

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

2520



COMMISSION SUPPORT STAFF

Commission Support staff provides legal and administrative assistance to the Chair and Commissioners. The Chair directs these functions with the aid of a special assistant, assistant attorney general, hearing examiners, paralegal support staff, and clerical support staff.



Leteasha Macon, Receptionist



(Front row, from left) Antony Scott, Rosalie Nizich, Paul Olson, (back row, from left) Mary Margaret Bingham, Jennifer Guigley, Anita Hammond, and Ann Wilde.



COMMON CARRIER STAFF

Common Carrier staff develops and recommends policies concerning local and long distance telephone services, cable, radio, and satellites. Staff administers telecommunication rates, services, and facilities for certificated utilities and presents analyses to the Commission for adjudication. Staff also participates on federal-state joint boards with the Federal Communications Commission and staff from other states.



(Front row, from left) Richard Gazaway, Lorraine Kenyon, Philip Treuer, (back row, from left) Robin Boysen, and Michael Mora.



CONSUMER PROTECTION STAFF

Consumer Protection staff interacts with consumers, utility personnel, members of the media, and staff. Staff investigates and resolves informal consumer complaints, promotes public relations, responds to information requests, and may assist Commission staff with formal complaints. Staff also educates consumers on utility services and rates, and disseminates information to the public and media regarding Commission proceedings.



(Front row, from left) Rose Weaver, Agnes Pitts, Tamara Alexander, (back row, from left) Catherine Sabrowski, and Judy Goggins.



PUBLIC ADVOCACY STAFF

Public Advocacy staff provides the Commission with a third party perspective in proceedings to advocate public interest. The Commission assigns cases to the Public Advocacy Section to investigate and participate in proceedings for utilities and pipeline carriers. Staff audits records, engages in settlement discussions, and presents findings with testimony to the Commission.



(Front row, from left) Deborah Collins, Lew Craig, Tim McConnell, (back row, from left) Steve DeVries, Katherine Koch, and Parker Nation.



RECORDS & FILING STAFF

Records & Filing staff manages all of the Commission's public records, orders, and information requests from staff, the public, attorneys utilities. Staff processes new filings and documents maintains current and archive filings, and posts public documents to the Commission's web site.



(Front row) Joyce McGowan, (back row, from left) Letitia Renteria, Holly Magro, and Carolyn Wright.



TARIFF STAFF

Tariff staff investigates and analyzes tariff filings and presents recommendations to the Commission at bimonthly tariff action meetings. Staff coordinates tariff meetings, complies with all public notice requirements for tariff filings, and maintains current master tariffs for all utilities and pipeline carriers.



(Front row, from left) Jennifer Meiwes, Wendy Arnett, Judy Goggins, (back row, from left) Brian Beard, and Matthew Angner.



OPERATING BUDGET

In 1992, following the mandate of the Legislature, the Commission enacted regulations to recover operating costs through an assessment on the revenues of regulated utilities and pipeline carriers. The Regulatory Cost Charge shows up as a recurring surcharge on the monthly billing statements to consumers and shippers.

The Legislature appropriated and the Governor approved a fiscal year 2003 budget of \$6.04 million, funded entirely from the Regulatory Cost Charge. There are no unrestricted general funds in the fiscal year 2002 appropriation.

	1999	2000	2001	2002	% Change (2001-2002)
Personal Services	\$2,839,900	\$3,287,000	\$3,422,400	\$3,734,500	
Travel	35,000	35,000	52,200	55,000	
Contractual	1,525,200	1,300,900	1,808,700	2,005,500	
Commodities	62,500	62,500	62,500	62,500	
Equipment	13,800	13,800	13,800	13,800	
General Fund	\$2,476,400	\$2,709,200	\$3,363,600	\$3,865,300	14.6%
Personal Services	\$2,616,802	\$2,989,089	\$3,402,786	\$3,584,182	
Travel	42,773	56,692	72,359	38,008	
Contractual	1,373,854	1,145,843	1,583,573	1,821,477	
Commodities	64,623	77,919	48,615	82,997	
Equipment	22,421	19,689	10,589	127,401	
Relocation Costs	0	0	140,249	0	
General Fund	\$2,119,653	\$2,292,630	\$3,155,811	\$3,623,667	14.6%
General Fund	\$3,926,597	\$4,289,232	\$5,258,171	\$5,654,065	7.6%
Program Receipts ²			\$5,258,171	\$5,654,065	7.6%

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 and AS 42.06.610).
² Revenues from the Regulatory Cost Charge user fee are recognized on the modified accrual method of accounting for fiscal years 2000 through 2002. Fourth quarter revenues are generated as of June but collected in July of the following fiscal year.
³ Reporting did not include the transfer of \$332,478.63 on August 20, 1999 and \$12,171.00 on November 9, 1999.



REGULATED UTILITIES
 STATE OF ALASKA

Prepared by Felix Mendel

	1999	1999	2000	2001
Cable Television ²	\$6,751,000	\$6,232,000	\$6,574,000	\$6,380,000
Electric	1,233,579,201	1,307,506,511	1,361,572,213 ¹	1,389,426,622
Natural Gas	179,757,326	180,458,522	186,650,434	180,965,146
Refuse	6,638,960	5,998,254	3,072,122	3,184,025
Steam Heat	Not reported	1,776,628	7,991,033	8,484,229
Telecommunications ³	417,024,290	660,653,316	625,546,641 ¹	599,831,476
Wastewater	97,823,582	103,568,947	84,272,842	94,340,320
Water	153,698,530	162,073,055	125,579,941	141,494,274
			\$1,071,999,266	\$1,111,106,092
Cable Television ²	\$5,372,000	\$5,811,000	\$6,189,000	\$6,563,000
Electric	504,513,606	513,714,260	525,626,713 ¹	557,262,581
Natural Gas	100,865,752	110,451,278	99,580,257	117,028,010
Refuse	26,633,726	31,250,540 ¹	33,077,014 ¹	33,342,330
Steam Heat	Not reported	1,414,788	1,540,413	1,895,793
Telecommunications ³	235,846,988	360,273,606 ¹	357,197,021 ¹	369,760,452
Wastewater	31,473,874	32,343,760	32,518,942	32,488,857
Water	35,647,884	35,503,989	36,029,727	36,959,311
			\$1,092,200,377	\$1,153,900,337
Cable Television ²	\$784,000	\$972,000	\$981,000	\$757,000
Electric	41,455,886	42,773,482	36,904,719 ¹	31,188,177
Natural Gas	15,710,652	18,010,521	8,789,246	6,580,788
Refuse	2,817,821	3,885,765	2,632,125	3,497,368
Steam Heat	Not reported	(2,796,173)	(1,492,060)	(1,057,779)
Telecommunications ³	24,105,402	32,992,147 ¹	37,839,669 ¹	39,501,928
Wastewater	4,067,810	5,016,028	4,988,554	4,058,481
Water	6,224,657	208,994	6,811,516	5,857,628
	\$7,395,828	\$310,966,601	\$97,154,769	\$90,383,591
Cable Television ²	9,420	7,822	8,130	8,130
Electric	218,621	225,821	229,306 ¹	233,199
Natural Gas	98,220	99,285	103,728	108,487
Refuse	52,116	50,359	51,160	52,315
Steam Heat	Not reported	124	135	148
Telecommunications ³	427,000 ¹	534,555 ¹	592,815	570,216
Wastewater	57,364	62,949	59,219	60,057
Water	58,212	60,586	60,292	60,150
	\$726,952	\$1,041,581	\$1,105,787	\$1,092,707

¹ Figures have been restated to correct compilation errors in summarizing reported data in previous annual reports.

² Cable television is not regulated by the Commission as to rates and services with the exception of GCI Cable, in Juneau, which is rate regulated for basic tier channels.

³ Includes local exchange carriers only.



"Keep Alaska's bears wild, handle your garbage responsibly." Photo is courtesy of Waste Management of Alaska, Inc.

REFUSE EVENT

Consolidation of Refuse Certificates; Waste Management of Alaska, Inc.

Waste Management of Alaska, Inc. (WMA), a wholly owned subsidiary of USA Waste Management, Inc., filed to consolidate all refuse utilities owned under a single certificate and tariff. The Commission approved WMA's application to merge its refuse public utility operations in Alaska under a single certificate. The Commission also approved an application to change the utility's name to Waste Management of Alaska, Inc. d/b/a Anchorage Refuse, Andersen Services, Arrow Refuse, Peninsula Sanitation, Star Sanitation Service, Tongass Sanitation, Wasilla Refuse, and Williwaw Services. The Commission will review the rate impact of this consolidation in 2003. Docket: U-00-30, pending

TELECOMMUNICATIONS EVENTS

Local Competition in Fairbanks and Juneau

The Commission prevailed on appeals filed by incumbent carriers who seek to overturn the Commission's orders to open up local competition in the Fairbanks and Juneau areas (U-97-82/143/144 and U-99-141/142/143) litigation is still pending. If the incumbent carrier is successful in overturning key Commission decisions in these areas, local competition

in rural Alaska markets could be delayed or halted. The Commission spent significant resources to review and resolve various disputes and requests concerning carrier-to-carrier practices and interconnection agreements. Dockets: U-96-89, U-01-37, U-01-41, U-02-18, pending

Designation of Public Interest Pay Telephones

The Commission requested applications from eligible providers, following the adoption of regulations for the provision of public interest pay telephones in 2000. After final selections are made, at least one public pay telephone will be available in each community where a need for service exists. The public pay telephones will be subsidized through the Alaska Universal Service Fund. Dockets: R-97-03, U-01-124, pending



Alaska Power & Telephone Company (AP&T) customer representatives make a call. Photo is courtesy of AP&T.

Consideration of the Reform of Intrastate Interexchange Telecommunications Market Structure and Regulations

The Commission continued to review regulations governing the intrastate interexchange market, access charge reform, and a variety of other matters. The review of interexchange market rules includes whether to change the responsibilities of the carrier of last resort within the state and what regulations should apply to the rates and services provided by long distance carriers to consumers and to other carriers.



Appropriate Use of Federal Universal Service Funds by Telecommunications Carriers

As a prerequisite for continued receipt of Federal Universal Service Funds, the Federal Communications Commission (FCC) requires the Commission to annually certify whether Eligible Telecommunications Carriers (ETC) in Alaska will use the funds only for the provision, maintenance, and upgrading of facilities, and services for which the support was intended. The Commission reviewed the information concerning the use of federal funds by each ETC in Alaska and on September 26, 2001, certified to the FCC that the funds received in 2002 would be appropriately used. Docket: U-01-90, pending



New water pipes to be installed in Anchorage. Photo courtesy of Municipality of Anchorage. Photo by: Anchorage Daily News, 10/1/01.

Water and Wastewater Utility

Application Submitted to Girdwood: Municipality of Anchorage d/b/a Anchorage Water and Wastewater Utility

The Commission approved Municipality of Anchorage d/b/a Anchorage Water and Wastewater Utility's (AWWU) application to amend its certificate and expand service into the entire Girdwood area. The Commission found AWWU would meet the fire flow needs of a proposed Girdwood Post Office. Anchorage Water and

Wastewater Utility will also offer a viable alternative to an existing small water utility if the utility experiences financial, managerial, or technical difficulties. Docket: U-01-35, closed (6/10/02)

Consideration of the Regulations for Certificated Small Public Water and Wastewater Systems

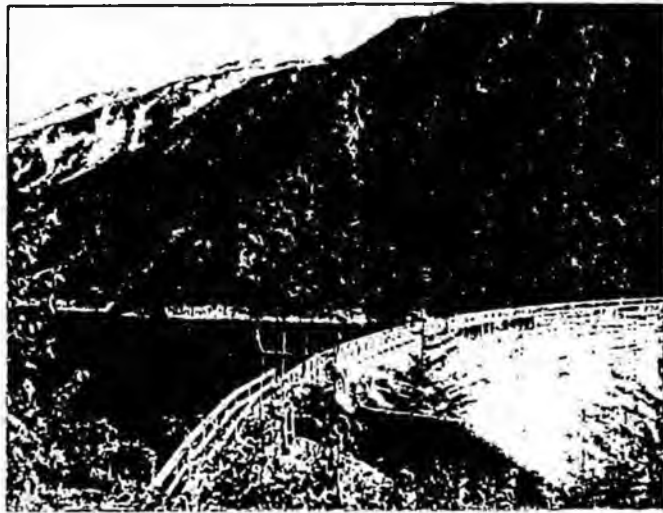
The Commission initiated an inquiry into the development of new regulations for small public water and wastewater systems as part of the State of Alaska's responsibility to the U.S. Environmental Protection Agency to implement the Safe Drinking Water Act. The State must demonstrate an effective strategy with control points to achieve statewide technical, financial, and managerial fitness or available funds could be reduced for Alaska's safe drinking water program. The Alaska Department of Environmental Conservation (ADEC) is pursuing a "Capacity Development Program" to improve the operation of small water and wastewater systems. The Commission has been working closely with ADEC and other stakeholders to develop a unified strategy to effectively implement the Capacity Development Program, so that the U.S. Environmental Protection Agency's requirements are met while minimizing regulatory redundancies. Docket: R-02-04, pending

Denied Request to Recover Acquisition Adjustment and Approved Cost Based Interim and Refundable Rate Relief; Golden Heart Utilities, Inc.

Golden Heart Utilities, Inc. (GHU) water and wastewater divisions was denied a rate relief to recover an amount in excess of the price purchased for the systems acquired from Fairbanks Municipal Utilities System (U-00-115/116). However, GHU was granted an interim and refundable rate relief based on reported increases in actual investment and operating costs for the utility in test-year filings. Dockets: U-02-13, U-02-14, pending



TRANS ALASKA PIPELINE SYSTEM EVENTS



Salmon Creek Dam in Juneau generates over 10 percent of the city's hydroelectric power. Photo is courtesy of Alaska Electric Light & Power Company.

