulatory cost charge for an electric utility, the utility shall reduce its gross revenue by subtracting the cost of power. "Cost of power" is defined as the cost of general and purchased power reported to the commission.

Sec. 3 requires the Department of Administration to identify the amount of money that the APUC lapses at the end of a fiscal year so that the legislature can, if it wishes, appropriate that amount to the commission for its next year's operating budget. If the legislature does so, then the commission is directed to make a comparable reduction in the annual regulatory cost charge collected in the second year.

Sec. 4 provides that the subscribers of small electric and telephone utilities can petition to place the utility under APUC regulation by following the procedures set out in AS 42.05.712(h), which is amended by sec. 9 of the bill.

Representative Bill Hudson, Chair

March 29, 1994

Page 2

Sec. 5 permits electric and telephone utilities that do not gross \$500,000 annually to elect to be exempt from regulation by the APUC under AS 42.05.712. The current threshold is \$325,000.

Sec. 6 permits utilities, other than electric and telephone utilities, that do not gross \$150,000 annually to elect to be exempt from regulation by the APUC under AS 42.05.712. The current threshold is \$100,000.

Sec. 7 makes garbage collection utilities that gross \$300,000 or less exempt from rate regulation unless the subscribers petition for regulation under AS 42.05.712(h), amended by sec. 9 of the bill. The current threshold is \$200,000. The section retains the right of subscribers representing 25 percent of the gross revenue of a utility to petition the APUC for rate regulation.

Sec. 8 provides that the subscribers of cable television service utilities can petition to place the utility under APUC rate regulation by following the procedures set out in AS 42.05.712(h), which is amended by sec. 9 of the bill.

Sec. 9 permits the subscribers of a utility that is exempt from regulation under AS 42.05.711(e), (i), or (k) to use the procedures of AS 42.05.712 in an election to impose regulation.

Sec. 10 increases the ceiling on the annual regulatory cost charge that the APUC may impose on pipeline carriers from .61 percent of gross revenue to .8 percent of gross revenue. This section makes the same change that sec. 1 of the bill makes for public utilities.

Sec. 11 requires the Department of Administration to identify the amount of money that the APUC lapses at the end of a fiscal year so that the legislature can, if it wishes, appropriate that amount to the commission for its next year's operating budget. If the legislature does so, then the commission is directed to make a comparable reduction in the total regulatory cost charge collected in the second year. This section is comparable to sec. 3 of the bill.

Sec. 12 extends the sunset date for the Alaska Public Utilities Commission until June 30, 1998.

Sec. 13 repeals the separate sunset provisions for the regulatory cost charge.

Sec. 14 adjusts the way in which the terms of members of the APUC are staggered to ensure that no more than one commission member's term expires each year.

TBC:gc
94-225.glc

Commission procurement of expert witnesses

The Commission recommends adding an exemption to the Procurement Act, 36.30.850 to allow it to hire its expert witnesses for cases in a timely manner. The language proposed parallels the existing exemption granted to state agencies for lawsuits, AS 36.30.850(b)(2).

The Commission has been unable to procure the professional services of expert witnesses in a timely fashion. The deadlines established in proceedings do not permit the procurement process to operate to produce a successful bidder in time for the contractor to properly prepare the case. Other parties to the proceedings utilizing private sector procurement procedures are able to hire their expert witnesses on a timely basis, the Commission is not. This either delays the processing of cases, or forces the Commission's witness to rush the preparation of a case, thus affecting the accuracy and credibility of the work, as well as costing the state more for overtime.

- moved by Marie, no objection

Proposed Amendment to HB 539, "An Act extending the Alaska Public Utilities Commission; and relating to regulation of public utilities and to regulatory cost charges."

AS 36.30.850 is amended by adding a new subsection to read:

contracts for professional services or testimony related to proceedings before the Alaska Public Utilities Commission, including procurement pursuant to AS 42.05.111(b);

MEMORANDUM

State of Alaska

Department of Law

TO: Bob Lohr
Executive Director
Alaska Public
Utilities Commission

DATE: October 15, 1993

FILE NO.:

TEL. NO.: 269-5171

SUBJECT: Procurement of expert witnesses
for APUC

FROM: Virginia A. Rusch
Assistant Attorney General
Fair Business Practices Section
Anchorage

You have asked whether AS 36.30.850(b)(2), the subsection of the Procurement Code which exempts procurement of certain professional witnesses from the procedures required by the Code, is applicable to procurement of expert witnesses by the Alaska Public Utilities Commission for appearances in proceedings before the Commission. AS 36.30.850(b)(2) provides:

Sec. 36.30.850. Application of this chapter.

(b) This chapter applies to every expenditure of state money by the state, acting through an agency, under a contract, except that this chapter does not apply to . . .

(2) contracts for professional witnesses to provide for professional services or testimony relating to existing or probable lawsuits in which the state is or may become a party;

Because the legislature used the word "lawsuits," I don't think it had commission proceedings in mind. The word "lawsuit" is ordinarily used to mean litigation in a court, not in an administrative agency. It is true of course that the practical reasons for this exemption, including the importance of factors other than lowest price, and a frequent need to act quickly in hiring a witness, may well be as strong for expert witnesses in commission proceedings as in court litigation. But even if AS 36.30.850(b)(2) could potentially be read broadly enough to include commission experts, it would be a good idea to refine the statutory language to clarify this point.

VAR/jem



ARECA

Electric Service for 300,000 Alaskans

Alaska

Rural

Electric

Cooperative

Association, Inc.

703 W. Tudor Rd., #200
Anchorage, AK 99503
(907) 561-6103
FAX (907) 561-5547

March 29, 1994

Rep. Bill Hudson, Chairman
House Labor & Commerce Committee
Juneau, Alaska

Dear Mr. Chairman:

Attached is a proposed conceptual amendment which this association believes should be a part of any legislation extending the APUC as a result of the current sunset review process. The purpose of this amendment is to remove the directive that the APUC's statutes shall be "liberally construed" and replace that with a more moderate directive.

The "liberally construed" language has been a part of this statute since the APUC was created in essentially its present form in the 1960's. Historically, this language has been used numerous times by the commission. Sometimes those uses have been for the benefit of the utility involved; sometimes they have been for the detriment of the utility. On several occasions, those uses of "liberally construed" have resulted in appeals to the courts. The result of those appeals is about evenly divided between the commission and the utilities.

Although most of the uses of "liberally construed" are relatively minor in nature, we strongly feel that this change is very important. A classic illustration of why we feel that way came in 1992 when the commission was considering the licensing of the Healy Project. The position was advocated that, using "liberally construed" as their guide, the commission should write new law by requiring the feasibility study to include calculations of "environmental externalities." Two of the then five commissioners agreed to this position. Fortunately, they were the minority, but a different set of individuals could very easily produce a different result. In fact, that case is currently on appeal by Trustees For Alaska.

Whenever the authority of the APUC needs to be expanded, it should be the legislature, not the commission that makes that decision.

Sincerely,

David Hutchens

Proposed Amendment for

HB 539 Extending the APUC and RCC

Replace "the powers of the commission shall be liberally construed to accomplish its stated purpose" in AS 42.05.141(a)(1) with "the powers of the commission shall be those specifically conferred by statute or necessarily implied by those specific grants of authority".

(Proposed by ARECA, supported by ATA)

CHANGE IN REGULATORY COST CHARGE
HB 539, Sec. 2

Audit Report -- FY 1993

RCC for Electric	39%
Workload from Electric	<u>34%</u> (3 year average)
Overcharge to Electric	5%
Total RCC	\$3,857,853
	<u> x 5%</u>
Overcharge to Electric	\$192,893

Updated Information -- FY 1994

RCC for Electric	43%
Workload from Electric	<u>30%</u> (higher than most recent year)
Overcharge to Electric	13%
Total RCC	\$3,706,957
	<u> x 13%</u>
Overcharge to Electric	\$481,904

Comparison of Overcharge to Amount of Cost Shift in Sec. 2

Overcharge to Electric	\$481,904
Cost Shift in Sec. 2	<u>426,600</u>
Remaining Overcharge	\$55,304

Submitted to House L & C
by ARECA
March 29, 1994

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

1016 WEST 6TH AVENUE, SUITE 400
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ALASKA PUBLIC UTILITIES COMMISSION
April 7, 1994

The Honorable Bill Hudson
House Labor and Commerce Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Hudson:

In Mr. Dave Hutchens' letter of April 5, 1994, ARECA contends that it seeks to take the "liberally construed" language out of the APUC statutes only to bring the APUC's level of regulatory authority in line with other agencies. In fact, replacement of the "liberally construed" part of AS 42.05.141(a)(1) with the proposed ARECA amendment would have the effect of severely limiting the APUC's authority to regulate in comparison with other comparable state agencies.

I. THE APUC IS THE TYPE OF AGENCY FOR WHICH THE ALASKA SUPREME COURT HAS CONSTRUED POWERS LIBERALLY EVEN IN THE ABSENCE OF A SPECIFIC DIRECTIVE.

The Alaska Supreme Court has repeatedly held that certain statutes and constitutional provisions should be "liberally construed" even when the agency statute does not use that term because the subject matter is "remedial," or involves agency work that protects consumers, workers, or resources of the state.¹ Included in this group are the following:

A. Unfair Trade Practices and Consumer Protection Act. AS 45.50.010--900. According to the court, this Act is a "remedial civil" statute which is to be accorded a liberal construction. State v. First Nat'l Bank, 660 P.2d 406 (Alaska 1982); State v. O'Neill Investigations, Inc., 609 P.2d 520 (Alaska 1980).

B. Laws regarding exemptions from seizure of property to satisfy judgments are "remedial" and should be "liberally construed." Gutterman v. First Nat'l Bank, 597 P.2d 969 (Alaska 1979).

C. Fish and Game Boards. AS 16.05.221. The court said "conservation laws" should be liberally construed. Kenai Peninsula

¹ We would also like to point out that review of ARECA's research shows that the phrase "liberally construed" does appear in one statutory scheme not mentioned by ARECA, the Alaska Employment Security Act, AS 23.20.005.

