

ALABAMA LEGISLATURE COMMITTEE FILES 1999-2000 8672

9838 HOUSE JUDICIARY

	of economic damages.	
OKLAHOMA		
<p><i>H.B. 1325</i> <i>Rep. Robert Weaver (D)</i></p>	<p>Provides that if certain conditions are met, any action brought against a defendant because of a computer date failure shall: (1) be brought only as an individual action and not as a class action; (2) be based solely and exclusively in contract to the exclusion of all other causes of action and (3) if brought, only allow recovery for the actual damages resulting from a computer date failure and not for consequential and remote damages resulting from a computer date failure.</p> <p>The conditions that must be met are: (1) the plaintiff in the action has not suffered any personal injury, other than emotional harm, as a result of the computer date failure; (2) the defendant in the action has made reasonable efforts to protect computer systems, programs or software, which it uses to provide services to its clients or customers, from a computer date failure; (3) the defendant, no later than July 1, 1999, has tested its computer systems, programs or software which it uses to provide services to its customers and clients, by actually simulating the transition from December 31, 1999 to January 1, 2000, and made any other tests that a reasonable person would believe necessary to prevent a computer date failure. However, the defendant is not required to test the computer system, program or software of any individual client or customer; (4) the defendant, no later than</p>	<p>Introduced and referred to House Judiciary Committee February 2.</p>

	<p>August 1, 1999, has prepared a contingency plan, that will provide for alternative methods of carrying out the services which it provides to its clients and customers; (5) the defendant, no later than August 1, 1999, has provided notice by mail to its customers or clients of its efforts to avoid a computer date failure; (6) the defendant has or will implement the applicable portions of the contingency plan, or otherwise remedy the problem created by the computer date failure, within sixty (60) days after receiving written notice, from a client or customer, of a problem with its services that may be caused by a computer date failure.</p> <p>Provides immunity for the state and its political subdivisions from liability for any action brought against it resulting directly or indirectly from a computer date failure.</p>	
<p><i>H.B. 1412</i> <i>Representative Fred Perry (R)</i></p>	<p>States that a business shall not be liable for losses from any failure or malfunction occurring before December 31, 2005, which is caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort, or otherwise process dates or times, if: (1) the failure or malfunction causing the loss was unforeseeable; (2) the failure or malfunction causing the loss was foreseeable, but the plan or design or both for identifying and preventing the failure or malfunction was prepared in substantial compliance with generally accepted computer and</p>	<p>Introduced and referred to House Committee February 2.</p>

information system design standards in effect at the time of the preparation of the plan or design; (3) the business exercised due diligence in assessing whether or not the failure or malfunction causing the loss would occur and made a good-faith effort to avoid the failure or malfunction; or (4) the business adequately disclosed to the injured party before the date of the injury that there was a failure or malfunction that could result in injury.

The provisions of this section apply to actions arising out of contract and arising independent of contract. If the terms of a contract provide remedies for loss due to the failure or malfunction of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort, or otherwise process dates or times, the terms of the contract shall govern recovery. The provisions of this section shall not apply to medical malpractice claims alleging bodily injury or death.

H.B. 1413
Rep. Fred Perry (R)

Amends the Governmental Tort Claims Act to: (1) provide that neither the state, nor any political subdivision, shall have liability for losses from any failure or malfunction occurring before December 21, 2005, which is caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort, or otherwise process dates and times; (2) grant immunity to contractors, officers, and employees of the state; (3)

Prefiled for introduction in 1999 session January 7.

	<p>require that any contract entered into by or on behalf of the state, its political subdivisions, its immune contractors, its officers, or its employees must include a provision that provides immunity for any breach of contract that is caused by an incorrect date change being produced, calculated or generated.</p> <p>Allows for a claim to be brought for medical negligence due to the date change if the failure resulted in bodily injury or death. An "immune contractor" is defined as "an independent contractor providing, pursuant to contract, computer software or computer technical assistance to the state or a political subdivision of the state."</p>	
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PENNSYLVANIA

<p><u>S.B. 316</u> <i>Senator Jim Gerlach (R)</i></p>	<p>Permits recovery of direct damages for bodily injury and damages to property proximately caused by the defendant's conduct based upon an alleged failure by a computer consultant to properly detect, disclose, prevent, or remediate a computer date failure. Prohibits recovery of consequential, indirect, or incidental damages in such actions. Provides immunity for governmental entities for damages arising out of a negligent act which causes or fails to prevent a computer date failure.</p>	<p>Introduced and referred to House Communications and High Technology Committee February 3.</p>
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RHODE ISLAND

<p><u>H.B. 5040</u> <i>Rep. John Maher (D)</i></p>	<p>Makes the state, political subdivisions, cities, and towns immune from suit or claims brought against it</p>	<p>Introduced and referred to Judiciary Committee</p>
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	arising out of Year 2000 date change.	January 12.
<p><u>S.B. 263</u> Senator David E. Bates (R)</p>	<p>Provides that a person may recover direct damages, including damages for bodily harm and property damage and any costs "reasonably incurred to reprogram or replace and test the relevant computer system or program" based upon "an alleged failure to properly detect, disclose, prevent, report, or remediate a computer date failure." Prohibits the collection of "inconsequential damages, including, but not limited to, "business interruption losses, lost profits, or losses alleged to have resulted from the injured's ability to perform his contractual obligation to third parties." Effective upon passage.</p>	<p>Introduced and referred to Senate Judiciary Committee January 28.</p>
<p>SOUTH CAROLINA</p>		
<p><u>S.B. 261</u> Sen. Robert Hayes (R)</p>	<p>Creates an exception to a waiver of immunity in the Tort Claims Act for a Year 2000 computer or automation device in use by a governmental entity unless the entity negligently constructed or programmed the device itself. Exempts governmental entities from liability for Year 2000 errors caused by computer hardware or software supplied by a nongovernmental entity.</p>	<p>Introduced and referred to Senate Judiciary Committee January 12.</p>
<p>SOUTH DAKOTA</p>		
<p><u>S.B. 62</u> Senate Judiciary Committee</p>	<p>Immunizes state and local government agencies and their employees for losses resulting from Year</p>	<p>Introduced and referred to Senate Judiciary Committee</p>

	2000-related computer failures or malfunctions if the loss was unforeseeable or, if the loss was foreseeable, if the agency substantially complied with generally accepted standards.	January 12. Hearing held January 20.
TENNESSEE		
<u>H.B. 23</u> <i>Rep. Larry Scroggs (R)</i>	Grants governmental immunity for injuries arising from Year 2000 malfunctions of computer software or devices due to failure to recognize or compensate for dates or times if failure as unforeseeable or correction plan reasonable before December 31, 2005.	Introduced and referred to House Judiciary Committee January 16.
<u>H.B. 193</u> Representative Matthew Kisber (D)	Provides immunity from suit under Tennessee Governmental Tort Liability Act for any injury caused by computer system or software because of inability to process Year 2000 date.	Introduced February 4. Awaiting committee referral.
<u>H.B. 277</u> Representative Kathryn I. Bowers (D)	Provides immunity from suit under Tennessee Governmental Tort Liability Act for any injury caused by computer system or software because of inability to process Year 2000 date.	Introduced February 3. Awaiting committee referral.
<u>S.B. 19</u> <i>Sen. Tom Leatherwood (R)</i>	Grants governmental immunity for injuries arising out of Year 2000 malfunctions of computer software or devices due to failure to recognize or compensate for dates or times if failure in unforeseeable or correction plan reasonable before	Prefiled January 12. Referred to Senate and state Local Government January 16. Hearing held February 2. Hearing scheduled for February 16.

	December 31, 2005.	
<u>S.B. 189</u> <i>Senator Roscoe Dixon (D)</i>	Provides immunity from suit under Tennessee Governmental Tort Liability Act for any injury caused by computer system or software because of inability to process Year 2000 date.	Introduced and referred to Senate Judiciary Committee February 4.
<u>S.B. 225</u> <i>Senator Jerry Cooper (D)</i>	Provides immunity from suit under Tennessee Governmental Tort Liability Act for any injury caused by computer system or software because of inability to process Year 2000 date.	Introduced February 4. Referred to Senate State and Local Government Committee February 8.
TEXAS		
<u>H.B. 40</u> <i>Rep. Jim Pitts (R)</i>	Limits liability resulting from a computer date error resulting from the date January 1, 1999 or later to: "damages arising from a computer date failure, under which the claimant may recover only: (1) damages resulting from personal injury or wrongful death, excluding mental anguish; and (2) costs reasonably incurred to reprogram or replace and internally test the relevant computer, computer network, computer program, computer software, computer system, or internal hardware timer."	Prefiled November 9 for introduction in 1999. Referred to House Civil Practices Committee February 1.
UTAH		
<u>H.B. 189</u> <i>Rep. Blake Chard (R)</i>	Provides immunity for governmental entities, officers and employees from harm caused by	Prefiled October 28, 1998. Referred to House Public Utilities and

	errors or failures caused by an electronic computing device in connection with the Year 2000 problem. February 8 technical amendments added.	Technology Committee January 18. Committee Meeting held January 22. Reported from Committee as amended February 8.
VERMONT		
<u>H.B. 76</u> <i>Representative Frank Mazur (R)</i>	Prohibit suits against the state and municipalities based on incorrect computer dates. Does not require that any contract entered into on behalf of and in the capacity of the state or municipality or an officer or employee thereof to include a provision providing immunity to the state or municipality and its officers and employees for breach of contract caused by the Year 2000 date failure. Further provides that any contract entered into by the state on or after July 1, 1999, does not have such immunity for the state, municipalities and their agents.	Introduced and referred to House Commerce Committee January 22. Hearing February 10.
VIRGINIA		
<u>H.B. 1669</u> <i>Del. James Almand (D)</i>	Provides that tort actions may not be brought against the Commonwealth's counties, cities, towns, or other political subdivisions, or employees or officers thereof based upon the failure of a computer, software program, database, network, information system, firmware, or other device to interpret, produce, calculate, generate, or account for a date which is compatible with the Year 2000 date change. Acts or omissions constituting gross negligence or willful	Introduced and referred to House Science and Technology Committee January 13. Reported from Committee January 22. Passed House and referred to senate General Laws Committee January 27.

	misconduct are excluded from the bill's coverage.	
<p><u>H.B. 1671</u> <i>Del. Samuel Nixon (R)</i></p>	<p>Provides immunity from liability for tort damages to any person for injury resulting from disclosing information, in good faith, about the Year 2000 problem. January 23 amendments require that disclosure information be clearly marked on the documents and state that the act is not applicable in cases of personal injury or death.</p>	<p>Introduced and referred to House Science and Technology Committee January 13.</p> <p>Amended, reported from Committee and referred to House Courts of Justice Committee January 23.</p> <p>Reported from Committee February 8. Passed House February 9.</p>
<p><u>H.B. 2153</u> <i>Delegate James M. Scott (D)</i></p>	<p>Provides that state offices will be closed on Monday, January 3, 2000 to provide a three-day weekend to permit agencies to deal with any computer problems arising from the century date change. Bill text forthcoming.</p>	<p>Introduced and referred to House General Laws Committee January 20. Reported from Committee January 28. Passed House and referred to Senate Rules Committee February 3.</p>
<p><u>H.B. 2158</u> <i>Del. James Almand (D)</i></p>	<p>February 8 amendment deletes previous language and exempts all officers or employees of the Commonwealth or any of its political subdivisions, agencies and instrumentalities from liability for any claim arising from the failure of a computer, software program, database, network information system, firmware or any other device, operated in their official</p>	<p>Introduced and referred to House Courts of Justice Committee January 20. Amended and reported from Committee February 8. Passed House February 9.</p>

	<p>responsibilities, to interpret produce, calculate, generate or account for a date which is compatible with the Year 2000 date change. Declares that the immunity conferred by this section shall not apply if the act or omission at issue was the result of the officer's or employee's gross negligence or willful misconduct. The original bill provided that civil actions may not be brought against constitutional officers of the Commonwealth based on the failure of a computer, software, database, network or information system caused by the inability to interpret, calculate or generate the Year 2000 date change.</p>	
<p><u>S.B. 983</u> <i>Sen. Warren Barry (R)</i></p>	<p>Limits liability and damages for economic loss in connection with the century date change. Liability and damage rules for civil actions related to Y2K problems would be limited to the scope of existing contracts, protect persons from liability for the Y2K-related actions of third parties, create an affirmative protection for employees, officers and directors, disallow consequential or punitive damages, and limit total damages to actual, direct damages. February 3 amendments: (1) expand definition of regulated entities to include financial institutions; (2) state act does not apply to damages in connection with wrongful death; and (3) state act will not limit the enforcement of laws or regulations.</p>	<p>Introduced and referred to Senate Court of Justice Committee January 19. Hearing scheduled January 27. Amended and reported from Committee February 3. Passed Senate February 8. Awaiting Committee referral.</p>
<p><u>S.B. 1013</u> <i>Senator Janet Howell (D)</i></p>	<p>Creates a Year 2000 assessment privilege for documents created during a Year 2000 assessment</p>	<p>Introduced and referred to Senate Court of Justice Committee</p>

	conducted from January 1, 1996 to January 1, 2002.	January 19. Hearing scheduled January 27. Failed to pass before the legislative crossover deadline February 9.
<u>S.B. 1180</u> <i>Senator William Roscoe Reynolds (D)</i>	Stipulates liability and damage rules for civil actions based on "Year 2000 problems." The rules are: (1) no person shall be liable to any person not in privity of contract with such person; (2) no person shall be liable for damages caused by a delay or interruption in performance, or in the delivery of goods or services, resulting from or in connection with a Year 2000 problem, to the extent such Year 2000 problem was caused by a "third party"; (3) no employee, officer, or director shall be liable in his capacity as such to any person; (4) no person shall be liable for consequential or punitive damages; and (5) total damages shall not exceed actual direct damages.	Introduced and referred to Senate Courts of Justice Committee January 21. Hearing scheduled January 27. Failed in Committee February 3.
WASHINGTON		
<u>S.B. 5767</u> <i>Senator Bill Finkbeiner (R)</i>	Declares no action may be brought against a business, its officers or directors its employees, or an agency or its employees for indirect or consequential damages caused in whole or in part by computational or interpretive errors generated by an electronic computing device owned, controlled or operated by a business or an agency and arising out of or in connection with the Year 2000 date change. Defines indirect or consequential damages, "as any harm, loss, damage or mental	Introduced and referred to Senate Judiciary Committee February 8.