NORTH SLOPE PIPELINE EVENTS

Transportation Rate Settlement Agreement, Alpine Transportation Company

The Commission accepted the rate settlement for the 2001 transportation rates based on a Settlement Agreement between the State of Alaska and Alpine Transportation Company. The agreement prescribes a methodology under which the pipeline carrier must file rates at or below the maximum calculated rate. Docket: P-00-15, pending

Pipeline Certification, BP Transportation (Alaska) Inc.

The Commission granted, on an interim basis, a connection permit to BP Transportation (Alaska) Inc., to connect the Northstar Oil Pipeline to the Trans Alaska Pipeline System at Pump Station No. 1. The Commission will grant a final permit if specific terms and conditions of the connection are found reasonable. Docket: P-01-06, pending

Interim Connection, Milne Point Pipeline Company

The Commission granted, on an interim basis, a connection permit to Milne Point Pipeline Company to connect to the Oliktok Pipeline Company. The Commission will grant a final permit if specific terms and conditions of the connection are found reasonable. Docket: P-01-07, pending

Reopened Quality Bank Proceedings, Trans Alaska Pipeline System Company

The Federal Energy Regulatory Commission (FERC) consolidated its Trans Alaska Pipeline System (TAPS) quality bank proceedings and ordered hearings before a FERC administrative law judge. In order to place the Commission's quality bank proceedings in the same procedural status as those of the FERC, the Commission reopened Docket P-98-09; consolidated the Commission's quality bank dockets; directed that concurrent hearings be held with the FERC; and appoint an administrative law judge. Hearings in this docket will be held concurrently with FERC hearings regarding the quality bank proceedings in the fall of 2002. Docket: P-89-02, pending

Transfer of ownership, Phillips Transportation Alaska, Inc.


The Commission approved the transfer of a 3.0845 percent interest in the Trans Alaska Pipeline System pipeline and terminal assets from BP Pipelines (Alaska) Inc. (BP), to Phillips Transportation Alaska, Inc. In previous years, BP owned approximately 50 percent of the pipeline, but currently owns approximately 47 percent. Phillips Transportation Alaska, Inc. ownership has increased from approximately 24 to 27 percent. Docket: P-01-08, pending




Alaska Pipeline System is a vital link in the state's energy infrastructure. Photo is courtesy of the Alaska Pipeline System.




ELECTRIC EVENTS

 *Transfer Price of Gas Methodology Argued; Municipality of Anchorage d/b/a Municipal Light & Power Department*


Municipality of Anchorage d/b/a Municipal Light & Power Department (ML&P) proposed to compute the transfer price of gas (associated with ML&P's purchase of one-third interest) from Beluga River Gas Field using the rate base/rate of return methodology. Subsequently, the PAS proposed using the Debt Service Coverage methodology, which the Commission approved. Docket: U-96-36, pending

 *Wholesale Rates Determined; Chugach Electric Association, Inc.*


Chugach Electric Association, Inc. (Chugach) proposed rates for its wholesale customers Matanuska Electric Association, Inc., Homer Electric Association, Inc./Alaska Electric Generation & Transmission Cooperative, Inc. (AEG&T) under the terms of the Settlement Agreement. The PAS argued that certain costs incurred by Chugach should not be included in the rate and recommended other cost reductions. The Commission agreed and ordered the cost reductions. Matanuska Electric Association, Inc. and AEG&T disputed the cost allocations proposed by Chugach. The PAS argued against changing the allocations, pointing out the Settlement Agreement specified that allocations were to remain unchanged until a general rate case is filed. The Commission agreed and required compliance with the approved Settlement Agreement. Docket: U-96-37, pending

 *Methodology for Line Loss Factor Established; Chugach Electric Association, Inc.*

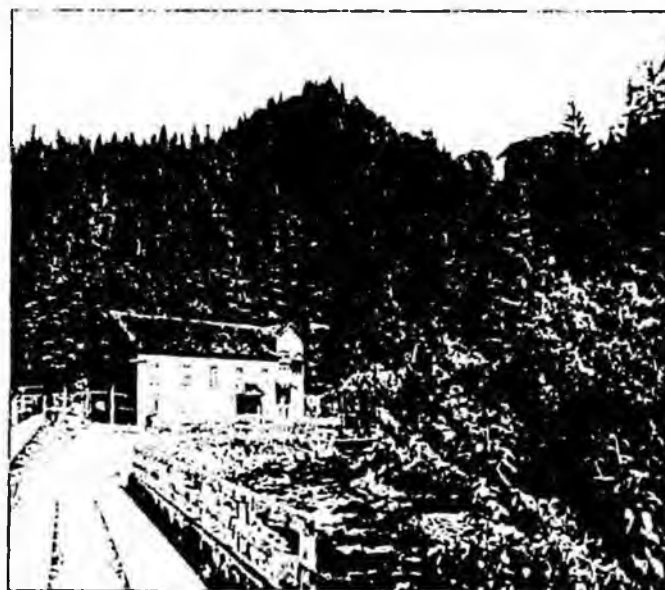
Chugach Electric Association, Inc. (Chugach) and its wholesale customers disagreed on how to measure and allocate line-loss. In fiscal year 2001, the PAS and other parties (Chugach, Alaska Electric Generation & Transmission Cooperative, Inc., Matanuska Electric Association, Inc., and Homer Electric Association, Inc.), presented a panel of experts to agree upon an approach through the use of a consultant. The Commission accepted the consultant's study and all issues have been stipulated with the Commission's approval pending. The PAS participated in numerous technical meetings and negotiations. Docket: U-99-106, pending

 *Inclusion of Fixed Cost in COPA Power Adjustment Argued; Homer Electric Association, Inc.*

The Commission opened an investigation into the use of Homer Electric Association, Inc.'s (HEA) Cost of Power Adjustment (COPA) to recover the fixed costs of an affiliate, Alaska Electric Generation & Transmission Cooperative, Inc. The PAS argued against the use of HEA's COPA to recover fixed costs. The Commission approved the exclusion and the affiliate's fixed costs will be determined in a pending docket. Docket: U-00-18, pending

 *Electric Rates Stipulated; Golden Valley Electric Association, Inc.*

Golden Valley Electric Association, Inc. (GVEA) filed revenue-requirements, cost of service study, and a rate design study to justify a rate reduction. The PAS reviewed GVEA's financial records and applied general rate making principles to reach a settlement agreement with GVEA. The result was a 2.6 percent reduction in rates. The Commission approved the stipulation and the rate decrease was implemented. Docket: U-00-93, pending



Taken out of service in 1993, this is one of two power houses built to generate power that led water from the Salmon Creek Dam. Photos courtesy of Alaska Electric Light & Power Company.



TELECOMMUNICATIONS EVENTS

Local Exchange Rates for 75-Percent of Ratepayers Statewide Argued; Alaska Communications Systems, Inc.

Alaska Communications Systems, Inc. (ACS) local exchange companies filed for rate increases in the service areas of Anchorage, Fairbanks, Juneau, and Sitka. The PAS filed testimony of two outside consultants and a PAS witness. During the proceeding, the PAS, ACS, and GCI Communication Corporation agreed to stipulate operating expenses and to include profits in the rates. A five-day hearing was held on depreciation expense, the largest single expense included in rates. Dockets: U-01-34, U-01-82, U-01-83, U-01-84, U-01-85, U-01-87, pending

Rural Exemption for Wireless Service Examined; Alaska Power & Telephone Wireless, Inc.

Alaska Power & Telephone Wireless, Inc. filed an application to provide local wireless service in Ketchikan. The Commission requested information to evaluate the applicability of the rural exemption. The PAS filed a legal brief regarding rural exemption issues and the utility's requirement to meet eligible telecommunications carrier laws under the Telecommunications Act of 1996. Docket: U-01-109, pending

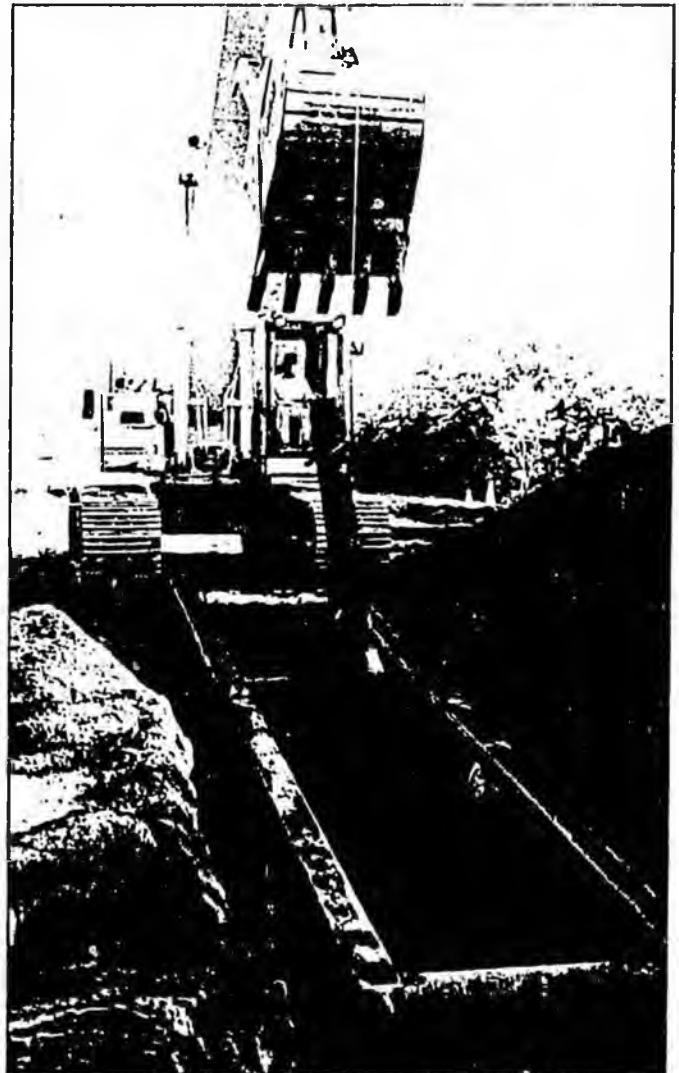


Alaska Power & Telephone Company (AP&T) technician, Clinda Hanson is with the Power Division of Wales Island. Photo is courtesy of AP&T.

WATER & WASTEWATER EVENT

Rate Increases Argued; Golden Heart Utilities, Inc.

Golden Heart Utilities, Inc. (GHU) filed revenue-requirements and rate design studies for a proposed rate increase. The PAS countered with several proposed reductions. The Commission agreed with most of the PAS' reductions in cost and issued an order. Immediately following the Commission's order, GHU filed a second request for an increase in rates, which is still pending. Dockets: U-00-115, U-00-116, U-00-146, closed (5/21/02); U-02-13, U-02-14, pending



Alaska Water and Wastewater Utility (AWWU) replaces old wooden water pipes. Photo is courtesy of Municipality of Anchorage & AWWU.



Complaints by Fiscal Year

Complaints	1999	2000	2001	2002
Complaints Opened	793	590	682	728
Complaints Closed	818	605	670	719
Complaints Pending (start of fiscal year)	47	22	7	19
Complaints Pending (end of fiscal year)	22	7	19	28

The table to the right shows the number of informal complaints that were filed, processed, and closed. Complaints that were pending during the year are also included in the table.

Customer Billing Practice

Customer Billing Practice - *Chugach Electric Association, Inc.*

A customer of Chugach Electric Association, Inc. (Chugach) filed an informal complaint with the Commission disputing the utility's billing practice. The utility had transferred a delinquent balance from the customer's business account to the customer's residential account. Staff investigated the complaint, and notified the customer that Chugach could not disconnect residential service for an outstanding business account balance, nor could Chugach disconnect service for nonpayment of a bill related to another class of service at a different service location. Chugach acknowledged that as the customer kept the residential account current, Chugach could not disconnect residential service for the outstanding business account. However, Chugach would disconnect the residential account if it became delinquent. Additionally, if the residential service was ever permanently disconnected at the customer's request or temporarily disconnected to transfer from one location to another, Chugach would require the delinquent business balance to be paid in full as a condition before starting new service. In review of the customer's account, Chugach found unclaimed capital credits for the business account and together with the customer, reached agreement for the unpaid balance that would be paid over the next few years with the proceeds from the capital credit. The complaint was resolved to the customer's satisfaction when Chugach agreed to remove the balance that was transferred to the residential account. Consumer Protection File: C-02-180, closed (4/29/02)

Telecommunications Service

Customer Blocking of Internet Access - *Summit Telephone & Telegraph Company*

Summit Telephone & Telegraph Company d/b/a Summit Telephone Company (Summit) established a two-way Extended Area Service (EAS) between local exchanges in Chatanika, Haystack, Cleary Summit, and Fairbanks through the Basic Exchange Telecommunications Radio Service (BETRS). The service allows customers to call on the BETRS system, to and from certain communities without incurring long distance charges. Summit became concerned when customers found it difficult to place telephone calls due to the congestion caused by increased Internet usage and the limited capacity of BETRS. Therefore, Summit notified customers and the Commission, that it would immediately block EAS access to Internet providers, causing customers to pay a long distance charge when they connect to the Internet.

The Commission received complaints opposing Summit's actions blocking EAS and argued that charges for Internet use violated the Commission's approved stipulation providing for two-way EAS. Summit was granted an interim EAS blocking of Internet calls and required to report improvements to the BETRS in the Chatanika, Haystack, and Cleary Summit areas. Docket: U-02-17, pending



Tariff Filings	1999	2000	2001	2002
Processed Routinely	560	411	475	455
Suspended	40	63	63	50
Withdrawn	17	23	23	9
Rejected	8	9	1	0
Pending	8	38	14	22
Totals	633	544	586	556

The figure above is the comparison of filed tariff applications.