Fisherman's Association v. State, 628 P.2d 897 (Alaska 1981)

D. Alaska Workman's Compensation Act. AS 23.30.095. The court said law should be construed in accordance with "liberal humanitarian purposes" of the Act. Fluor Alaska Inc., v. Mendoza, 616 P.2d 25 (Alaska 1980).

E. The Alaska Supreme Court has also held that Constitutional and statutory provisions regarding initiative and referendum powers, should be "liberally construed" because people are exercising a power reserved to them. Municipality of Anchorage v. Frohne, 568 P.2d 3 (Alaska 1977).

Based on the above, the APUC, an agency whose purpose is to protect the public interest by assuring the reasonableness of utility rates and practices, is precisely the kind of agency for which the court would hold that powers should be liberally construed, even in the absence of a specific statement to that effect. However, the scene is considerably muddled if the legislature takes out the existing "liberally construed" language in AS 42.05.141(a)(1) because it will inevitably be argued that the legislature therefore intended to limit the APUC's powers, even though the legislature has not made specific any desire to limit the APUC's regulatory work.

II. THE AGENCY POWERS LISTED IN ARECA'S RESEARCH ARE MUCH BROADER THAN THE LANGUAGE ARECA'S AMENDMENT WOULD SUBSTITUTE FOR "LIBERALLY CONSTRUED."

In contrast with the agencies discussed above, many of the agencies whose statutes are discussed in the ARECA's research are for the most part not "remedial" agencies; they are economic development agencies.

More important, a close look at the agency statutes mentioned in ARECA's research shows that their powers are for the most part to be construed very broadly even though the words "liberally construed" do not appear. The statutes cited by ARECA direct that the agencies may do all things "necessary" or "desirable" or "proper" or "convenient" or have the powers "expressly and necessarily implied." This kind of statutory language is substantially broader than the words "as necessarily implied by those specific grants of authority" which are substituted in the bill before this committee.

Sincerely,



Don Schröer
Chairman
Alaska Public Utilities Commission

**Chairman Schröer's Remarks to the
Senate Labor & Commerce Committee Hearing
Juneau, Alaska, Tuesday, February 3, 1994 1:30 p.m.**

Sunset Hearing Testimony

Introduction

I welcome the opportunity to speak to you as you mark up Sunset Legislation for our agency. The Commission supports SB 213 and has recommended several amendments to it.

I. General Commission Overview

The APUC is responsible for regulating Alaska's public utilities and pipeline carriers. Our mission statement says:

The Alaska Public Utilities Commission protects and promotes the public interest by certificating and economically regulating only qualified public utilities and pipeline carriers. It oversees the availability, affordability and quality of the utility services which are essential to Alaska's economic development.

It does this by making timely decisions that balance the competing interests of various parties.

The APUC issues certificates of public convenience & necessity to utility service providers and pipeline carriers who are fit, willing and able to provide service. We approve the rates, terms and conditions of service to the public. The Commission also does the rate-setting for the power cost equalization program, which helps out to cover a portion of the bill for high-cost electrical service to almost 69,000 customers.

The Commission consists of five members, each appointed by the Governor for a six-year term. We have a budget of \$3.6 million and a staff of 36. I am proud of the work of the Alaska Public

Utilities Commission.

II. Legislative Recommendations

A. Regulatory Cost Charge

The regulatory cost charge should be made permanent, rather than simply extending the repeal date by four years. I believe that this funding source is with us to stay. If problems occur in the future, the Commission sunset review is adequate to address them. If the Commission were zeroed out of the budget, the authority and the agency responsible to impose an RCC would both disappear.

Utilities have expressed concern about the possibility of overcollection of RCC beyond the amount of the Commission's. Currently the statute directs the Commission to change the rate as required to avoid overcollection. The problem is one of timing: by the time the fiscal year's results are known it is too late to adjust the rate. If the fourth quarter payment is split and only that amount required to balance the budget is applied to the fiscal year, the balance would apply to the subsequent fiscal year. The Commission would be required to reduce the RCC rate to take this balance into account.

The Commission has proposed language to ensure that overcollection of RCC and lapsing into the general fund does not happen. Section 32 of the Operating Budget will ensure that no RCC funds collected this fiscal year lapse into the general fund. I recommend similar permanent language in AS 42.05.253 and 42.06.285.

B. Power Cost Equalization

Traditionally the Commission has been responsible for setting the electric rates for PCE-eligible utilities. SB 106, the intertie bill, transferred the power cost equalization responsibilities formerly handled by the Alaska Energy Authority to the Dept. of Community & Regional Affairs. However, through a drafting error some references to the "Commission" were inadvertently changed to "department" (DCRA). The bill as passed transferred the PCE calculations to DCRA, but this was not the legislative intent. A revisor's bill has been prepared to correct this error. Meanwhile, the Commission will continue to carry out its assigned responsibilities under this program.

C. Cable Television Regulation

The Commission has received authority from the Federal Communications Commission to regulate the basic tier of cable utilities currently regulated by the Commission under state law. This would apply only the BC Cable Company in Juneau at this time. The City & Borough of Juneau has expressed interest in regulating cable companies, but state law does not allow this at this time. A change in statutes would be needed to allow local governments to regulate Cable TV.

D. Pipeline Legislative Recommendations

This is described in the annual report. In the interest of time I will not restate it.

E. Commission procurement of expert witnesses

The Commission recommends adding an exemption to the Procurement Act, 36.30.850 to allow it to hire its expert witnesses for cases in a timely manner.

The Commission has been unable to procure the professional services of expert witnesses in a timely fashion. The deadlines established in proceedings do not permit the procurement process to operate to produce a successful bidder in time for the contractor to properly prepare the case. Other parties to the proceedings utilizing private sector procurement procedures are able to hire their expert witnesses on a timely basis, the Commission is not. This either delays the processing of cases, or forces the Commission's witness to rush the preparation of a case, thus affecting the accuracy and credibility of the work, as well as costing the state more for overtime.

Next I would like to respond to each of the legislative changes suggested by the ARECA.

(1) Liberally Construed: The phrase "liberally construed" appears only once in AS 42.05. It is found in section 141, our powers & duties section:

SECTION 42.05.141. GENERAL POWERS AND DUTIES OF THE COMMISSION. (a) The Alaska Public Utilities Commission

may

(1) regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent exempted by AS 42.05.711, and the powers of the commission shall be liberally construed to accomplish its stated purposes;...

In HEA vs. City of Kenai the Supreme Court said:

In sum, we have construed AS 42.05.141(a)(1) to mean that the actual areas in which the APUC may exercise its adjudicatory authority are quite narrow. Within those narrow areas, however, the APUC's powers to adjudicate are plenary, as broad as the specific provisions of the act permit....

This provision presents two guiding principles for determining the extent of the APUC's jurisdiction under specific provisions of the Act. On the one hand, it includes a principle of limitation, restricting the APUC's power to the specific jurisdictional areas of its "stated purposes." On the other hand, it includes a principle of expansion, mandating that the APUC's power to act within its specific areas of jurisdiction "is to be liberally construed."

The Alaska Supreme Court has dealt with this provision eight times. In four of those cases the Court found the Commission lacked authority. (over Yellow page ads, borough regulation of rights-of-way, attorney cost allocation, and to refuse a rate increase required by bond covenant).

In another (Colville) Environmental Services vs North Slope Borough the Court concluded that the Commission's action "fell squarely within the adjudicatory authority granted the Commission by AS 42.05.271."

In these cases half the time utilities have used the "liberally

construed" as part of their own legal arguments and the courts have ruled in their favor about half the time.

The way I read it, this language does not confer upon the APUC any jurisdiction outside of its powers listed in the statute. If the APUC were a country, would do nothing to expand our borders. Instead, it operates only within the statutory powers granted. I do not support deletion of this provision.

The Commission has only discussed the issue of "liberally construed" nine times in all the orders we issued during our first 25 years on the job! In at least three of these cases the Commission acted to allow the intention of the utility or applicant for a certificate to be accomplished by waiving technical irregularities. In another the Commission found that it did not have statutory authority to recognize a doctrine of "retained rights" requested by a telephone utility requested under statute, despite "liberally construed".

(2) **The second issue is Negotiated rulemaking.** I think this is an interesting idea from the federal government that bears close examination. However, under the Constitution it cannot mean delegation of the rulemaking powers of the Commission to another body. The negotiating group must be treated as a state agency for purposes of the open meetings and public records acts. The process of developing regulations is terribly slow already, and I would not like to see it slowed further.

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it seems that this technique would work best with highly controversial issues. Many of the Commission's recent regulations resulted from legislative mandates. This is true of simplified ratemaking, TRS (telephone service to the deaf community), Intrastate phone service, and the regulatory cost charge. It is not clear to me how these regulatory proceedings have benefitted from negotiated rulemaking. If this becomes an issue much more research will be necessary.

(3) **Lower RCC rates for Electric Utilities:**

The Commission responded to the Legislative Audit On March 1, 1993 Recommendation No. 1. in the Sunset Audit stated; Alaska Statute 42.05.253 should be amended to require APUC to periodically adjust the regulatory cost charge (RCC) on an industry by industry basis. Further, the automatic repeal date of this statute should be deleted.

The Commission agrees that the program should be made permanent by deleting the automatic repeal date for the Regulatory Cost Charge Program (RCC). Last year the legislature switched the funding source for the Commission from general funds to this regulatory assessment. The Commission expended significant resources in developing regulations and procedures to make the program work and to make compliance by affected

entities as straightforward as possible. The program is in place and running smoothly.

However, the Commission cannot support the recommendation to require itemization of the rates under the RCC program by utility/pipeline carrier type. Although in theory the recommendation has some merit, it is not at all clear to the Commission that it would be either practical or cost-effective to attempt to implement at this time.

Individual RCC rates would require full and direct allocation of the Commission's costs. The recommendation, if implemented as drafted, would substantially increase the cost of the RCC program. Full cost allocation would be expensive, especially during the year when it was implemented. A permanent increment to the Commission's budget would be required. The Commission would face a new administrative burden of setting individual RCC rates and handling protests to the rates.

