

CORRECTION

HOUSE BILL NO. 194

Sponsors change:

BY ANDERSON BUCHHOLDT, COTTEN,  
HURLBERT, MCKINNON, MILLER, MOSS,  
PARKER, PARR, ROGERS, SCHAEFFER  
AND GARDINER

Representative SMITH should not be shown as a sponsor.

Please delete her name from your copy.

Introduced: 2/13/79  
Referred: Commerce and Finance

BY ANDERSON, BUCHHOLDT, COTTEN,  
HURLBERT, MCKINNON, MILLER, MOSS,  
PARKER, PARR, ROGERS, SCHAEFFER,  
██████████ AND GARDINER

1 IN THE HOUSE

2 HOUSE BILL NO. 194

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to an Alaska Communications Authority;  
7 and providing for an effective date."

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

9 \* Section 1. AS 42 is amended by adding a new chapter to read:

10 CHAPTER 40. ALASKA COMMUNICATIONS AUTHORITY.

11 Sec. 42.40.010. CREATION OF AUTHORITY. There is created the  
12 Alaska Communications Authority the purpose of which is to acquire and  
13 operate long-distance communication facilities and to acquire the exist-  
14 ing facilities of RCA Alascom. The authority is a public corporation  
15 and an instrumentality of the state within the Department of Commerce  
16 and Economic Development but with a separate and independent legal  
17 existence.

18 Sec. 42.40.020. BOARD OF DIRECTORS OF THE AUTHORITY. The autho-  
19 rity shall be managed and controlled by a seven-person board of direc-  
20 tors, consisting of the commissioner of commerce and economic develop-  
21 ment who may not chair the board, and six members appointed by the  
22 governor and subject to confirmation by the legislature in joint ses-  
23 sion. The term of office of members other than the commissioner of  
24 commerce and economic development is six years and the members may be  
25 reappointed. Terms shall be staggered. Initial terms are one year, two  
26 years, three years, four years, five years and six years. One member  
27 shall be appointed to each initial term. The members shall elect one of  
28 the members as chairman and may elect other officers they determine  
29 desirable.

1           Sec. 42.40.030. MEETINGS, COMPENSATION, OFFICERS AND EXPENSES.

2           (a) Four members of the board constitute a quorum for the transaction  
3 of business or the exercise of a power or function at a meeting of the  
4 board. All decisions of the board must be initiated by motion or reso-  
5 lution and the vote and decision must be recorded in the board's minute  
6 book which is a public record. Four affirmative votes are required for  
7 the passage of a motion or resolution. Notice of all meetings must be  
8 given in accordance with regulations adopted by the board. All meetings  
9 of the board, for any purpose whatsoever, must be open to the public.

10           (b) Members of the board serve without compensation but they are  
11 entitled to the same travel pay and per diem as provided by law for  
12 board members.

13           (c) The board shall appoint an executive director who serves at  
14 its pleasure and may appoint and employ other persons or officers it  
15 siders advisable, including but not limited to professional advisors,  
16 architects, technical experts, agents, and support personnel. The  
17 torney general is the legal counsel for the authority. The executive  
18 director is responsible for keeping records of all meetings of the board  
19 and is custodian of all books, documents, and papers filed with the  
20 board, the minute book, and journals. He may cause copies to be made of  
21 all minutes, records, and documents of the board and may give certifi-  
22 cates of the authority to the effect that those copies are true copies  
23 and all persons dealing with the authority may rely on those certifi-  
24 cates.

25           Sec. 42.40.040. POWERS OF AUTHORITY. The authority has all powers  
26 necessary to carry out the purposes of this chapter including, but not  
27 limited to, the following:

- 28           (1) to sue and be sued in its own name;  
29           (2) to adopt a seal and alter it at pleasure;

1 (3) to adopt, amend, and repeal by-laws for its organization,  
2 management of its internal affairs, and the conduct of its business  
3 consistent with the provisions of this chapter;

4 (4) to adopt regulations, in accordance with AS 44.62, gov-  
5 erning the exercise of its corporate powers;

6 (5) to acquire by purchase, construction, exchange, gift,  
7 lease, or otherwise, real or personal property, rights, rights-of-way,  
8 franchises, easements, and other interests in land, including land lying  
9 under water and riparian rights which are located within the state,  
10 taking title to it in the name of the authority;

11 (6) to accept gifts, grants, or loans from, and enter into  
12 contracts or other transactions regarding them with, a federal agency or  
13 an agency or instrumentality of the state, a municipality, private  
14 organization, or other source;

