

ALASKA LEGISLATURE

2652

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

218

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 2/18/03

FURTHER: Finance

Date of 5-Day Notice: 2/19/03
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2/27/03

Transportation Committee considered SENATE BILL NO. 71

SB 71 TRANSPORTATION ENHANCEMENT PROJECTS

"An Act relating to funding for transportation enhancement projects."

and recommends:

- be replaced with _____ CS SB 71 (TRA)
- 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#
DOT	2/27		<input checked="" type="checkbox"/>	1

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>[Signature]</i> Lincoln				<input checked="" type="checkbox"/>
<i>[Signature]</i> Olson	<input checked="" type="checkbox"/>			
<i>[Signature]</i> Thwait			<input checked="" type="checkbox"/>	
<i>[Signature]</i> Wayne	<input checked="" type="checkbox"/>			
CHAIR: <i>[Signature]</i> Cowdery	<input checked="" type="checkbox"/>			

SENATE FINANCE COMMITTEE

SIGN-IN

SB 71-TRANSPORTATION ENHANCEMENT PROJECTS

NAME: JOHN MacKinnon Subject/Bill No: SB 71
Co./Dept./Title: DePCOM Highways Phone: 465-3500
Address: 3132 Channel Dr Zip: 99801

Do you wish to testify? Yes No Respond To Questions

✓ NAME: Jeff Ottosen Subject/Bill No: SB 71
Co./Dept./Title: State Pkg Chief DOT Phone: 965 6971
Address: 3132 Channel Dr. Zip: 99801

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

SB

72

SFIN

FILE

SB 72

was referred to the
Senate Finance
Committee

Hearing(s) were held

The bill did not move
from Committee

SENATE FINANCE
COMMITTEE
Amendment Number: #1
Bill Number: SB 72
Sponsor: Taylor Date: 4/23/03
Logged In By: Mindy

AMENDMENT

Sponsored by:
Sen. Taylor

OFFERED IN THE SENATE
TO: CS Senate Bill 72 (L&C)

AS 42.05.381 is amended by adding a new subsection to read:

(k) A telephone utility's proposed depreciation rates shall be allowed under this subsection if the underlying service lives are not shorter than the service lives permitted by the United States Internal Revenue Service to determine the appropriate level of depreciation expense for federal income tax computations. The commission may not require a utility to file a depreciation study unless the utility proposes to use depreciation rates based on service lives that are shorter than the service lives permitted by the Internal Revenue Service.

(l) A telephone utility providing facilities, systems, or services to other telephone utilities pursuant to any state or federal law or regulation shall be allowed to recover costs it expects to incur to provide the facilities, systems, or services, and shall be allowed a reasonable profit. The best evidence of the costs a utility expects to incur shall be its most current costs, adjusted for inflation. Capital and depreciation costs shall rise to reflect increased business risk in competitive service areas and shall be consistent with subsection (k) of this section. If a telephone utility cancels the use of another carrier's facilities, systems, or services, at any time prior to the time when the costs for those facilities, systems or services are fully amortized, the utility canceling the usage shall, within 90 days, reimburse the other carriers for the balance of the capital expenditures incurred by the other carrier as a result of cancellation of the use of facilities, systems or services.

ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION, INC.
RCA REAUTHORIZATION
April 2, 2003

ARECA's positions regarding reauthorization of the RCA are as follows:

1. Executive Director and Public Advocacy Section.

ARECA supports the creation of an Executive Director or Chief of Staff for the RCA; and ARECA does not oppose transferring the duties of the Public Advocacy Section (PAS) to the Department of Law. ARECA believes these actions can be accomplished administratively without statutory amendment.

2. Alternative rate making procedures for municipal and cooperative electric utilities.

AS 42.05 should be amended to allow alternative rate making procedures for regulated municipal and cooperative electric utilities. This can be accomplished through the addition of one new section to AS 42.05. A draft of that proposed new section (AS 42.05.425) is attached.

Summary of alternative procedures:

- Upon approval of the municipal or cooperative governing body, automatic implementation of retail electric rate decreases and minor retail rate increases (less than or equal to the change in the consumer price index).
- For other proposed electric rate changes when there are other adverse parties in the case, allows the case to be decided by neutral administrative law judges (ALJs) who are experts in electric rate case regulation. The cost of the ALJs are paid directly by the parties, not from the RCA's budget.
- In all other respects (quality of service, billing disputes, disconnection, etc.), these utilities would remain subject to full RCA regulation.

Benefits of alternative procedures:

- Will allow prompt and efficient self-regulation of rate reductions and minor rate increases by responsive governing authorities of municipal and cooperative electric utilities.
- ALJ process will allow more efficient and expert rate case decision-making when multiple adverse parties exist.
- Both procedures will significantly reduce the RCA's caseload by delegating minor and adversarial cases other forums.
- Will allow the RCA to focus its time and resources on other, important cases and duties.

3. Three-year extension of RCA.

If ARECA's recommendations are accepted, ARECA supports a three-year extension of the RCA.