One of the key principles guiding the development of the RCC was simplicity. This was true both for the utilities and carriers, their customers, as well for the efficient administration of the program. The Commission has been able to absorb the ongoing costs of the RCC program from its existing budget, because the program has been kept

simple and workable. The auditors' recommendation for further refinement of the RCC would require the statutory cap of .61% of adjusted gross revenues (AS 42.05.253(a)) to be substantially increased. Based on their estimates by utility type for purposes of discussion, the current authorized budget for the Commission would require increasing the cap to .85% for certain utility groups, at a minimum.

From the perspective of most utility customers facing a regulatory cost charge bill of less than \$20 per year, different rates for different utility types would not have a measurable effect on their total bill.

III. A.P.U.C.'s Response to the Recommendations of the Legislative Auditor

The Alaska Public Utilities Commission concurs with the legislative auditor's finding that the Commission is meeting its public purpose and supports extension of the sunset date at least four years.

A. Regulatory Cost Charge

The Commission opposes required readjustment of the RCC on an industry by industry basis. Keep it small. Keep it simple. And keep it uniform. The administrative expense of making this change would far exceed any value of individualization of rates.

As I stated in our response to the Legislative Audit recommendation:

From the perspective of most utility customers facing an RCC bill of less than \$20 per year, different rates for different utility types would not have a measurable effect on their total bill.

B .Easier Access for Utility Consumers to Opt In or Out of Regulations

I support increasing the cutoff from \$325,000 to either \$500,000 or \$1,000,000 for economically regulated electric utilities to be eligible to vote for deregulation. This 1 million dollar ceiling would mean that nine more electric utilities would be able to hold deregulation elections. Also one additional local telephone companies would qualify under this standard.

C. Timekeeping System

The Commission agrees that this recommendation is worthwhile to pursue. If accomplished for internal management purposes, the system could be designed relatively economically. However, if the system is required to serve as the basis for billings, such as those recommended in the auditors' first recommendation, it would be considerably more costly. In either case a fiscal note would be required to carry out this recommendation.

D. Commissioner's Access to Adequate Staff Support

I am proposing to beef up the staff support available to

Commissioners on regulatory policy issues. When Commission Staff is named as a party to a proceeding, the judicial ex parte rule prevent Commissioners from seeking their advice or research, except as formally presented in the case on the record. Specifically we are proposing to upgrade one position and create one new slot to serve as Commissioners' Policy Analysts. Details of this proposal will appear in the Commission's FY 95 budget request.

E. Stagger Commissioner's Terms

The Commission supported this one, but a statutory change would be needed to correct this time. Two Commissioners terms expired last year and the terms of the new appointees are scheduled to expire on the same day in 1999.

"Liberally Construed"

HB 213 would extend the Alaska Public Utilities Commission and the Regulatory Cost Charge that funds it until 1998. An amendment may be proposed to delete the phrase "liberally construed from the Commission's enabling statute. The Commission opposes this amendment.

The current language of Section 42.05.141 of Alaska Statutes, entitled "GENERAL POWERS AND DUTIES OF THE COMMISSION", states in part:

(a) The Alaska Public Utilities Commission may
(1) regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent exempted by AS 42.05.711, and the powers of the commission shall be **liberally construed** to accomplish its stated purposes;(emphasis added)

1. Does not expand the powers of the APUC.

In HEA vs. City of Kenai the Supreme Court said:

In sum, we have construed AS 42.05.141(a)(1) to mean that **the actual areas in which the APUC may exercise its adjudicatory authority are quite narrow.** Within those narrow areas, however, the APUC's powers to adjudicate are plenary, as broad as the specific provisions of the act permit....

This provision presents two guiding principles for determining the extent of the APUC's jurisdiction under specific provisions of the Act. On the one hand, it includes a principle of limitation, restricting the APUC's power to the specific jurisdictional areas of its "stated purposes." On the other hand, it includes a principle of expansion, mandating that the APUC's power to act within its specific areas of jurisdiction "is to be liberally construed." (emphasis added)

2. Benefits utilities.

Routinely the Commission allows interim rates to go into effect without requiring the utility to escrow funds or post a bond under AS 42.05.421(c). It does this by making rates interim refundable, which again benefits the utility. The authority for this is "liberally construed."

"Liberally Construed"

Page 2

The courts have not used the term "liberally construed" very often (only 8 times). Where they have, it has been to the benefit of utilities in half of the cases.

The Commission itself has only discussed the issue of "liberally construed" nine times in 25 years. In at least three of these cases the Commission acted to allow the intention of the utility or applicant for a certificate to be accomplished by waiving technical irregularities. In another the Commission found that it did not have statutory authority to recognize a doctrine of "retained rights" requested by a telephone utility under statute, despite "liberally construed".

3. Benefits customers.

Often the Commission has granted "temporary operating authority" to a utility while its application for a certificate is pending. Both the customers and the utility benefit, but the authority for temporary certificates is not explicit. It comes from "liberally construed".

Many utilities face increased competition as the result of changes in technology and federal law. The Commission needs the flexibility that "liberally construed" provides to allow existing utilities to compete on an equal footing.

4. Frees up Legislators from Regulating Utilities

Regulatory statutes are generally drafted broadly. Legislators cannot foresee every problem that will arise in administering a statute and the liberally construed language gives regulators the flexibility to resolve these problems. The legislature sets the goals and the policies, leaving the implementation of the program to the commission. The budget process and the sunset review process provide plenty of room for legislative oversight.

Justice Frankfurter recognized that administrative agencies were created to perform a task which neither courts nor legislatures could accomplish—to regulate the practices of industries in a rapidly changing world. The same considerations that led to the creation of the public utilities commission led the legislature to authorize their implied powers to be liberally construed.

Deletion of this phrase would lead to strict construction of implied powers. This means that legislation would be required

"Liberally Construed"

Page 3

whenever a court finds a gap in an agency's power. This forces the legislature back into the regulatory role that they sought to escape by creating the commission in the first place. Removing "liberally construed" from the Commission's powers and duties section would have impacts well beyond statutory construction in the courts.

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

ALASKA PUBLIC UTILITIES COMMISSION

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March 10, 1994

Honorable Tim Kelly
Chairman
Senate Labor & Commerce Committee
via telecopier 465-3756

Dear Senator Kelly:

Ref: Statutory caps on Regulatory Cost Charge Rates

AS 42.05.253 and 42.06.285 set a cap on the Regulatory Cost Charge (RCC) rate that the Commission may charge. It is currently .61% of jurisdictional gross revenues for regulated utilities and pipeline carriers.

I understand that the proposed language in the Labor & Commerce Committee substitute 3/5/94 work draft found at page 2, lines 6-8 of the bill would allow electric utilities to reduce their "cost of power" from gross revenues for purposes of calculating the regulatory cost charge to be paid to the State of Alaska. In order to cover the Commission's authorized budget as provided in .253(b), the amount of RCC lost by providing this exclusion would have to be made up by raising the RCC rate for all utilities and pipeline carriers, including electric utilities.

The current RCC rate of .4% of gross revenues would increase to approximately .54%, (a 35% increase), based on the workdraft definition of "Cost of power" as the "costs of fuel and purchased power". If the definition were expanded to exclude "total power production expenses" from electric gross revenues, the RCC rate would be higher than .54%.

If the statutory cap on RCC rates were raised an equivalent percentage, the cap would rise from .61% of gross revenue to .82%. Section 2 of the work draft bill proposes to amend the cap from .61 to .8% of gross revenues. The RCC cap for pipelines is increased in like manner in Section 11, page 3, lines 19-24.

Sincerely,



Don Schröer

M E M O R A N D U M

TO: Kent Dawson
FROM: Mike Roberge
DATE: March 28, 1994
RE: Senate Bill #213 & House Bill #539

=====

Senate Bill #213, and companion House Bill #539, propose to extend the sunset of the Alaska Public Utilities Commission ("APUC").

Both of these bills contain amendments which would assess the Regulatory Cost Charge ("RCC") on the gross revenues of cable television systems whose rates are regulated by the APUC.

The definition of gross revenues has been previously amended to adjust the gross revenues of; (i) utilities selling services at wholesale [AS 42.05.253(c)(1)]; and (ii) local telephone exchange settlement and access charges [AS 42.05.253(c)(2)]. SB #213 & HB #539 also contain a proposed adjustment of gross revenues for electric utility cost of power [AS 42.05.253(c)(3)].

Alaska Cablevision, Inc. ("ACI") would propose and support an adjustment of gross revenues for cable television systems whose rates are regulated by the APUC, to that which would only include the revenues derived from services in which the APUC has statutory authority to regulate.

As a result of the passage of the Cable Television Consumer Protection and Competition Act of 1992 ("Cable Act"), the Federal Communications Commission ("FCC") has established rules which define the role of local franchising authorities. These new rules allow for the regulation of rates for; (i) the entry level of service (ie. basic); (ii) equipment charges; and (iii) installation fees. All other service revenues are regulated by the FCC. Therefore, the RCC should only be applied against the service revenues actually regulated by the APUC.

This would make a big difference to cable subscribers, as the RCC will ultimately become a pass through charge. Consumers should not be saddled with a much larger RCC assessment based on total revenues which include un-regulated revenues and service revenues regulated at the FCC.

It should also be noted that ACI systems have, and will continue to be in full compliance with the new Federal guidelines on rates. The APUC must (and has) adopted the FCC's rules regarding the regulation cable television rates. Therefore, it remains to be seen what direct benefit the cable subscriber receives, as the RCC assessment will merely become an automatic cost of such regulation.

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ulation or regulation by the Alaska Public Utilities Commission will be held within 60 days and that a ballot to participate in that election will be mailed or delivered to each subscriber or member of the utility or cooperative with the regular bill for service. The notice shall also state that a subscriber or member of the cooperative is entitled to vote in the election without regard to whether the subscriber's or member's account with the utility or cooperative is current and that the ballot must be postmarked or returned to the commission within 30 days after it was mailed or otherwise delivered to the subscriber or member. The notice shall also announce the schedule for one or more public meetings which shall provide an opportunity for the subscribers or members to discuss this election. The public meeting or meetings shall be held not more than 30 days before the ballots are mailed or distributed to those eligible to vote. A cooperative may satisfy this requirement by including a discussion of this election on the agenda of an annual meeting if the annual meeting is scheduled to be held not more than 30 days before the election.