	<p>injury of any nature whatsoever other than goods, entitlements services, or compensation that businesses and agencies are by contract, statute, or rule obligated to provide." Exempts the employees, officers or directors of a business from liability in any other action. Does not prohibit an action otherwise permitted by law for such damages if the claimant proves with clear and convincing evidence that the damages were caused by the business' or agency's willful failure to attempt to find and correct any such errors.</p>	
WISCONSIN		
<p><u>A.B. 19</u> <i>Representative Marlin Schneider (D)</i></p>	<p>Provides that no person may recover any damages against any state or local government unit for any act or omission caused by the failure of an electronic computing device to Year 2000 date change. Provides for immunity for any officer, employee or agent of any state or local government unit.</p>	<p>Introduced and referred to Assembly Insurance Committee January 14.</p>
<p><u>A.B. 51</u> <i>Representative Scott Jensen (R)</i></p>	<p>January 26 amendments provide for designation of confidential business information in a Year 2000 report. Provides that no defendant in a civil action is considered to have made a good faith effort unless the defendant took specific actions to prevent Year 2000 Failure. January 21 amendments removed section on actions being filed against individuals who did not directly give false information. Adds additional prerequisite for filing a civil action to include omission of information in a Year 2000 statement that makes the</p>	<p>Introduced and referred to Assembly Information Policy Committee January 19. Public hearing held January 20. Reported from Committee as amended January 21. Referred to Assembly Rules Committee January 21. Passed House as amended January 26. Referred to Joint Information Policy Committee January 27.</p>

statement false, misleading or deceptive.

Requires reporting of information regarding Year 2000 processing to state and local government units by any person regulated by such government units.

Establishes a fine of \$100 for failure to provide information required or knowingly giving false information. Provides for immunity for state and local government units, including officer, employee or agent thereof, for Year 2000 computer failure. Provides that any bill introduced that would impact any state government, local government or person with regard to the Year 2000 problem may have a Year 2000 impact statement prepared by the Department of Administration at the request of the Speaker of the Assembly or President of the Senate. Allows Department of Administration to provide educational outreach by working with private contractors. Requires Department of Military Affairs to review all local emergency management plans for responding to possible Year 2000 failure.

WEST VIRGINIA

<p><i>H.B. 2298</i> <i>Delegate Robert S. Kiss (D)</i></p>	<p>Enacts "Commerce Protection Act." Prescribes exclusive remedies against persons, businesses and governmental agencies for damages caused by the failure of their information technology resources to function properly with respect to date data. Prescribes damages, expands the waiver of sovereign immunity, bars certain class actions, provides immunity from personal liability for directors and officers of</p>	<p>Introduced and referred to House Judiciary Committee January 19.</p>
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	<p>businesses. Creates a lien in favor of certain lending institutions on proceeds received by a business as a result of its failure or the failure of another to be Year 2000 compliant. Imposes insurance and warranty requirements on persons who assess whether information technology resources are Year 2000 compliant and prescribes remedies for such persons.</p>	
WYOMING		
<p><u>S.F. 83</u> <i>Senator Tom D. Kinnison (R)</i></p>	<p>Grants immunity for Year 2000 computer date failures to governmental entities and people acting as independent contractors with a governmental entity, while acting within the scope of duties. Requires that contracts entered into by or on behalf of a governmental entity on or after the effective date of this act include a provision for immunity from civil action.</p>	<p>Introduced and referred to Senate Judiciary Committee January 14.</p>

(Updated as of February 16, 1999)

HB

58

Amendment to HB 58

Change title by adding the underlined

An Act relating to certain audits regarding oil and gas royalty and net profits and to audits regarding costs relating to exploration incentive credits and oil and gas exploration licenses; repealing the notice requirement for the issuance of final written findings regarding sale, lease, or disposal of an interest in state land or resources for oil and gas subject to AS 38.05.180(b); and providing for an effective date.

Add to page 4 line 28 the underlined

Sec. 7. AS 38.05.036(d), 38.05.036(e), 38.05.945(a)(3)(B), and AS 43.05.010(15) are repealed.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

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March 22, 2000

The Honorable Pete Kott
Chair, Judiciary
Alaska State Legislature
State Capitol, MS 3101
Juneau, AK 99801-1182

Dear Representative Kott:

The Department of Natural Resources requests a House Resources Committee hearing on HB 58 "An Act relating to certain audits regarding oil and gas royalty and net profits and exploration licenses". The bill will transfer from the Department of Revenue to the Department of Natural Resources responsibility for audits of oil and gas royalty and exploration licenses and credits. This function has been split between the two departments since 1980 based on a Legislative Audit recommendation and subsequent legislation.

Since 1980, however, the state has entered into royalty settlements and made changes to its tax regulations. In addition, certain fields in the Cook Inlet no longer pay a production tax but are still subject to a royalty. As a result, it is now more beneficial to the state to consolidate the royalty audit function in the Department of Natural Resources. This consolidation will eliminate inefficiencies and duplications in the audit functions.

Thank you for your consideration of this request. It is very important that the state implement efficiencies whenever possible. I look forward to discussing this bill with your committee. If you need additional information concerning HB 58, please call my office at 465-2400.

Sincerely,



John T. Shively
Commissioner

cc: Carol Carroll
Legislative Liaison

"Develop, Conserve and Enhance Natural Resources for Present and Future Alaskans"

**Department of Natural Resources
HB 58**

“An Act relating to certain audits regarding oil and gas royalty and net profits...”

HB 58 bill will transfer the authority to audit royalty revenues from the Department of Revenue (“DOR”) to the Department of Natural Resources (“DNR”). This legislation will create administrative efficiencies and provide DNR with the tools to successfully pursue the state’s interests in its relationship with the oil industry.

Background

Most of state government petroleum revenues come from two sources: production taxes levied by DOR and royalty payments administered by DNR.¹ The calculation of production tax and royalty payments involves very similar arithmetic. In both cases, a percentage of oil and gas production is multiplied by a “netback” value. The netback value is the difference of the price of the oil or gas at the market destination minus marine transportation costs and pipeline tariffs.

DNR and DOR used to conduct audits of their respective revenues independently. In 1980 the legislature consolidated auditing functions under DOR. The legislature felt then that a single audit authority made sense because most of the oil and gas production that was subject to royalty payments was also subject to production taxes. Given the similarity in the calculation of production taxes and royalty payments a single audit was all that was thought was needed.

Since 1980, circumstances have changed and it now makes sense now for the audit authority for royalty to be transferred back to DNR. The impact of the economic limit factor (ELF) means that more oil and gas production is exempt from taxes while royalty payments are still required. For example, oil producers in the Cook Inlet pay no production taxes because of the ELF but they still must pay royalties. The netback calculations required by each department also have become more dissimilar over time. Production taxes are imposed on the oil and gas producer by statute and regulations and each taxpayer calculates the netback value for taxes following identical rules. DNR calculates the netback value on the basis of leases and royalty settlement agreements that have evolved over time and are different for each lessee.

Efficiency

The state will benefit from the specialization of a DNR in-house audit staff and by the elimination of duplication between the departments.

- Specialization. Auditors within DNR participate in the development of royalty valuation methods used in the leases and royalty settlements and are familiar with the logic and history of each lessee’s unique requirements. HB 58 will grant DNR better access to audit

¹ “Royalty payments” in this context refers to both royalty payments and net profit share payments. It is the audit of these revenue streams that are the subject of HB 58.

information and DNR will be able to more efficiently guide audits while they are underway to investigate issues important to the department.²

- **Reduced Duplication:** DNR currently requests a royalty audit after DOR has completed the production tax audit. DOR will start a new audit separate from the original tax audit and includes tax audit information only when possible under the law. In addition to DOR staff assigned to the audit are DNR staff who must be involved in the process as much possible. DNR needs to be familiar with the information acquired in the audit and DNR needs to provide direction and oversight while the audit is conducted. When the audit is completed and delivered to DNR, DOR must keep its own records as well as transmitting copies to DNR. If DNR conducted its own audits, fewer audit staff will be required and there will be no need for inter-department reporting. The paperwork burden for each department will be reduced.

Because the potential for overlapping responsibilities between the departments has decreased over time, a single audit of both taxes and royalty payments is not really possible. HB 58 should not create an additional burden on the taxpayer. In fact, in no other state are the tax and royalty audit functions shared by departments.

What does HB 58 do?

The data provided from these audits are invaluable to DNR when evaluating whether or not its royalty settlement agreements are achieving the correct royalty netback value. As the DNR crafts new valuation methods and sets new lease terms, the audits will reveal what issues need to be considered. It makes sense that DNR acquire audit information first-hand rather than via summary reports and worksheets provided by DOR.

The language in Sections 1, 2, 3, and 5 of HB 58 cleaves the royalty audit role from DOR and transfers the audit authority to DNR. When the legislature granted to DOR the sole authority to audit royalty payments, DOR already had in AS 43 a toolbox to conduct audits. The original AS 38.05.036 was fairly straightforward. HB 58 provides DNR with not only the authority conduct royalty audits but also provides DNR with some tools it will need to conduct audits. These sections also retain for each department the existing authority to acquire data from the other in order to successfully conduct its own audits.

Section 1 also adds a provision to explicitly provide DNR the authority to audit exploration incentive credits awarded under AS 41.09. This remedies an oversight in the original statute where neither DOR nor DNR had such authority.

Parts of Section 4 were added after discussions with industry. Under current law, information collected in a DOR audit is held confidential under threat of criminal penalty. The penalties of divulging information given to DNR and considered confidential under current AS 38.05.035 are not so explicit. Section 4 imposes the same criminal penalty protection on royalty audits

² DOR recognizes the value of specialization and usually assigns the same staff to work on royalty auditor when possible. However, DOR's auditors do not work exclusively on DNR royalty audits.

conducted by DNR. Section 6 provides reciprocal protection when DOR acquires DNR royalty audit data.

Section 4 also extends subpoena powers to DNR. When DOR performs an audit, whether for production tax or royalty, it has the authority under AS 43 to subpoena books and records. HB 58 does not expand the state's power it only transfers existing subpoena powers to DNR. Without this change, the power of the state to audit royalty payments will be diminished. As a practical matter, subpoena powers are rarely exercised.

Fiscal Impact

As noted in the Fiscal Note that accompanies HB 58, three staff are transferred from DOR to DNR at no additional cost to the state. With improved efficiencies, more royalty audits can be completed in the course of a year and the backlog of audits eliminated.

HB 58 achieves an important and simple goal. In the performance of its duties to maximize the value of the state's oil and gas royalty revenues, DNR should conduct its own audits.

FISCAL NOTE

Bill Version: HB 58
 (H) Publish Date: 3/8/00

STATE OF ALASKA 2000 LEGISLATIVE SESSION

BILL

Revision Date: 03-Mar-00 Dept Affected: Natural Resources
 Title: An Act relating to certain audits regarding oil and gas royalty and net profits and to audits regarding costs... BRU: Oil & Gas Development
 Sponsor: Rules Committee Component: Oil & Gas Development
 Requestor: (H)RES Component Serial No. #439

Expenditures/Revenues	(Thousands of Dollars)					
	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
OPERATING EXPENDITURES						
PERSONAL SERVICES	230.9	230.9	230.9	230.9	230.9	230.9
TRAVEL	2.5	2.5	2.5	2.5	2.5	2.5
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	233.4	233.4	233.4	233.4	233.4	233.4
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE	(Thousands of Dollars)					
	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1105 Perm Fund Receipts	233.4	233.4	233.4	233.4	233.4	233.4
TOTAL	233.4	233.4	233.4	233.4	233.4	233.4

Estimate of any current year (FY00) cost: \$ none

POSITIONS	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
FULL-TIME	3	3	3	3	3	3
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

Transfer from the Department of Revenue funds for two Revenue Auditor positions and one clerical position. The Revenue Auditor positions being transferred are filled and perform royalty audits. The departments agree that efficiencies will result in the timeliness of audits with the consolidation of this function in DNR. In the past, many of the tasks required to complete these royalty audits were duplicative of tasks performed in DNR. This fiscal note shows the transfer of the funds and positions from Dept. of Revenue to the Dept. of Natural Resources.