15 (7) to provide the financing for purchasing, constructing,  
16 improving, extending, and equipping long-distance telephone facilities  
17 in the state;

18 (8) to sell, exchange, donate, convey, pledge, or otherwise  
19 encumber in any manner by mortgage or by creation of any other security  
20 interest, real or personal property owned by it, or in which it has an  
21 interest, to pledge the revenues and receipts from such assets, and to  
22 arrange and provide for guarantees and other security agreements when,  
23 in the judgment of the authority, the action is in furtherance of its  
24 corporate purposes;

25 (9) to issue notes and revenue bonds in amounts considered  
26 necessary by the authority to pay the cost of establishing and equipping  
27 medical facilities and to secure payment of the notes and revenue bonds  
28 as provided in this chapter;

29 (10) to deposit or otherwise invest its funds, subject to

1 agreements with bondholders, in any property or securities in which  
2 banks or trust companies may legally invest, so long as no member of the  
3 board of directors or its executive director has any personal interest,  
4 either directly or indirectly, in any such depository or investment  
5 entity and the funds are held in reserves or sinking funds, if those  
6 deposited or invested funds are not required for reasonably foreseeable  
7 disbursement;

8 (11) to arrange or contract for services, privileges, works,  
9 or facilities, and to manage and operate the long-distance communication  
10 facilities;

11 (12) to fix and revise, from time to time, and to charge and  
12 collect rates, rents, fees, and charges for the use of and services  
13 furnished or to be furnished by the facilities;

14 (13) to insure any real or personal property or operations of  
15 the authority against any risks or hazards;

16 (14) to purchase its bonds at a price not more than the prin-  
17 cipal amount of them plus accrued interest; all bonds so purchased must  
18 be cancelled;

19 (15) to maintain an office at places it may designate;

20 (16) to refund or refinance outstanding obligations, mort-  
21 gages, or advances issued, made, or given by the authority;

22 (17) to obtain, or aid in obtaining, from any department or  
23 agency of the United States or of this state or any private company, any  
24 insurance or guarantee as to, or of, or for the payment or repayment of  
25 interest or principal, or both, or any part of interest or principal on  
26 any loan, lease, or obligation, or any instrument evidencing or securing  
27 a loan, lease, or obligation entered into under this chapter.

28 Sec. 42.40.050. EXPENSES OF AUTHORITY. All expenses of the autho-  
29 rity incurred in carrying out the provisions of this chapter are payable

1 solely from funds provided under this chapter and no liability may be  
2 incurred by the authority beyond the extent to which money has been  
3 provided under this chapter. However, for the purposes of meeting the  
4 necessary expenses of initial organization and operation of the autho-  
5 rity for the period commencing on the effective date of this Act and  
6 continuing until the authority derives money from funds provided to it  
7 under this chapter, the authority may borrow the money it requires and  
8 may repay it, with appropriate interest, over a reasonable period of  
9 time. A liability incurred under this section is a liability of the  
10 authority only, and not a liability of the state.

11 Sec. 42.40.060. BONDS OF THE AUTHORITY. (a) The authority may  
12 borrow money and may issue bonds for it, payable from the revenue de-  
13 rived by it or from its income and receipts or other assets generally,  
14 or a designated part of them. The issuance of such revenue bonds is  
15 governed by the provisions of this chapter and is not subject to the  
16 prior approval of the voters of the state. All such bonds, whether  
17 coupon or fully registered are negotiable instruments for all purposes  
18 of the Uniform Commercial Code.

19 (b) Bonds shall be authorized by resolution of the authority. The  
20 bonds may be issued as serial bonds, as term bonds, or bonds of both  
21 types. The authorizing bond resolution must state the maturity date  
22 which may not exceed 40 years from the bond's date of issue, the rate of  
23 interest, the time of payment, the denomination, whether coupon or fully  
24 registered, whether transferable, exchangeable, or interchangeable, the  
25 registration and conversion privileges, if any, the covenant that pay-  
26 ments are to be only in lawful money of the United States of America at  
27 the place the board authorizes, and the terms of redemption, if any.  
28 The bonds, notes, or attached interest coupons must be executed by  
29 manual or facsimile signatures of the officers of the authority desig-

1 nated by the board. Pending preparation of the definitive bonds, the  
2 authority may issue interim receipts or certificates which must be  
3 exchanged for the definitive bonds.

4 (c) The bond resolution may provide for the establishment of one  
5 or more special funds, and those funds may be under the control of the  
6 board or one or more trustees. The bond resolution may obligate the  
7 authority to deposit and expend the proceeds of the revenue bonds only  
8 into and from those funds. The authority may issue and sell revenue  
9 bonds payable as to interest and principal out of those funds.