(d) A ballot with return postage paid shall be mailed or delivered to each subscriber or member of the utility or cooperative with the subscriber's or member's bill for service and shall contain only the following language:

"Shall (name of utility or cooperative) be exempt from regulation by the Alaska Public Utilities Commission?

[] YES [] NO"

(e) The results of an election under this section shall be certified by the commission within 60 days after the ballots are mailed or delivered to the subscribers or members.

(f) During the 60 days immediately preceding an election under this section a list of subscribers or members of the utility or cooperative shall be made available at cost to any subscriber or member of the utility or cooperative who requests one. The list shall be in the same form that is available to the utility or cooperative.

(g) The board of directors of a utility or cooperative may call an election under this section on its own initiative and shall call an election upon receipt of a valid petition from its subscribers or members. A petition shall be considered valid if it is signed by not less than the number of subscribers or members equal to ten percent of the first 5,000 subscribers or members and three percent of the subscribers or members in excess of 5,000. An election under this section may only be held once every two years.

(h) A utility or cooperative that is already exempt from regulation under this section may elect to terminate its exemption in the same manner. (§ 10 ch 136 SLA 1980)

APPROXIMATE EFFECT OF REALLOCATING
REGULATORY COST CHARGE
As Provided In HB 539

If Change Were Made For FY 1994

<u>Sector</u>	<u>1994 RCC</u>	<u>Change</u>	<u>1994 RCC Rev.</u>
Electric	\$1,600,965	(426,600)	\$1,174,365
Telephone	777,898	157,575	935,473
Pipeline	508,867	103,079	611,946
Gas	519,608	105,254	624,862
Water	109,643	22,210	131,853
Sewer	93,704	18,981	112,685
Refuse	93,985	19,038	113,023
Cable	2,286	463	2,749

If Change Were Made For FY 1993

<u>Sector</u>	<u>1993 RCC</u>	<u>Change</u>	<u>1993 RCC Rev.</u>
Electric	\$1,311,670	(349,413)	\$962,257
Telephone	1,736,033	241,901	1,977,934
Pipeline	154,314	21,502	175,816
Gas	115,736	16,127	131,863
Water	154,314	21,502	175,816
Sewer	77,157	10,751	87,908
Refuse	154,314	21,502	175,816
Cable	115,736	16,127	131,863

(Data bases used for this calculation: Legislative Audit Report for FY 93 and APUC document for FY 94)

Prepared by ARECA
March 30, 1994

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846

P.O. BOX 110300 - STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

"RUSH"

Post-It™ brand fax transmittal memo 7671 # of pages

To	Bill Hudson	From	W.A. RUSCH
Co.	House Labor	Co.	
Dept.	Commerce	Phone #	269-5171
Fax #	465-6790	Fax #	278-3458

OF LAW

GENERAL

April 4, 1994

The Honorable Bill Hudson
House Labor and Commerce Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Representative Hudson:

This is a response to your letter requesting the Attorney General's opinion about the ramifications of amending AS 42.05.141(a)(1) to replace "the powers of the commission shall be liberally construed to accomplish its stated purpose" with "the powers of the commission shall be those specifically conferred by statute as necessarily implied by those specific grants of authority."

If the proposed substitute language is adopted, it will be harder for this office to advise the APUC about the extent of its authority or to predict the outcome of litigation over APUC authority. We think adoption of the substitute language is likely to encourage the relitigation of a number of issues that are now settled by court decisions, and to call into question the commission's authority for some actions it has taken in the past, including some which are now quite routine. Adoption of this substitute is also likely to restrict the APUC's ability to deal with newly arising problems even though traditional utility operations are changing rapidly in today's world.

In a number of cases interpreting the existing AS 42.05.141(a)(1), the Alaska Supreme Court has said that the language incorporates both a principle of limitation--a narrow limit on areas of APUC's authority--and a principle of expansion--broad authority to deal with those areas of authority. The proposed substitute language also appears to contain competing limitation and expansion principles, but we have no court guidance about the meaning of this new wording. What seems clear about the proposed amendment is that it would change the focus of any effort to interpret APUC authority. The key to interpretation would no longer be the stated purpose of the APUC Act; the key would become specific mention in the Act of a particular power.

The fundamental problem with this is that the powers statutorily conferred on the APUC are very unspecific. For

The Honorable Bill Hudson
House Labor and Commerce Committee

April 4, 1994
Page 2

example, the APUC is supposed to "regulate" public utilities in the state.¹ General language like "regulate" is not unusual in agency statutes; both Congress and state legislatures often grant agency powers in general and ambiguous terms. Leading administrative scholars recognize that specific language spelling out agency authority is almost impossible to write.²

By limiting the APUC's authority to "powers . . . specifically conferred by statute as necessarily implied by those specific grants of authority," when the enabling statutes are not stated specifically, the legislature would probably severely limit the APUC's flexibility to react to unique or unforeseen circumstances.

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: *Virginia A. Rusch*
Virginia A. Rusch
Assistant Attorney General

VAR/lmg

cc: Deborah Behr, Assistant Attorney General
Raga Elim, Legislative Liaison, Office of the Governor
Don Schöer, Chairman, Alaska Public Utilities Commission

¹ Another example is that AS 42.05.371 and AS 42.05.411 forbid utilities from collecting any rates that have not been approved by the Commission. The APUC is presumably supposed to enforce this prohibition, but nothing in the statutes confers specific authority for the APUC to order a utility to refund some or all of charges collected in the absence of an approved rate. The APUC has often ordered such refunds in providing consumer complaint assistance, and now is engaged in litigation over an order to refund telephone utility rates for untariffed services.

² See, for example, K. C. Davis and R. Pierce, Jr., Administrative Law Treatise, §§ 3.1, 14.2 (Third Edition, Little Brown and Co., 1994).

H B

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HOUSE COMMITTEE REPORT

(7)

Date Referred: April 6, 1994

FURTHER REFERRALS:

Date of Committee Action: 4/14/94

The LABOR AND COMMERCE Committee considered:

HB 545

HOUSE BILL NO. 545

DISCRIMINATION UNDER HEALTH INSURANCE

"An Act including marital and family therapists as providers protected from unfair discrimination under group disability insurance; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 545

the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note Commerce

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Bill Hudson</i>	<input checked="" type="checkbox"/>	<i>Grant Porter</i>		<input checked="" type="checkbox"/>	
		<i>[Signature]</i>		<input checked="" type="checkbox"/>	
		<i>[Signature]</i>		<input checked="" type="checkbox"/>	
		<i>[Signature]</i>		<input checked="" type="checkbox"/>	

Bill Hudson
 CHAIRMAN'S SIGNATURE

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

STATE CAPITOL, JUNEAU, AK 99801-1182
(907) 465-4954



Sponsor Statement for House Bill 545

House Bill 545 would prevent health insurance companies from discriminating against state licensed marital and family therapists whenever the company offers coverage for mental health services. This bill does not mandate any new coverage. It does provide freedom of choice for the consumer and it would pass cost savings on to both the patient and the insuring company. These savings are realized in several ways:

- * Whenever a patient chooses to utilize the services of a marital and family therapist either they or their insurance company is likely to be charged less than if they sought the services of a clinical psychologist, psychiatrist, or other similarly trained mental health care provider. Marital and family therapists generally charge less for their services.
- * Additionally, the course of therapy practiced by marital and family therapists is usually considerably shorter in length. Savings are realized by fewer sessions being billed.
- * Finally, many studies show that mental health treatment results in reduced relapse rates and rehospitalization rates.

Generally, Alaska health care providers have been included in Alaska's nondiscrimination insurance statute whenever they have been awarded professional status and formed a professional licensing board. Marital and family therapists were awarded professional status last year and they have since formed their professional licensing board.

Copy for Sen. Pearce

Date: March 22, 1994

Fax To: Senator Tim Kelly
Senate Labor & Commerce

Fax: 465-3756

From: Sara Boesser

Fax: 789-7450

9365 View Drive, Juneau, AK 99801

Voice: 586-5230

Regarding: Please support Senate Bill 193

Number of pages (including this page): 1

Dear Senator Kelly:

I am writing to urge you to support SB 193. Licensed Marriage and Family Therapists provide an invaluable professional medical service to Alaskans, and they should not be discriminated against for third-party insurance reimbursement.

To deny anyone in need the insurance benefits that make seeing a licensed therapist financially possible is to put those individuals and families at unnecessary risk. Often counseling makes all the difference between people being able to continue in productive work versus dropping out and needing state assistance. Often, counselling saves relationships and thereby keeps children in well-supported homes instead of adding to welfare-dependant roles.

Marriage and family therapy can make people more mentally and physically capable of being productive, contributing citizens. Insurance should pay for this service; SB 193 is the bill we need to make this possible.

March 22, 1994

To: Tim Kelly
Chair, Senate Labor and Commerce Committee

From: John R. Boltjes
5895 Glacier Hwy #9
P.O. Box 22966
Juneau, AK 99802

Re: Hearing on Senate Bill 193

I am writing to ask you to support Senate Bill 193 which is scheduled to be heard in your committee on Thursday, March 24. Passage of this bill prevents Licensed Marriage and Family Therapists from being discriminated against when they are offering a service within the scope of their provider's occupational license. This bill adds Licensed Marriage and Family Therapists to the list of providers. Since Alaska licensing of Marriage and Family Therapists began in 1993, it seems only timely that this profession be given parity with other health care professionals through passage of this bill.

I have personally fought a long battle with Blue Cross of Washington and Alaska over this very issue. Legislation is long overdue.

Thank you for your support.

MFTs Are In Demand

Marriage and family therapy is one of the fastest growing mental health disciplines. AAMFT clinical membership has more than doubled since 1982. And the number of states licensing or certifying marriage and family therapists has more than tripled in the past decade — it now stands at 31.

Consumers increasingly seek the services of MFTs. According to a recent study published in *American Psychologist*, consumers said that marriage and family therapists are the mental health professionals they would most likely recommend to friends (Murstein & Fontaine, 1993).

Strict Standards, Clear Credentials

The AAMFT's more than 20,000 members fulfill stringent education and training requirements. AAMFT Clinical Members have a minimum of a master's degree in marriage and family therapy and two years of post-graduate professional experience. The training of MFTs includes direct clinical supervision by experienced clinicians, which is unique among the mental health disciplines. MFTs subscribe to a strict code of ethics, covering responsibilities to clients, the profession and the community.