Prepared by: Ken Boyd, Director Phone: 269-8800
 Division: Oil & Gas Date: 03-Mar-00
 Approved by Commissioner: John Shively Date: 03-03-00
 Agency: Natural Resources

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FISCAL NOTE

Bill Version: HB 58

(H) Publish Date: 3/8/00

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) March 3, 2000 - 3 p.m. Dept. Affected Revenue
 Title Oil & Gas Audits BRU Revenue Operations
 Component Tax Division
 Sponsor House Rules
 Requester House Resources Component No. 115

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	(230.9)	(230.9)	(230.9)	(230.9)	(230.9)	(230.9)
Travel	(2.5)	(2.5)	(2.5)	(2.5)	(2.5)	(2.5)
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(233.4)	(233.4)	(233.4)	(233.4)	(233.4)	(233.4)

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Permanent Fund receipts)	(233.4)	(233.4)	(233.4)	(233.4)	(233.4)	(233.4)
TOTAL	(233.4)	(233.4)	(233.4)	(233.4)	(233.4)	(233.4)

Estimate of any current year (FY2000) cost: _____

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill transfers from DOR to DNR the responsibilities and authority for auditing reports and payments relating to revenue under oil and gas contracts, agreements and leases. This function is performed by three DOR positions that would be transferred from DOR to DNR.

The DOR positions had been funded with General Fund money but the Legislature in 1999 changed the funding source starting with the FY 2000 budget to Permanent Fund Receipts.

Prepared by: Dan Dickinson, Director Phone 269-1033
 Division Tax Division Date/Time March 3, 2000
 Approved by: Commissioner Wilson Condon Date 03/03/2000
 Agency Department of Revenue

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FISCAL NOTE

Bill Version: HB 58

(H) Publish Date: 1/22/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Revenue
 Title Oil & Gas Audits/Incentive Credit BRU Revenue Operations
 Component Oil & Gas Audit Division
 Sponsor Rules
 Requester Governor Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	(230.9)	(230.9)	(230.9)	(230.9)	(230.9)	(230.9)
Travel	(2.5)	(2.5)	(2.5)	(2.5)	(2.5)	(2.5)
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(233.4)	(233.4)	(233.4)	(233.4)	(233.4)	(233.4)

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(233.4)	(233.4)	(233.4)	(233.4)	(233.4)	(233.4)
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	(233.4)	(233.4)	(233.4)	(233.4)	(233.4)	(233.4)

Estimate of any current year (FY99) cost: _____

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill transfers from DOR to DNR the responsibilities and authority for auditing reports and payments relating to revenue under oil and gas contracts, agreements and leases. This function is performed by two DOR auditor positions and one clerk position that would be transferred from DOR to DNR.

Prepared by John F. Pilkinton, Director
 Division Oil & Gas Audit
 Approved by Wilson L. Condon
 Commissioner
 Agency Department of Revenue

Phone 907-343-9225
 Date/Time Oct. 30, 1998
 Date Oct. 30, 1998

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FISCAL NOTE

Bill Version: HB 58

(H) Publish Date: 1/22/99

STATE OF ALASKA 1999 LEGISLATIVE SESSION

Revision Date: _____ Dept Affected: Natural Resources
 Title: An Act relating to certain audits regarding oil BRU: Oil & Gas Development
and gas royalty and net profits and to audits regarding costs... Component: Oil & Gas Development
 Sponsor: House and Senate Rules Committees
 Requestor: Governor Component Serial No. #439

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY00	FY01	FY02	FY03	FY04	FY05
PERSONAL SERVICES	230.9	230.9	230.9	230.9	230.9	230.9
TRAVEL	2.5	2.5	2.5	2.5	2.5	2.5
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	233.4	233.4	233.4	233.4	233.4	233.4

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0
--------------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	233.4	233.4	233.4	233.4	233.4	233.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	233.4	233.4	233.4	233.4	233.4	233.4

Estimate of any current year (FY99) cost: \$ none

POSITIONS

FULL-TIME	3	3	3	3	3	3
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Transfer from the Department of Revenue funds for two Revenue Auditor positions and one clerical position. The Revenue Auditor positions being transferred are filled and perform royalty audits. The departments agree that efficiencies will result in the timeliness of audits with the consolidation of this function in DNR. In the past, many of the tasks required to complete these royalty audits were duplicative of tasks performed in DNR. This fiscal note shows the transfer of the funds and positions from Dept. of Revenue to the Dept. of Natural Resources.

Prepared by: Ken Boyd, Director Phone: 269-8800
 Division: Oil & Gas Date: 26-Oct-98
 Approved by Commissioner: [Signature] Date: 10-26-98
 Agency: Natural Resources

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HD 58

TONY KNOWLES
GOVERNOR

P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 20, 1999

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Brian
Dear Speaker Porter:

In the interest of improving efficiency within our state government, as well as between government and industry, I am transmitting this bill to transfer oil and gas royalty audit functions from the Department of Revenue (DOR) to the Department of Natural Resources (DNR). It makes sense to put the audit duties in the same department that administers, enforces, and is therefore most knowledgeable with, the oil and gas leasing program.

Ironically, the audit functions used to rest with DNR, but were switched to DOR in 1980 based on a legislative audit report. The recommendation stated cost savings would be achieved by having one staff of auditors review both tax and royalty compliance information. Since 1980, however, the state has entered into royalty settlements with the major North Slope producers and has made changes to its tax regulations. As a result, there is no longer as much overlap between royalty and tax audits. In addition, separating DNR's duty to administer and enforce oil and gas contracts, agreements, and leases from the department's ability to conduct audits leading to possible enforcement actions, has resulted in inefficiencies and other problems.

The bill specifically authorizes DNR to audit reports and costs relating to exploration incentive credits and oil and gas licenses. It also grants DNR audit powers commensurate to those of DOR currently, including the right to subpoena information for audit purposes. The two departments would be allowed to exchange confidential information obtained in the course of their respective audits; a breach of confidentiality by any agency employee would be a felony offense.

This bill takes a sensible step in how the state does business with the oil and gas industry.

Sincerely,



Tony Knowles
Governor

HB

62

Alaska Telephone Association

201 E. 56th, Suite 114
Anchorage, AK 99518
(907) 563-4000
FAX (907) 562-3776

David Fauske
President

James Howe
Executive Director

March 9, 1999

Honorable Bill Hudson
Chairman
House Utility Restructuring Committee
State Capitol
Juneau, Alaska 99801

RE: Alaska Public Utilities Commission

Dear Rep. Hudson:

This letter is prompted primarily by HB 62 which deals with extending the Alaska Public Utilities Commission for four more years. As you have heard in my testimony before your committee, the ATA does not want the commission to enter into a "wind down" year. That happened five years ago and it was burdensome to industry, the commission and our customers. The Telecommunications Act of 1996 generated a very substantial increase in the amount of work for all of us and Alaskans will benefit if both industry and the commission devote their efforts toward that work rather than to the confusion of "wind down."

However, the sunset review process gives us a welcome opportunity to offer some suggestions for change within the structure of the commission. ATA has long espoused a more defined separation between advocacy staff and staff that is counsel to the commission. We think that the current structure that has a staff person as an advocate on one docket and the same individual as counsel on another docket lends itself (even without intent) to conflict with ex parte rules.

ATA recommends that there be an organizational separation where advocacy staff, under the direction of the executive director, represent the interest of the public in matters before the commission. Commissioners, acting in an adjudicative role, should have access to professional advisory staff so they can be properly prepared to weigh the issues presented by representatives of industry and the advocacy staff.

Presently the commission has authorization to hire nine additional employees, but due to the state-hiring freeze, the positions remain unfilled. ATA strongly supports full staffing for the commission and recommends it as necessary for the agency to complete its tasks in a reasonable time. Furthermore, the beneficiaries of an efficient APUC are the utility customers; the same people who pay the Regulatory Cost Charge that funds the commission. ATA also believes that with full staffing, the commission should implement the separation of staff mentioned previously.

Another facet that should be included in the restructuring is a delineation of the powers and responsibilities of the Chairman. Clearly, it is important to preserve the autonomy of each commissioner to vote his/her mind on an issue, but the responsiveness of the commission might be held more accountable with the responsibility of leadership placed in the hands of one individual.

Finally, ATA questions the continued necessity of commission seats being designated as engineering, attorney, business and consumer (two seats). Undoubtedly, it is valuable to have the professional disciplines represented on the commission, however, especially in light of the increased number of professional staff, that value may be outweighed by the elimination of exceptionally capable candidates whose experience is in another field.

In summary, ATA proposes

- Reauthorization of the APUC;
- Clear separation of advocacy staff from advisory staff;
- Hiring to fill the nine vacant staff positions;
- Delineation of the powers and duties of the Chairman;
- Abolish requirement for designated seats.

Thank you for the opportunity to offer comments on these issues. Members of the ATA are available to answer questions or provide assistance on all matters before this committee.

Sincerely,



James Rowe

3/17
- adapted
- moved out
as is.

1-LS0327AH
Cramer
3/15/99

CS FOR HOUSE BILL NO. 62(URS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON UTILITY RESTRUCTURING

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE THERRIAULT

A BILL

FOR AN ACT ENTITLED

1 **"An Act extending the termination date of the Alaska Public Utilities Commission**
2 **until June 30, 2001; and providing for an effective date."**

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

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

5 (4) Alaska Public Utilities Commission (AS 42.05.010) -- June 30, 2001
6 [1999];

7 *** Sec. 2. This Act takes effect immediately under AS 01.10.070(c).**

1-LS0327G
Cramer ✓
3/11/99

CS FOR HOUSE BILL NO. 62(URS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON UTILITY RESTRUCTURING

Offered:

Referred:

Sponsor(s): REPRESENTATIVE THERRIAULT

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the powers and duties of the chair of the Alaska Public
2 Utilities Commission; extending the termination date of the Alaska Public Utilities
3 Commission; and providing for an effective date."

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

5 * **Section 1.** AS 42.05.020(b) is amended to read:

6 (b) The governor shall designate one member of the commission as chair
7 [CHAIRMAN] of the commission. This member shall serve as chair [CHAIRMAN]
8 for a term of four years, but may be appointed for successive terms. The chair is
9 responsible for the administration of the commission and commission employees.

10 * **Sec. 2.** AS 42.05.101(a) is amended to read:

11 (a) The chair of the commission shall establish for the commission a
12 principal office and branch offices necessary to discharge its business efficiently. For
13 the convenience of the public or of parties to a proceeding, the commission may hold
14 meetings, hearings, or other proceedings at other locations.

1 * **Sec. 3.** AS 42.05.111(b) is amended to read:

2 (b) The chair of the commission may employ temporary legal counsel for the
3 commission from time to time in proceedings before the commission in which the
4 attorney general is representing the public interest or a party before the commission.

5 * **Sec. 4.** AS 42.05.121 is amended to read:

6 **Sec. 42.05.121. Employment of commission personnel.** (a) The commission
7 may employ an executive director who shall have had at least five years of experience
8 in public utility management or regulation, law, accounting, engineering, or an allied
9 field. The executive director is responsible for directing the administrative functions
10 of the commission and carrying out the policies as set by the commission. The chair
11 of the commission may employ engineers, hearing officers, administrative law judges
12 to the extent provided by AS 42.06.140(b), experts, clerks, accountants, and other
13 agents and assistants considered [IT CONSIDERS] necessary. Employees and agents
14 of the commission who are not partially exempt under AS 39.25.120, other than legal
15 counsel, are in the classified service under AS 39.25.100.

16 (b) In addition to the [ITS] staff of regular employees, the chair of the
17 commission may contract for and engage the services of consultants and experts the
18 chair [COMMISSION] considers necessary.

19 * **Sec. 5.** AS 44.66.010(a)(4) is amended to read:

20 (4) Alaska Public Utilities Commission (AS 42.05.010) -- June 30,
21 2003 [1999];

22 * **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 62(URS), Draft Version "G"

1 Page 1, line 2, following ";":

2 Insert "relating to removal of commissioners of the Alaska Public Utilities
3 Commission;"

4 Page 1, following line 9:

5 Insert a new bill section to read:

6 **** Sec. 2.** AS 42.05.035 is repealed and reenacted to read:

7 **Sec. 42.05.035. Removal of commissioners.** The governor may remove a
8 commissioner from office only for inefficiency, neglect of duty, or misconduct in
9 office, or because the member, while serving on the commission, is convicted of a
10 misdemeanor for violating a statute or regulation related to public utilities or is
11 convicted of a felony. The governor shall deliver to the commissioner a copy of the
12 charges against the commissioner. The commissioner shall have an opportunity to
13 present a defense in person or through counsel at a public hearing before the governor
14 or the governor's designee. The commissioner shall be informed of the hearing by
15 registered mail at least 10 days before the hearing date. At the hearing, the
16 commissioner may confront and cross-examine adverse witnesses. Upon removal of
17 the commissioner, the findings and a complete statement of all charges made against
18 the commissioner shall be filed in the Office of the Lieutenant Governor."