10 (d) All bonds may be sold at public or private sale in the manner,  
11 at the time, and for the price determined by the authority.

12 (e) Any bond resolution may contain provisions, which constitute a  
13 part of the contract with the holders of the bonds, as to:

14 (1) the fees and other amounts to be charged, and the sums to  
15 be raised in each year by them, and the use, investment, and disposition  
16 of those sums;

17 (2) the setting aside of reserves or sinking funds, and the  
18 regulation, investment, and disposition of them;

19 (3) limitations on the issuance of additional bonds, the  
20 terms upon which additional bonds may be issued and secured, the terms  
21 upon which additional bonds may rank on a parity with, or be subordinate  
22 or superior to, other bonds;

23 (4) the refunding of outstanding bonds;

24 (5) the procedure, if any, by which the terms of any contract  
25 with bondholders may be amended or abrogated;

26 (6) any matters relating to the bonds which the authority  
27 considers desirable.

28 Sec. 42.40.070. BOND ANTICIPATION NOTES. The authority may issue  
29 and sell bond anticipation notes which must be on the terms, bear the

1 date, mature at the time, be in the denomination and in the form, pay-  
2 able in the medium at the place and subject to the terms of redemption  
3 as the authority considers necessary or advisable in the manner provided  
4 in this chapter.

5 Sec. 42.40.080. TRUST INDENTURES AND TRUST AGREEMENTS. In t'e  
6 discretion of the authority, an issue of bonds may be secured by a trust  
7 indenture, trust agreement, indenture of mortgage or deeds of trust (all  
8 considered "trust agreements" in this chapter) between the authority and  
9 a corporate trustee which corporate trustee may be a trust company,  
10 bank, or national banking association, with corporate trust powers,  
11 located inside or outside the state or by a secured loan agreement or  
12 other instrument or under a resolution giving powers to a corporate  
13 trustee by means of which the authority may:

14 (1) make any covenants and agreements with the trustee or the  
15 holders of the bonds which the authority determines to be necessary or  
16 desirable, including, without limitation, covenants and agreements as to

17 (A) the application, investment, deposit, use, and  
18 disposition of the proceeds of bonds of the authority or of money  
19 or other property of the authority or in which it has an interest;

20 (B) the terms and conditions upon which additional bonds  
21 of the authority may be issued;

22 (C) the vesting in a trustee, of rights, powers, duties,  
23 funds, or property in trust for thê benefit of bondholders, in-  
24 cluding, without limitation, the right to enforce payment, perfor-  
25 mance, and all other rights of the authority or of the bondholders,  
26 under a lease, contract of sale, mortgage, security agreement, or  
27 trust agreement with respect to the facilities by injunction or  
28 other proceeding or by taking possession of by agent or otherwise  
29 and operating the facilities and collecting fees or other consid-

1           eration and applying it in accordance with the trust agreement;

2           (2) pledge, mortgage or assign money, leases, agreements,  
3 property or other assets of the authority either presently in hand or to  
4 be received in the future, or both; and

5           (3) provide for any other matters of like or different char-  
6 acter which in any way affect the security or protection of the bonds.

7           Sec. 42.40.090. LIABILITY FOR ISSUANCE. Neither the members of  
8 the authority nor any person executing the bonds is liable personally on  
9 the bonds or is subject to any personal liability or accountability by  
10 reason of the issuance of them.

11           Sec. 42.40.100. BONDHOLDER CLAIMS AGAINST SPECIAL FUNDS. Any  
12 notes or revenue bonds issued gainst any special funds provided for in  
13 this chapter are a valid claim of the holder of them only as against  
14 those special funds in the proportion or amount of the revenues pledged  
15 to such funds and such other authority assets as the board may have  
16 pledged. All notes or revenue bonds payable from a special fund, shall,  
17 on the face of the note or revenue bond, name the fund and the resolu-  
18 tion creating them.

19           Sec. 42.40.110. CONFLICT OF INTERESTS; MEMBERS, EMPLOYEES, AGENTS  
20 OR ADVISORS. (a) No member of the board may vote on a resolution of  
21 the board relating to a lease or contract to be entered into by the  
22 authority under this chapter if she or he is a party to the lease or  
23 contract or has a direct ownership or equity interest in a firm, part-  
24 nership, corporation, or association which would be a party to the  
25 contract or lease.