The U.S. Department of Education has recognized the AAMFT Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) as the national accrediting body for graduate and post-graduate education in the field since 1978.

The standards for the field established by the AAMFT and the COAMFTE have been adopted by most states and the federal government as the basis for licensure and reimbursement requirements.

References

- "BI's annual directory of managed mental health care providers." *Business Insurance*, June 21, 1993, 35-34.
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- Juanning, H., Quinn, W., Thomas, F., & Mullen, R. (1992). "Treating adolescent drug abuse: A comparison of family systems therapy, group therapy, and family drug education." *Journal of Marital and Family Therapy*, 18(4), 345-356.
- Liddle, H. (1993). "Multidimensional treatment of adolescent drug abuse." *Family Therapy News*, 24(2), 7, 12.
- Mumford, E., Schlesinger, H. J., et al. (1984). "A new look at evidence about reduced cost of medical utilization following mental health treatment." *American Journal of Psychiatry*, 141(10).
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- Retzer, A., Simon, F., Weber, G., Stierlin, H., Schmidt, G., et al. (1991). "Follow-up study of manic-depressive and schizoaffective psychoses after systemic family therapy." *Family Process*, 30(2), 139-153.

American Association for Marriage and Family Therapy

1100 17th Street, NW

Tenth Floor

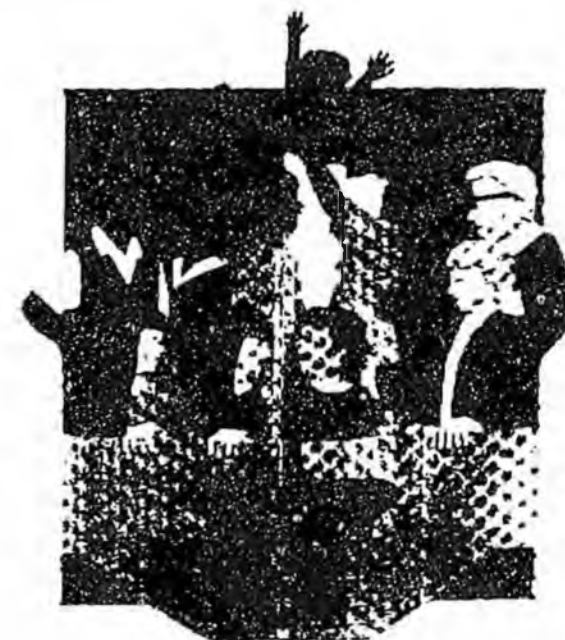
Washington, DC 20036-4601

Phone: (202) 452-0109 Fax: (202) 223-2329

The AAMFT Offers Consumers Free Referrals to
Qualified Marriage and Family Therapists
Call Toll-Free: (800) 374-2638

Marriage and Family Therapists

Uniquely Qualified
Health Care Providers



American Association for
Marriage and Family Therapy

Over 50 Years of Service to Families

A Core Mental Health Profession

Marriage and family therapists (MFTs) are mental health professionals who offer a range of effective and cost-efficient services to individuals, couples and families. Marriage and family therapists pioneered brief, solution-focused, family-centered treatment. Treatment seeks to pinpoint problems and conclude as soon as specific, attainable therapeutic goals are met. Trained in family systems theory, MFTs believe that individuals and their problems must be seen in context, and that the most important context is the family. Study after study demonstrates the effectiveness of marriage and family therapy in treating the full range of mental and emotional disorders, including severe mental illnesses.

MFTs Work With...

- Families facing severe mental illnesses and emotional disorders, such as schizophrenia, depression and anorexia/bulimia
- Families coping with medical crises, such as AIDS, Alzheimer's disease and other dementias, chronic illnesses and disabilities
- Substance abusers and their families
- Crime victims and their families
- Veterans seeking therapy in readjustment centers
- Military personnel and their dependents
- Families facing the loss of their children to out-of-home placement
- The homeless and the homeless mentally ill
- Sexual abuse victims and perpetrators
- Refugees and immigrants adjusting to a new life
- Children and families in the foster care system
- Juvenile offenders and others in the criminal justice system
- Head Start children and their families
- Couples in crisis
- Young children and their parents

A Research Snapshot Marriage and Family Therapy Is Effective

- The rehospitalization rate for patients with schizophrenia in a 6-month period was 30% for patients using drug treatment alone — but 0% when family therapy was part of the treatment plan (Colstein et al., 1978).
- Relapse rates were reduced for 77% of patients with manic depressive or schizoaffective psychoses after receiving brief family therapy (6 sessions). One-half of these patients were able to function without major medication 3 years later (Retzer et al., 1991).
- Family therapy has been more successful than any other form of outpatient therapy in retaining adolescents with drug abuse problems in treatment and in reducing their drug abuse, thereby preventing costly hospitalizations (Liddle, 1993).
- A 50% higher success rate was reported for family therapy than for individual psychotherapy in preventing anorexia nervosa from reaching more critical stages in adolescents (Dare et al., 1990).
- Reliance on general medical care decreases as a cost offset of providing appropriate and adequate mental health treatment, including marriage and family therapy. Most studies on offset demonstrate that medical utilization decreases following mental health treatment (Mumford et al., 1984; Borus, Olendzki et al., 1985).

Where You'll Find MFTs

- Inpatient Facilities
- Employee Assistance Programs
- Health Maintenance Organizations
- Community Mental Health Centers
- Business and Consulting Companies
- Schools and Head Start Centers
- Social Service Agencies
- Universities and Research Centers
- Criminal Justice System
- Private Practice

MFTs Are Recognized As Qualified Mental Health Providers

By the federal government:

- The National Institute of Mental Health (NIMH) recognizes marriage and family therapy as one of five core mental health professions.
- The Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services lists marriage and family therapy as a distinct mental health discipline.

By state governments:

- The Council of State Governments' Clearinghouse on Licensure, Enforcement, and Regulation (CLEAR) recognizes marriage and family therapy as a uniquely and explicitly delineated profession.
- Thirty-one states license and certify marriage and family therapists.

By the U.S. military:

- The U.S. military's Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) has reimbursed marriage and family therapists since 1966.

By managed care companies:

- 62% of managed mental health care providers employ marriage and family therapists as staff members or contracted providers. 95% name marital and family problems as a frequent reason for assessment and treatment ("BI's annual directory," 1993).
- 52% of employee assistance programs (EAPs) employ marriage and family therapists as staff members or contracted providers. 92% name marital and family problems as a frequent reason for assessment and treatment ("Directory of employee assistance program vendors," 1993).

Mercy Dennis M.A.

1

CLINICAL MEMBER AND FELLOW: THE AMERICAN ASSOCIATION FOR MARRIAGE AND FAMILY THERAPY

Testimony before the Senate Labor and Commerce Committee,
March 29, 1994.

Senator Kelly and members of the committee.

My name is Mercy Dennis, and I currently serve as co-chair, with Randall Jones, of the Legislative Committee for the Alaska Division of the American Association for Marriage and Family Therapy. This organization represents over 17,000 professionals dedicated to the promotion of family interests, and committed to establishing and upholding stringent standards for both the training of marriage and family therapists, and the regulation of marriage and family therapy practice.

I am also the Chair of the Alaska State Marriage and Family Therapy Board, a licensed Marriage and Family Therapist and I have been in this profession in Alaska for 17 plus years.

I am here today to ask for your support in passing out of this committee Senate Bill 193 that would allow Licensed Marriage and Family Therapists parity with the other mental health professionals. Passage of this bill prevents Licensed Marriage and Family Therapists from being discriminated against when they are offering a service within the scope of their provider's occupational license. This bill seeks to insure that all regulated mental health professionals, including Licensed Marital and Family Therapists, can be reimbursed for the services they have been authorized to provide.

There is a growing trend, nationally and statewide toward recognizing marital and family therapists as professionals competent to diagnose and treat nervous and mental disorders within the context of marital and family systems. The discipline has received significant and important federal recognition as one of the five core mental health professions, including psychiatry, psychology, social work and nursing. Finally, there is a national trend to provide vendorship privilege to marriage and family therapists in the interest of Freedom of Choice for consumers.

Some insurance companies and Health Maintenance Organizations may suggest that adding additional categories of providers to an existing mandate increases both cost and utilization. However, in 1986, the Federal Office of Personnel and Management completed an extensive study and concluded that "the fears of greatly increased benefit utilization and costs have not been realized". Also, in a 1989 survey of 20 insurance Commissioners, 80% reported no cost or utilization increase, and 20% reported only a slight increase when clinical social workers were vendored. As the cost for marriage and family therapy services is comparable to the cost for social work services, we feel this data accurately reflects what will occur should marriage and family therapists be listed as a provider in Alaska.

Mercy Dennis M.A.

2

CLINICAL MEMBER AND FELLOW; THE AMERICAN ASSOCIATION FOR MARRIAGE AND FAMILY THERAPY

Marriage and family therapy services are often more cost-effective for three reasons. **First**, by definition, marital and family therapists, tend to emphasize active, short-term mental health treatment. This is consistent with managed health care's focus on shorter term treatment as a way to curtail escalating costs. **Second**, marriage and family therapists' fees for service are significantly less than those of psychiatrists and psychologists. **Third**, marriage and family therapists often treat individuals in the context of their families, thereby providing services to groups of two or more persons for the same cost as individual treatment. Research suggest that family members are often more vulnerable when dealing with the emotional problems of one member. The marriage and family therapist, rather than treating each person separately, is trained to treat all affected family members together.

I would like to share with you a "Research Snapshot: Marriage and Family Therapy Is Effective" taken from information provided by the American Association for Marriage and Family Therapy.

