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Referred: Finance

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

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CS FOR HOUSE BILL NO. 165 (L&C)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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TWELFTH LEGISLATURE - FIRST SESSION

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A BILL

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For an Act entitled: "An Act creating the telecommunications revolving loan
fund; and providing for an effective date."

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

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* Section 1. DECLARATION OF POLICY AND PURPOSE. The legislature finds
that

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(1) the availability of adequate public telecommunications ser-
vices and facilities at reasonable rates in the state is a proper matter of
public concern;

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(2) the ability of privately, municipally and cooperatively owned
public telecommunications utilities in the state to finance service to the
public and to finance capital improvements required to extend and improve
service on terms that will enable service rates to remain at reasonable
levels in the foreseeable future is seriously impaired by the unavailability
of low-cost private financing and by delays experienced in obtaining low-cost
federal loans;

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(3) as a matter of public policy, to ensure the sound development
of the state and its resources and to provide an acceptable level of tele-
communications services to its residents at reasonable rates, the state
should assist telecommunications utilities in acquiring the money that is
essential to operate, maintain and expand facilities and services.

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* Sec. 2. AS 44.88 is amended by adding new sections to read:

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ARTICLE 5. TELECOMMUNICATIONS REVOLVING LOAN FUND.

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Sec. 44.88.230. REVOLVING LOAN FUND CREATED. The telecommunica-
tions revolving loan fund is created in the Alaska Industrial Develop-

1 ment Authority.

2 Sec. 44.88.231. POWERS AND DUTIES OF THE AUTHORITY. (a) Unless
3 the application is deficient, the authority shall approve or deny an
4 application for a loan from the telecommunications revolving loan fund
5 within 90 days after receiving it. The authority shall return a defi-
6 cient application to the applicant for additions or corrections.

7 (b) The authority shall formulate procedures and adopt regulations
8 to implement AS 44.88.230 - 44.88.250 which do not conflict with regu-
9 lations or rulings of the Alaska Public Utilities Commission.

10 (c) The authority may

11 (1) make a loan from the telecommunications revolving loan
12 fund to a public telecommunications utility to finance capital improve-
13 ments, plant and facilities, and to improve and expand services, if
14 other credit is not readily available from private or federal lending
15 institutions;

16 (2) make a loan from the telecommunications revolving loan
17 fund to a public telecommunications utility to meet short-term or
18 interim capital needs before receipt by the utility of long-term loans;

19 (3) consult with appropriate federal agencies and other
20 lending institutions which make loans to public utilities in the state
21 concerning policies, regulations, and procedures to carry out the pro-
22 visions of AS 44.88.230 - 44.88.250;

23 (4) designate agents and delegate powers to them as is
24 necessary;

25 (5) require bonds and undertakings from persons employed by
26 the authority as necessary, and pay the premiums on the bonds and
27 undertakings;

28 (6) establish amortization plans as provided in AS 44.88.-
29 234(c).

1 Sec. 44.88.232. ELIGIBILITY FOR LOANS. A public telecommunica-
2 tions utility is eligible for a loan under AS 44.88.231 if

3 (1) it is a public utility for furnishing telecommunications
4 service under AS 42.05.701(2)(B);

5 (2) at the time of application for a loan it is serving the
6 public under a certificate of public convenience and necessity issued
7 by the Alaska Public Utilities Commission;

8 (3) in the judgment of the authority

9 (A) the public telecommunications utility shows a
10 definite potential for providing improved or expanded service in
11 the community or area it serves, or otherwise requires the financ-
12 ing to maintain adequate, efficient and safe service; and

13 (B) the utility will be able to repay the loan.

14 Sec. 44.88.234. CONDITIONS AND LIMITATIONS ON LOANS. (a) A loan
15 to a public telecommunications utility under AS 44.88.231 may not
16 exceed \$5,000,000 and shall be secured by collateral equal, in cost or
17 in fair market value, whichever is less, to at least the total amount
18 of the loan.

19 (b) A loan shall be on terms and conditions established by regula-
20 tion of the authority, except that money from a loan to be used to
21 provide services to an area not being served by the utility under a
22 certificate of public convenience and necessity at the time the loan
23 was applied for may not be disbursed to the utility until a certificate
24 to serve the area is issued by the Alaska Public Utilities Commission.