26           (b) It is a conflict of interests for any person employed by the  
27 authority or any person on contract for hire, written or oral, at a  
28 fixed or hourly fee with the authority, to act in an advisory capacity  
29 to the authority or to support the use of the authority's funds in such

1 a manner that may or will result in benefit, directly or indirectly, to  
2 that employee, agent, or advisor, except upon full disclosure in writing  
3 and by oral presentation to the board of the details of the conflicting  
4 interest, including a dollar estimate of the direct and indirect mone-  
5 tary gain the employee, agent, or advisor may expect to derive. The  
6 board's resolution that addresses the matter in which a conflict of  
7 interests exists must set out the details of the full disclosure.

8 (c) Any person who violates this section shall be (1) punished by  
9 a fine equivalent to the total gain derived, including gain derived from  
10 a partially disclosed or misstated disclosure of monetary gain; (2)  
11 barred from further acting as an employee, agent, or advisor to the  
12 authority, and (3) imprisoned for a term not less than three months nor  
13 more than one year.

14 (d) Public notice of the board meeting at which the written and  
15 oral disclosure of the conflict is to be given must specify

16 (1) a conflict-of-interests presentation is to be made at  
17 that meeting;

18 (2) the name of the person making the disclosure; and

19 (3) the position or title of the person so disclosing.

20 Sec. 42.40.120. PLEDGE OF REVENUES. Any pledge of revenue or  
21 other money, obligations, or assets by the authority is binding from the  
22 time the pledge is made as against any parties having subsequent claims  
23 in tort, contract, or otherwise, irrespective of whether those parties  
24 have actual notice of the prior pledge. The pledge must be noted in the  
25 board's minute book and is constructive notice to all parties. Neither  
26 the resolution nor other instrument by which a pledge is created need be  
27 otherwise recorded, nor is the filing of any financing statement under  
28 the Uniform Commercial Code or other law required to perfect the pledge.  
29 Revenue, rent, or other money, obligations, or assets so pledged and

1 later received by the authority are immediately subject to the lien of  
2 the pledge without any physical delivery or further act.

3 Sec. 42.40.130. OBLIGATIONS AND INCOME OF AUTHORITY. (a) Notes  
4 or revenue bonds issued under the provisions of this chapter are not,  
5 either directly, indirectly, or contingently, an obligation, a pledge of  
6 the faith and credit of, or a charge upon any revenue or funds of the  
7 state or of any political subdivision of the state but are payable  
8 solely from the funds of the authority. The issuance of notes or reve-  
9 nue bonds under this chapter does not, directly, indirectly, or contin-  
10 gently, obligate the state or any political subdivision of the state to  
11 levy any form of taxation or to make any appropriation for their pay-  
12 ment.

13 (b) The funds, income, or receipts of the authority do not consti-  
14 tute money of the state, nor is real property in which the authority has  
15 an interest considered land owned by the state or to which the state may  
16 become entitled or in any way land belonging to the state, or state land  
17 referred to in art. VIII of the Alaska Constitution.

18 Sec. 42.40.140. RIGHTS OF BONDHOLDERS. Any holder of notes or  
19 revenue bonds issued under this chapter or a trustee under a trust  
20 agreement entered into under this chapter may, except to the extent  
21 their rights are restricted by the bond resolution, by any suitable form  
22 of legal proceedings, protect and enforce any rights under the laws of  
23 this state or granted by the bond resolution. Those rights include (1)  
24 the right to compel the performance of all duties of the authority  
25 required by this chapter or the bond resolution; (2) the right to enjoin  
26 unlawful activities; and (3) in the event of default (A) with respect to  
27 the payment of any principal of, or premium, if any, or interest on, any  
28 bond, or (B) in the performance of any covenant or agreement on the part  
29 of the authority in the bond resolution, the right to apply to a court

1 having jurisdiction of the cause to appoint a receiver to administer and  
2 operate the medical facility. The receiver may pay principal of, and  
3 premiums, if any, and interest on those bonds, and has the powers,  
4 subject to the direction of the court, which are permitted by law and  
5 are accorded receivers in general equity cases. However, the receiver  
6 may not pledge additional revenue of the authority to the payment of  
7 that principal, premium, and interest.

8 Sec. 42.40.150. INVESTMENTS BY AUTHORITY. Except as otherwise  
9 provided by this chapter, the authority may invest any funds, not needed  
10 to meet current cash expenditure needs, in obligations or certificates  
11 of deposit as defined in AS 37.10.070(a)(1) - (4). Any such securities  
12 must be purchased at no higher price than the offering or market price  
13 of them at the time of the purchase.

