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1 IN THE HOUSE

BY THE SELECT COMMITTEE  
ON TELECOMMUNICATIONS

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CS FOR HOUSE BILL NO. 545

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the provision of statewide enter-  
tainment, educational and public television services."

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

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\* Section 1. AS 44 is amended by adding a new chapter to read:

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CHAPTER 55. ALASKA SATELLITE USERS ASSOCIATION.

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Sec. 44.55.010. ALASKA SATELLITE USERS ASSOCIATION. There is  
created the Alaska Satellite Users Association. The association is a  
public nonprofit corporation and government instrumentality but has a  
legal existence independent of and separate from the state.

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Sec. 44.55.020. PURPOSE OF ASSOCIATION. (a) The purpose of the  
association is to make available to Alaskan users, through cooperative  
purchasing and utilization, satellite communications services as re-  
quired for television programming, special television services, data  
transmission, radio broadcast, and other broadband uses.

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(b) The association shall act as a cooperative purchaser of tele-  
communications services to the various categories of users of these  
services in Alaska, with all services to be provided at cost.

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Sec. 44.55.030. INITIAL BOARD OF DIRECTORS. (a) The association  
shall initially be governed by a five-member board of directors con-  
sisting of the following persons:

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(1) one member designated by the Alaska Broadcasters Asso-  
ciation who is a representative of a television broadcasting station  
licensed by the Federal Communications Commission;

(2) two members appointed by the governor, composed of the

1 following:

2 (A) one person from the staff of either the University  
3 of Alaska or the Department of Education who is involved in the use  
4 of television in education;

5 (B) one person from the Office of the Governor, office  
6 of telecommunications or an executive department who is competent  
7 and knowledgeable in broadcast engineering and technology related  
8 to television and data transmission;

9 (3) one member designated by the Alaska Cable Television  
10 Association who is a representative of a cable television service facil-  
11 ity in Alaska certified with a Federal Communications Commission "Cer-  
12 tificate of Compliance"; and

13 (4) one member chosen by the Alaska Mini-TV Association from  
14 candidates designated or nominated by active organizations having pri-  
15 marily rural interests.

16 (b) The members receive no salary for their service as directors  
17 of the association, but are entitled to per diem and travel expenses  
18 authorized by law.

19 Sec. 44.55.040. TERM OF OFFICE. The term of office of the members  
20 of the initial board of directors is 18 months or until their successors  
21 are elected under the charter of the association after its approval.  
22 Members of the regular board shall serve for staggered terms as provided  
23 in the charter.

24 Sec. 44.55.050. ARTICLES OF INCORPORATION. (a) The initial board  
25 of directors shall adopt initial bylaws for the operation of the asso-  
26 ciation. Until the preparation and adoption of permanent articles of  
27 incorporation under (b) of this section, the association shall operate  
28 under this chapter as its corporate charter.

29 (b) Within 12 months of the first meeting of the initial board of

1 directors, the board shall prepare articles of incorporation of the  
2 association as a nonprofit corporation, consistent with the provisions  
3 of AS 10.20 and this chapter, for approval by the membership of the  
4 association after review by the commissioner.

5 Sec. 44.55.060. ELECTION OF BOARD OF DIRECTORS OF CORPORATION.

6 (a) At the first annual meeting of the association, no sooner than 18  
7 months after the first meeting of the initial board, the board of direc-  
8 tors of the corporation shall be elected in the manner provided in the  
9 articles of incorporation and bylaws, subject to (b) of this section.

10 (b) So long as there continues to be direct state funding of the  
11 association under sec. 140 or 160 of this chapter, two members of the  
12 board of directors shall be chosen by the governor in the same manner as  
13 for the initial board under sec. 30 of this chapter.

14 Sec. 44.55.070. POWERS OF THE ASSOCIATION. The association has  
15 the general power to

- 16 (1) adopt, alter and use a corporate seal;
- 17 (2) prescribe, adopt, amend and repeal bylaws;
- 18 (3) sue and be sued in its own name;
- 19 (4) employ personnel and to fix, change and pay compensation  
20 for their services as the association may determine;
- 21 (5) make and execute agreements, contracts and other instru-  
22 ments necessary or convenient in the exercise of its powers and func-  
23 tions, including contracts with any person, firm, corporation, govern-  
24 ment agency or other entity, including contracts with its own members;
- 25 (6) lease or otherwise contract for communications channel  
26 capability from suppliers or users of telecommunications services,  
27 particularly, but not limited to, suppliers of entertainment and educa-  
28 tional television programming and data transmission over long distances,  
29 and including from its own members;

1 (7) contract out any or all of the operations of the associ-  
2 ation with appropriate contract supervision by the board through its  
3 executive director;

4 (8) provide technical advice and assistance to members, mem-  
5 ber associations, and individual users which relate to services provided  
6 by the association;

7 (9) receive, administer and comply with the conditions and  
8 requirements of an appropriation, gift, grant or donation of property or  
9 money;

10 (10) acquire, hold, use, lease, sell or otherwise dispose of  
11 property of any kind, real, personal or mixed or any interest in it;

12 (11) adopt, amend and repeal bylaws necessary for the exercise  
13 and performance of its powers and duties or to govern the rendering of  
14 service;

15 (12) determine, fix, alter, charge and collect rates, fees,  
16 rentals and other charges to reimburse the association for the use of  
17 facilities and services of the association;

18 (13) do all acts and things necessary, convenient or desirable  
19 to carry out the powers granted or implied in this chapter.