Tariff Revisions	1999	2000	2001	2002
General Rate Change ¹	47	49	30	41
General Rate Restructure	0	2	5	0
Simplified Rate Filing	2	0	6	4
New Service/Equipment Offering	168	143	100	91
Nonrecurring Rate	8	5	7	19
Universal Access Surcharge	30	4	1	1
Regulatory Cost Charge	75	107	110	106
Contracts	46	16	24	25
Fuel, gas, and purchased power surcharges; Power Cost Equalization filings; and nonfirm power purchase rates ²	133	85	124	117
Rule Change	76	55	59	40
Miscellaneous	48	78	110	68
Promotions ³	0	0	0	24
	633	544	586	556
	11.0%	11.0%	11.0%	11.0%

¹ In previous annual reports, some filings now shown in this category were classified as Miscellaneous. The General Rate Change category does not include simplified rate filings.

² There were no Power Cost Equalization (PCE) base rate changes for 2000, one PCE funding level change in 2001, and two PCE funding level changes in 2002.

³ In previous annual reports, Promotions were counted under Miscellaneous.



CERTIFICATION PROCEEDINGS

Prepared by Joyce A. Sweeney

Every utility (with limited exceptions) and pipeline carrier must obtain a certificate of public convenience and necessity to provide service to the public for compensation. The Commission must approve all amendments to, or transfers of, certificates, as well as acquisitions of controlling interest in certificate holders. In fiscal year 2002, the Commission processed 63 applications for certificates.

The table to the right shows the number of certification proceedings filed during the year.

The criteria for issuing certificates is prescribed by law. The service must be required for the public convenience and necessity, and the applicant must be fit, willing, and able to provide the service.

Most small electric utilities in the Power Cost Equalization program applied for certificates prior to fiscal year 1989. Several of these applications are still pending approval because of incomplete financial information or system safety considerations.

The table to the right shows the number of certification proceedings filed during the year.

<i>Certification Proceedings</i>	1999	2000	2001	2002
Cable Television	0	2	3	3
Electric	3	4	7	6
Natural Gas	2	2	1	0
Pipeline	6	11	7	5
Refuse	9	6	3	3
Steam Heat	0	0	0	0
Telecommunications	61	55	42	37
Wastewater	1	2	4	2
Water	5	2	6	7
<i>Totals</i>	<i>87</i>	<i>87</i>	<i>73</i>	<i>63</i>

<i>Certification Proceedings</i>	1999	2000	2001	2002
Acquisitions	7	3	2	4
Amendments	9	13	12	4
New Certificates	50	39	33	34
Certificate Transfers	9	23	13	13
Exemption from Certification	0	0	2	1
Discontinuation of Service	1	0	7	5
Temporary Operating Authority	3	1	0	0
Other	8	5	4	2
<i>Totals</i>	<i>87</i>	<i>81</i>	<i>73</i>	<i>63</i>

SUMMARY OF FILINGS

A substantial part of the Commission's mission is to handle and process tariff filings, formal proceedings, informal complaints, and certification proceedings. Each document filed with the Commission is electronically scanned, categorized, appropriately routed, and filed. All documents received are posted daily to the Mailsheet (Daily Filings) and available to the public for viewing on the Commission's website.



Aerial photo of Haines, Alaska. Photo courtesy of Alaska Power & Telephone Company.



ALASKA SUPREME COURT CASES

Chugach Electric Association, Inc. v. the Regulatory Commission of Alaska

In fiscal year 1997, Chugach Electric Association, Inc. (Chugach) attempted to arrange power sales contracts with customers in the exclusive service territory of Municipality of Anchorage d/b/a Municipal Light & Power Department (ML&P). After which ML&P filed a complaint with the Alaska Public Utilities Commission (APUC). After briefing, the APUC issued an order prohibiting Chugach from selling power to customers in ML&P's service territory without obtaining a certificate for that service. The Alaska Supreme Court affirmed the APUC order. Case: S-09692, closed

Matanuska Electric Association, Inc. v. Chugach Electric Association, Inc.

In 1997, Matanuska Electric Association, Inc. (MEA) complained that the Cost of Power Adjustment (COPA) for wholesale power it purchased from Chugach Electric Association, Inc. (Chugach) was unjust and unreasonable because Chugach used an excessive line-loss factor in the computation. The Alaska Public Utilities Commission (APUC) issued U-97-36(13), which required Chugach to recalculate the COPA balancing account for 1995 through 1997 and refund excessive charges to its wholesale customers. The superior court reversed the APUC decision and MEA appealed to the Alaska Supreme Court. The Regulatory Commission of Alaska filed an *amicus curiae* brief asking the court to remand the case to the RCA. Case: S-09839, pending

ACS of Anchorage, Inc., ACS of the Northland, Inc., and ACS of Fairbanks, Inc. v. Regulatory Commission of Alaska and GCI Telecommunication Corporation

The Alaska Communications Systems, Inc.'s local exchange companies appealed from the superior court decision affirming the Commission's order terminating the rural exemption under the Telecommunications Act of 1996. Case: S-10466, pending

SUPERIOR COURT CASES

Chugach Electric Association, Inc. v. Municipality of Anchorage d/b/a Municipal Light & Power Department (ML&P)

After Municipality of Anchorage d/b/a Municipal Light & Power Department (ML&P) filed an application to provide electric service to a non-military customer located on Fort Richardson Army Post, the Regulatory Commission of Alaska (RCA) ruled that ML&P should list its Army Post customers in its tariff rather than in the service area description in its certificate. Municipality of Anchorage d/b/a Municipal Light & Power Department petitioned for reconsideration and Chugach Electric Association, Inc. (Chugach) sought to intervene. After extensive briefing, the RCA ruled that it has concurrent jurisdiction on the military bases so long as there is no conflict with federal law. The RCA held there is no conflict with federal law where no issue of competitive procurement is involved. The RCA determined that it would continue to follow the past practice of listing ML&P's Army Post customers in the service area description of its certificate. The superior court affirmed in the fiscal year of 2002 the RCA's order, holding that the issue Chugach attempted to appeal is not ripe for adjudication. Case: 3AN-01-8288 CI, closed



Two utility workers inspecting a power pole. Photo courtesy of WEA.

9th CIRCUIT COURT OF APPEALS

G *ACS of Fairbanks, Inc., et al. v. Regulatory Commission of Alaska and GCI Communication Corporation*

These consolidated appeals arose from Alaska Communications Systems, Inc.'s (ACS) original action in federal court seeking injunctive and declaratory relief from the Regulatory Commission of Alaska's decisions approving the results of arbitration in GCI Communication Corporation's request for interconnection under the Telecommunications Act of 1996. The issue in Case No. 01-35344 is whether, by conducting interconnection proceedings under the Telecommunications Act, the Commission has waived the state's 11th amendment immunity from suit in federal court. In the cross-appeal, Case No. 01-35375, ACS appealed the federal district court's grant of a stay of the entire action pending the 9th Circuit's decision on the 11th amendment issue. Cases: 01-35344, 01-35375, pending

STATUTES

The Alaska Legislature reorganized and renamed the Commission to the Regulatory Commission of Alaska (RCA) in 1999 as the state agency responsible for regulation of utilities and pipeline carriers. The RCA exists as an independent agency within the Department of Community and Economic Development under AS 42.04.010. Other provisions in the same chapter of AS 42.04 establish the RCA's structure, provide for the appointment and terms of commissioners and the employment of staff, specify powers and duties of the chair, and describe decision-making procedures for the RCA. The RCA has authority to investigate, hold hearings, prescribe systems of accounts, require the filing of reports, adopt regulations, and take other lawful actions necessary to accomplish the stated purposes of the Alaska Public Utilities Regulatory Act, AS 42.05, and the Pipeline Act, AS 42.06. The RCA's principal regulatory functions are certification and economic regulation (3 AAC 48.820(43)), which includes regulation of rates, quality of service, management practices, and consumer complaints.

The RCA has jurisdiction over public utilities providing electric, telecommunications (interexchange, local exchange, and cable television), steam heat, water and wastewater, natural gas, and refuse.¹ The term "public utility" is defined in AS 42.05.990(4) to mean, in general, an entity that provides any of these utility services to ten or more customers for compensation, or that sells wholesale service to a utility serving ten or more customers.

However, AS 42.05.711 provides statutory exemptions from economic regulation and, in some cases from the certification requirement, for certain kinds of utilities.

- (1) Under AS 42.05.711(b), public utilities owned and operated by a political subdivision of the state are exempt from economic regulation, unless the political subdivision elects to be regulated by the RCA. However, if any utility of a political subdivision is in competition with any other utility, then all that political subdivision's utilities are regulated.²
- (2) Under AS 42.05.711(e), electric and telephone utilities with gross revenues less than \$50,000 are exempt from both certification requirements and economic regulation, unless 25-percent of their customers petition for regulation.
- (3) Under AS 42.05.711(i), refuse utilities with annual gross revenues of \$300,000 or less are exempt from economic regulation, unless customers that pay 25-percent of the utility's gross revenues petition the RCA for regulation under AS 42.05.712(h).
- (4) Under AS 42.05.711(k), cable television utilities are exempt from economic regulation, unless subscribers petition the RCA for regulation under the procedures in AS 42.05.712.
- (5) Under AS 42.05.711(f), (g), and (h), customers of various kinds of utilities may vote for exemption from regulation by the RCA under the procedures in AS 42.05.712.

¹ Under AS 42.05.990(4)(E), "public utility" also includes a petroleum or petroleum product distributor "when the consumer has no alternative in the choice of supplier of an alternative product or service at an equal or lesser price;..." No entities meeting this definition of "public utility" are currently certificated or regulated by the Commission.
² The utilities of the Municipality of Anchorage are the only utilities operated by a political subdivision that are currently subject to economic regulation by the Commission.

PHOTO CREDITS

The photos presented in this publication are courtesy of the following utilities and businesses:

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Municipality of Anchorage d/b/a Anchorage Water and Wastewater Utility (pages 16, 23, 29, 32, and back cover)

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TESTIMONY OF KRISTI CATLIN
HOUSE FINANCE COMMITTEE
HOUSE BILL 111
MAY 12, 2003

Good afternoon, Mr. Chairman and members of the committee. For the record, my name is Kristi Catlin, Director of Government Affairs for AT&T Alascom, with its main business address at 210 E. Bluff Drive, Anchorage, Alaska 99501.

Thank you for the opportunity to testify at this hearing. As you know, AT&T Alascom, and before that, Alascom, has a long history of providing telecommunications services to the state of Alaska. In fact, it has the longest history of any interexchange carrier in the state today.

We believe that both telecom service providers and policy-makers have a two-fold obligation to the constituents of this state. Those are to ensure that basic telecom services remain affordable to everyone in the state; and to provide a regulatory environment that fosters continued investment in the state telecom infrastructure, thereby ensuring that advanced services will reach to all parts of the state.

In the early days, Alascom was the only long distance carrier in Alaska, and as such, the regulated monopoly. In 1991, when intrastate long distance competition was initiated, additional regulations were developed to ensure that Alascom did not misuse its monopoly power to subvert competition. Those new regulations, at the same time, granted new long-distance competitors broad and significant freedoms. Competition grew and then flourished. In 1995 when AT&T bought Alascom, even though the market was already highly competitive, AT&T essentially bought a company regulated as though it were still a monopoly.

Many of the regulations that restrict AT&T Alascom today are vestiges of the old monopolistic environment. However, in this highly competitive marketplace, they do not serve as an incentive for investment – they only serve to add cost and thereby provide a disincentive for investment. As far as protection of the consumer on prices, we have almost 20 years of empirical evidence in the long distance market in the U.S. to show that competition serves the consumer well. In 1984, when AT&T was first broken up, the average discounted corporate minute was around \$.45. Today, the average discounted corporate minute is under \$.045. That's a whole order of magnitude swing. And yet, during that same time period, the long distance industry went from approximately \$9 - 10B to about \$90-110B. It was deregulation of the industry and the management of competition that spurred investment. And in 1995, when AT&T fell below 60% market share in the lower 48, the FCC ceased regulating AT&T as the "Dominant Carrier" and deemed the market for long distance as competitive.

And yet, here in Alaska, where AT&T Alascom now has 42% of the long distance business (and shrinking), and our largest competitor, GCI, has 46-48% of the long distance business (and growing), AT&T Alascom is still considered the Dominant Carrier, **despite a four-year attempt to get relief from this regulation at the RCA.** This regulation adds substantially to our cost structure for tracking, journalization, and reporting. It also adds regulatory process that our competitors don't have that keeps us from being competitive in the marketplace. The whole situation really begs a definition for "Dominance." Additionally, with the increased costs and inability to compete effectively because of outdated regulations, our ability to attract capital and invest in the network is severely hamstrung.

TESTIMONY OF KRISTI CATLIN
HOUSE FINANCE COMMITTEE
HOUSE BILL 111
MAY 12, 2003
Page 2

AT&T Alascom's proposed amendment language establishes a definition of "Dominance." The amendment is intended to level the playing field so that all carriers can play by the same rules. The specific relief that results from being relieved from Dominance is: (1) Elimination of the requirement to file a Form M annual report, which requires the separate journalization of costs and revenues; (2) Elimination of a daily 25% outage report and a quarterly Network Performance Report; and (3) Elimination of the more stringent Dominant Carrier tariff filing requirements.

The annual report requires costly billing-system development on every new offer (in all of AT&T's numerous billing systems), occasional re-programming on existing offers, and an intense three-month effort to produce the 78-page annual report, which consumes several groups inside AT&T. No other interexchange carrier is required to file this report. The network reports require that entire computer systems be maintained for reporting that do not exist anywhere else in the AT&T network, in addition to the labor required to produce the reports. No other interexchange carrier is required to file these reports. The tariff filing rules require that the Dominant carrier file all rate increases, or anything that might appear to be a rate increase, under a 45-day notice period with cost justification. All other carriers file on a 30-day notice period for similar filings, and are not required to file cost justification.