14 Sec. 42.40.160. BONDS AS SECURITIES. Revenue bonds of the autho-  
15 rity are securities in which the following may legally invest any funds  
16 belonging to them or within their control; all public officers and  
17 agencies of the state and of municipal corporations, officers, board of  
18 directors and trustees of banks, trust companies, savings banks, and  
19 institutions, building and loan associations, savings and loan associa-  
20 tions, investment companies, insurance companies and associations, all  
21 executors, administrators, guardians, trustees and other fiduciaries.

22 Sec. 42.40.170. PLEDGE OF THE STATE. The State of Alaska pledges  
23 to and agrees with the holders of any obligations issued under this  
24 chapter, and with those parties who may enter into contracts with the  
25 authority under this chapter, that the state will not limit or alter the  
26 rights vested in the authority by this chapter with respect to out-  
27 standing obligations until those obligations, together with the interest  
28 on them, are fully met and discharged and those contracts are fully per-  
29 formed on the part of the authority. However, nothing in this section

1 precludes such a limitation or alteration if adequate provision is made  
2 by law for the protection of the holders of those obligations of the  
3 authority or persons entering into those contracts with the authority.

4 Sec. 42.40.180. ACCOUNTING AND REPORTS. The authority shall keep  
5 an accurate account of all of its activities and of all of its receipts  
6 and expenditures and shall annually, no later than the 10th day of each  
7 regular session of the legislature, make a report of them to the gover-  
8 nor and the legislature, copies of which must be made available to bond-  
9 holders or parties holding a secured interest in the assets of the  
10 authority. The governor may investigate the affairs of the authority,  
11 may examine the property and records of the authority, and may prescribe  
12 methods of accounting and the rendering of periodical reports in rela-  
13 tion to projects undertaken by the authority.

14 Sec. 42.40.190. AUTHORITY AS A PUBLIC BODY; TAX STATUS OF ASSETS,  
15 INCOME AND BONDS. (a) The authority, all assets at any time owned by  
16 it, the income from those assets, and all bonds issued by the authority,  
17 together with the coupons applicable to them, and the income from them,  
18 are exempt from all taxation and special assessments in the State of  
19 Alaska except for gift, inheritance, and estate taxes. However, real  
20 property and personal property owned by the authority and leased to a  
21 third party are subject to property taxation if that property would be  
22 subject to taxation if owned by the lessee of it.

23 (b) For the purposes of AS 14.17 relating to the computation of  
24 the required local effort by a district as defined in AS 14.17.250(3),  
25 all property exempted from taxation by this chapter is considered tax-  
26 able real and personal property.

27 Sec. 42.40.200. EARNINGS OF THE AUTHORITY. The earnings of the  
28 authority in excess of the amount required for the retirement of indebt-  
29 edness or the accomplishment of the purposes stated in this chapter are

1 the exclusive property of the state.

2 Sec. 42.40.210. OPERATION OF CERTAIN STATUTES EXCEPTED; STATUS OF  
3 AUTHORITY. The authority is not a

4 (1) political subdivision of the state for the purposes of AS  
5 37.10.085, but for all other purposes the authority constitutes a poli-  
6 tical subdivision and an instrumentality of the state under this chap-  
7 ter;

8 (2) municipal corporation or political subdivision of the  
9 state as the terms are used in AS 29; or

10 (3) state agency for the purposes of AS 37.

11 Sec. 42.40.220. DEFINITIONS. As used in this chapter, unless the  
12 context requires otherwise:

13 (1) "authority" means the Alaska Communications Authority  
14 created by this chapter;

15 (2) "board" means the board of directors of the authority;

16 (3) "bonds" means revenue bonds of the authority issued under  
17 this chapter, including refunding and refinancing those bonds;

18 (4) "bond resolution" means a resolution authorizing the  
19 issuance of, or providing terms and conditions related to, revenue bonds  
20 issued under this chapter and includes any trust agreement, trust inden-  
21 ture, mortgage agreement, or deed of trust providing terms and condi-  
22 tions for those bonds;

23 (5) "property" means any real, personal, or mixed property,  
24 or any interest in it, including without limitation any real estate,  
25 appurtenances, buildings, easements, equipment, furnishings, furniture,  
26 improvements, machinery, rights-of-way, and structures, or any interest  
27 in any of these items;

28 (6) "revenue" means, with respect to any facility, the rent,  
29 fees, charges, interest, principal repayments, and other income or

1 profit received or to be received, either directly or indirectly, by the  
2 authority from any source on account of the facility.

3 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-  
4 070(c).

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29