1. The re hospitalization rate for patients with schizophrenia in a 6-month period was 30% for patients using drug treatment alone--but 0% when family therapy was part of the treatment plan (Goldstein et al., 1978)
 2. Relapse rates were reduced for 77% of patients with manic depressive or schizoaffective psychoses after receiving brief family therapy (6 sessions). One half of these patients were able to function without major medication 3 years later (Retzer et al., 1991).
 3. Family therapy has been more successful than any other form of outpatient therapy in retaining adolescents with drug abuse problems in treatment and in reducing their drug abuse, thereby preventing costly hospitalizations (Liddle, 1993).
 4. A 50% higher success rate was reported for family therapy than for individual psychotherapy in preventing anorexia nervosa from reaching more critical stages in adolescents (Dare et al., 1990).
- Reliance on general medical care decreases as a cost offset of providing appropriate and adequate mental health treatment including marriage and family therapy. Most studies on offsets demonstrate that medical utilization decreases following mental health treatment (Mumford et al., 1984, Borus, Olendzki et al., 1985).

In closing, I would like to thank the Committee for considering the merits of adding Licensed Marriage and Family Therapists to the list of mental health providers in this statute through passing Senate Bill 193 out of this committee.

Rhoda E. Vander Voort, M.A.

The Institute for Family Therapy and Training
4141 B Street, Suite 308 - Anchorage, AK 99503-6043

24 hr. Answering service
(907) 562-5522

March 22, 1994

Alaska State Senate
Labor and Commerce Committee
Tim Kelly, Chair
Burt Sharp, Vice Chair
Georgianna Lincoln
Steve Rieger
Judy Salo

Dear Senators:

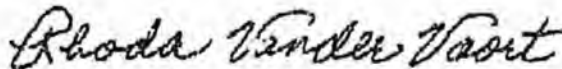
I request that you support Senate Bill 193, to be heard in your committee on Thursday, March 24.

This bill would add Licensed Marriage and Family Therapists to the list of health care providers, and would prevent discrimination when they offer services within the scope of the license.

The time has come to recognize licensed marriage and family therapists. Those of us who became licensed in Alaska believe that passage of Senate Bill 193 will be beneficial to the field of health care and, more specifically, to those citizens seeking services, who deserve a "freedom of choice" regarding providers.

Thank you for your consideration.

Yours,



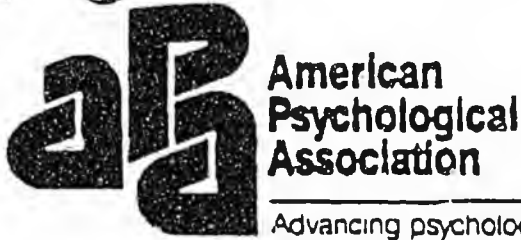
Rhoda Vander Voort, M.A.
Licensed Marriage and Family Therapist
AA 0052

CC: Ken c/o Drue Pearce

Psychologists

In The Health Care System

- There are approximately 50,000 doctorally-trained psychologists licensed to independently diagnose and treat mental and nervous disorders.
- Forty-one states have enacted freedom of choice laws requiring that insurance companies reimburse psychologists for their services if those services are covered by the insurance contract and are within the scope of psychologists' licenses.
- The recognition of psychologists as independent providers increases competition to reduce and control costs. Costs for both psychologists and psychiatrists are significantly lower in all states that have freedom of choice.
- Psychologists are currently recognized in federal programs including the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), the Veterans Administration, the Federal Employees Health Benefit Plan (FEHBP), HMOs, community mental health centers, comprehensive outpatient rehabilitation facilities (CORFS), and the Medicaid plans in over half of the states. In addition, psychologists are now recognized as independent providers in rendering services to Medicare/HMO enrollees, and to Medicare patients in community mental health centers and in rural health clinics.



Advancing psychology as a science, a profession, and as a means of promoting human welfare

MENTAL HEALTH BENEFITS: NEED AND COST EFFECTIVENESS

NEED

- o 28 million American adults have a serious mental disorder other than substance abuse. These mental illnesses cost society an estimated \$129.3 billion annually, about half of which is attributable to lost productivity in the workplace (Rice et al., 1990).
- o In any one-month period almost 8 million people experience depression at an estimated annual cost of \$16 billion, \$10 billion of which is attributable to absenteeism from the workplace (Regier et al., 1988; NIMH, D/ART Office, 1990).
- o Stress causes American workers to miss an average of 16 days on the job each year, and nearly three-fourths of the corporate medical directors and human resources managers surveyed call stress "very pervasive" or "fairly pervasive." Managers surveyed reported that 13% of their employees suffer from symptoms of depression, including difficulty in concentrating (36%), sleep problems (35%), loss of energy (27%), and loss of interest in work (18%). (American Medical News, Nov. 10, 1989).
- o Mental illness, including depression, can be as functionally disabling as a serious heart condition and more disabling than other chronic physical illnesses such as lung or gastrointestinal problems, angina, hypertension, and even diabetes (Wells et al., 1982).
- o 60% of all health care visits are by people with no physical problem. This figure rises to 80%-90% when stress-related illnesses (e.g., peptic ulcer, ulcerative colitis, hypertension, etc.) are also included (Cummings & VandenBos, 1981).

COST OFFSET AND COST EFFECTIVENESS

The cost of including mental health benefits in health insurance plans must be evaluated in light of the substantial savings that accrue from making qualified mental health services available. A growing body of empirical research demonstrates that mental health care can substantially reduce the utilization and cost of more expensive medical care. This economic effect is known as "cost offset".

- o Three hundred veterans who received abbreviated mental health treatment following a history of excessive medical health utilization were able to reduce outpatient medical visits by 36%. Control groups, who received no psychotherapy, actually increased outpatient medical utilization. (Massad et al., 1990).
- o A comprehensive analysis of 58 controlled studies and claims files for the Blue Cross/Blue Shield Federal Employees Plan from 1974 to 1978 concluded that, following mental health treatment, the average 8.7-day inpatient hospitalization was reduced 1.5 days. The same study summarized over 60 investigations of psychotherapy effects on medical utilization and found that 85% demonstrated medical utilization decreases following psychotherapy. The average decrease for inpatient utilization was 73.4%, and for outpatient services 22.6%. (Mumford et al., 1984).

o 400 patients who received ambulatory mental health care had lower utilization of medical services than patients not receiving mental health treatment, over a five year period. By the second post-treatment year, the untreated group used 1.33 as much medical care as the treated group, and averaged more than \$94 per year in increased medical costs compared to those who received mental health treatment. (Borus et al., 1985).

o Medicaid patients hospitalized for physical ailments and provided mental health interventions realized average cumulative savings of \$1,500 over a subsequent 2 1/2 year period. The cost of the mental health intervention was entirely paid for (i.e., totally offset) by these savings. Patients hospitalized without physical ailments who received mental health treatment realized savings, ranging from \$296 to \$392 depending on severity of diagnosis. (Fiedler et al., 1989).

o A three year study of over 10,000 Aetna beneficiaries showed that after initiation of mental health treatment, client medical costs dropped continuously over 36 months. The health costs of one mental health treatment group fell from \$242 the year prior to treatment to \$162 two years post-treatment. Other subject groups demonstrated similarly dramatic offset effects, leading the researchers to conclude that a decrease in total health care costs can be expected following mental health interventions even when the cost of the intervention is included. (Holder & Blose, 1987).

o Research on 20,000 enrollees at the Columbia Medical Plan showed that untreated mentally ill persons increased their medical utilization by 61% during a one year period. In contrast, the mentally ill who received psychological treatment increased their medical expenditures by only 11% during the same period. A mentally healthy comparison group averaged a 9% increase. (Hankin, 1983).

o Numerous studies show a decrease from 5 to 80 percent in medical service use following mental health treatment. Of 22 studies examining the impact of alcohol and mental health treatments, 21 presented medical utilization decreases, with average reductions of 46% after alcohol treatment and 26% after treatment for mental illness (Jones & Vischi, 1979).

o Other Blue Cross and Blue Shield data show that following outpatient mental health care, the monthly cost per patient for medical services dropped from \$16.47 to \$7.06. Inpatient and outpatient medical visits decreased by more than 54%. (Blue Cross of Western Pennsylvania, 1976).

o A comparison was made of three groups of persons, all diagnosed as having one of four chronic illnesses, covered by the Blue Cross/Blue Shield Federal Employees Program from 1974 to 1978. One group received 7 to 20 mental health visits within three years, the second was seen for more than 21 visits and the third group had no mental health treatment. By the third year, the 7 to 20-visit group had annual medical charges \$309 lower, and those with more than 21 visits had medical expenses \$284 lower than the no-mental-health-treatment group. (Schlesinger, et al., 1983).



American Association for Marriage and Family Therapy

Promoting the Profession and the Practice Since 1942

Family Therapists Effectively Treat Severe Mental Illnesses

Executive Summary

Family therapists are highly trained mental health professionals who provide cost-effective mental health services to individuals with severe mental illnesses, such as schizophrenia and other major affective disorders, depression, anorexia, bulimia, and psychiatric disorders in children and adolescents. Many studies, including recent ones prepared for the National Institute of Mental Health (NIMH), indicate that the family-focused interventions of family therapy have demonstrated effectiveness in reducing rehospitalization and relapse rates for those suffering from severe mental illnesses.

What Do Family Therapists Offer?

Demonstrated Efficacy in Treating Severe Mental Illness

A collection of studies prepared for the NIMH National Advisory Mental Health Council for their March 1993 report on health care reform concluded that family therapy is an effective treatment for severe mental illnesses:

- **Schizophrenia:** "Family therapy is generally effective in preventing relapse and improving symptomatology both in comparison to 'routine care' that included medication and individual treatment and to specifically designed SST [social skills training] and individual psychotherapy."
- **Bipolar depression disorder:** Patients hospitalized with bipolar disorder who received family therapy had significantly less relapse and rehospitalization.
- **Psychiatric disorders in children and adolescents:** Family therapy is an effective treatment for autism, attention deficit/hyperactivity disorder, conduct disorders, and anxiety disorders.

Reduced Relapse and Rehospitalization Rates

- The rehospitalization rate for patients with schizophrenia in a 6-month period was 30% for patients using drug treatment alone—but 0% when family therapy was part of the treatment plan.
- Relapse rates were reduced for 77% of patients with manic depressive or schizoaffective psychoses after receiving brief family therapy (6 sessions). One-half of these patients were able to function without major medication 3 years later.
- Family therapy has been more successful than any other form of outpatient therapy in retaining adolescents with drug abuse problems in treatment and in reducing their drug abuse, thereby preventing costly hospitalization.
- A 50% higher success rate was reported for family therapy than for individual psychotherapy in preventing anorexia nervosa from reaching more critical stages in adolescents.