19 Renumber the following bill sections accordingly.

20 Page 2, following line 21:

21 Insert a new bill section to read:

22 **** Sec. 7.** The provisions of AS 42.05.035, repealed and reenacted by sec. 2 of this Act,

- 1 apply to a member of the Alaska Public Utilities Commission serving on the effective date
- 2 of this Act. This Act is intended to extinguish any existing right of a sitting commissioner
- 3 to the removal procedure specified in former AS 42.05.035."

- 4 Renumber the following bill section accordingly.

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 62(URS), Draft Version "G"

1 Page 1, line 2. following ";;":

2 Insert "relating to removal of commissioners of the Alaska Public Utilities
3 Commission;"

4 Page 1, following line 9:

5 Insert a new bill section to read:

6 **** Sec. 2.** AS 42.05.035 is repealed and reenacted to read:

7 **Sec. 42.05.035. Removal of commissioners.** The governor may remove a
8 commissioner from office only for neglect of duty, misconduct in office, or because
9 the member, while serving on the commission, is convicted of a misdemeanor for
10 violating a statute or regulation related to public utilities or is convicted of a felony.
11 The governor shall deliver to the commissioner a copy of the charges against the
12 commissioner. The commissioner shall have an opportunity to present a defense in
13 person or through counsel at a public hearing before the governor or the governor's
14 designee. The commissioner shall be informed of the hearing by registered mail at
15 least 10 days before the hearing date. At the hearing, the commissioner may confront
16 and cross-examine adverse witnesses. Upon removal of the commissioner, the
17 findings and a complete statement of all charges made against the commissioner shall
18 be filed in the office of the lieutenant governor."

19 Renumber the following bill sections accordingly.

20 Page 2, following line 21:

21 Insert a new bill section to read:

22 **** Sec. 7.** The provisions of AS 42.05.035, repealed and reenacted by sec. 2 of this Act,

1 apply to a member of the Alaska Public Utilities Commission serving on the effective date
2 of this Act. This Act is intended to extinguish any existing right of a sitting commissioner
3 to the removal procedure specified in former AS 42.05.035."

4 Renumber the following bill section accordingly.

March 17, 1999

HB 62 APUC Sunset

HB 62

Sponsor Statement

Fiscal note 2 pages

CSHB 62URS, (version H) tight title, 2 year sunset till 2001

CSHB 62URS, (version G) amended strong chair

HB 62 amend (version G.1) removal of commissioners

HB 62 amend (version G.2) removal of commissioners change

Testimony of Tim Cook

Testimony of Randy Harshman

ATA A new structure white paper

HOUSE BILL NO. 62

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE THERRIAULT

Introduced: 1/22/99

Referred: House Special Committee on Utility Restructuring, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Public Utilities Commission; and providing for an
2 effective date."

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

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

5 (4) Alaska Public Utilities Commission (AS 42.05.010) -- June 30, 2003
6 [1999];

7 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

Tim Cook**(907) 276-6222**

Alaska Public Utilities Commission

March 12, 1999

Representative Bill Hudson,

Both Commissioner Alyce Hanley and myself are astounded with the direction that HB 62 reauthorizing the Public Utilities Commission has taken. The proposed amendment deleting the requirement for legislative consent to remove a Commissioner is an unconscionable abdication of legislative authority. It will absolutely politicize the Commission, and is simply bad politics. Why would a Republican Legislature empower a Democrat Governor to remove members from a Commission, the majority of whom are Republicans?¹ The reasons that I have heard are that there is squabbling and inefficiency, and that one Commissioner has serious legal problems. The squabbling and inefficiency is because we have a Chair who was appointed by a Democrat Governor, and an Executive Director who is a political crone of the Governor. They disregard the will of the Commission if it doesn't fit their political agenda or their own selfish interests. As for Ornquist and his legal problems, this is a serious situation, but there are provisions that provide for removal, and besides, he has pledged to resign if he is convicted.

The solution to making the APUC run more efficiently is to have a chair who reflects the majority will of the Commission rather than one who promotes his own self interest. This can be accomplished by supporting the amendment offered by Rep. Rokeberg to change AS 42.05.020 from "the GOVERNOR shall designate one member of the commission as chairman..." to "the COMMISSION shall designate one member of the commission as chairman ..." I have spoken with Pam Finely at legislative legal counsel regarding the legality of the amendment, after brief review, she saw no constitutional or legal impediments.

The party in power needs to promote and empower people of like philosophy. To abdicate power to those of another party is contrary to the principles of the representative electoral process. In this particular case, if the Commission is allowed to appoint its own Chair, it is likely that since a majority of the Commissioners are Republicans that the Commission would appoint a Chair that reflects the republican philosophy. Please support this amendment.

Tim Cook, Commissioner

¹ When Knowles tried to remove me from the Commission, he counted on the legislature not intervening, and that I could not afford the legal fees. If the law is changed, Knowles will come after anyone that disagrees with him, because the legislature will have no basis for intervention, and the legal fees will be even greater because the standard is less clear.

Randy J. Harshman
1200 Southampton
Anchorage Ak. 99503

Dear State House Representative;

Currently before you is HB 62. This bill is important to Alaskans all over the State, particularly now that we have the largest Utility buy out that we have ever experienced. I would like to go on record opposing elimination, or reduction to the commission size. Although there may be a need for stronger leadership and possibly oversight by the Legislature.

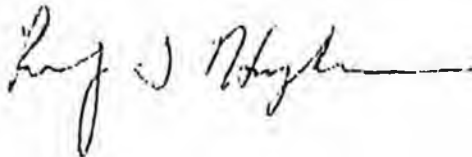
Unfortunately a majority of our Public Utilities have been sold to one major group and without your direct intervention this will likely balloon into a larger fiasco. I'm sending some more information for your consideration on this subject. Last week you may have received a plea from me to change the way the APOC is structured. Don't confuse the two organizations but they seem to have some common ground in protecting the public from abusive or manipulative individuals or groups.

Perhaps the ultimate answers also lay in the same arena. The Judicial branch of Government may be more apt to handle these issues, as they aren't controlled by elected officials, who may be prone to outside influence.

Please don't take this personal. as I'm aware you too are elected but my personal experience dictates that political influence doesn't necessarily help to protect the public from people or groups with large sums of cash.

Look at the example information provided, i.e. response to APOC investigation, letters to US Attorney (Robert Bundy) and APUC chairman (Sam Cotton). This kind of behavior can't continue or it may very well erode public trust in all Government.

sincerely RANDY J HARSHMAN



10 pgs total

THE ALASKA PUBLIC UTILITIES COMMISSION

A New Structure

In the course of the sunset review of the Alaska Public Utilities Commission (APUC), two facts became clear: There is a continuing need for the existence of the Commission and there is a need to change the manner in which it operates. This white paper will discuss the APUC's mission and its organizational structure.

Mission:

There is a need to focus on the mission statement of the APUC as laid out in statute. There are two basic functions to be served by the APUC. One is to protect the public interest; the other to assure the continued viability of the utilities.

In the case of the former, the APUC should have the mandate of assuring that utility rates are just, fair and reasonable. In the process of carrying out this mandate, they must determine appropriate rate of return, either on an industry or an individual company basis. To do so, they must make a determination of the costs of providing service, establish what is used and useful in rate base and be assured that management practices are prudent.

The latter function is equally important. If utilities are not financially viable, then service will be eroded and if carried to the absurd, service could become unavailable. It is in the public interest to protect the viability of the utilities.

As the APUC carries out these two functions, it must be mindful of the appropriate economies. They must, in other words, accomplish these two mandates by use of the most efficient and economical means possible to assure that the cost of regulation is not a major contributor to the cost of service. It is in neither the public interest nor that of the utilities for the staff of the APUC to engage the utility in a proceeding, the cost of which is ten to twenty times more than the cost or rate in question within that proceeding.

Structure:

There is a need to address the structure of the APUC using the Federal Communications Commission (FCC) as a model. Restructuring the APUC in this manner will provide for a more efficient operation and eliminate certain inequities which now exist.

The current structure of the Commission has staff moving back and forth in two roles. On the one hand, they are often party to dockets, representing the public interest. On the other hand, they serve in an advisory capacity to the Commission. To put the situation into context, the Commission serves as a quasi judicial body. Allowing the staff to move back and forth as both party to and advisors to the Commission in the same docket is much the same as allowing either

the plaintiff or defendant in a legal proceeding to advise the judge on his final decision, rather than just presenting evidence for the record.

Utilizing the FCC model, that portion of the staff designated as representative of the public interest would be established separate from the Commission itself. This "Staff" would serve under the direction of the commission's executive director and would be party to dockets as appropriate. Their participation in dockets would be as an autonomous party and they would be subject to the same rules regarding ex parte contact with the Commission as are other parties to dockets.

The commissioners, on the other hand, should have personal staff, as well as their own counsel, to assist them in research, writing orders and, in general, filling an advisory role.

As commissioners serve in the role of judges, they should not launch investigations or open dockets on their own motion. They should not issue notices of inquiry or engage in writing regulations. These functions should be the sole purview of "Staff".

The designated seats concept should be eliminated. The designated seats (accountant, legal and engineering) originated in the early days of statehood when the Commission was a part time body with no staff. In those days, it was necessary to have an engineer, a lawyer and an accountant on the Commission because they had no staff with such expertise. The two consumer seats were added in the mid seventies in the mistaken belief that the three assigned seats were charged with representing their special vocational interests. The fact is that the commissions must be neutral judges and should not be representing any special interest group. Under the structure outlined above, "Staff" would represent the public interest. To further emphasize the separation of "Staff" and the Commission, it must be clearly understood that the executive director will be in charge of the "Staff". *The "Staff" positions must be designated as exempt to allow the hiring of truly qualified people in these positions, who can be held accountable for the quality of work they produce.*

Doing away with the assigned seats on the Commission will also require language to make it clear that candidates for the Commission must be professional with some knowledge of utilities. There must also be a restriction which allows no more than one commissioner from anyone vocation.

Included here are examples of organizational structures.....

Current Operating Authority:

As a final note, one other amendment to current statute is proposed. AS 42.05.141(1) must be amended to eliminate the language "...the powers of the commission shall be liberally construed to accomplish its stated purpose." This language has become one of the most obvious barriers in relating to the Commission. The commissioners and the staff have used this language to offer differing interpretations of regulations and statute on a case by case basis.

The phrase has also allowed the Commission to state that it does not set precedent. Both utility management and the general public are placed in a precarious situation when they are unable to rely on past decisions of the Commission to determine proper conduct in relation to any particular issue because the Commission feels free to develop differing interpretations to similar conditions on a case by case basis. As a quasi judicial body, the Commission must be held accountable to its own decisions and interpretation.

Component Detail

Department of Commerce and Economic Development

Component: APUC Operations

BRU: Alaska Public Utilities Commission

	FY1998 Actuals	FY1999 ABS Conference Committee	FY1999 Authorized	FY2000 Adjusted	FY2000 Governor	FY1999 Authorized Vs FY2000 Governor	FY2000 Governor
71000 Personal Services	2,628.2	2,839.9	2,850.8	3,287.0	3,287.0	436.2	15.3%
72000 Travel	51.3	35.0	35.0	35.0	35.0	0.0	0.0%
73000 Contractual	1,084.3	1,525.2	1,961.4	1,600.9	1,300.9	-660.5	-33.7%
74000 Supplies	71.9	62.5	62.5	62.5	62.5	0.0	0.0%
75000 Equipment	16.2	13.8	13.8	13.8	13.8	0.0	0.0%
76000 Land/Buildings	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
77000 Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
78000 Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
Totals	3,851.9	4,476.4	4,923.5	4,999.2	4,699.2	-224.3	-4.6%
Funding Sources :							
1110 APUC Rcpts	3,851.9	4,476.4	4,923.5	4,999.2	4,699.2	-224.3	-4.6%
Positions :							
Permanent Full Time	46	46	46	55	55	9	19.6%
Permanent Part Time	0	0	0	0	0	0	0.0%
Non Permanent	0	0	0	0	0	0	0.0%

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 62

Revision Date/Time (Note if correction)	Dept. Affected
Title <u>Alaska Public Utilities Commission</u>	BRU <u>AK Public Utilities Commission</u>
	Component <u>APUC Operations</u>
Sponsor <u>Rep. Thernaut</u>	
Requester <u>Com.on Util. Restructuring, Labor & Commerce</u>	Component Senal No. <u>346</u>

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other <u>1110 APUC Rcpts</u>	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS

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

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

The zero fiscal note, has attached to it the summary of the Governor's FY2000 request for the Commission of \$4699.2 The Commission anticipates this level of funding would continue from FY 01-FY 05, in the event that the Commission's sunset date is extended.