20 Sec. 44.55.080. ELIGIBILITY FOR MEMBERSHIP. (a) Any person,  
21 business, or other entity in the state who has a present or prospective  
22 need for the services provided by the association is eligible for mem-  
23 bership in the association, including, but not limited to, the follow-  
24 ing:

25 (1) public or privately owned, federally licensed broad-  
26 casting facilities;

27 (2) cable television operations certified with a Federal  
28 Communications Commission "Certificate of Compliance";

29 (3) state or federal agencies (to the extent permitted by

1 applicable law) which provide medical services and which have a need for  
2 the services of the association, and including nonprofit health corpora-  
3 tions;

4 (4) theater television enterprises;

5 (5) departments, agencies, or offices of the state that have  
6 now or may develop a need to use television or data transmission in the  
7 conduct of their operations;

8 (6) local governments or agencies or entities of local  
9 governments that have now or may develop a need to use television or  
10 data transmission in the conduct of their operations;

11 (7) any other private business or nonprofit entity which  
12 demonstrates a need for television or data transmission services without  
13 participation in the association.

14 (b) Each of the following state agencies is empowered to join the  
15 association:

16 (1) any state executive agency at the department or division  
17 level;

18 (2) the executive Office of the Governor;

19 (3) the Legislative Affairs Agency;

20 (4) the Alaska Court System;

21 (5) the University of Alaska;

22 (6) any other state agency or entity created as an instru-  
23 mentality of the state.

24 Sec. 44.55.090. EXECUTIVE DIRECTOR. The association may employ an  
25 executive director and such other personnel as are necessary to carry  
26 out the purposes of this chapter.

27 Sec. 44.55.100. TAX EXEMPTION. The exercise of the powers granted  
28 by this chapter will be in all respects for the benefit of the people of  
29 the state, for their well-being and prosperity and for the improvement

1 of their social and economic conditions, and the association is not re-  
2 quired to pay a tax or assessment on any property owned by the associ-  
3 ation under the provisions of this chapter or upon the income from it.

4 Sec. 44.55.110. SERVICES OF GOVERNMENT AGENCIES AND COST OF SER-  
5 VICES. All officers, departments, boards, agencies, divisions and  
6 commissions of the state may render those services to the association as  
7 are within the area of their respective governmental functions and as  
8 are requested by the association. The cost and expense of services  
9 requested by the association shall, at the request of the officer,  
10 department, board, agency, division or commission rendering the service,  
11 be paid by the association.

12 Sec. 44.55.120. RESTRICTIONS ON ASSOCIATION. (a) Decisions,  
13 choices, and orders regarding programming and data content shall be made  
14 by the individual members, not by the association acting as a corporate  
15 body nor by the executive director or other employee of the association.

16 (b) The association may not engage in telephone business or pro-  
17 vide a substitute for usual methods of telephonic communication except  
18 as directly related to services otherwise authorized in this chapter.

19 (c) The association may not act as a communications common carrier  
20 as defined by applicable state and federal law.

21 Sec. 44.55.130. DUES OF ASSOCIATION. (a) Subject to the pro-  
22 visions of sec. 140 of this chapter relating to the declining state  
23 subsidy of the association, the board of the association shall establish  
24 a schedule of assessment of members of the association which shall  
25 allocate cost of operation of the association among the members of the  
26 association on a pro rata basis according to actual use of services of  
27 the association.

28 (b) Costs of operation of the association shall be allocated to  
29 and assessed against agencies of the state participating in the associa-

1 tion and utilizing services of the association on the same basis as non-  
2 state users.

3 (c) The board may adjust membership fees of a member to reflect  
4 services provided by that member under sec. 70(5) and (6) of this chap-  
5 ter.

6 Sec. 44.55.140. DECLINING STATE SUBSIDY OF THE ASSOCIATION.  
7 During the first year of operation, the state shall cover the full cost  
8 of operation of the association unless the initial board finds that  
9 assessments to members of partial costs can begin earlier without ad-  
10 versely affecting services and without substantial adverse financial  
11 effect on private members. Subject to legislative appropriation and the  
12 availability of loans under sec. 160 of this chapter, the state shall  
13 continue to pay a share of the cost of the association which will de-  
14 cline by 20 per cent each year for four fiscal years following the first  
15 meeting of the initial board of directors. Thereafter, the full cost of  
16 the association shall be borne by the members of the association ac-  
17 cording to sec. 130 of this chapter, unless there is a finding by the  
18 commissioner under sec. 160(b) of this chapter of impaired solvency of  
19 the association.