Reduced Mental Health Care Costs

When up to 60% of mental health dollars are spent on inpatient care, a reformed health care delivery system must encourage the use of less costly, appropriate, and effective outpatient care, including family therapy.

- Every dollar spent on early intervention saves 2 dollars otherwise spent on late-stage crisis intervention.

AAMFT actively seeks to be enriched through the strength, power, and wisdom of diversity

- Studies show decreases of 5% to 80% in medical health care use following appropriate mental health care treatment, including individual, group, and family psychotherapy.
- Family-focused treatment outside of hospitals is often appropriate and much less expensive. One recent study found that in-home treatment of seriously emotionally disturbed adolescents and their families—as an alternative to psychiatric hospitalization—showed significant improvement in family and adolescent functioning and produced a 50% cost savings.
- The up to \$25,000 it costs for one month of treatment for an adolescent in a private psychiatric hospital would pay for one year of treatment for 10 to 15 outpatients. An episode of care by a family therapist typically lasts between 6 and 10 sessions—much less than a year.

Why Must Health Care Reform Include Mental Health Services?

Many Americans Are Affected by Severe Mental Illnesses

- Nearly 5 million American adults—almost 3% of the adult population—were affected by severe mental disorders in 1990.
- 3.2% of American children ages 9-17 had a severe mental illness in a six-month period in 1992.
- Individuals with disabling mental disorders fill 25% of all hospital beds.
- In 1990, total costs (direct and indirect) for severe mental illnesses was \$74 billion.
- The total cost (direct and indirect) for all mental disorders in 1990 was \$148 billion, in comparison to \$159 billion for all cardiovascular system diseases.
- Up to 60% of the visits to primary care physicians are by individuals whose complaints stem from mental health factors.

AAMFT Asks You to Support Health Care Reform Legislation That:

1. Includes Basic Mental Health Care
2. Recognizes All Qualified Mental Health Professionals, Including Family Therapists

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American Association for Marriage and Family Therapy

Promoting the Profession and the Practice Since 1942

Marriage and Family Therapists (MFTs) Are in Demand

Summary

Marriage and family therapists (MFTs) are mental health professionals who provide a range of essential services in the nation's health care delivery system. Marriage and family therapy is one of the nation's fastest growing disciplines because of its brief, solution-focused treatments, its family-centered approach, and its demonstrated effectiveness. Marriage and family therapists are licensed in 31 states and recognized by the federal government as members of a distinct mental health discipline.

The Number of MFTs Is Growing

- There are more than 55,000 marriage and family therapists nationwide.
- Membership in the American Association for Marriage and Family Therapy (AAMFT) has grown from 1,000 in 1972 and 9,000 in 1982 to more than 20,000 in 1993.
- States licensing MFTs have increased from 11 in 1986 to 31 in 1993.
- Programs accredited by the AAMFT Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) have grown from 24 in 1983 to 73 in 1993.
- In 1992, 91 percent of graduates from COAMFTE-accredited programs seeking employment found jobs shortly after graduation.

MFTs Are Recognized as Qualified Mental Health Care Providers

- CLFAR — The Council of State Governments' Clearinghouse on Licensure, Enforcement, and Regulation (CLEAR) noted that marriage and family therapy is a uniquely and explicitly delineated profession.
- CHAMPUS — The U.S. military's Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) has routinely reimbursed marriage and family therapists since 1966.
- NIMH — Marriage and family therapy is one of five core mental health services identified by the National Institute of Mental Health (NIMH).
- HRSA — The Health Resources and Services Administration (HRSA) lists marriage and family therapy as an identifiable and distinct mental health profession.
- Department of Education — The U.S. Department of Education has regularly renewed the recognition of the COAMFTE as the national accrediting agency for graduate and post-graduate educational and training programs in the field of marriage and family therapy since 1978.

Consumers Seek MFTs

- A recent study published in the *American Psychologist* found that consumers are most likely to recommend marriage and family therapists to friends seeking professional mental health services. The same study found that the most common reasons for seeking therapy were mild depression, marriage problems, childrearing problems, and difficulty with interpersonal relationships — all of which are treated by marriage and family therapists.
- Clients seek MFTs because of the demonstrated effectiveness of marriage and family therapy in treating severe mental illnesses and substance abuse and in reducing rehospitalization and relapse rates.
- The AAMFT toll-free referral line, a service that provides consumers with referrals to local qualified MFTs, averages more than 400 call per month — with nearly 1,000 calls in June 1993.

AAMFT actively seeks to be enriched through the strength, power, and wisdom of diversity

MFTs Provide Services in a Variety of Programs

- Education for the Handicapped Act, Part H — Marriage and family therapists are recognized as providers in the family-centered Part H program, which provides service for infants and toddlers with disabilities and their families (PL 102-119).
- Head Start — Head Start recognizes marriage and family therapists' solution-oriented perspective and their emphasis on family competence and strength. The national Head Start Bureau asked the AAMFT in 1993 to help coordinate a nationwide program to recruit marriage and family therapists as volunteers in Head Start programs.
- Veterans — Marriage and family therapists have provided storefront readjustment counseling to Vietnam veterans in a program conducted under the auspices of the Department of Veterans Affairs.

MFTs Work in Managed Care Systems

- According to a *Business Insurance* survey of managed mental health care providers in the U.S., 62 percent list marriage and family therapists as staff members or contracted providers. Ninety-five percent of managed mental health care providers named marital and family problems as a frequent reason for assessment and treatment.
- A *Business Insurance* survey of employee assistance programs (EAPs) indicates that 52 percent list marriage and family therapists as staff members or contracted providers. Ninety-two percent of EAPs named marital and family problems as a frequent reason for assessment and treatment.
- According to a survey of Minnesota MFTs, in 85 percent of the cases seen by MFTs, clients had third-party coverage, including health insurance and managed care coverage.

MFTs Are Eligible for Federally Funded Scholarships

- NIMH — The National Institute of Mental Health allows MFT trainees to compete on an equal basis with students from other mental health disciplines for funding.
- Indian Health Service — The U.S. Indian Health Service offers loans and scholarships to Native Americans who desire training in marriage and family therapy.



Alaska Association for Marriage and Family Therapy

a division of The American Association for Marriage and Family Therapy, Inc.

P.O. Box 229593, Anchorage, Alaska 99523 (907) 522-3802 Fax 522-3802

March 19, 1993

To: Senator Drue Pearce

From: AKAMFT *Debra Vanover*
Debra Vanover, President Elect

Re: Laws of Alaska
Chapter 67 Source: HCS CSSB.376 (JUD)

Since Marriage and Family Therapists are now able to be licensed in the state we are asking that you request an amendment to the above referenced law. Adding "licensed marriage and family therapist" to Sec. 139. AS 21.36.090(d) would allow for parity with the other mental health professionals in not being discriminated against for insurance coverage of the services within the scope of our occupational license. I believe psychologists, psychological associates and licensed clinical social workers were added to the law last year.

President Tim Sanders, M.Ed. ++ President-Elect Debra Vanover, MA ++ Secretary Sam Griffith, M.Ed.
Treasurer Mancy Dennis, M.A. ++ Board Member Rhode Vander Voort, M.A. ++ Board Member Philip S. Kloos, Ph.D.
Board Member Maureen Christensen, M.S. ++ Student/Associate Representative to Board Martin Carriquea, M.S.

H B

5 4 8

Fax: Ladner

561-3339

From: Comm. Fuhs

Bilan (K)

10/11/94

United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, DC 20510-8025

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KEITH KENNEDY MINORITY STAFF DIRECTOR

March 21, 1994

The Honorable Walter J. Hickel
Governor of the State of Alaska
Office of the Governor
P.O. Box 110001
Juneau, Alaska 99811-0001

Dear Wally:


Thank you for writing to me about the Alaska Aerospace Development Corporation (AADC). I have also been contacted by Mayor Carolyn Floyd of Kodiak on this matter. Your support for the facility on Kodiak is important. My staff has been briefed by AADC on the proposed site and Mayor Jerome Selby talked to me personally about it when he was in town a few weeks ago.

I will try to support the effort on the Kodiak facility because of your urging and because of the possible economic benefits to the State that you suggest.

Thanks again for your letter. My staff has begun working to help.

With best wishes,

Cordially,


TED STEVENS

RECEIVED
APR - 1 1994

GOVERNOR'S OFFICE

March 3, 1994

*The Honorable Ted Stevens
United States Senate
522 Hart Office Building
Washington, DC 20510-0201*

Dear Ted,

It is my understanding that the Alaska Aerospace Development Corporation (AADC) recently selected Kodiak Island as the site for the development of an orbital launch facility. I am writing to express my support for that decision.

The development of an orbital launch facility within the State of Alaska is a positive step towards diversification of the state's economy. It is anticipated that the launch facility will result in increased economic development within the state, including the creation of highly-skilled and high-paying jobs. It is also anticipated that the launch facility and the personnel who work there will provide the citizens of Kodiak Island with valuable educational opportunities.

For the reasons stated above, I urge your continued support of the AADC and its development of an orbital launch facility on Kodiak Island. Thank you for your consideration of this important issue.

With best regards,

Sincerely,

S/S WALTER J. HICKEL

*Walter J. Hickel
Governor*

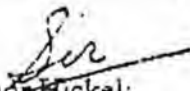
*cc: Mr. Pat Ladner
WJH/BPM/ec*

**0101
Support for AK Aerospace Development
Corp. Kodiak site**



March 10 1994

The Honorable Walter J. Hickel
Governor, State of Alaska
P.O. Box 110001
Juneau, Alaska 99811-0001


Dear Governor Hickel:


I would like to take the opportunity to inform you of the invaluable contribution Commissioner Paul Fuhs made at the recent meeting between the Alaska Aerospace Development Corporation (AADC) and Lockheed Missiles and Space Company held in Sunnyvale, California on March 8, 1994.