Prepared by X. [Signature]
 Division APUC
 Approved by Commissioner _____
 Agency _____

Phone 263-2112
 Date/Time 2/11/99 3:51 PM
 Date _____

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Alaska State Legislature

REPRESENTATIVE
GENE THERRIAULT

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119 N. Cushman, Suite 101
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(907) 488-0857
Fax: (907) 488-4271



House Of Representatives

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax: (907) 465-3884

House District: 33

House Bill 62

"An Act relating to the Alaska Public Utilities Commission; and providing for an effective date."

Sponsor

Representative Gene Therriault

A handwritten signature in black ink, appearing to read "Gene J. Therriault".

Sponsor Statement

Under AS 42.05 and 42.06, the Alaska Public Utilities Commission regulates public utilities by certifying qualified providers of public utility and pipeline services. It is designed to ensure that utilities provide safe and adequate services and facilities at reasonable rates. The five-member Commission also determines the eligibility and the per kilowatt-hour support for electric utilities under the Power Cost Equalization program (AS 42.45).

The Alaska Public Utilities Commission is set to expire June 30, 1999 under AS 44.66.010, Termination of state boards and commissions. If the Legislature does not act to extend the Commission, it would have one year, until June 30, 2000, to conclude its affairs. House Bill 62 will extend the Commission for another four years.

The title has intentionally been left broad enough to allow leeway for discussion of several issues of concern that have arisen during the past four years of the Commission's existence.

REPRESENTATIVE
GENE THERRIAULT

Mailing Address
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
907) 488-0857
Fax (907) 488-4271



While in session
State Capitol
Juneau, Alaska
99801-1152
907) 465-4797
Fax (907) 465-3854
House District: 25

House Of Representatives

House Bill 62

"An Act relating to the Alaska Public Utilities Commission; and providing for an effective date."

Sponsor

Representative Gene Therriault

Sponsor Statement

Under AS 42.05 and 42.06, the Alaska Public Utilities Commission regulates public utilities by certifying qualified providers of public utility and pipeline services. It is designed to ensure that utilities provide safe and adequate services and facilities at reasonable rates. The five-member Commission also determines the eligibility and the per kilowatt-hour support for electric utilities under the Power Cost Equalization program (AS 42.45).

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The title has intentionally been left broad enough to allow leeway for discussion of several issues of concern that have arisen during the past four years of the Commission's existence.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 62

Revision Date/Time (Note if correction) _____ Dept. Affected _____
 Title Alaska Public Utilities Commission BRU AK Public Utilities Commission
 Component APUC Operations
 Sponsor Rep. Therault
 Requester Com.on Util. Restructuring, Labor & Commerce Component Senal No. 346

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

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

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other <u>1110 APUC Rcpts</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

The zero fiscal note, has attached to it the summary of the Governor's FY2000 request for the Commission of \$4699.2 The Commission anticipates this level of funding would continue from FY 01-FY 05, in the event that the Commission's sunset date is extended.

Prepared by [Signature]
 Division APUC
 Approved by Commissioner _____
 Agency _____

Phone 263-2112
 Date/Time 2/11/99 3:51 PM
 Date _____

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Component Detail

Department of Commerce and Economic Development

Component: APUC Operations

BRU: Alaska Public Utilities Commission

	FY1998 Actuals	FY1999 ABS Conference Committee	FY1999 Authorized	FY2000 Adjusted	FY2000 Governor	FY1999 Authorized Vs FY2000 Governor	
71000 Personal Services	2,628.2	2,830.9	2,850.8	3,287.0	3,287.0	436.2	15.3%
72000 Travel	51.3	35.0	35.0	35.0	35.0	0.0	0.0%
73000 Contractual	1,084.3	1,525.2	1,961.4	1,600.9	1,300.9	660.5	-33.7%
74000 Supplies	71.9	62.5	62.5	62.5	62.5	0.0	0.0%
75000 Equipment	16.2	13.8	13.8	13.8	13.8	0.0	0.0%
76000 Land/Buildings	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
77000 Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
78000 Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0%
Totals	3,851.9	4,476.4	4,923.5	4,999.2	4,699.2	-224.3	-4.6%
Funding Sources :							
1110 APUC Rcpts	3,851.9	4,476.4	4,923.5	4,999.2	4,699.2	224.3	-4.6%
Positions :							
Permanent Full Time	46	46	46	55	55	9	19.6%
Permanent Part Time	0	0	0	0	0	0	0.0%
Non Permanent	0	0	0	0	0	0	0.0%

3/10

AMENDMENT

#1
adopted,
no amended

OFFERED IN THE HOUSE
TO: HB 62

BY
UTILITY RESTRUCTURING COMMITTEE

1 Page 1, following line 3:

2 Insert new bill sections to read:

3 ** Section 1. AS 42.05.020(b) is amended to read:

4 (b) The governor shall designate one member of the commission as chair
5 [CHAIRMAN] of the commission. This member shall serve as chair [CHAIRMAN]
6 for a term of four years, but may be appointed for successive terms. The chair is
7 responsible for the administration of the commission and commission employees.

8 * Sec. 2. AS 42.05.101(a) is amended to read:

9 (a) The chair of the commission shall establish for the commission a
10 principal office and branch offices necessary to discharge its business efficiently. For
11 the convenience of the public or of parties to a proceeding, the commission may hold
12 meetings, hearings, or other proceedings at other locations.

13 * Sec. 3. AS 42.05.111(b) is amended to read:

14 (b) The chair of the commission may employ temporary legal counsel for the
15 commission from time to time in proceedings before the commission in which the
16 attorney general is representing the public interest or a party before the commission.

17 * Sec. 4. AS 42.05.121 is amended to read:

18 Sec. 42.05.121. Employment of commission personnel. (a) The chair of
19 the commission may employ an executive director of the commission. The
20 executive/director [WHO] shall have had at least five years of experience in public
21 utility management or regulation, law, accounting, engineering, or an allied field. The
22 executive director is responsible for directing the administrative functions of the
23 commission and carrying out the policies as set by the commission. The chair of the
24 commission may employ engineers, hearing officers, administrative law judges to the
25 extent provided by AS 42.06.140(b), experts, clerks, accountants, and other agents and

2 assistants considered [IT CONSIDERS] necessary. Employees and agents of the
3 commission who are not partially exempt under AS 39.25.120, other than legal
4 counsel, are in the classified service under AS 39.25.100.

5 (b) In addition to the [ITS] staff of regular employees, the chair of the
6 commission may contract for and engage the services of consultants and experts the
chair [COMMISSION] considers necessary."

7 Page 1, line 4:

8 Delete "Section 1"

9 Insert "Sec. 5"

10 Renumber the following bill section accordingly.

3/10

1-1 S0327/A.3
Cramer
3/9/99

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 62

1 Page 1, following line 3:

2 Insert a new bill section to read:

3 **Section 1.** AS 42.05.035 is amended to read:

4 **Sec. 42.05.035. Removal of commissioners.** The governor may remove a
5 commissioner from office for cause [BY AND WITH THE CONSENT OF A
6 MAJORITY OF THE LEGISLATURE]."

7 Page 1, line 4:

8 Delete "Section 1"

9 Insert "Sec. 2"

10 Renumber the following bill section accordingly.

*Sec. . AS 42.05.035 is repealed and re-enacted to read:

Sec. 42.05.035. **Removal of Commissioners.** The governor may only remove a commissioner from office for inefficiency, neglect of duty, or misconduct in office, or because the member while serving on the commission is convicted of a misdemeanor for violating a statute or regulation related to public utilities or of a felony. A copy of the charges shall be delivered to the commissioner in writing. The commissioner shall have an opportunity to be heard in person or through counsel at a public hearing before the governor or a designee upon at least 10 days notice by registered mail. The commissioner may confront and cross-examine adverse witnesses. Upon removal, the governor or a designee shall file in the proper state office the findings and a complete statement of all charges made against the commissioner.

*Sec. . In accordance with AS 01.10.100(a), the repeal and re-enactment of AS 42.05.035 enacted in sec. of this Act applies to a commissioner of the Alaska Public Utilities Commission appointed before the effective date of this Act and is intended to extinguish any existing right of a sitting commissioner to the removal procedure specified in former AS 42.05.035.

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

ALASKA PUBLIC UTILITIES COMMISSION

2/17/99

TONY KNOWLES, GOVERNOR

1016 WEST SIXTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501-1963
PHONE: (907) 276-6222
FAX: (907) 276-0160
TTY: (907) 276-4533

February 11, 1999

FEB 16 1999

The Honorable Bill Hudson
Alaska House of Representatives
Room 108
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Hudson:

I am pleased to send you the Alaska Public Utilities Commission's Annual Report to the Legislature for Fiscal Year 1998. This report summarizes the Commission's significant issues and programs for the fiscal year that ended June 30, 1998.

Shortly after the publication of this 1998 annual report, the detailed financial statistics on the public utilities and pipelines operating in the state will be available at the APUC's web site, (<http://www.state.ak.us/apuc>).

On behalf of the Commission, I hope that you will find the report to be useful and informative. If you have any questions or comments, please do not hesitate to contact me.

Sincerely,

ALASKA PUBLIC UTILITIES COMMISSION



Sam Cotten
Chairman

Enclosure

ALASKA PUBLIC UTILITIES COMMISSION

Annual Report

Fiscal Year 1998



**Alaska Public Utilities Commission
1016 West Sixth Avenue, Suite 400
Anchorage, Alaska 99501-1963**

telephone: (907) 276-6222
fax: (907) 276-0160
TTY: (907) 276-4533
web site: <http://www.state.ak.us/apuc>

**FY98 statistical data will be available at APUC's web site shortly after
the release of this printed volume.**

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

ALASKA PUBLIC UTILITIES COMMISSION

TONY KNOWLES, GOVERNOR

1016 WEST SIXTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501-1963
PHONE: (907) 276-6222
FAX: (907) 276-0160
TTY: (907) 276-4533

February 5, 1999

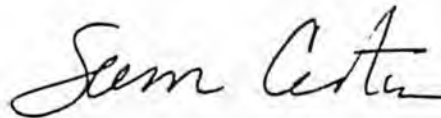
Honorable Brian Porter
Speaker of the House
and
Honorable Drue Pearce
President of the Senate

Dear Speaker Porter and President Pearce:

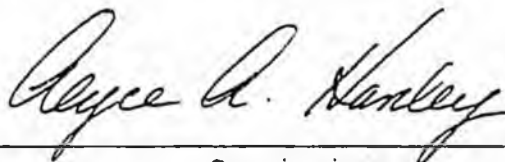
On behalf of the Alaska Public Utilities Commission, we are pleased to submit to the Alaska State Legislature the Twenty-ninth Annual Report of the Alaska Public Utilities Commission, covering the fiscal year ending June 30, 1998. This is filed pursuant to AS 42.05.211 and AS 42.06.220.

Respectfully yours,

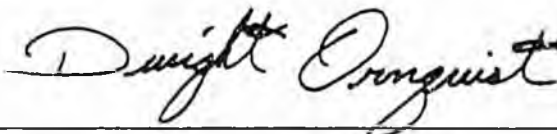
ALASKA PUBLIC UTILITIES COMMISSION



Chairman



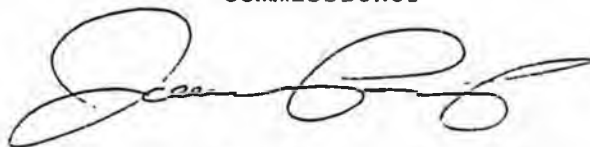
Commissioner



Commissioner



Commissioner



Commissioner

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Mission statement

The Alaska Public Utilities Commission (APUC) 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 that are essential to Alaska's economic development.

The Commission does this by making timely decisions that balance the competing interests of various parties fairly, while keeping red tape to a minimum.

**The Commissioners of the Alaska
Public Utilities Commission**



Chairman Cotten (center) is flanked (left to right) by Commissioners Posey, Hanley, Ornquist and Cook

Message from the Chairman

The utility industries in Alaska and throughout the country are in a period of major change. Major events such as the passage of the Telecommunications Act of 1996, the several proposed pieces of federal legislation dealing with electric industry restructuring along with the restructuring experiences and experiments of states like California have combined to make industry and regulators think in new terms.

We are breaking new ground in Alaska when it comes to competition in the telephone business. In addition to competition, the ownership of the majority of the local phone lines in our state have changed hands or are posed to do so. The APUC has seen a huge increase in filings dealing with disputes, new offerings and transfer of certificate applications. The Commission has also found it necessary to write new regulations to deal with the new competitive environment as opposed to the monopoly system under which we have been operating since before statehood.


The APUC has been working closely with the State Legislature on many issues, most recently jointly awarding a contract for a study of electricity restructuring in Alaska. The Commission continues to offer its expertise as a resource to the Legislature.

The Alaska Public Utilities Commission has taken steps to improve its ability to deal with a workload that has doubled over the past five years. In addition to adding to our professional staff, the commission is putting more emphasis on training and is improving efficiency through a move toward electronic filing and other technology enhanced operations.

The consumer protection division of the Commission is one of our busiest and most important. Our consumer specialists report 706 consumer complaints, a 23 percent increase over the previous year. As one of the few consumer response sections in state government, we feel it is essential to have more resources in this area.