AT&T Alascom's amendment is specifically intended to benefit Alaska consumers by ensuring a healthy competitive environment through equalizing regulatory requirements for all players, by reducing regulatory cost, and by increasing competitive flexibility. By eliminating these additional costs and filing requirements, this amendment will directly increase AT&T Alascom's ability to more effectively compete. And we believe that consumers will ultimately benefit from the increased competition.

I believe that over the next 12-18 months, this state must wrestle with some difficult issues of telecom regulation. At stake is the very survival of an infrastructure that's struggling to keep up with the rest of the country. In a true free market, there is less regulation, not more. And competition, not regulation, becomes the force to shape the market.

I would ask you to carefully and thoughtfully consider the market dynamics at work here, and the definitions of broader market issues such as "Dominance" and "competition". I would also ask you to carefully consider your role in mandating an environment that has less regulation, not more, in order to create and maintain incentives to invest in the modern telecommunications infrastructure that all Alaskans desire.

As you consider House Bill 111 reauthorizing the RCA, please know that AT&T Alascom could support legislation which would extend the RCA for another 2-4 years, however, as we stated last year – only if the RCA is truly committed to bringing about regulatory reform.

Thank you, once again for this opportunity to present our testimony. I will be happy to answer any questions you may have.

House Finance Committee Testimony: CSHB111(L&C)
May 12, 2003 10:46 am

Mr. Chairman: Thank you for this opportunity to meet with you. I am Dave Harbour, Chairman of the Regulatory Commission of Alaska. My duty today, is to advise you on the many, complex fiscal and regulatory issues created when the House Labor and Commerce Committee added several telecommunications companies' amendments to the Commission's reauthorization bill.

My fellow Commissioners and I believe that both the industry and my agency face significant challenges with telecommunication policies and we are dedicated to addressing them in a fair and balanced way as you would wish. However, the amendments tacked on to this reauthorization bill will only address special interests of certain players at consumer expense, without addressing the fundamental problems. I will explain.

The Telecommunications Act of 1996 was designed to promote local competition in an industry dominated by the large Regional Bell Operating Companies. Alaska, however, doesn't fit this mold. Our local companies serve relatively small exchanges and are not the primary provider of intrastate long distance services. Anchorage's incumbent local exchange carrier faces competition from a company with access to cable facilities and a strong presence in the long distance market. Put simply, Federal policies were not designed with Alaska in mind.

Under the Act as interpreted by the Federal Communications Commission, we are required to set rates on a forward looking cost basis, regardless of whether the results reflect the existing costs faced by the incumbent carrier. We are required to follow Federal rules to determine profit when developing rates. In competitive areas such as Anchorage and Fairbanks, Federal law requires that carriers set interconnection rates based on Federal negotiation and arbitration standards.

Similarly, we are required to follow Federal policies to determine when a carrier may be deemed eligible to receive Federal universal service funding in competition with an incumbent. The FCC also controls how much support a competitor is eligible to receive.

Though we have opened up the long distance market to statewide facilities competition, the FCC still restricts where a carrier may build an earth station. Until the Federal policy is modified, Alascom's facilities monopoly in about 140 remote rural locations in the state will probably continue.

We are charged to enforce a host of Federal obligations and limitations on incumbent carriers and one of the reasons all states have regulatory agencies, is to deal with the details and complexities of changing federal rules, markets and technology. For example, our authority to regulate new technologies such as cable telephony or the new Broadband Power Line technology and our ability to require fair rates for interconnect to such emerging networks, is part of a new world of emerging issues.

These situations are challenges both for the industry and for the Commission. We welcome efforts to improve the current system. However, most of our challenges lie at the Federal level and that is where we believe much of the effort should be directed. We are discussing with the Governor's office, an effort (i.e. surely, in coordination with Senator Steven's office) to propose an Alaskan recommendation to the FCC allowing our state greater flexibility to manage competition, given our unique characteristics. All could benefit from such a solution, and we believe it will take Federal action, rather than changes in Alaska's statutes, to resolve most of the issues of current concern.

Many of the proposals before you attempt to solve the Federal problem by adopting state policies that conflict with Federal law. Statutory changes at odds with Federal law, will only lead to unnecessary litigation or federal preemption of state authority. This will increase the cost of regulation without a net benefit, since in the end, Federal law will prevail. Service to customers may be delayed or denied, and market instability may occur, as the industry and the Commission attempt to resolve these complex issues.

We believe it counterproductive to adopt any statutory changes that are inconsistent with Federal law, or that compromise the ability of the Commission to ensure due process when determining just and reasonable rates. The bulleted items below represent principle areas of concern. I have followed them with more detailed, section-by-section comments.

- The proposal would prematurely deregulate monopoly local and long distance carriers. Deregulation could occur when as many as 100% of the local customers in a given market had **no access** to a full-service competitor! Lack of price control may be especially critical in rural areas that may not face effective competition due to their remoteness, high cost and low population density.
- Except in very limited cases, the Commission could not require a carrier to upgrade its facilities¹ in light of consumer complaints. Customers unhappy with service quality could not obtain Commission help to require a utility to upgrade its facilities to meet a reasonable public need. Inadequate telecommunications infrastructure could defer economic development in rural areas.²
- Except in very limited cases, the Commission could not revise a carrier's depreciation rates to meet 'just and reasonable' ratemaking outcomes, or control the resultant increase in local rates, even if that carrier had already recovered the majority of its capital investment.

¹ The term, "facilities" generally means the electronic equipment, cables, and other infrastructure needed to provide service to customers.

² The Regulatory Commission of Alaska currently process approximately 730 citizen complaints per year, from the North Slope to Southeast Alaska. The majority of these, almost 600, are directed at telecommunications utilities. The Commission resolves complaints with utilities informally, when possible; at other times it adjudicates complaints through formal procedures.

- The Commission must accept a carrier's increased interconnection rates even when negotiation or arbitration fail and competitors contest those rates, if the carrier self-certified its compliances with the proposed act.

Our goal, as statutes direct, is to protect the public interest: determining through due-process, just and reasonable rates for consumers and the opportunity for utilities to gather fair returns on their investments. We support Governor Murkowski's clean version of the RCA reauthorization bill as the best way to protect the public interest. The proposed legislation cannot remedy defects with Federal policies and has the potential to increase customer rates while reducing quality of service in our state. Changes are best directed at the federal level through a coordinated effort by the administration, industry and the Commission. Thank you again for this opportunity to comment.

Section-by-Section Comments

Sec 2: Proposed AS 42.05.145(b):

- The proposal would prevent the Commission from treating monopoly local carriers as dominant carriers, limiting the Commission's ability to monitor and ensure fair consumer rates. Under proposed section AS 42.05.145(b), the Commission cannot regulate an incumbent local carrier as dominant if a) the carrier has less than 60% statewide market share and b) another carrier has an approved application to serve somewhere in the incumbent's service area. All local carriers in Alaska have less than 60% statewide market share, making 60% a meaningless and misleading distinction. As a result, incumbent local carriers would be deemed non-dominant when any other carrier receives certification, even though the competitor may never actually serve or may provide only limited service in the area. Rural local carriers already receive strong protection under the Act from competition. The Act's Rural Exemption releases a rural local carrier from federal forward-looking rate setting practices, unbundled network element policies and the duty to negotiate interconnection rates with a competitor.³ Further statutory protection is unneeded and risks harm to consumers. The long-standing policy of regulating monopolies remains valid and protects the public from undue rate increases and reductions in service quality.

Sec 3: Proposed AS 42.05.291(e):

- The first sentence of this proposal is unclear, but would apply to all utilities and would appear to prevent the Commission from requiring an updated quality of service standard to existing utility facilities or services, even if the current standards and requirements had become outdated or obsolete.

³ The Rural Exemption cannot be lifted unless the Commission finds that the result would not be unduly economically burdensome, is technically feasible and is consistent with provisions of the Act related to Universal Service. 47 U.S.C. 251(f).

- Under the second sentence of (e), the Commission would be unable to require any telecommunications utility to upgrade its plant in response to customer complaints or desires for improved service quality or availability. This prohibition would apply both to competitive and non-competitive markets. Given the long life of utility plant (at times decades), the proposed section (e) is especially damaging to consumers. Poor quality or antiquated telecommunications infrastructure could delay availability of Internet access and deter economic development in rural areas. Adequate protections exist to allow companies to explain why upgrades may be too expensive or impractical.

Sec 4: Proposed AS 42.05.381(k):

- This part of the proposal abides by neither the IRS depreciation standards nor traditional regulatory standards. One of the IRS' publications alone, on depreciation, consumes about 107 pages of text.⁴ In contrast, the pending proposal advocates one simple depreciation rule—*any rate is justified provided the life employed is no shorter than the service life permitted by the IRS*. The proposal ignores all other limitations, including that the utility stop recovering depreciation expense once the cost of an asset has been fully recovered. The proposal would also allow accelerated depreciation, making it possible for the carrier to increase its depreciation rates for the purpose of setting utility rates.⁵

Unlike the IRS, the Commission does not have a 107-page publication describing depreciation rates. We have flexibility and generally would allow a proposed depreciation rate if the utility could justify it. (However, utilities must supply accurate information and have not always done so.) This proposed legislation would effectively prevent review and approval of depreciation rates so long as the utility had claimed it had used the IRS lives.

- Given the constraints on Commission action, this proposal would curtail the Commission's authority to enforce the existing statutory requirement that depreciation rates not be excessive. AS 42.05.471
- Depreciation expense is a key component for determining rates for a utility. The Commission would have to accept a utility rate increase based on a potentially accelerated depreciation expense that could not be contested except in limited circumstance as specified by the amendment.

⁴ See IRS Publication 946.

⁵ Accelerated depreciation allows the utility to set a high depreciation rate in early years, followed (in theory) by a lower depreciation rate in later years. However, under this proposal, the utility would not be required to set a lower rate in later years, even if the utility had substantially recovered its investment.

Sec 4 (Cont.): Proposed AS 42.05.381(I):

- The first sentence allows the carrier to recover the costs "it expects to incur". While the meaning is vague, parties may argue that the Commission must accept the carrier's proposal even if costs were disputed. This provision may be inconsistent with the Act requirement that open issues be resolved through negotiation and arbitration.⁶
- The first sentence also requires that the carrier shall be "allowed a reasonable profit." In contrast, FCC policies state that normal profit is already embedded in the concept of forward-looking costs and so no additional profit component would generally be allowed when determining local interconnection rates.⁷ As a result, the intent of this provision appears to conflict with Federal policy.
- The second sentence states that "current costs" provide the best evidence for setting rates.⁸ However, this would be inconsistent with requirements of FCC regulations⁹ that local interconnection rates be based on forward-looking costs.
- The third sentence provides that depreciation and capital costs may reflect "increased business risk" and must be consistent with provision (k). As previously indicated, provision (k) would place no effective constraint on depreciation rates or capital recovery. As a result, the carrier could set its level of capital recovery virtually at will. This would be inconsistent with the Act and FCC requirements that rates be based on forward-looking costs. This provision would also be inconsistent with the requirement that rates be based upon negotiation and, if necessary, arbitration. To the extent a carrier has the ability to raise its interconnection rates¹⁰ in light of this provision, it could negatively affect competition and increase utility rates in the market. The term "business risk" is not defined and is legally arguable.
- The last section of this provision would make a carrier obligated to pay another carrier's investment costs if the first carrier at any time cancelled use of the other carrier's services. In a free market, competitors are not given full and unconditional recovery of investment, plus opportunity for double recovery. Yet that is what this proposal would achieve. The incumbent carrier would be fully compensated for its investment by a competitor, and then allowed further

⁶ 47 U.S.C. 251(c), 47 U.S.C. 252(b)(1).

⁷ FCC Order FCC 96-325, paragraph 700.

⁸ The term "current costs" probably means the costs as recorded in the utility's books and records. The current costs may reflect the utility's existing technology and past management decisions. In contrast, forward-looking costs attempt to estimate the costs if service were provided by an efficient provider and without limitations caused by historical factors.

⁹ 47 C.F.R. 51.505.

¹⁰ An interconnection agreement provides the terms and conditions for purchase of one carrier's services by a competitor.

opportunity for recovery as it uses those facilities for other purposes. New carriers may not want to risk entering Alaska markets knowing that by buying services from the incumbent, they may be required to pay all of the incumbent's investment within 90 days, as under this change.

Sec 5: Proposed AS 42.05.433(a) through (g). This proposal would allow full rate and quality of service deregulation of qualifying local and interexchange carriers. (Proposed AS 42.05.433(d)).

- It would prematurely deregulate local exchange carriers and allow deregulation even though 50% of the carrier's retail customers had no competitive choice. For example, if as a result of competition in Valdez, a carrier met the 50% benchmark, then service it provides to McCarthy would also be deregulated, even though the Commission might have a pending quality of service or rate complaint for that area.

As another example, if services in a big city are deregulated and the Incumbent is given flexibility to raise local retail rates and UNE¹¹ rates at will (as would occur under Sections 5 & 8), then customers in subdivisions where the Incumbent had the only facilities would be positioned to pay the Incumbent's price, either directly or indirectly as the Competitor passed on to its customers the costs of the higher Incumbent UNE rates. Further, the Commission would be unable to address consumer quality of service complaints like those recently raised against a large Incumbent for providing wireless services in place of wire line services in Anchorage and other locations.