25 (c) Amortization plans for the repayment of a loan may not exceed
26 30 years. The rate of interest charged on the unpaid balance may not
27 exceed five percent annually.

28 (d) Subject to (e) of this section, a loan may not be made until
29 an investigation and an economic feasibility study are conducted and,

1 as a result of the investigation and study, the authority determines
2 that the loan is economically sound, that the utility will be finan-
3 cially self-sustaining, and the loan will be fully amortized in accor-
4 dance with the terms and conditions of the loan. The economic feasibil-
5 ity study shall be conducted by the authority staff or by consultants,
6 engineers, or other technical experts approved by the authority. To
7 facilitate an economic feasibility study the authority shall require
8 the applicant to furnish systems studies, long-range economic fore-
9 casts, financial data, and technical information which the authority
10 considers necessary.

11 (e) If a loan is participated in by a financial institution in an
12 amount not less than 20 percent of the total amount of the loan, the
13 authority may accept the investigation and economic feasibility study
14 made or accepted by the financial institution as a basis for its parti-
15 cipation. If a utility applies for a short-term or interim loan, the
16 authority may accept as evidence of economic feasibility and as a basis
17 for awarding the loan, authorization by the federal Rural Electrifica-
18 tion Administration to seek interim financing pending approval of a
19 federal long-term loan to the applicant.

20 (f) If a financial institution participates in a loan made under
21 AS 44.88.231, it may elect to administer and service the loan for a
22 reasonable fee not exceeding one-half of one percent of the amount of
23 the loan.

24 (g) The state and a financial institution which participates in a
25 loan made under AS 44.88.231 shall each have a first lien on the col-
26 lateral or share the collateral to the extent of their respective parts
27 of the total loan, except the authority may subordinate a lien on
28 collateral to a lien of the federal Rural Electrification Administra-
29 tion.

1 Sec. 44.88.236. ADMINISTRATION. Money loaned under AS 44.88.231
2 shall be delivered to the borrower in the form of a warrant drawn on
3 the treasury, and charged against the telecommunications revolving loan
4 fund. Upon repayment of a loan in accordance with the prescribed
5 terms, or upon liquidation by foreclosure or other process, or upon
6 receipt of interest or other revenue, the money received shall be
7 turned over to the authority for deposit in the telecommunications
8 revolving loan fund.

9 Sec. 44.88.238. SALE OR TRANSFER OF NOTES, MORTGAGES AND OTHER
10 COLLATERAL. (a) The authority may sell or transfer at par value or at
11 a premium or discount to a bank or other financial institution, or to a
12 private purchaser for cash or other consideration the notes, mortgages
13 and collateral held by the authority as security for loans made under
14 AS 44.88.230 - 44.88.250.

15 (b) The authority may sell or transfer at par value to the Depart-
16 ment of Revenue the notes, mortgages and other collateral held by the
17 authority as security for loans made under AS 44.88.230 - 44.88.250.
18 The Department of Revenue may purchase the notes, mortgages, and other
19 collateral, allowing the authority one-half of one percent of the value
20 of the notes, mortgages, or collateral as a service fee.

21 Sec. 44.88.240. OPERATION OF FACILITY PENDING DEFAULT. During
22 the pendency of a default proceeding, the authority, another public
23 corporation, a state agency, or a political subdivision of the state
24 may, for a period up to six months, operate a facility which is held as
25 collateral for a loan made under AS 44.88.230 - 44.88.250, or the
26 authority may designate a private entity to operate the facility upon
27 the approval of the Alaska Public Utilities Commission. If the author-
28 ity, another public corporation, a state agency, or a political sub-
29 division of the state operates a facility under this section, it shall,

1 after six months, cease to operate the facility and the authority may
2 designate a private entity to assume operation of the facility upon the
3 approval of the Alaska Public Utilities Commission.

4 Sec. 44.88.250. PROCEEDINGS AND REGULATIONS. The Administrative
5 Procedure Act (AS 44.62) governs all proceedings and the adoption of
6 regulations under AS 44.88.230 - 44.88.250.

7 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-

8 070(c).

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