The number of changes in the utility and pipeline industries in Alaska and the resulting challenges presented to the Commission continue to grow. We are committed to meeting those challenges.

Sincerely,



Sam Cotten
Chairman

Biographies



**Sam Cotten,
Chairman**

Commissioner Sam Cotten was appointed by Gov. Tony Knowles on November 13, 1995, and appointed as Chair on August 12, 1996. Chairman Cotten's term ends on March 1, 1999.

Mr. Cotten owns and operates a commercial salmon seining business in lower Cook Inlet. A former Speaker of the House of Representatives and State Senator, Sam Cotten served 16 years in the Alaska State Legislature. Other public and community service has included a position as Commissioner of the Anchorage Planning and Zoning Commission, Chugiak-Eagle River Chamber of Commerce Board of Directors, Anchorage Ski Club Board of Directors, and Harry J. McDonald Memorial Center, Board of Directors. Mr. Cotten served in the U.S. Navy from 1965 through 1969, including two tours of duty in Viet Nam. Mr. Cotten and his wife Martha T. Cotten, M.D. have two sons, Sammy and Gus, and reside in Eagle River and Halibut Cove.

On November 1, 1993, Gov. Walter Hickel appointed Commissioner Alyce Hanley to one of the consumer seats of the APUC, with a term expiring March 1, 2000.

Mrs. Hanley served as Representative in the Alaska State Legislature from 1985 through 1991. She was a member of the Anchorage School Board from 1981 through 1984. In Anchorage, Mrs. Hanley has been a volunteer in numerous organizations. She was serving as a member of the Executive Clemency Commission and the Americans with Disabilities Act Advisory Commission at the time of her appointment. She is a member of the National Association of Regulatory Utility Commissioners Committee on Water.

The Hanley's, Monte and Alyce, and their five sons moved to Anchorage's Sand Lake area in 1971. Alaska continues to be home for the entire family which now includes four daughters-in-law and six grandchildren.



**Alyce A. Hanley,
Commissioner**

Biographies (continued)

Dwight Ornquist was appointed to the APUC by Gov. Walter Hickel in October 1993. Commissioner Ornquist holds the engineering seat on the Commission until his term expires on March 1, 2000.

Commissioner Ornquist is an Information Systems Engineer and has been designing, developing and implementing information and communication systems since 1975 when he graduated from the Alexandria Technical Institute in Minnesota with a degree in Computer Science. That same year Mr. Ornquist moved to Anchorage, Alaska. In 1978 he married Gena, a high school English teacher he met in Alaska. In 1985 they moved to Palmer where they currently reside with their four children, Micah (18), Danielle (15), Jeremiah (13) and Christopher (13).

Commissioner Ornquist is a member of the National Association of Regulatory Utility Commissioners (NARUC), the Institute of Electrical and Electronic Engineers (IEEE), the Alaska Department of Education Technology Task Force, and is the Vice Chairman of the NARUC Finance and Technology Committee. He also serves on the adjunct faculty of the University of Alaska/Mat Su, and works very closely with the NARUC Staff Subcommittee on Computers promoting agency automation. He is a leader in actively promoting utility competition, in a manner that will benefit consumers, when and where possible.



Dwight D. Ornquist,
Commissioner



Tim Cook,
Commissioner

Tim Cook was appointed to the APUC in 1994. His appointment was the subject of a balance of powers debate regarding the confirmation authority of the Alaska Legislature. In August 1996, the Alaska Supreme Court ruled unanimously in favor of Mr. Cook and returned him to the APUC. His term expires on March 1, 2001.

Mr. Cook came to the APUC after serving as the Associate Director of the State of Alaska's Washington, D.C. office. While in Washington, Mr. Cook was responsible for developing and advocating State policy on environmental, fisheries, telecommunications, and energy issues. This position required Mr. Cook to develop close working relationships with the Alaska Congressional delegation, other members of Congress, and with the Executive departments.

During his tenure on the APUC, Commissioner Cook has been very active in telecommunication deregulation and competition issues. He continues to be a strong advocate of Universal Service and communications parity with the lower 48 states. Because of his interest in telecommunications he was appointed to chair the Telecommunications Committee of the Western Conference of Public Service Commissioners.

Mr. Cook is a licensed attorney. He has passed the Bar in both Texas and Alaska, and is eligible for admission in a number of other districts. He is an active member of the Bar and is involved with several professional organizations. He has also worked as an engineer on the North Slope of Alaska.

Mr. Cook worked his way through law school commercial fishing and continues to be active in that industry. His formal education includes an earned Juris Doctorate, Masters of Business Administration degree, and double Bachelors Degrees.

Tim is an active sportsman and pilot. He lives in Wasilla and is an 18-year resident of Alaska. He speaks fluent Spanish, and has extensive experience living in remote and culturally diverse areas. His wife, Dr. Alicia Martinez is a nationally recognized leader in bilingual/bicultural education. She has been a professor at George Washington University and the University of Houston.

Biographies (continued)



**James M. Posey,
Commissioner**

Commissioner James M. Posey was appointed to the consumer seat of the Commission on January 21, 1997. Prior to joining the Alaska Public Utilities Commission, he worked for the Municipality of Anchorage as the manager of the Building Safety Division, Department of Public Works. Mr. Posey retired from ARCO Alaska, Inc. in 1995 after working more than twenty years in the oil and gas industry as Land Manager, Issues Advocacy Manager, and Attorney.

He is a 19-year resident of Alaska and has been active in several community organizations. He has served on the boards for Anchorage Center for Families and Junior Achievement of Alaska. Mr. Posey is a founding member of the American Association of Blacks in Energy and currently serves on the board for Anchorage Youth Court. He served as the President of the Bayshore/Klatt Community Council for several years and is a member of the Anchorage Downtown Rotary Club.

In 1975, Mr. Posey graduated from the University of Kansas School of Law. In 1972, he graduated from Wichita State University with a degree in History. He hails from Beaumont, Texas. Mr. Posey served in the United States Air Force from 1966 to 1970.

He and his wife, Sandi, have three daughters and two sons and live in south Anchorage.

Bob Lohr has served as executive director of the APUC since 1991. He has a Masters Degree in Public Administration from Harvard University's John F. Kennedy School of Government with concentrations in Public Management and Negotiation. He earned his B.A. degree in Economics and International Relations at Swarthmore College in Pennsylvania.

Mr. Lohr has more than 22 years of experience directing, managing and advising development-oriented agencies in Alaska. From 1989 to 1990 he served as executive director of Advocacy Services in Alaska, the legal protection and advocacy agency representing persons with developmental disabilities. From 1979 to 1986 he held various positions with Rural Alaska Community Action Program Inc. (RurAL CAP), including executive director from 1982 through 1986. RurAL CAP addresses wide-ranging needs of low-income Alaskans including energy policy, child development, natural resources, alcohol/drug abuse prevention, and community development. From 1975 through 1979, he directed the Upper Tanana Development Corporation in Tok. He has also served as a consultant to human services organizations and Native corporations. Mr. Lohr is married to Celia Foley, and they have three children: Emma, Noah, and Joseph.



**Robert A. Lohr,
Executive Director**

Former APUC Commissioners

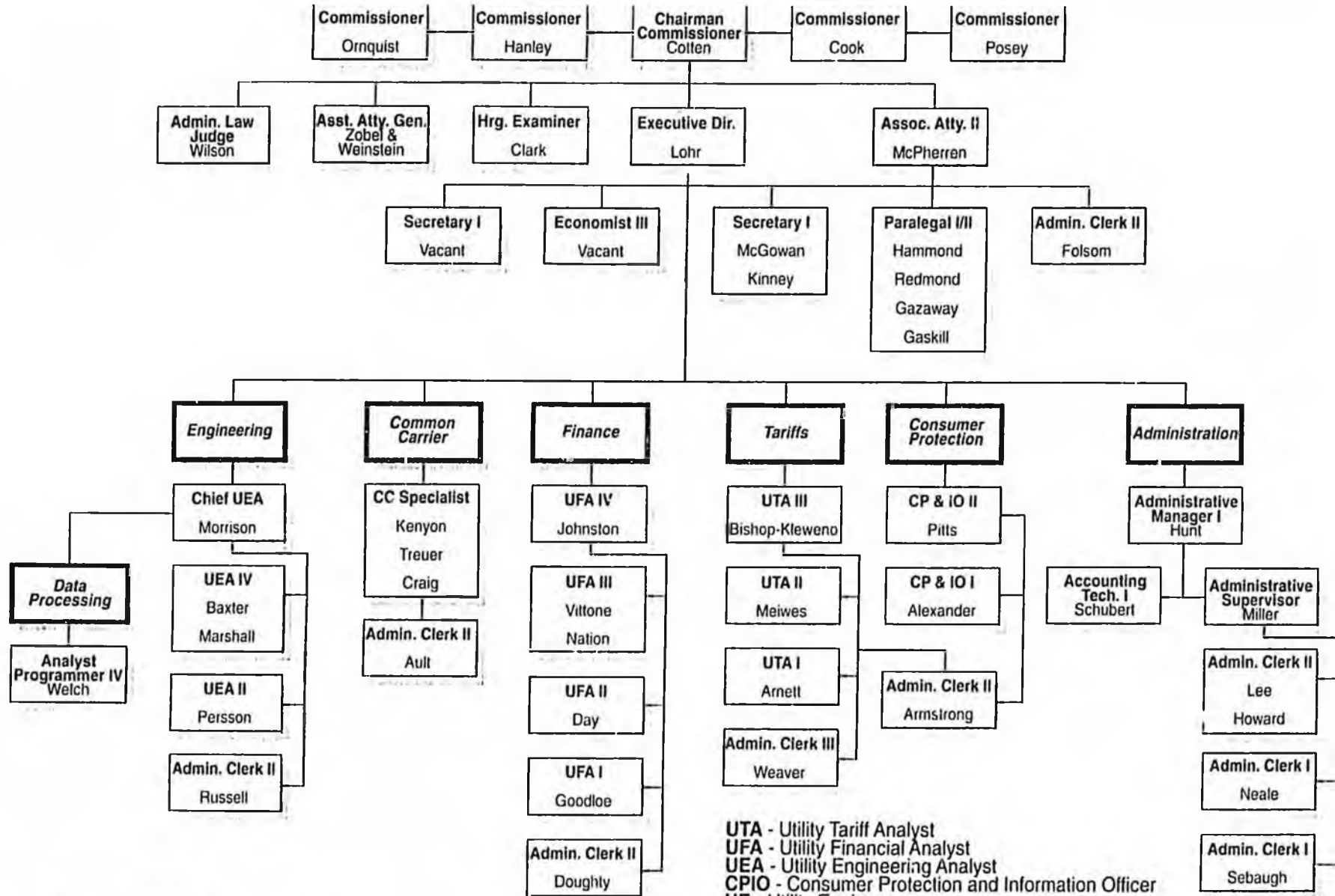
Commissioner	Dates of service
Clyde Courtnage	1960 - 1963
Charles Herbert	1960 - 1963
Karl Walter, Jr.	1960 - 1964
Joseph Fitzgerald	1964 - 1965
Maurice Chertkov	1965 - 1965
Harold Moats	1965 - 1966
T. Stanton Wilson	1966 - 1966
James R. Clouse, Jr.	1967 - 1971
Loren H. Lounsbury	1967 - 1971
John M. Stern, Jr.	1971 - 1973
James R. Hendershot	1971 - 1975
B. Richard Edwards	1974 - 1976
Gordon J. Zerbetz	1963 - 1981
Stuart C. Hall	1976 - 1983
Diana E. Snowden	1981 - 1985
Marvin R. Weatherly	1975 - 1987
Carolyn S. Guess	1975 - 1989
Louis E. Agi	1983 - 1989
Kathleen E. Whiteaker	1985 - 1990
Peter Sokolov	1987 - 1991
Don May	1990 - 1992
Susan M. Knowles	1975 - 1993
Mark A. Foster	1990 - 1993
Daniel Patrick O'Tierney	1989 - 1994
James E. Carter, Sr.	1992 - 1995
G. Nanette Thompson	1995 - 1996
Don Schröer	1991 - 1997

APUC roster (10/13/98)

Alexander, Tamara	Consumer Protection & Information Officer I
Armstrong, Mark	Administrative Clerk II
Arnett, Wendy	Utility Tariff Analyst I
Ault, Lee	Administrative Clerk II
Baxter, Donald	Utility Engineer Analyst IV
Bishop-Kleweno, Dawn	Utility Tariff Analyst III (Chief)
Clark, Patricia	Hearing Examiner
Cook, Tim	Commissioner
Cotten, Sam	Commissioner (Chairman)
Craig, Lew	Common Carrier Specialist
Day, Keith	Utility Financial Analyst II
Doughty, Balassa	Administrative Clerk II
Folsom, Hillary	Administrative Clerk II
Gaskill, Karlee	Paralegal I
Gazaway, Richard	Paralegal I
Goodloe, Toni	Utility Financial Analyst I
Hammond, Anita	Paralegal II
Hanley, Alyce	Commissioner
Howard, Tricia	Administrative Clerk II
Hunt, Diane	Administrative Manager I
Johnston, Mark	Utility Financial Analyst IV (Chief)
Kenyon, Lorraine	Common Carrier Specialist
Kinney, Sue	Secretary I
Lee, Ruthie	Administrative Clerk II
Lohr, Bob	Executive Director
Marshall, Bill	Utility Engineer Analyst IV
McGowan, Joyce	Secretary I
McPherran, Jeanne	Associate Attorney II*
Meiwes, Jennifer	Utility Tariff Analyst II
Miller, Barb	Administrative Supervisor
Morrison, Paul	Utility Engineer Analyst V (Chief)
Nation, Parker	Utility Financial Analyst III
Neale, Pamela	Administrative Clerk I
Ornquist, Dwight	Commissioner
Persson, Brad	Utility Engineer Analyst II
Pitts, Agnes	Consumer Protection & Info. Officer (Chief)
Posey, Jim	Commissioner
Redmond, Rosemary	Paralegal I
Russell, Neci	Administrative Clerk II
Schubert, Ed	Accounting Technician
Sebaugh, Chrissy	Administrative Clerk I, Receptionist
Treuer, Phil	Common Carrier Specialist
Vittone, Mary	Utility Financial Analyst III
Weaver, Rose	Administrative Clerk III
Weinstein, Marty	Assistant Attorney General*
Welch, Bert	Programmer/Analyst IV
Wilson, Jan	Administrative Law Judge
Zobel, Ron	Assistant Attorney General*

* Employee of the Department of Law contracted to the Commission

Organizational chart



UTA - Utility Tariff Analyst
 UFA - Utility Financial Analyst
 UEA - Utility Engineering Analyst
 CPIO - Consumer Protection and Information Officer
 UE - Utility Engineer
 CC - Common Carrier

- Positions funded under contract

All positions located in Anchorage.