- This proposal could prematurely deregulate the entire state for long distance services even though Alascom, Inc. retains a facilities monopoly in many areas of the state and the FCC prevents competitors from building duplicate earth stations in most of Alaska. We also note that the term "long distance" is not defined, and therefore the scope of deregulation could be quite broad.
- If deregulation occurs before effective competition exists throughout a Competitive Service Area, then customers are likely to experience rate increases and reduction of service quality. The Commission will be able to take no meaningful action when rates increase in areas with an effective monopoly. The Commission would also be unable to act on any resultant complaints until after a formal proceeding successfully led to repeal of the self-certification as the result of a written finding and order. Given the minimal standards for deregulation at section (g), it would be unlikely that the Commission could properly regulate an area, even if it concluded the carrier held an effective monopoly.

¹¹ Unbundled Network Element

- The amendment would allow monopoly and other carriers to deregulate their services at will by self-certifying that the area satisfies the competitive service area standard of the section. Upon self-certification, all pending Commission proceedings, including those involving consumer complaints would appear to cease. As a result, carriers would have an incentive to prematurely self-certify so as to avoid or delay continued scrutiny of pending quality of service or rate investigations.
- Provisions of (f) are problematic if the intent is to assign carrier of last resort obligations among interexchange carriers based on retail market share. A carrier may have a significant retail market share while owning few facilities. Such carriers may be unable to meet new, required carrier of last resort obligations absent construction of significant new, duplicative facilities. We may be forced to require carriers to build new facilities at locations where duplicate earth stations would make no sense. Carriers may be reluctant to enter the market if this means they must take on carrier of last resort obligations. It would further enhance incumbent monopolies.
- Sharing carrier of last resort responsibilities among several interexchange carriers has the potential to reduce quality of service. For example, the networks of the two largest carriers (Alascom and GCI) use incompatible technologies. As a result, calls between the two networks may require that a call be placed using multiple satellite hops, reducing call quality. Also sharing carrier of last resort responsibilities may leave the state dependent upon multiple carriers with a variety of potentially incompatible systems. This may compromise system reliability and make network-wide planning difficult. Further, determination of "carriers of last resort" will be controversial as we attempt to assure universal service while preventing "cherry picking" of the most profitable locations.

Sec. 5 (Cont.): Proposed AS 42.05.435

- The intent of section (b) is ill defined. This provision states that arbitrated rates should be set as close as possible to the prices arrived at between a willing buyer and a willing seller (i.e., "market prices") yet arbitration would likely only occur if the buyer and seller were unwilling to agree on rates. Nor is it clear which "willing buyers" and which "willing sellers" are referred to. It is not necessarily reasonable to base Alaska interconnection rates on the prices willing buyers and sellers may reach in the Lower 48.
- Section (c) requires that a carrier be "fully compensated" for all capital expenditures related to the furnishing of its facilities to another carrier. Put another way, the carrier must be compensated for its current costs of investment. However, FCC regulations require that UNE rates be based on forward looking costs. As a result this provision would appear inconsistent with federal requirements.

Sec 6: AS 42.05.810

- This section implies the Commission may regulate a long distance carrier as dominant when the carrier has a statewide market share of 60% or more. However, earlier provisions effectively deregulate the long distance market, rendering this section moot.

Sec. 8: APPLICABILITY

- This section allows the incumbent local exchange carrier to immediately adjust its interconnection rates after providing a written statement to the Commission certifying its compliance with the state law. Self-certification is inconsistent with requirements of the Act that allow a competitor (or the incumbent) to petition a state commission for compulsory arbitration of interconnection rate disputes. 47 USC 252(b). Further there is no mechanism to allow dispute of the incumbent's self certification (outside of litigation or Federal preemption). To the extent that the incumbent can implement unjustified, high interconnection rates at will, it has the potential to significantly reduce the level of competition and increase its ability to raise rates to Alaskan citizens.

Sec: 9: CARRIER OF LAST RESORT

- This provision requires the Commission to determine the financial cost of the obligation of being a carrier of last resort while other provisions remove the tools (i.e., accounting standards) necessary to determine what may be a valid obligation.
- Payment toward the carrier of last resort's obligation is a form of universal service support. The Act requires that "all providers of telecommunications services" pay such compensation.¹² As this provision would limit payment to carriers serving a competitive area, it violates the federal telecommunications Act.

¹² 47 U.S.C. 254(b)(4).

HB

111

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
 MAY 19 2003
 SENATE FINANCE
 COMMITTEE

DATE: 5/19/03

FURTHER:

DATE TURNED
 IN TO OFFICE: 19 May 2003

Finance Committee considered CS FOR HOUSE BILL NO. 111(JUD) am

HB 111 RCA EXTENSION & POLICIES

"An Act relating to policies in telecommunications regulations; extending the termination date of the Regulatory Commission of Alaska; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
D CED	5/19/03	10,092,2		

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

- APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Robin Taylor</i>			✓	
<i>Donna Huth</i>			✓	
<i>Richard C. Olson</i>			✓	
<i>Stacy Beard</i>	✓			
<i>Ben Stevens</i>	✓			
COCHAIR: <i>Linda Green</i>			✓	
COCHAIR: <i>Cony White</i>			✓	

FISCAL NOTE

REPORTED OUT

MAY 19 2003

SENATE FINANCE
COMMITTEE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 111(JUD) am
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Regulatory Commission of Alaska: BRU Regulatory Commission of Alaska (399)
Sunset Extension Component Regulatory Commission of Alaska
 Sponsor Rules by Request of the Governor
 Requester Senate Finance Component No. 2417

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	3,982.9	3,982.9	3,982.9	3,982.9	3,982.9	
Travel	60.0	60.0	60.0	60.0	60.0	
Contractual	1,920.0	1,920.0	1,920.0	1,920.0	1,920.0	
Supplies	62.5	62.5	62.5	62.5	62.5	
Equipment	13.8	13.8	13.8	13.8	13.8	
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	6,039.2	6,039.2	6,039.2	6,039.2	6,039.2	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						
1141 - RCA Receipts	6,039.2	6,039.2	6,039.2	6,039.2	6,039.2	
TOTAL	6,039.2	6,039.2	6,039.2	6,039.2	6,039.2	0.0

Estimate of any current year (FY2003) cost: 6,003.1
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	62	62	62	62	62
Part-time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)

This legislation extends the Regulatory Commission of Alaska (RCA) to June 30, 2007. In accordance with AS 44.66.010, funding is extended one year following the termination date allowing the commission to conclude its affairs. This legislation also requires the RCA review its telecommunications regulations, hold public hearings and propose regulations for improvement no later than November 15, 2003.

The RCA's budget is funded through the Regulatory Cost Charge (RCC) mechanism and direct charge mechanisms. No general funds are allocated for support of the agency. The RCC is recalculated each year and allows the agency to recover its operating costs through an assessment on the revenues of the utilities and pipeline carriers it regulates.

Prepared by: Dave Harbour, Chair Phone 907-276-6222
 Division: Regulatory Commission of Alaska Date/Time 5/19/2003 7:00:PM
 Approved by: Edgar Blatchford, Commissioner Date 5/19/2003
 Agency: Department of Community & Economic Development

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

February 18, 2003

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would extend the life of the Regulatory Commission of Alaska (RCA) to avoid its termination on June 30, 2003. The bill also includes a provision for an immediate effective date.

It is important to pass this bill before the RCA's termination date. The RCA regulates utilities statewide and intrastate pipelines. The continued operation of the RCA is essential to ensure that Alaskan consumers have reliable and affordable utility services and to assure a stable business environment for utilities and pipelines.

Failure to extend the commission this session would significantly interfere with its work. Though the sunset Act provides for a "wind down" year, the commission would have to redirect its time and energy to plan for closing its operations. Failure to extend the RCA would leave the regulated utilities as well as consumers in a state of confusion and uncertainty.

I urge your prompt and favorable action on this measure.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Frank H. Murkowski".

Frank H. Murkowski
Governor

SENATE FINANCE COMMITTEE

SIGN-IN

HB 111-EXTEND REGULATORY COMMISSION OF ALASKA

NAME: Dana Tindall Subject/Bill No: 111
Co./Dept./Title: Sr VP legal + Reg Affairs Phone: _____
Address: 2550 Denali Suite 1000 Zip: 99515
Do you wish to testify? Yes No Respond To Questions

✓ NAME: PATRICK LUBA Subject/Bill No: SB 111
Co./Dept./Title: LEG. REP AARP Phone: 907-762-3714
Address: 3601 C St #1420, A A Zip: 99503
Do you wish to testify? Yes No Respond To Questions

NAME: Kristi Catlin Subject/Bill No: 111
Co./Dept./Title: AT&T Alascom Phone: 907-229-7048
Address: 210 E. Bluff Drive Zip: 99501
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

HB

112

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: February 19, 2003

FURTHER REFERRALS:

Date of Committee Action: 2/27/03

The FINANCE Committee considered:

HB 112

HOUSE BILL NO. 112

AIDEA AUTHORITY TO ISSUE BONDS

"An Act relating to the authority of the Alaska Industrial Development and Export Authority to issue bonds; and providing for an effective date."

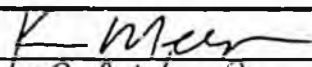
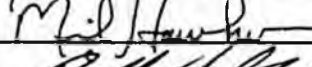

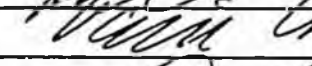



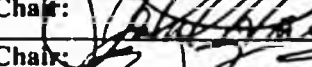

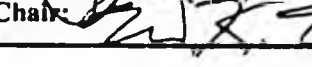
Recommends it be replaced with HCS or CS for HB 112 (FIN)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LEG
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
DEED	#1			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Meyer	✓			
	Hawker	✓			
	STOLTZE		✗	✓	
	Soule	✓			
	CROFT	✓			
	MOSES	✓			
	Whitaker	✓			
	FOSTER	✗			
Chair: 	Harris	✓			
Chair: 	Williams	✓			

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 112
 (H) Publish Date: 2/19/03

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title AIDEA Bonding Authority BRU AIDEA (125)
 Component AIDEA
 Sponsor Rules
 Requester Governor Component No. 1234

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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 (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation extends to July 1, 2007 the sunset of statutory authority for AIDEA to issue bonds that do not exceed \$10 million for development projects. Unless extended, AIDEA's general bonding authority would sunset on July 1, 2003.

Prepared by: Sara Fisher-Goad, Financial Analyst Phone 907-269-4623
 Division Alaska Industrial Development and Export Authority Date/Time 2/11/03 9:05 AM
 Approved by: Edgar Blatchford, Commissioner Date 2/11/2003
 Agency Department of Community & Economic Development

23-GH1018\D
Cook
2/25/03

adopted N/O

CS FOR HOUSE BILL NO. 112()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the authority of the Alaska Industrial Development and Export
2 Authority to issue bonds and to a municipal tax exemption for certain assets and
3 projects of the Alaska Industrial Development and Export Authority; and providing for
4 an effective date."

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

6 * Section 1. AS 44.88.095(g) is amended to read:

7 (g) Before July 1, 2007 [2003], the authority may issue bonds in an amount
8 greater than \$10,000,000 to assist in the financing of a development project under
9 AS 44.88.172 - 44.88.177 only with legislative approval. Beginning July 1, 2007
10 [2003], and thereafter, without prior legislative approval, the authority may not issue
11 bonds, except refunding and conduit revenue bonds.

12 * Sec. 2. Sections 3 and 19, ch. 117, SLA 2000, are repealed.

13 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).



AIDEA Comments on HB 112

House Bill 112 "An Act Relating to the authority of the Alaska Industrial Development and Export Authority to issue bonds; and providing for an effective date."

HB112 extends AIDEA's general bonding authority to July 1, 2007. Without the extension AIDEA would need legislative authorization to issue bonds for development projects under \$10,000,000. AIDEA would also be restricted from issuing any bonds to finance the purchase of loan participations without legislative authorization.

Examples of bond issues that AIDEA has issued that would require legislative authorization after July 1, 2003 if the bonding authority were to sunset:

- \$8,020,000 AIDEA Revolving Fund Bonds, Series 1995A. Provided tax-exempt funds for a loan participation made to Kodiak Fishmeal Company for a fish by-product processing plant.
- \$7,000,000 AIDEA Revolving Fund Bonds, Series 1991A. Provided tax-exempt funds for the expansion and improvement of the Unalaska Marine Center. (This project also had legislative authorization.)

The following requirements are not affected by HB 112:

- ✓ All development projects over \$10,000,000 for which bonds are to be issued require legislative authorization prior to issuing the bonds.
- ✓ Prior to issuing bonds over \$6,000,000, AIDEA is required to receive approval from the local government in which the project is to be located.
- ✓ All development projects for which bonds are to be issued require AIDEA to make findings that the project is economically and financially feasible.

Recently, AIDEA has only issued refunding and conduit revenue bonds which are not affected by HB112. If this bill does not pass, AIDEA will continue to have the ability to issue refunding bonds and conduit revenue bonds; however, the sunset extension provides AIDEA the flexibility to assist in the financing of key development projects. If this authorization is allowed to sunset, and depending on the timing of the potential projects, AIDEA may have to wait for legislative authorization to issue bonds. Allowing the bond authority to sunset would eliminate a tool for AIDEA to use to assist projects that could provide an economic benefit to the state.