The recent decision of the AADC Board of Directors to designate Kodiak as the location for the Alaska Orbital Launch Complex has generated excitement within the aerospace industry. As you know, Lockheed invited AADC to Sunnyvale to present information about the development of Alaska's launch complex. In addition to design and safety information presented by AADC, Commissioner Fuhs was able to demonstrate Alaska's willingness and ability to support the launch complex. The Commissioner's knowledge and background allowed him to communicate numerous ways in which Alaska stands ready and able to support this venture including, pricing strategies, transportation, and funding for training.

Lockheed executives were so impressed by Commissioner Fuhs and Alaska's commitment to the development of this industry that they immediately decided to undertake a trade study to consider use of the Alaska Orbital Launch Complex for Lockheed's polar launches. AADC and the State of Alaska owe a great deal of gratitude to Commissioner Fuhs, as his efforts made the difference in Lockheed taking the next step toward making a commitment to the Alaska Orbital Launch Complex.

Please do not hesitate to contact me if you have any questions or if I can provide you with additional information.

Sincerely,


Pat Ladner
Executive Director

cc: The Honorable Senator Ted Stevens
The Honorable Senator Frank Murkowski
The Honorable Don Young
Commissioner Paul Fuhs
AADC Board of Directors



ALASKA
INTERNATIONAL
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TESTIMONY BY DON KUBLEY
SENATE LABOR AND COMMERCE COMMITTEE
APRIL 26, 1994

~~H.B. 548~~ H.B. 548

MR. CHAIRMAN AND DISTINGUISHED MEMBERS OF THE ~~HOUSE~~ ^{SENATE} LABOR AND COMMERCE COMMITTEE. FOR THE RECORD MY NAME IS DON KUBLEY. I AM WEARING A COUPLE OF HATS TODAY. I WILL BE TESTIFYING ON BEHALF OF MY CLIENTS THE CITY OF KODIAK, THE KODIAK ISLAND BOROUGH, AND ALASKA INTERNATIONAL MARKETING.

I KNOW YOUR SCHEDULES ARE TIGHT AND YOUR TIME IS SHORT SO I WILL TRY TO MAKE MY STATEMENT BRIEF.

FIRST I WOULD LIKE TO COMMEND CHAIRMAN ~~RODDON~~ ^{Hudson} AND THE MEMBERS OF THE COMMITTEE, AND YOUR FINE STAFFS FOR THE EXCELLENT JOB ~~YOU~~ ^{HE} DID IN WRITING THIS RESOLUTION. I WOULD ALSO LIKE TO ~~APPLAUD YOUR FORESIGHT IN~~ ^{RECOGNIZING} THE GREAT POTENTIAL AND VERY POSITIVE IMPACT THIS PROJECT WILL HAVE FOR THE STATE OF ALASKA.

YOU KNOW, BETTER THAN I, THE CURRENT NEED TO DIVERSIFY THE ALASKAN ECONOMY AND TO ENCOURAGE NEW INVESTMENTS AND INDUSTRY TO DO BUSINESS IN OUR STATE. THERE HAS ALSO BEEN A LONG STANDING DESIRE TO ENCOURAGE "HIGH TECH" NON RESOURCE BASED BUSINESS TO COMPLIMENT THE NATURAL RESOURCE INDUSTRIES THAT HAVE DONE SO MUCH TO BUILD THIS GREAT STATE OF OUR.

WE PRESENTLY HAVE A WINDOW OF OPPORTUNITY TO DO JUST THAT. THE ALASKA AEROSPACE DEVELOPMENT CORPORATION, UNDER THE CAPABLE AND VERY EXPERIENCED LEADERSHIP OF MR. PAT LADNER, IS MOVING QUICKLY AND AGGRESSIVELY TO ESTABLISH THE FIRST PRIVATE AND COMMERCIAL ROCKET LAUNCHING AND TRACKING FACILITY IN THE UNITED STATES. IT APPEARS THAT NEAR CAPE ON KODIAK ISLAND HAS THE PERFECT CONDITIONS AND GEOGRAPHIC LOCATION TO ACCOMMODATE A FIRST CLASS ROCKET LAUNCH FACILITY.

THREE OF THE "BIG BOYS" OF THE U.S. ROCKET INDUSTRY MARTIN MARIETTA, LOCKHEED, AND GHRUMAN ARE ALL INTERESTED IN

OUR PROJECT AND HAVE EXPRESSED STRONG SUPPORT FOR THE NEED FOR SUCH A FACILITY. IN FACT ONE OF THE REASONS THIS RESOLUTION IS SO IMPORTANT IS TO SHOW THESE COMPANIES THAT ALASKA IS SERIOUS ABOUT THIS PROJECT AND THAT WHEN THEY COME TO DO BUSINESS HERE THEY ARE GOING TO HAVE A COOPERATIVE AND SUPPORTIVE RELATIONSHIP WITH THE STATE OF ALASKA. A HIGH LEVEL DELEGATION FROM LOCHEED WILL BE ARRIVING HERE IN THE CAPITAL IN EARLY MAY TO OPEN UP COMMUNICATIONS AND ESTABLISH A DIALOG.

ALTHOUGH I AM HERE TO SPEAK ON BEHALF OF THE PEOPLE OF KODIAK, WHO ARE EXTREMELY EXCITED ABOUT THIS PROJECT, THIS NEW INDUSTRY HAS A POSITIVE IMPACT ON THE INTERIOR AS WELL. THE VAST MAJORITY OF THE NEW JOBS CREATED BY THIS PROJECT WILL BE BASED IN THE INTERIOR NEAR THE EXISTING EXPERIMENTAL FACILITIES. THERE IS ALSO GREAT POTENTIAL FOR THE ANCHORAGE AREA TO BE THE SUPPLY AND TRANSPORTATION HUB FOR MATERIALS GOING TO THE LAUNCH SITE DURING CONSTRUCTION AND FUTURE LAUNCHES.

THERE IS ANOTHER POSITIVE ASPECT TO THIS PROJECT THAT GOES BEYOND THE ECONOMIC ONES, AND TO SOME IS JUST AS IMPORTANT. THAT IS THE OPPORTUNITY TO HAVE SOME OF THE GREATEST SCIENTIFIC MINDS IN THE UNITED STATES AND EVEN THE WORLD COMING TO OUR COMMUNITIES. ONE OF THE STRONG COMMITMENTS THE A.A.D.C. HAS MADE TO KODIAK AND THE STATE IS THAT THESE LEADERS OF THE SCIENCE AND TECHNOLOGY COMMUNITY WILL BE AGGRESSIVELY ESTABLISHING EDUCATIONAL PROGRAMS TO TAKE TO OUR SCHOOL SYSTEMS TO HELP OUR YOUNG PEOPLE GET EXCITED ABOUT MATH AND SCIENCE AND TO DEMONSTRATE FIRST HAND THE KIND OF POTENTIAL EACH AND EVERY ONE OF THEM HAS IF THEY APPLY THEMSELVES AND EXCEL IN THE SCIENCES. AS A FOURTH GENERATION ALASKAN WHO IS A PRODUCT OF OUR PUBLIC SCHOOL SYSTEMS IN KETCHIKAN AND HERE IN JUNEAU, I CAN TELL YOU FIRST HAND HOW MUCH BEING EXPOSED TO SOME ONE LIKE GENE CERNON, THE LAST MAN TO WALK ON THE MOON, COULD HAVE HELPED ME UNDERSTAND THE IMPORTANCE OF SCIENCE AND MATH. THIS SURE WOULD HAVE MADE MY 4 YEARS AT GONZAGA UNIVERSITY ONE HECK OF A LOT EASIER. I WAS WAY OVER MY HEAD IN THESE AREAS COMPARED TO MOST OF THE OTHER STUDENTS THAT HAD EXCELLED IN THESE SUBJECTS IN GRADE SCHOOL AND HIGH SCHOOL. THIS INDUSTRY WILL ALSO ALLOW MANY ALASKAN CHILDREN

WHO CHOOSE A CAREER IN THE SCIENCES TO HAVE AN OPPORTUNITY TO RETURN TO ALASKA AND USE THEIR DEGREES. PRESENTLY THERE ARE VERY FEW PLACES WHERE ONE OF THESE ALASKAN SCIENTISTS COULD FIND WORK HERE AT HOME. I KNOW A.A.D.C. HAS RECEIVED SEVERAL LETTERS FROM TRUE ALASKANS LIVING IN THE LOWER 48 SAYING JUST THAT, "THE ONLY REASON I'M DOWN HERE IS BECAUSE THERE ARE NO JOBS FOR ME BACK HOME, AND I MISS ALASKA, MY FAMILY AND FRIENDS."

IN CONCLUSION, MR. CHAIRMAN AND COMMITTEE MEMBERS, THIS IS ONE OF THOSE RARE "WIN WIN OPPORTUNITIES" FOR ALASKA AND OUR PEOPLE. I ENCOURAGE YOU TO SUPPORT THIS RESOLUTION AND THIS NEW INDUSTRY AS IT GROWS. THANK YOU VERY MUCH FOR THE PRIVILEGE OF SPEAKING WITH YOU THIS AFTERNOON.

(7)
Date Referred: May 2, 1994

HOUSE COMMITTEE REPORT
FURTHER REFERRALS:

Date of Committee Action: 5/03/94

The LABOR AND COMMERCE Committee considered:

HB 548

HOUSE BILL NO. 548

ALASKA ORBITAL LAUNCH COMPLEX

"An Act relating to the construction of the Alaska Orbital Launch Complex by the Alaska Aerospace Development Corporation."

- RECOMMENDATIONS: the same title
 be replaced with _____ a new title
- have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____

fiscal note(s) _____

zero fiscal note Commerce

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
Brian D. Porter	✓				
Bill Hudson	✓				
Robert...	✓				
Robert William	✓				
Dean Huse	✓				

Bill Hudson
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 548

Revision Date: 5/2/94
Title: Relating to an Alaska Orbital Launch Complex
Sponsor: House Labor and Commerce
Requestor: House Labor and Commerce

Department Affected: Commerce and Economic Development
BRU: _____
Component: Alaska Aerospace Development Corporation
COMPONENT SERIAL NO. _____

Expenditures/Revenues:

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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 EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) cost: \$ 0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Wally Miller
Division: _____

Phone: 465-2500
Date: _____

Approved by Commissioner: Paul Fuhs
Agency: Commerce and Economic Development

Date: 5-2-94

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