Approved: /s/ Robert A. Lohr
 Robert A. Lohr, Executive Director

Effective date: 10/13/98

Staff responsibilities

The Commission staff is divided into six major sections: administration, engineering, common carrier, consumer protection, finance, and tariffs. The APUC employs 46 people with an FY98 operating budget of \$4,459,659.

Administration

An executive director, hired by the Commission, is responsible for directing all staff functions and serves as a liaison between staff and Commissioners, and between the Commission and the legislature. He or she is responsible for records and document management, fiscal and personnel administration and budget preparation. The executive director is aided by an administrative manager, documents processing and accounting personnel, and other clerical support staff.

Engineering

This section is responsible for certification proceedings, investigations of utility and pipeline carrier procedures and practices affecting service quality. It also reviews legal descriptions for service areas, plans for plant expansion, plant-in-service schedules, and depreciation schedules. Engineering evaluations are presented in proceedings before the Commission. The Commission's data processing function is housed in the engineering section.

Common Carrier

This section was established to develop, recommend and administer policies concerning rates, services, accounting and facilities of communications common carriers within Alaska involving the use of wire, cable, radio, and space satellites.

Consumer Protection

Major responsibilities for this section include investigation and resolution of consumer complaints, public relations and information dissemination.

Finance

This section examines, analyzes and evaluates financial statements submitted for rate cases. It audits financial records of utilities and pipeline carriers and examines historical operating year data and pro forma financial adjustments made by the utilities and pipeline carriers. The Finance section provides analyses of this information in proceedings before the Commission.

Tariff

This section examines, analyzes and investigates tariff filings and presents recommendations to the Commission at biweekly tariff action meetings. Administrative functions include organizing tariff meetings as well as complying with all public notice requirements on tariff filings and maintaining current master tariffs for all utilities and pipeline carriers.

APUC FY98 overview

Since statehood in 1959, the Alaska Public Utilities Commission has been working with the hundreds of public utilities in Alaska with the same mission in mind - to ensure continued service, sound management, and fair rates for residents in all corners of the state. The Commission regulates utilities that bring water, electricity, gas and telecommunications into our homes, as well as overseeing services that collect and dispose of our waste. In 1981, the APUC's role was expanded to include oversight of pipeline carriers and pipelines when it merged with the Alaska Pipeline Commission.

Utility commissions were originally created to protect consumers, since most utilities were monopolies. Today, Commissioners are faced with the challenge of evaluating regulations and considering policy changes to encourage competition while continuing to maintain consumer protection as a primary goal.

In situations where monopolies exist, the Commission monitors the utility to ensure fair practices, reasonable service, financial stability, and accountability. The Commission balances the legitimate need for utilities and pipeline carriers to show a profit for their investment and the public's right to receive fair service for its money. Commissions in all 50 states serve the same general mission, regulating the relationship between the utilities and the consumers they serve.

The Commission achieves this balance by issuing "certificates of public convenience and necessity" to qualified service providers. A certificate essentially acts as a license to operate and details how the utility or pipeline carriers must conduct business with consumers or shippers concerning rates. The Commission establishes rates, terms and conditions of service while overseeing the practices, services and facilities of regulated utilities and pipeline carriers. In the next few years, new approaches and a broader perspective will be necessary as the Commission works to address complex issues and to make appropriate regulatory decisions for all Alaskans.

The APUC has jurisdiction over the operation of:

- electric utilities
- natural gas utilities
- refuse (garbage) collection
- wastewater (sewer) treatment
- steam producers
- telephone companies (local and in-state services)
- water utilities
- oil and gas pipeline carriers.

The Commission has issued 476 certificates of public convenience and necessity (certificates) held by utilities and pipeline carriers.

Approximately one-third of the 476 certificates are for utilities whose services and operations are fully regulated by the Commission. The authority to regulate some types and sizes of utilities is limited under law. Many electric utilities in bush communities are exempt from regulation because of their small size. Some cooperatives and government-owned utilities are also exempt because they have alternative means of accountability to the consumer. Of the 476 certificates held, the Commission currently regulates the rates, services, practices or facilities of 161 utilities and 18 pipeline carriers.

In addition, the Commission is responsible for computing the power costs and resultant state assistance amounts for customers of electric utilities participating in the Power Cost Equalization (PCE) program.

The Commission carries out its regulatory responsibilities through several means. It conducts audits, investigations, public meetings, tariff action meetings, formal adjudicatory

APUC FY98 overview (continued)

proceedings, informal meetings, and conferences. The Commission resolves complaints by telephone, mail, meeting or adjudication.

The Commission functions as a quasi-judicial body when rendering decisions in formal proceedings and as a quasi-legislative body when promulgating regulations. Its proceedings and determinations are governed by the statutes and regulations of the state.

Funding

In 1992 following the legal mandate of the legislature, the Commission enacted regulations allowing it to recover its operating costs through an assessment on the revenues of the utilities and pipeline carriers it regulates. That Regulatory Cost Charge (RCC) shows up as a surcharge on the monthly billing statements to consumers and shippers.

The legislature appropriated and the governor approved a FY99 budget of \$4.5 million, funded 100 percent from program receipts, in the form of the RCC. There are no unrestricted general funds in the FY99 appropriation.



APUC Commissioners and staff

Operating budget FY98 (7/1/97 to 6/30/98)

	FY97	FY98	Percent change
Appropriations			
Personal services	\$2,592,700	\$2,567,600	
Travel	53,600	35,000	
Contractual	1,132,800	1,780,759	
Commodities	65,700	62,500	
Equipment	133,387	13,800	
Totals	\$3,978,187	\$4,459,659	10.8%
Expenditures			
Personal services	\$2,601,574	\$2,628,190	
Travel	45,225	51,343	
Contractual	1,088,020	960,596	
Commodities	78,344	71,868	
Equipment	95,489	16,172	
Totals	\$3,908,652	\$3,728,172	-4.8%
Revenue receipts¹			
APUC receipts:	\$3,908,652*	\$3,728,172*	
Total revenues	\$3,908,652	\$3,728,172	-4.8%

¹ The Commission received revenues under various provisions of its statutes including copying and postage charges (AS 42.05.201) and cost allocations in proceedings (AS 42.05.651/AS 42.06.610).

* Fourth quarter revenue is recognized as of June, but paid during July.

Regulation and economic development

Three aspects of utility service are essential to a business owner: availability, affordability and reliability. The Commission promotes the availability of utility services through certifying utilities to operate; promotes affordability through rate decisions; and promotes quality or reliability through service and safety standards. These same considerations apply to oil and gas pipeline services.

The Commission promotes in-state economic development through a variety of major activities including certification proceedings and regulation of rates.

Certification proceedings

Certification proceedings consider an applicant's financial, technical and management capability of meeting present and future customer and shipper service demands within Alaska. A successful applicant must demonstrate its ability to provide safe, reliable and adequate service at a reasonable cost. Meeting the requirements of certification ensures that customer demands are met and that service infrastructure is available. Adequate utility service at a reasonable cost is an essential precursor to sound economic development. The availability of reliable pipeline carrier service at reasonable rates promotes development of the state's natural resources.

Regulation of rates

One purpose of Commission regulation is to assure that rates charged by regulated utilities and pipeline carriers are just and reasonable (AS 42.05.381/AS 42.06.370). Criteria determining rates include: reasonable and appropriate operating expenses and plant investments; depreciation expense that falls within the Commission approved lives of usefulness; and a reasonable return. A reasonable return permits the cost of long-term borrowing to be recovered and the opportunity to earn profits for the owner's or shareholders' equity. Rates must be high enough to allow a reasonable return but not so high as to allow an excessive return that could deter development of businesses that rely on the service.

Reasonable rates and reliable service can enhance economic development and be determining factors in business decisions to start operation or relocate to Alaska.

Fiscal Year 1999 plan

Y2K Concerns

The Commission has ordered all Alaskan public utilities and pipeline carriers to report to it their plans to continue providing reliable service into the next century. Potential problems with the rollover of dates in computers and embedded chips must be addressed. The Commission will work with the Department of Administration and a contractor to follow up these utility responses and to independently validate and verify their readiness.

Pipeline

The Commission will be acting on applications for certificates of public convenience and necessity for two new pipelines being built to transport oil from North Slope fields now under development to the Trans Alaska Pipeline System (TAPS). In addition, the Commission will be conducting several TAPS proceedings including a shipper challenge to several aspects of the TAPS Settlement Methodology (TSM), discrimination issues pertaining to intrastate delivery points, TAPS ramp-down and capacity allocation, TAPS connection policy and the TAPS Quality Bank. The Commission will also be addressing concerns about the future dismantling of pipelines in the state.

Electricity

During Fiscal Year 1999, the Commission will continue to address significant issues facing the electrical industry in Alaska's urban and rural areas. The Commission, in conjunction with the Joint Committee on Electric Restructuring, is sponsoring a study on the risks/rewards and costs/benefits of electric restructuring which will be performed by the consulting firm of CH2M Hill. The draft report will be made available during the legislative session. The Legislature passed a concurrent resolution establishing a Joint Committee on Electric Utility Restructuring. The Commission plans to work closely with the Legislature to both study and advise the Legislature on the issues of electrical restructuring. The Commission has opened a regulatory docket (R-97-10) to define the future market structure of the electric industry in Alaska and to recommend changes to regulations if any. The Commission is considering an application to establish a pilot program to allow limited competitive electric service in the Anchorage area (U-98-114). The Commission will also continue to study the feasibility of a Railbelt Power Pool (U-97-140), based on the results of a study completed by Black & Veatch International in the first quarter of FY99. During FY99, the Commission anticipates a revenue requirement and a cost-of-service study from Alaska Power Company, a subsidiary of Alaska Power & Telephone, and other utilities.

The Commission continues to work with small electric providers to certificate them where they are providing service to ten or more customers for compensation and annual revenues exceeding \$50,000.

Fiscal Year 1999 plan (continued)

Refuse

The Commission will continue to address issues related to implementation of competition where deemed appropriate. Given that a single company has purchased refuse utilities in every major market in Alaska, the Commission will be reviewing market power issues associated within a competitive refuse industry. Continued transfers of Certificates are anticipated.

Natural Gas

The Commission has conditionally approved Alaska Intrastate Gas Company's application to provide natural gas service to 17 coastal Southeast and Southcentral communities. The communities include Angoon, Cordova, Craig, Haines, Juneau, Kake, Ketchikan, Klawock, Klukwan, Kodiak, Metlakatla, Petersburg, Sitka, Skagway, Valdez, Wrangell and Yukatat. The Commission will also be reviewing the application filed for a natural gas pipeline between ARCO's Alpine field and the village of Nuiqsut.

Water and Sewer

The Commission continues to receive numerous complaints concerning the quality of service provided by small water utilities. The complaints have primarily involved water shortage and water quality issues.

The Commission anticipates three to five new proceedings involving rate increases and/or rate redesigns for large water and sewer utilities. The large utilities are most likely to make such filings, which will make the rate cases complex. New certificates will continue to be issued as new construction continues. In addition, transfers of certificates from small utilities are expected.

Telecommunications

To accomplish its duties under the federal Telecommunications Act of 1996, this Commission has previously initiated rulemakings in the areas of intrastate access charge reform, universal service and market structure rules for competitive local exchange service.

Access Charge Reform

The Commission will complete the first phase of intrastate interexchange access charge reform and adopt new regulations. The Commission will begin the next phase to implement and further refine the rules.