HB

112

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
 MAY 18 2003
 SENATE FINANCE
 COMMITTEE

DATE: 3/12/03

FURTHER:

DATE TURNED IN TO OFFICE: 18 May 2003

Finance Committee considered CS FOR HOUSE BILL NO. 112(FIN)

HB 112 AIDEA : BONDS & MUNICIPAL TAX EXEMPTION

"An Act relating to the authority of the Alaska Industrial Development and Export Authority to issue bonds and to a municipal tax exemption for certain assets and projects of the Alaska Industrial Development and Export Authority; and providing for an effective date."

and recommends:

- be replaced with S CS CS HB 112 (FIN)
- adopt previous _____ CS CS forthcoming (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

- Senate Bill:**
 same title
 new title
- House Bill:**
 same title
 technical title
 new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
<u>DCED</u>	<u>7/11/03</u>		<input checked="" type="checkbox"/>	<u>#1</u>

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<u>[Signature]</u>	<input checked="" type="checkbox"/>			
<u>[Signature]</u>	<input checked="" type="checkbox"/>			
<u>[Signature]</u>	<input checked="" type="checkbox"/>			
<u>[Signature]</u>			<input checked="" type="checkbox"/>	
<u>Ben Stevens</u>	<input checked="" type="checkbox"/>			
COCHAIR: <u>[Signature]</u>	<input checked="" type="checkbox"/>			
COCHAIR: <u>[Signature]</u>	<input checked="" type="checkbox"/>			

FISCAL NOTE

REPORTED OUT
 MAY 18 2003
 SENATE FINANCE
 COMMITTEE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 112
 (H) Publish Date: 2/19/03

Revision Date/Time (Note if correction): _____

Dept. Affected: DCED

Title AIDEA Bonding Authority

BRU AIDEA (125)

Component AIDEA

Sponsor Rules

Requester Governor

Component no. 1234

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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)

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation extends to July 1, 2007 the sunset of statutory authority for AIDEA to issue bonds that do not exceed \$10 million for development projects. Unless extended, AIDEA's general bonding authority would sunset on July 1, 2003.

Prepared by: Sara Fisher-Goad, Financial Analyst
 Division: Alaska Industrial Development and Export Authority
 Approved by: Edgar Blatchford, Commissioner
 Agency: Department of Community & Economic Development

Phone 907-269-4623
 Date/Time 2/11/03 9:05 AM
 Date 2/11/2003

SENATE CS FOR CS FOR HOUSE BILL NO. 112(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the authority of the Alaska Industrial Development and Export
2 Authority to issue bonds and to a municipal tax exemption for certain assets and
3 projects of the Alaska Industrial Development and Export Authority; and providing for
4 an effective date."

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

6 * Section 1. AS 44.88.095(g) is amended to read:

7 (g) Before July 1, 2007 [2003], the authority may issue bonds in an amount
8 greater than \$10,000,000 to assist in the financing of a development project under
9 AS 44.88.172 - 44.88.177 only with legislative approval. Beginning July 1, 2007
10 [2003], and thereafter, without prior legislative approval, the authority may not issue
11 bonds, except refunding and conduit revenue bonds.

12 * Sec. 2. Section 19, ch. 117, SLA 2000, is amended to read:

13 Sec. 19. Section 3 of this Act takes effect July 1, 2007 [2004].

14 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 18 May 2003 TIME: 1:30 pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please

SCS CS HB 112

23-GH1018\U

Cook

5/17/03

no changes

Thx
Mindy

FAILED To BE ADOPTED 4/30/03

23-GH1018V
Cook
4/29/03

SENATE CS FOR CS FOR HOUSE BILL NO. 112(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the authority of the Alaska Industrial Development and Export
2 Authority to issue bonds and to a municipal tax exemption for certain assets and
3 projects of the Alaska Industrial Development and Export Authority; and providing for
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5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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8 greater than \$10,000,000 to assist in the financing of a development project under
9 AS 44.88.172 - 44.88.177 only with legislative approval. Beginning July 1, 2007
10 [2003], and thereafter, without prior legislative approval, the authority may not issue
11 bonds, except refunding and conduit revenue bonds.

12 * Sec. 2. Sections 3, ch. 117, SLA 2000, is repealed and reenacted to read:

13 Sec. 3. AS 29.45.030(a) is amended to read:

14 (a) The following property is exempt from general taxation:

Property owned by VA

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31

(1) municipal property, including property held by a public corporation of a municipality, or state property, or land that is in the trust established by the Alaska Mental Health Enabling Act of 1956, P.L. 84-830, 70 Stat. 709, except that

(A) a private leasehold, contract, or other interest in the property is taxable to the extent of the interest; however, an interest created by a nonexclusive use agreement between the Alaska Industrial Development and Export Authority and a user of a roadway that may also be used by other persons [AN INTEGRATED TRANSPORTATION AND PORT FACILITY OWNED BY THE AUTHORITY AND INITIALLY PLACED IN SERVICE BEFORE JANUARY 1, 1999,] is taxable only to the extent of, and for the value associated with, the use for purposes other than motorized vehicular transportation by the user [THOSE SPECIFIC IMPROVEMENTS USED FOR LODGING PURPOSES];

(B) notwithstanding any other provision of law, property acquired by an agency, corporation, or other entity of the state through foreclosure or deed in lieu of foreclosure and retained as an investment of a state entity is taxable; this subparagraph does not apply to federal land granted to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land ^{conveyed} ~~granted~~ to the university by the state to replace land that had been granted under AS 14.40.380 or 14.40.390, ~~under AS 14.40.380~~ ^{under AS 14.40.305}

(C) an ownership interest of a municipality in real property located outside the municipality acquired after December 31, 1990, is taxable by another municipality; however, a borough may not tax an interest in real property located in the borough and owned by a city in that borough;

(2) household furniture and personal effects of members of a household;

(3) property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes;

(4) property of a nonbusiness organization composed entirely of persons with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the

L

Sec 2 (A) ⁱⁿ ^{existing} ^{statute}

1) elimination
of prop.

Page 2, line
2 owned
by UA

drafting error?

^{2nd}
Page 2 line

19

statute # omitted

state

under

AS 14.40.365
2

1 property of an auxiliary of that organization;

2 (5) money on deposit;

3 (6) the real property of certain residents of the state to the extent and
4 subject to the conditions provided in (e) of this section;

5 (7) real property or an interest in real property that is exempt from
6 taxation under 43 U.S.C. 1620(d), as amended;

7 (8) property of a political subdivision, agency, corporation, or other
8 entity of the United States to the extent required by federal law; except that a private
9 leasehold, contract, or other interest in the property is taxable to the extent of that
10 interest;

11 (9) natural resources in place including coal, ore bodies, mineral
12 deposits, and other proven and unproven deposits of valuable materials laid down by
13 natural processes, unharvested aquatic plants and animals, and timber.

14 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

SENATE FINANCE COMMITTEE
4 / 30 / 2003 COMMITTEE ACTION

Bill Number	HB 112		
Amendment			
Motion	to ADOPT Version I		
<u>Motion by</u>	Bunde		
<u>Objection by</u>	Olson		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	Vote	N
Senator Stevens			✓
Senator Taylor			✓
Senator Bunde			✓
Senator Hoffman			✓
Senator Olson			✓
Co-Chair Green	✓		
Co-Chair Wilken	✓		
<u>Tally</u>			
Yea	2		
Nay	4		
Absent			
<u>MOTION</u>	FAILS		

CS HB 112 (FIN)

CS HB 112 (FIN) "An Act relating to the authority of the Alaska Industrial Development and Export Authority to issue bonds and to a municipal tax exemption for certain assets and projects of the Alaska Industrial Development and Export Authority; and providing for an effective date."

SECTION 1 – SUNSET EXTENTION FOR AIDEA BONDS

- ✓ CS HB112 (FIN) extends AIDEA's general bonding authority to July 1, 2007.
- ✓ Without the extension AIDEA would need legislative authorization to issue bonds for development projects under \$10,000,000.
- ✓ AIDEA would also be restricted from issuing any bonds to finance the purchase of loan participations without legislative authorization.
- ✓ Allowing the bond authority to sunset would eliminate a tool for AIDEA to use to assist projects that could provide an economic benefit to the state.

SECTION 2 – MUNICIPAL TAX EXEMPTION

- ✓ CS HB112 (FIN) includes a permanent extension of a tax exemption that applies to the Delong Mountain Transportation System.
- ✓ The Delong Mountain Transportation System is a publicly owned transportation facility.
- ✓ Although the current AIDEA board has not taken a position on this issue, historically AIDEA development projects have generally not been subject to local property taxes. Instead, AIDEA statutes authorize private users and the local political subdivision to enter into agreements providing for payments in lieu of taxes.
- ✓ Pursuant to a Payment in Lieu of Taxes Agreement, Teck Cominco Alaska makes annual payments to the Northwest Arctic Borough.
- ✓ Extending the tax exemption will continue the current levels of School Foundation Formula and state revenue sharing support provided to the Northwest Arctic Borough, as the amount of support under those programs is tied to the full value of taxable property within the Borough.

SECTION 3 – PROVIDES FOR AN IMMEDIATE EFFECTIVE DATE



Frank H. Murkowski, Governor

FAX Transmittal

TO: Sheila Peterson

DATE: 4-17-03

FAX NUMBER: 465-4714

FROM: Steve Van Sant,
State AssessorTotal # of pages
including cover 4

Attachment:

Sheila,

Attached are copies of a few pages from the agreements between AIDEA and Cominco. As you can see from Section b3 on page 10, Cominco will be paid by AIDEA if they do not use their allotted portion of the storage buildings and AIDEA allows another company to use it. That certainly tells me that there is a possessory interest in that facility. I will get an email to you today with a proposal to exempt any value for the road facilities such as the one at Red Dog which is supposed to become a state road and open to all. However, the possessory interest would remain for the ore storage buildings and the dock.

Thanks
Steve

If this FAX does not transmit properly,
please call the number listed immediately

If the information contained in this FAX is CONFIDENTIAL and/or PRIVILEGED. This FAX is intended to be reviewed by the individual named above. If the reader of this transmittal page is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this FAX or the information contained herein, is prohibited. If you received this FAX in error, please immediately notify the sender by telephone, and return this FAX to the sender at the above address. Thank you.

fax.doc

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

"Tons Produced from Mill", means all lead and zinc concentrate (and associated substances) produced from the Mill for the subject Year.

"Tons Shipped from Port by Cominco" means all tonnage shipped by Cominco from the DMTS Port during the subject Year.

"User" means Cominco and each Other User.

"Year" means a calendar year unless otherwise clearly indicated.

ARTICLE 2 OPERATION, MAINTENANCE AND USE OF DMTS

2.1 Duration of Cominco's Non-exclusive Rights.

(a) Initial Term. Cominco shall have the non-exclusive priority right to use the DMTS as provided in Section 2.2 hereof during the Initial Term and any extensions thereof. }

(b) Extensions. Cominco shall have the option to extend the Initial Term for five (5) additional ten (10)-year terms by notifying AIDEA at least one (1) year in advance of the expiration of the Initial Term and at least one (1) year in advance of the expiration of each subsequent ten (10)-year extended term; provided, however, that in no event shall the term of this Agreement extend beyond September 25, 2085, unless the Easement Agreement between NANA and the U.S. Department of the Interior, effective September 1985, has been extended and, provided, further, that Cominco shall not be entitled to extend the term for use of the Expansion Project unless Cominco concurrently elects to extend the term for use of the Original Project for the same period of time. The failure to timely exercise the option for any extended ten (10)-year term terminates the right to exercise the option for all subsequent extension periods. During any extended term, Cominco shall pay the same tolls on a value-adjusted basis (calculated in accordance with Section 3.5 herein) as are then being paid by other Non-Exempt Users of the DMTS. If at that time there are no other Non-Exempt Users, the parties shall negotiate in good faith to agree upon the amount of the toll fee to be paid by Cominco. If the parties cannot agree, Cominco's toll fee on a per ton basis shall be the same as the average per ton toll fee paid by Cominco during the last three (3) years of the term then expiring.

2.2 Non-exclusive Right of Cominco to Use DMTS.

(a) Non-exclusive Right to Use. In consideration of the Cominco Toll Fees and the covenants and conditions contained herein, AIDEA hereby grants to Cominco, and Cominco accepts from AIDEA, the non-exclusive right to use the DMTS, during the term provided herein, along with AIDEA and Other Users, subject however, to the priority rights in favor of Cominco described in the following subsection (b).

(b) Priority Rights of Cominco. Cominco shall during the term of this Agreement have the following priority rights:

(1) a priority right to utilize the concentrate storage, oil storage, and supply storage areas at the Port as designated in the Project designs and specifications.

(2) a priority right to use the other DMTS improvements constructed by AIDEA pursuant to this Agreement, to allow Cominco to commence, carry on and sustain activities related to development of the Red Dog Property and construction, operation and maintenance of the Mine and Mill located thereon including without limitation:

(i) The priority right to ship each Year, through the DMTS, 1,320,000 tons, plus any Allowable Base carryover tonnage computed in accordance with Section 3.4, up to a limit in any Year of one million five hundred thousand (1,500,000) tons in any Year. This limit applies only to the tonnage which Cominco may ship on a priority basis each year and does not affect Cominco's annual allowable tonnage as calculated for purposes of determining the CTF, if any, required to be paid pursuant to Section 3.4 hereof; and

(ii) The priority right to use the DMTS to move all construction equipment, fuel, supplies, materials, modules and the like needed for development of the Red Dog Property and construction, maintenance and sustained operation of the Mine and Mill and related facilities to produce 1,320,000 tons per Year.

(3) If at any time Cominco is not fully utilizing its priority right to use the DMTS concentrate and oil storage facilities to support development of the Red Dog property and operation and maintenance of the Mine and Mill, AIDEA may, with Cominco's consent (which consent shall not be unreasonably withheld), license others to use Cominco's unused portion of the DMTS's concentrate and oil storage capacity. AIDEA shall charge a commercially reasonable license fee for the use of such storage areas, which shall be paid to Cominco. Cominco shall have the right to direct AIDEA to cancel, upon reasonable notice, any license granted to Other Users and to increase its usage of the subject storage areas up to full capacity even if such increase displaces Other Users which have been licensed by AIDEA.

(c) Restrictions on Cominco's Use. AIDEA reserves the right, from time to time, to restrict or limit any usage by Cominco if ordered or directed to do so by a court or other governmental authority of competent jurisdiction; subject however, to payment to Cominco of all revenues received by AIDEA from Other Users who utilize, in lieu of Cominco, part or all of the DMTS that otherwise would have been utilized by Cominco absent such judicial or governmental order or directive. AIDEA shall not dispute Cominco's right to contest any such order or directive, and in the event that any such order or directive is not stayed or lifted within sixty (60) days from the date of issuance, AIDEA shall pursue with due diligence, and at no cost

to Cominco, the expansion of the capacity of the DMTS so as to accommodate the priority rights of Cominco and the requirements of Other Users.