20 Sec. 44.55.150. AUDIT. The association shall be subject to audit  
21 by the Department of Administration and by the legislative audit divi-  
22 sion in the same manner as a state agency.

23 Sec. 44.55.160. LOAN FUND. (a) There is in the Department of  
24 Commerce and Economic Development the satellite communications users  
25 revolving loan fund, to be administered by the commissioner in compli-  
26 ance with this chapter.

27 (b) Loans may be made from the fund to the association upon certi-  
28 fication by the commissioner that a loan is necessary to enable the  
29 association to accomplish the purposes of secs. 10 - 120 of this chap-

1 ter. No loan may be certified by the commissioner after discontinuance  
2 of the direct subsidy under sec. 140 of this chapter unless the com-  
3 missioner has made a written finding that the solvency of the associ-  
4 ation would be substantially impaired without the loan.

5 (c) If a loan is made to the association from the fund, the asso-  
6 ciation shall issue a note to the fund as evidence of the loan. Terms  
7 and conditions of each loan shall be determined by the commissioner.  
8 The commissioner may sell at par value to the Department of Revenue and  
9 the Department of Revenue shall purchase the notes held by the fund as  
10 security for loans made under this section.

11 Sec. 44.55.170. DEFINITIONS. In this chapter

12 (1) "association" means the Alaska Satellite Users Associ-  
13 ation;

14 (2) "commissioner" means the commissioner of commerce and  
15 economic development;

16 (3) "direct state subsidy" means an appropriation, grant or  
17 loan to the association and does not include dues or fees paid by a  
18 state agency or instrumentality for membership and participation in the  
19 association;

20 (4) "member" means a member of the Alaska Satellite Users  
21 Association;

22 (5) "user" means a person using the facilities and services  
23 of the Alaska Satellite Users Association.

24 \* Sec. 2. AS 14.58.050 is amended to read:

25 Sec. 14.58.050. PURPOSE OF COMMISSION. The commission is created  
26 to

27 (1) encourage and supervise the development of an integrated  
28 public broadcasting system for the state, and

29 (2) serve as the statewide coordinator for all state and

1 local public use of radio and television for educational and other  
2 public purposes including [FOR] the coordination of all public broad-  
3 casting stations.

4 \* Sec. 3. AS 14.58.060 is amended by adding new paragraphs to read:

5 (13) coordinate satellite delivery of educational and public  
6 programming and serve as a clearinghouse for information on satellite  
7 delivery of noncommercial programming;

8 (14) administer, through its staff, the provision of grants  
9 for the development of educational and public programming.

10 \* Sec. 4. AS 14.58 is amended by adding new sections to read:

11 Sec. 14.58.065. EDUCATIONAL TELECOMMUNICATIONS CONSORTIUM. (a)  
12 There is established under the commission the educational telecommuni-  
13 cations consortium to

14 (1) investigate the practical uses of television and tele-  
15 communications techniques to accomplish the goals and duties of educa-  
16 tional and other public institutions of the state; and

17 (2) familiarize persons in state and local government and  
18 public service nonprofit organizations with the capabilities of tele-  
19 vision and telecommunications as they relate to the objectives of the  
20 particular agency or organization.

21 (b) Members may include state agencies and private nonprofit  
22 entities which have an interest in the use of television and telecom-  
23 munications techniques for educational and public purposes.

24 Sec. 14.58.085. PROGRAMMING DEVELOPMENT GRANTS. (a) The commis-  
25 sion shall administer, through its staff, a grant program to provide  
26 funding or matching funds for the production of television and radio  
27 programs for education and other public purposes.

28 (b) In determining eligibility of applicants and awarding grants  
29 under this section, the following factors shall be considered:

1 (1) the relevance of the application and proposal to the  
2 educational and public programming needs of a regional or local area of  
3 Alaska;

4 (2) the likelihood of continued production of the program  
5 through funding other than the initial grant;

6 (3) the competence and fitness of the applicant to carry out  
7 the program;

8 (4) the capacity or ability to carry out the proposed program  
9 development through existing technical systems.

10 (c) In awarding grants under this section, first priority will be  
11 given to traditionally educational projects and second priority to news  
12 and public affairs projects, with appropriate consideration given to the  
13 provision of bilingual services in relevant regional areas.

14 (c) Review of applications and awarding of grants under this  
15 section shall be a responsibility of the executive director of the  
16 commission in accordance with standards and guidelines established in  
17 this section and by the commission by resolution.