Universal Service

In conjunction with Access Charge Reform, the Commission will complete the first phase of Universal Service Reform: adopt regulations and continue to investigate the impact of new federal rules that change the allocation and prioritization of U.S. funds among telecommunications companies and types of users (schools, libraries, and medical facilities).

Fiscal Year 1999 plan (continued)

Market Structure

The Commission will develop new rules to govern the competitive local exchange market as well as interconnection between local telephone companies and competitive providers of telecommunications service.

Rural incumbent telephone companies are exempt from certain interconnection requirements of the Telecommunications Act of 1996 that apply to larger local exchange companies. Following any bona fide request for interconnection with a rural incumbent telephone company, the Commission must determine whether to maintain or terminate the exemption.

The Commission will also reexamine its existing competitive rules for the intrastate long distance market regarding facility restrictions, facility modernization, wholesale rates and access to interexchange networks.

The Commission will continue to investigate the issue of public interest pay telephones and propose a remedy to any inconsistencies between Alaska's existing pay telephone regulations and new Federal regulations adopted as part of the Telecommunications Act.

The Commission will complete its investigation of telecommunications relay service and adopt new regulations regarding this service.

The Commission will propose regulations to reform its current directory assistance regulations which will provide a pro-competitive directory assistance structure.

The Commission, on an ongoing basis, will evaluate and monitor the quality and adequacy of telecommunications service throughout Alaska.

The Commission will, in the next year, address three to five new rate cases involving rate increases and/or rate redesigns for local service.



Executive director Robert A. Lohr, administrative manager Diane Hunt and receptionist Christine Sebaugh

The Telecommunications Act of 1996

The Telecommunications Act of 1996 (Telecommunications Act) passed into law on February 8, 1996. The new law mandates competition in the last area of telecommunications monopoly, the local exchange. At the same time, it attempts to set up a structure to maintain and enhance universal service. As interpreted by the Federal Communications Commission (FCC) competition under the Telecommunications Act consists of a trilogy — interconnection, universal service and access charge reform. The Telecommunications Act preempts state authority in many respects, however, it also places significant new responsibilities on state commissions to implement new federal statutes and pending federal regulations. The legislation is based on the premise that deregulation will: promote competition; increase telecommunication services; increase the options for provision of services; and ultimately lower the costs of services offered.

To carry out its responsibilities under the Telecommunications Act the FCC has initiated a variety of rulemakings, many of which have an effect on the states. The FCC has issued Orders setting rules and procedures governing: interconnection between local telephone companies and competitive telecommunications providers; universal service; access charge reform; and private pay telephones. The Commission is in various stages of implementing the requirements of the Telecommunications Act and the rules of the FCC.

The Commission has initiated rulemaking dockets addressing reform of local exchange market structure, universal service, intrastate access charges, private pay telephones and directory assistance.

In May of 1998, the Commission issued an order adopting competitive local exchange regulations which became effective for the Anchorage area on June 21, 1998. The Commission views these regulations as a transitional measure while continuing to evaluate competitive issues such as carrier of last resort, arbitration pricing standards and quality of service.



Accounting technician Ed Schubert

The Telecommunications Act of 1996 (continued)

Access charges are the charges that long distance companies pay local telephone companies to complete long distance calls over the telephone networks of the local telephone company. The Telecommunications Act requires access charge reform because the current access charge system was not designed for more than one local telephone company in any one serving area and access charge rates incorporate implicit subsidies that help to keep rates for local and long distance service in high cost areas reasonable. Both of these features of the current access charge system are inconsistent with the Telecommunications Act and FCC regulations.

The Commission's goal in the current phase of this docket is to identify the immediate changes necessary to ensure that the intrastate access charge structure remains workable during the transition to the new, competitive model envisioned by Congress, while at the same time, preserving and maintaining universal service. Some further long term reforms will be needed in a later phase of these dockets as the FCC continues to modify the interstate access charge and universal service system, particularly for rural local exchange telephone companies.

Market entrants will be attracted to services and sectors with the highest profit margins which puts increased pressure on the incumbent local telephone company to reduce rates closer to "cost" in competitive areas and raise rates in non-competitive areas. In a competitive market with multiple providers, the Commission will need to ensure that there is a carrier of last resort to ensure the continued availability of services to all customers.



Common carrier specialists Lorraine Kenyon, Phil Treuer and Lew Craig; administrative clerk Lee Ault

FY98 significant events

Telecommunications Service

Market Structure Rules Governing Local Exchange Telephone Competition in Alaska

The Telecommunications Act of 1996 (Telecommunications Act) establishes a pro-competitive, deregulated national policy framework for the telecommunications industry in the United States and places significant responsibilities on state commissions to implement the revised federal statutes. In November of 1997, the Commission issued a notice of inquiry (Docket R-97-12) to address market structure rules for local exchange telephone competition, including: issues related to pricing flexibility; the issue of market power and dominance; and arbitration pricing standards for interconnection between incumbent and new entrant local exchange telephone companies. Comments and Reply Comments were filed by February 24, 1998.

The Commission acknowledged that due to the comprehensive nature of its rulemaking to establish competitive rules for the local telephone market (Docket R-97-12), considerable time would ensue before all of the relevant issues had been addressed. Therefore, the Commission considered a proposal by Anchorage Telephone Utility (Docket R-97-9) to adopt as an interim measure, regulations derived from the Commission's competitive long distance company regulations.

The Commission noted that with three local exchange telephone companies authorized to provide competitive local exchange service in the Anchorage market, rules to govern at least the Anchorage area were desirable as soon as possible. Therefore, the Commission held a public hearing in February 1998, which led to proposed regulations as a transitional measure in service areas where more than one telephone company is authorized to provide local exchange telephone service. In May of 1998, the Commission issued an order adopting competitive local exchange regulations which became effective for the Anchorage area on June 21, 1998. (R-97-9/R-97-12)



Utility financial analysts Parker Nation, Mark Johnston, Toni Goodloe, Mary Vittone and Keith Day

FY98 significant events (continued)

Alaska Intrastate Long Distance Market Structure Rulemakings

As part of its investigation into long distance market structure rules, the Commission will address wholesale pricing issues. Wholesale services are generally bulk, or discounted services offered by facilities based carriers to other telecommunications companies which later resell the services to the general public.

Allegations have been made criticizing the existing market relationships between retail and wholesale rates. Depending in part on the results of its generic investigation into wholesale rate issues, the Commission may also investigate the specific rates of the Alaska facilities based long distance carriers, AT&T Alascom and GCI. The Commission initiated its intrastate long distance market structure proceeding on May 1, 1998. The tentative schedule for this case anticipates a final Commission order resolving all issues by June 1999.

Access Charge Reform

Access charges are the charges that long distance companies pay local exchange telephone companies to complete long distance calls over the telephone networks of the local telephone company. The Telecommunications Act requires access charge reform because the current access charge system was not designed for more than one local exchange telephone company in any one serving area and access charge rates incorporate implicit subsidies that help to keep rates for local and long distance service in high cost areas reasonable. Both of these features of the current access charge system are inconsistent with the Telecommunications Act and Federal Communications Commission (FCC) regulations.

The Commission's goal in the current phase of this docket is to identify the immediate changes necessary to ensure that the intrastate access charge structure remains workable during the transition to the new competitive model envisioned by Congress, while at the same time, preserving and maintaining universal service. Some further long term reforms will be needed in a later phase of these dockets as the FCC continues to modify the interstate access charge and universal service system, particularly for rural local exchange telephone companies. On May 29, 1998, the Commission issued proposed regulations (R-97-5/6(3)) for comment. Comments were filed on June 30, 1998. Reply comments and a public hearing were scheduled for July 31 and August 17, 1998, respectively. (R-97-5)

Universal Service Reform

The purpose of this docket is to make the state's universal service system consistent with the Universal Service principles under the Telecommunications Act. The initial phase of this proceeding involved identifying current subsidies that are implicit in access charges and if necessary, recovering them in an explicit manner. Making subsidies explicit may well require establishment of a state universal fund. Rules for such a fund will need to consider the fund's administrative structure, method and source of funding, services and providers to be supported, and the amount of support for each eligible service.

Because access charge and universal service reform are inextricably tied together at this point, the issues in the two dockets have been addressed in concurrent orders. Once the current phase of the access charge proceeding is complete, the Commission will begin to address universal service issues more independently. (R-97-6)

FY98 significant events (continued)

Public Interest Pay Telephones

This docket was opened to remedy any inconsistencies between Alaska's pay telephone regulations and federal pay telephone regulations adopted pursuant to the Telecommunications Act. Federal rules currently require states to review their rules and: 1) remove rules that impose entry and exit restrictions; 2) provide for public interest pay telephones. Generally, public interest pay telephones are pay telephones necessary to maintain public health, safety and welfare but which the private market is unwilling or unable to provide. The Commission recently sought additional comment on the public interest pay telephone proposal of the local exchange telephone company, Bristol Bay Telephone Cooperative, Inc. (R-97-3)

Directory Assistance (DA)

This docket was opened because the Commission has concluded that current state regulations requiring the provision of directory services through a monopoly statewide directory assistance bureau is inconsistent with the competitive framework envisioned by the Telecommunications Act. Therefore, the Commission has initiated this proceeding to repeal the current directory assistance regulations and adopt alternative regulations which will establish a pro-competitive directory assistance structure. Proposed rules have been issued for comment and a public hearing held. (R-97-7)

Debit Card Service

On July 27, 1997, the Commission issued an order adopting regulations governing debit card services and long distance services provided by *de minimis* carriers. These regulations for the most part will relax standards applied to *de minimis* carriers and to debit card services. (R-94-3)

Rural Facilities Restrictions Regulation

In February 1997, GCI filed a petition before the Commission seeking a declaratory ruling that the Commission's regulations restricting long distance facilities construction to certain rural locations were invalid under the Telecommunications Act and would not be enforced. After review the Commission determined GCI's conclusions ignored key policy issues, including universal service, that the Commission believed must be evaluated to protect the public interest. The Commission expects to reach a final decision on the GCI request pending receipt of responses in its long distance market structure rulemaking and other data to be filed by GCI and Alascom. (R-97-1)

GCI recently filed a petition before the FCC requesting preemption of the Commission's facilities restriction in rural Alaska. On February 27, 1998, the Commission filed opposition to GCI's request. No date has been given for an FCC decision on this matter. (CC Docket 98-4)

Bristol Bay Telephone Cooperative, Inc., Granted Postage Stamp Rates for Local Exchange Services

During fiscal year 1998, Bristol Bay Telephone proposed redesigning (with no overall increase or decrease) its local exchange rates to a postage stamp structure in its service area. The Commission approved the request. (U-97-241)

FY98 significant events (continued)

Copper Valley Telephone Cooperative, Inc., Cost of Service Study, Rate Redesign and Tariff Re-Write for Local Exchange Services

In 1995, Copper Valley Telephone Cooperative, Inc. (CVTC) filed a cost-of-service study and proposed rate redesign for its local exchange services. In addition, CVTC proposed rewriting its entire local exchange services tariff. These filings were made in connection with the proceedings begun in 1994. During FY98, the Commission approved the cost-of-service study, a rate redesign and tariff rewrite. (U-94-24)

Copper Valley Telephone Cooperative, Inc., Rate Increase Request

During FY98, Copper Valley Telephone Cooperative, Inc. (CVTC) requested and was granted an interim rate increase of 35 percent to local exchange services and 30 percent to local special access services. CVTC also requested permanent increases of 52.28 percent to local exchange services and 44.86 percent to local special access services. The Commission suspended CVTC's permanent request and is considering it. (U-98-48)

GTE Alaska, Inc., Cost of Service Study and Rate Redesign for Local Exchange Services

In FY97, GTE Alaska, Inc. (GTE) filed a proposed cost of service study and rate redesign for its local exchange services. GTE originally proposed a permanent general rate increase of 22.5 percent and postage stamp rates for all of its certificated area. During FY98, the Commission approved a permanent 13.25 percent rate increase and GTE's postage stamp rates. This was GTE's first major rate change to its local exchange services. (U-97-87)

Summit Telephone Company

During FY98, the Commission granted Summit Telephone Company's (Summit) request for an interim rate increase of 10.00 percent to local exchange services and 10.2 percent to local special access services. The Commission suspended Summit's request for a permanent increase of 15.99 percent to local exchange services and 10.00 percent to local special access services. That request is currently being considered. (U-98-20)

Commission Approves Sale of FMUS' Water/Sewer, Electric, District Heat and Telecommunication Utilities

In September of 1997, the Commission approved the transfer of controlling interest in the water/sewer, electric service area, and telecommunication utilities owned and operated by the City of Fairbanks d/b/a Fairbanks Municipal Utilities System (FMUS). The Commission subsequently approved the transfer of the district heat utility and a Power Sales Agreement later that same calendar year. The applications were part of a combined overall transaction whereby the City of Fairbanks divested itself of its telecommunications, electric, district heat and water/sewer operations. The sale of the FMUS utilities was approved by a vote of Fairbanks citizens on October 8, 1996. The Commission made its decision after a lengthy public hearing process that lasted 16 days. (U-96-114 through U-96-121, U-97-44, and U-97-139)