2.3 Maintenance, Operation and Administration of DMTS.

(a) Maintenance. AIDEA shall keep and maintain the DMTS in good order and repair during the entire term of this Agreement, including any extensions thereof, in a manner which will assure reasonably proper functioning of the DMTS. Maintenance of the DMTS shall conform to the maintenance standards and specifications contained in the attached Exhibit A.

(b) Administration. AIDEA shall be responsible for the administration of the DMTS. For purposes of this Section "administration" means all general management functions, including scheduling, necessary to insure orderly operation of the DMTS.

(c) Operation. Except as otherwise provided in the last sentence of this subsection 2.3(c), AIDEA shall be responsible for operation of the DMTS which shall include operation of the power plant, sewage and water facilities, fuel storage facilities, all mechanical and mobile equipment and the conveyor system and all other Port facilities. However, all Users shall use their own vehicles and personnel for the transport of product, materials and equipment on the Road and to and from the Port. So long as Cominco is the predominant Non-Exempt User of the DMTS (meaning that during the preceding year other Non-Exempt Users did not in the aggregate use more than twenty-five percent (25%) of the DMTS's capacity), Cominco shall, at a commercially reasonable rate of compensation, operate and maintain the DMTS. }

(d) NANA Lease. Cominco shall observe and comply with the NANA Lease in accordance with its terms.

2.4 Sharing of Maintenance, Operation and Administrative Expenses ("M&O").

(a) Costs to be Apportioned. AIDEA is responsible for maintaining, operating and administering the DMTS in accordance with Section 2.3. The costs for maintenance, operation and administration activities ("M&O Expenses"), if not otherwise included in the Investment Base as provided herein, shall be apportioned among the Users of the DMTS. These costs will include the following items:

For the Road:

- (1) Maintenance and repair of roadway,
- (2) Maintenance facilities and the periodic repair and replacement of such facilities,

I N T E R

MEMO

O F F I C E

To: File No. 62880-10(J)
From: RBE [Signature]
Subject: Teck Cominco Mill Rate / Comparison NWAB
Date: April 4, 2003

The latest (2002) FVD by the State Assessor for NWAB is \$382,000,000. For 2003 Teck Cominco pays \$5,850,000 in Payments in Lieu of Taxes ("PILOT") payments, 78% of which is schools. There is no other taxpayer in the Borough. The valuation breaks down approximately as follows:

Red Dog Mine	\$254,000,000
Port Lodging	10,000,000
Non Teck Cominco	<u>118,000,000</u>
	\$382,000,000

The road and port would be \$144,000,000. If there was a property tax the mill rates would be:

	<u>Schools</u>	<u>Total</u>
Teck Cominco –		
Mine and Lodging	17.3	22.2
Mine Lodging, Road and Port	11.2	14.3
Other Property Owners	0	0
Overall Rate for Mine, Lodging and Other (\$382 million)	11.9	15.3
Overall Rate for Assessor FVD including Road and Port (\$526 million)	8.7	11.1

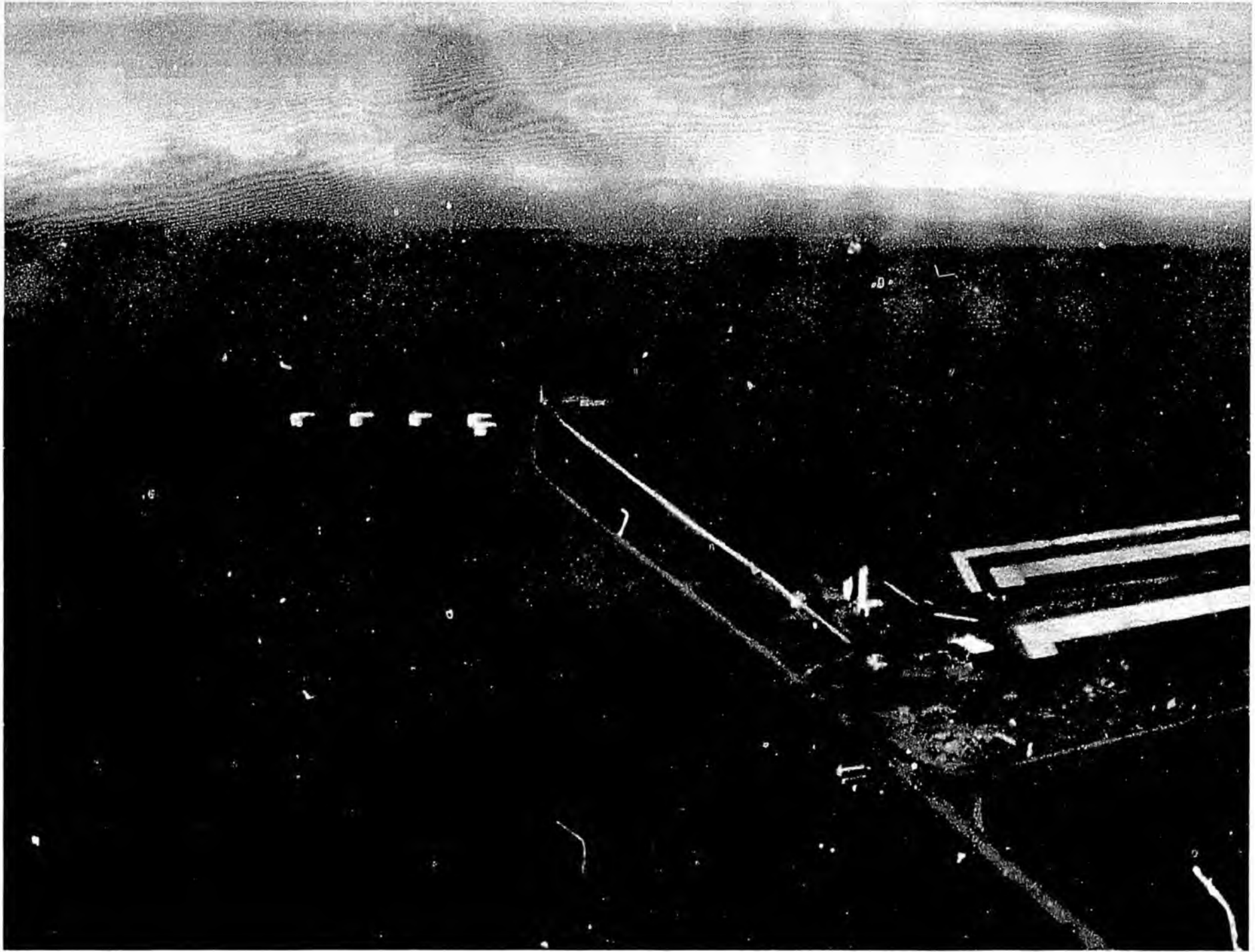
Provided by Gary Wilken 4/15/03

Comparable mill rates for schools:

Municipality of Anchorage	7.8
Fairbanks North Star Borough	8.0
Juneau Borough	6.0
Ketchikan Borough	6.2

Additional \$1,200,000 taxes to replace lost funds at:

	<u>Additional Mil Rate</u>		<u>Total Mil Rate</u>
\$526,000,000	2.3	or	13.4
\$408,000,000	2.9	or	17.2
\$264,000,000	4.5	or	26.7





March 27, 2003

The Honorable Gary Wilken, Co- Chair
The Honorable Lyda Green, Co-Chair
Senate Finance Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Re: CS HB 112(FIN) "An Act relating to the authority of the Alaska Industrial Development and Export Authority to issue bonds and to a municipal tax exemption for certain assets and projects of the Alaska Industrial Development and Export Authority; and providing for an effective date."

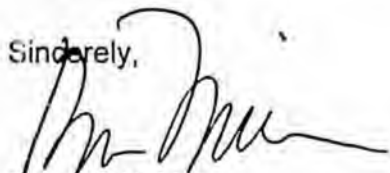
Dear Senator Wilken and Senator Green:

House Bill 112 was introduced by the Governor through the House Rules committee. This legislation will extend AIDEA's general bonding authority to July 1, 2007. Without the extension AIDEA would need legislative authorization to issue bonds for development projects under \$10,000,000. AIDEA would also be restricted from issuing any bonds to finance the purchase of loan participations without legislative authorization.

The House Finance Committee amended HB 112 by including a permanent extension of the Delong Mountain Transportation System tax exemption. CS HB 112 (FIN) passed the House unanimously on March 10, 2003.

We respectfully request you to schedule CS HB 112(FIN) for hearing in your committee, and we urge favorable action on this bill. We will be happy to meet with you and other members of the committee to provide any other information you may require. Thank you for considering our request.

Sincerely,



Ronald W. Miller
Executive Director

H:\2003 Legislation and Budget FY04\AIDEA BILL\Request for hearing - sfin.doc

Red Dog Mine Full Value Issue History

Brief Overview

In 1998, the Office of the State Assessor discovered that some assets used by Cominco, Inc. located at the Red Dog Mine in Northwest Arctic Borough (NWAB) had not been included in the full value determination (FVD). The assets, which are owned by AIDEA and used by Cominco, excluded from the FVD included the road that Red Dog Mine uses to transport the ore to the port facilities, the port facilities themselves, and two very large ore concentrate storage buildings located at the port. At that time, a new full value was being completed and the value of these assets was included in the final determination, the value of which was approximately \$155 million.

The NWAB and the legislature questioned the FVD inclusion of property that is owned by a state agency. It was explained to them that the property may be owned by AIDEA, but was built for the express purpose of Cominco at its Red Dog Mine operation. AIDEA is expressly exempt from property taxation under AS 44.88.140 which states that property of AIDEA is declared to be property of a political subdivision of the state, and therefore, is exempt from property tax. However, the statute goes on to say that :
"Nothing in this section effects or limits an exemption from license fees, property taxes, or excise income, or any other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the authority, in any property, assets, income, receipts, project, development project, or lease whether or not financed under this chapter." (emphasis added)

Clearly, any possessory interest Cominco may have in the property is taxable, yet, for some unknown reason, this value had been excluded from the full value in the past. This possessory interest concept is used to value most leasehold interest in the state and has been the subject of several Alaska Supreme Court cases, all of which have upheld the assessor and the possessory interest value. This is the same type issue we are facing in the Red Dog Mine valuation. The placement of the possessory interest value of AIDEA property on to the Red Dog Mine is no different than any other assessor in the state placing values on railroad and airport leases or mining interests, such as the Greens Creek Mine in Juneau or the Fort Knox Gold Mine in Fairbanks.

The Northwest Arctic Borough appealed the FVD and also went to the legislator in order to attempt to stop the increase in FVD. The legislature ultimately introduced and passed SB 248 which, among other things, exempted the Road, the port facilities and the storage buildings from the full value determination. The NWAB argued that the value increase due to the inclusion of these assets would cost the borough approximately \$1.1 million more for school funding. The legislature passed SB 248 which required these assets to be exempt for five years. According to a call received from Senator Halford at the time, I was told that various members of the legislature thought I was correct in including these assets in the FVD, but they had made a political decision to give a five year window of opportunity for the borough to come up with an alternative to raise the required revenue for the increase in educational funding. The current bill, HB 112, would remove the sunset clause in that bill and make the exemption permanent.

Provided by Steve Van Sant, State Assessor

Taxability Rationale

Article IX, Section 5 of the Alaska Constitution reads, "*Private leaseholds, contracts or interests in land or property owned or held by the United States, the State, or its political subdivisions, shall be taxable to the extent of the interests.*" The Alaska Statutes, prior to 2000, read that all interests in otherwise exempt land was taxable to the extent of those interests. Consequently, all cities and boroughs that levy a tax, do so on all private interests in state, federal, city, or any other exempt property.

When the legislature passed SB 248, there is included an "intent clause" which reads, in part "*Sections 1 and 2 of this Act are not intended to express the legislature's intent with respect to the issues under appeal in Fairbanks North Star Borough Assessor's Office v. 04 Golden Heart Utilities, Inc., Case No. S-09120; 4 FA-981848 Civil.*" This language was necessary due to a pending court case dealing with the same basic issue and the legislature did not want to intervene in the case. This case dealt with a non-exclusive use lease agreement, which a private party had with the City of Fairbanks for use of portion of the city utilidor. This case was appealed to the Supreme Court and has now been concluded, with the Borough being the prevailing party. The Alaska Supreme Court stated, in part that "*...the assessor argues that the assessment reflects the value that Golden Heart derives from its ability to use the utilidor in its operations – its possessory interest. Even if Golden Heart cannot sell its lease contract for any significant sum, the assessor seeks to tax the benefit Golden Heart receives from its right to use the utilidor.....It was appropriate for the assessor to assess Golden Hearts possessory interest.....We agree with the assessor and conclude that the value to be taxed is the value of the right to use the property over a period of the lease.*" (emphasis added)

All assessors in Alaska utilize basically, the same methodology for assessing "possessory interests". Possessory Interest is defined as a private right to the possession or use of public or otherwise exempt property for a specified time period. This right of possession represents, normally, a large portion of the bundle of rights inherent to that property and, therefore, constitutes a value imputable to that private interest. (*Assessors Short Course on Possessory Valuations in Alaska, DCRA, AAAO, LGAD, 1980*)

There is no question in Alaska that property that may be otherwise exempt from taxation yet used by a non-exempt entity is taxable. This issue has been litigated many times over the years and the Alaskan Supreme Court has consistently found that these interests constitute a taxable interest. There are hundreds of millions of dollars of property value statewide that is added to local municipal assessment rolls and help pay for local government services. These properties range from airport leases to railroad leases and federal use permits to native allotment leases. In all cases it is the use and possession of the property that is being taxed. To allow some property to escape that liability would arguably, constitute an inequitable taxing scheme, by allowing some property users to compete with an unfair economic advantage.



**PROJECT FACT SHEET: DeLong Mountain Regional Transportation System (DMTS)
Road and Port serving mining district that includes the Red Dog Mine**

CURRENT STATUS: In the summer of 2001, Teck Cominco conducted field sampling to gain a better understanding of elevated levels of metals detected along the DMTS road by the National Park Service in 2000. Samples collected include road surface soil, road soil cores, fine-grained material on the road shoulder, dustfall collected along the road, and vegetation (moss, lichen, will and berries). Results released 2/01/02 indicated that the elevated metals concentrations occur primarily on the surface and near the edges of the road and show a fairly consistent pattern of elevated concentrations near each end of the DMTS road, and lower concentrations through the middle section. The most likely source appears to be the tracking of metals in the form of powdered concentrates by haul trucks. Efforts to eliminate the sources of metals and removal of the road surfaces at the port site with metals values above DEC cleanup levels are ongoing. In July, a test section about five miles in length starting at the port site has been hard surfaced. Additional cleanup efforts may be scheduled after completion of the ongoing "risk assessment."

PROJECT COST: DMTS investment base now approaches \$267 million.

SOURCE OF FUNDS: In 1987, \$103 million in tax-exempt bonds were sold by AIDEA to fund the original construction of the project. A state appropriation provided the remaining funding. The expansion was substantially funded from the proceeds of tax-exempt bonds sold by AIDEA in 1997.

PURPOSE: To provide employment opportunities in northwest Alaska through development of a transportation system to serve the world class lead/zinc mining district and the Red Dog Mine, 90 miles north of Kotzebue.

PARTICIPANTS: AIDEA owns the DMTS; Teck Cominco Alaska Incorporated, has a non-exclusive priority right to use the system until 2040 to ship ore concentrates over the road, store concentrates in the storage buildings, and transload concentrates onto ore ships. Teck Cominco pays a toll for use of the facilities and is obligated to operate and maintain the system at a commercially reasonable rate of compensation. The mine owner is NANA Regional Corporation.

BACKGROUND: The Red Dog Mine in the DeLong Mountains brought opportunity for economic growth to the cash poor region. In 1995, Cominco Alaska proposed a production rate increase to reduce the cost per pound of concentrate produced and to improve profitability. The mill throughput has increased by 35% (to 3.5 million tons/year), which results in a corresponding increase in lead and zinc concentrates (to 1.4 million tons/year). Increased mine output required additions and improvements to the ore concentrate storage and handling facilities owned by AIDEA at the port. Resources have been identified to maintain a 50-year mine life, even at the higher production output. In 2002, approximately 1,500,000 short wet tons of lead and zinc concentrates were exported through the port.

Construction to expand the port facilities began in September 1996. On March 27, 1997, AIDEA sold \$150 million in bonds, in part to finance the DMTS expansion. The insured bond sale was the largest bond sale in AIDEA's 30-year history, and the first time the Authority received a AAA rating on its general obligation bonds. The DMTS port expansion project is now complete.

ECONOMIC/SOCIAL EFFECTS: The Red Dog Mine and DMTS currently provide 522 permanent, full-time jobs, and 59 temporary jobs, of which 292 are now staffed by NANA shareholders. These 580 full-time and temporary employees represent 32% of total non-governmental jobs in the NANA region. Teck Cominco is currently the only taxpayer in the NW Arctic Borough, providing approximately \$4 million annually to the Borough's \$7 million budget.

Reviewed: March 19, 2003

SCOPE OF ORIGINAL PROJECT: The original DMTS consists of a 52-mile, 30 foot wide, all weather industrial haul road, a shallow water dock, offshore conveyor concentrate loading facility, concentrate storage facility, fuel distribution and storage systems, and other port facilities. The DMTS road, designed to accommodate multiple users, leads from the mine that includes the Red Dog Mine to a port site located on the Chukchi Sea, about 12 miles from Kivalina. Initial construction was completed in 1990.

DMTS port expansion to handle increased concentrates production at the Red Dog Mine was completed in 2000.

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



HB 112
P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 18, 2003

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room. 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would extend the sunset on the Alaska Industrial Development and Export Authority's (Authority) bonding authorization until July 1, 2007.

The bill would extend the Authority's bonding authorization for development projects of \$10,000,000 or less. The Authority's general bonding authorization will expire June 30, 2003, unless extended. Allowing that authorization to expire would severely restrict the Authority's ability to assist in key development projects.

In a time of dwindling state resources, this bill would further the Authority's mission to forge public-private partnerships that can strengthen the state's economic base.

I urge your prompt and favorable action on this measure.

Sincerely,

A large, stylized handwritten signature of Frank H. Murkowski in black ink.

Frank H. Murkowski
Governor

SENATE FINANCE COMMITTEE

SIGN-IN

HB 112-~~A~~IDEA : BONDS & MUNICIPAL TAX EXEMPTION

✓ NAME: ROBERT FLINT Subject/Bill No: HB 112
HARTIG RHODES HUGES & LEKISCH
Co./Dept./Title: for TECK CONNCO Phone: (907)345-6358
Address: 717 K&F ANCHORAGE Zip: 99501

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SENATE FINANCE COMMITTEE

SIGN-IN

HB 112-AIDEA : BONDS & MUNICIPAL TAX EXEMPTION

NAME: ROBERT FLINT Subject/Bill No: HB 112
Co./Dept./Title: HARTIG, RHODES FORTECH COMINCO Phone: 276-1592
Address: 717 K ST. ANCHORAGE AK Zip: 99501
Do you wish to testify? Yes No Respond To Questions

NAME: BOB JACKO Subject/Bill No: HB 112
Co./Dept./Title: TECH COMINCO ALASKA INC Phone: 266-4550
Address: 3105 Lakeshore Dr Anchorage Zip: 99517
Do you wish to testify? Yes No Respond To Questions

NAME: Steve Van Sant Subject/Bill No: HB 112
Co./Dept./Title: STATE ASSESSOR Phone: 269-4605
Address: 530 W. 7th Suite 1770 Anch Zip: 99501
Do you wish to testify? Yes No Respond To Questions

NAME: ROD MILLER Subject/Bill No: HB 112
Co./Dept./Title: AIDEA - Exec. Dir. Phone: 269-3000
Address: 813 W. Northen hts. Anch. Zip: 99501
Do you wish to testify? Yes No Respond To Questions

NAME: Mike Barry Subject/Bill No: HB 112

Co./Dept./Title: AIDEA Phone: 269 300

Address: 813 W. Northern Light Blvd Anch. Zip: 99501

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SENATE FINANCE COMMITTEE

SIGN-IN

HB 112-AIDEA : BONDS & MUNICIPAL TAX EXEMPTION

NAME: Mike Barry Subject/Bill No: 112

Co./Dept./Title: AIDEA Ch. B.O.D. Phone: 223 1614

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

HB

118

HFIN

FILE

Alaska State Legislature

Co-Chair
House Finance Committee
Subcommittee Chair
Environmental Conservation
Courts

During Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-3424
Fax (907) 465-3793

In Ketchikan:
50 Front Street, Suite 203
Ketchikan, AK 99901
(907) 247-4672
Fax (907) 225-8546

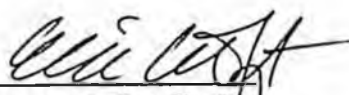
Representative William K. Williams

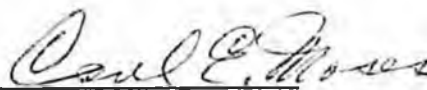
March 14, 2003

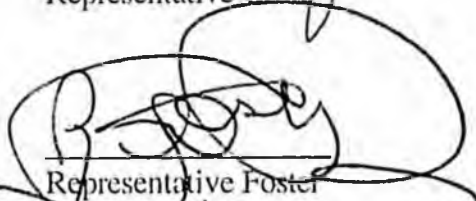
MEMO

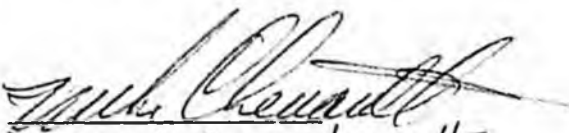
TO: Co-Chair Rep. Harris & Members, House Finance Committee
FROM: Co-Chair Rep. Williams
RE: Waiving CS HB 118 from Committee

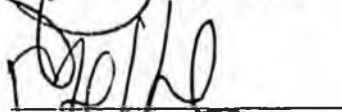
I support the waiver request from the sponsor for CS for HB 118. A copy of the bill and any fiscal notes are attached. Please indicate your support.

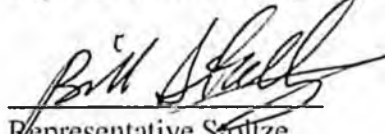

Representative Croft


Representative Moses

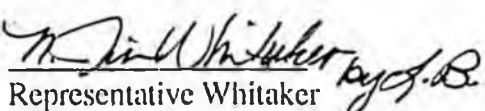

Representative Foster


Representative Stevens-Chenault



Representative Hawker


Representative Stoltze


Representative Joule


Representative Whitaker


Vice-Chair Meyer


Co-Chair Harris

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 118(FSH)
(H) Publish Date: 3/3/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
Title Relating to the transportation and BRU Commercial Fisheries
sale of commercially caught fish Component Headquarters - Fisheries Management
Sponsor Representative Seaton
Requester House Fisheries Component No. 2171

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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 (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Robert D. Mecum, Director Phone 465-4210
Division: Commercial Fisheries Division Date/Time 2/26/03 5:52 PM
Approved by: Kevin C. Duffy, Acting Commissioner Date 2/26/2003
Agency: Department of Fish and Game

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 118 (FSH)
() Publish Date: _____

Revision Date/Time: _____ Dept. Affected: (Law) # 2
Title "An Act relating to the transportation and sale BRU Criminal Division
of certain commercially caught fish by an agent of a . . ." Component Criminal Appeals/Special Litigation
Sponsor Representative Seaton by Request
Requester House Resources Committee Component No. 2203

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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 (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill establishes a fish transporter permit system that authorizes a permittee to transport and sell commercially taken fish as the agent of the commercial fisherman who caught the fish. Permits would be issued by the Department of Fish and Game. Purchasing fish from a person who does not hold the permits specified in AS 16.05.680 or a fish transporter permit is an unlawful act. Under AS 16.05.723, unlawful acts can be misdemeanors.

The Department of Law does not anticipate many new cases will result from passage of this bill, and does not expect a fiscal impact.

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division: Attorney General's Office Date/Time 3/7/03 5:18 PM
Approved by: Joan M. Kasson for Gregg D. Renkes, Attorney General Date 3/7/2003
Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 118(FSH)
(H) Publish Date: 3/3/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Law # /
Title "An Act relating to the transportation and sale BRU Criminal Division
of certain commercially caught fish by an agent of a . . ." Component Criminal Appeals/Special Litigation
Sponsor Representative Seaton by Request
Requester House Fisheries Committee Component No. 2203

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

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 (Specify Type--Do not abbreviate)						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill establishes a fish transporter permit system that authorizes a permittee to transport and sell commercially taken fish as the agent of the commercial fisherman who caught the fish. Permits would be issued by the Department of Fish and Game. Purchasing fish from a person who does not hold the permits specified in AS 16.05.680 or a fish transporter permit is an unlawful act. Under AS 16.05.723, unlawful acts can be misdemeanors.

Whether passage of this legislation will have a fiscal impact on the Criminal Division depends on the number of new prosecutions that result. Without additional experience, however, we have no way of estimating how many new cases there will be, and must state an indeterminate fiscal impact.

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division Attorney General's Office Date/Time 2/26/03 4:36 PM
Approved by: Kathryn Daughhettee for Gregg D. Renkes, Attorney General Date 2/26/2003
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 118
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title "An Act relating to the transportation a BRU Fish and Wildlife Protection
sale of commercially caught fish . . ." Component Enforcement
Sponsor Representative Seaton
Requester House Resources Component No. 490

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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						
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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 (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Captain Howard Starbard Phone 269-5589
Division Fish and Wildlife Protection Date/Time 3/10/03 8:24 AM
Approved by: Commissioner William Tandeske Date 3/10/2003
Agency Department of Public Safety

HB

119

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DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
REGULATORY COMMISSION OF ALASKA

TONY KNOWLES, GOVERNOR

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TTY: (907) 276-4533

April 8, 2002

The Honorable Senator Gene Theriault
Alaska State Senate
State Capitol (MS 3100)
Juneau, Alaska 99801-1182
Faxed to 907-465-3884 (attention Wilda Rodman)

Re: SB 280 *HB 119 2003*

Dear Senator Theriault:

You asked whether the owners of a utility that received grant funding under this proposed legislation would receive a profit based on those grant funds if the utility was ever sold. The brief answer is no, for the two reasons explained below.

First, any grant funds received by a utility are considered contributed capital and, with limited exception, a regulated utility is not permitted to recover contributed capital from its customers. The utility is also, with the same limited exceptions, not permitted to count the contributed capital as a portion of its investment in establishing the amount of return on its investment it may recover from its customers. AS 42.05.471(b). Utilities must account for contributed capital in a manner in which it is clearly identified or excluded from the utility's rate base under the uniform system of accounts prescribed by regulations. Utilities with annual revenues in excess of \$100,000 are also required to maintain continuing property records that reflect this treatment. AS 42.05.461.

Second, market value for a utility, similar to unregulated enterprises, is generally established using the net present value of expected future cash flows the purchasing entity will receive. The cost of purchasing a utility in excess of the net book value of the selling utility's assets (an acquisition adjustment) usually constrains market value. The new owner of a utility should know that they will not automatically be allowed to recover the acquisition adjustment from its customers through rates and will set the price accordingly.