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_____ BILL NO. _____

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE _____
_____: ____/____/03
_____:

A BILL

FOR AN ACT ENTITLED

"An Act establishing alternative rate making procedures for cooperative and municipal electric utilities regulated by the Regulatory Commission of Alaska; extending the termination date of the commission to June 30, 2006; and providing for an effective date."

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

* Sec. 1. AS 42.05 is amended by adding a new section to Article 4 to read:

Sec. 42.05.425. Alternative rate making procedures for municipal electric utilities and electric cooperatives. (a) An electric utility subject to economic regulation under this chapter that (1) is owned and operated by a municipality or city within the state, or (2) is an electric cooperative organized under AS 10.25, may elect to change its electric base rates under the provisions of this section.

(b) The commission shall, within ten days after the filing of a utility's rate change request, approve on a permanent basis a tariff revision that reduces an electric base rate for retail service without increasing any other electric base rate if the proposed tariff revision is authorized by resolution of the utility's governing body (municipal assembly, city council, or a cooperative's board of directors).

(c) The commission shall, within ten days after the filing of a utility's rate change request, approve on a permanent basis a tariff revision that increases any electric base rate for retail service if

1 (1) the proposed tariff revision is authorized by resolution of the utility's governing body
2 (municipal assembly, city council, or a cooperative's board of directors); and

3 (2) the percentage increase to each electric base rate is less than or equal to the annual
4 percentage change in the Consumer Price Index for Urban Consumers in Anchorage (CPI-U, Anchorage)
5 for the most recent calendar year, as reported by the U.S. Department of Labor, Bureau of Labor Statistics
6 (or other comparable consumer price index adopted by the commission by regulation, if the CPI-U,
7 Anchorage, is not available).

8 (d) For a tariff revision that increases any electric base rate for retail service by a percentage
9 greater than the annual percentage change in the CPI-U, Anchorage, for the most recent calendar year, and
10 for a tariff revision that changes any electric base rate for wholesale service, the filing utility may, at its
11 option, have the tariff revision adjudicated under the alternative procedures set forth in (f) if there is an
12 intervenor with material adverse interests in the case.

13 (e) Prior to initiation of the alternative procedures set forth in (f),

14 (1) the filing utility shall submit its rate change request to the commission in accordance
15 with this chapter and the commission's regulations, including all required supporting information;

16 (2) the filing utility shall file with the commission written notification of its election to
17 have its rate change request adjudicated under the procedures in (f) of this section;

18 (3) any person desiring to intervene as a party regarding the rate change request shall,
19 within ten days after the filing utility files the notification required in (2) of this subsection, petition to
20 intervene; and

21 (4) not later than twenty days after a petition to intervene is filed, the commission shall
22 accept answers to the petition, and issue an order granting or denying the petition to intervene and
23 determining whether the filing utility's rate change request is eligible for adjudication under the procedures
24 set forth in (f).

1 (f) Upon a commission finding that the filing utility's rate change request is eligible for
2 adjudication under this subsection, the rate change request shall be processed and adjudicated by a neutral
3 and qualified administrative law judge or, if agreed upon by all parties, by a panel of an odd number of
4 administrative law judges, under the following rules:

5 (1) To qualify to serve as an administrative law judge under this subsection, an
6 administrative law judge shall be a member in good standing of a state bar association within the United
7 States, have at least five years of experience litigating or adjudicating rate cases of regulated electric
8 utilities, and comply with the restrictions applicable to members of the commission under AS 42.04.060.

9 (2) Within ten days after issuance of the commission order referenced in (e)(4), all parties
10 shall meet to attempt to unanimously agree on a qualified administrative law judge. If unanimous
11 agreement cannot be reached within that period of time, the parties shall select an administrative law judge
12 from a list of ten qualified administrative law judges supplied to the parties by the American Arbitration
13 Association through a striking of names process. The administrative law judge shall be selected within five
14 working days after receipt of the American Arbitration Association list. The parties shall alternate in
15 striking names from the list until one administrative law judge remains, who shall be the administrative law
16 judge under this subsection. The filing utility shall be the first to strike a name from the list. The order of
17 striking for the other parties shall be determined by unanimous agreement among those parties or, if
18 unanimous agreement cannot be reached, through drawing by lot. If a panel of administrative law judges is
19 used, the selection process in this paragraph shall be used for the selection of each panel member.

20 (3) All reasonable and necessary costs and expenses of the administrative law judge or
21 panel and all administrative expenses of the adjudication process shall be borne equally by all parties who
22 are either a certificated utility or an agency of the state.

23 (4) Not later than three days after selection of an administrative law judge or panel, the
24 parties shall submit a joint filing notifying the commission of the selection. Not later than three days after
25 the joint filing, the commission shall serve a copy of all prior orders and pleadings in the case on the

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New Text Underlined [DELETED TEXT BRACKETED]

1 administrative law judge or panel and on all parties of record. The commission shall be placed on the
2 service list for all subsequent pleadings and orders filed and issued in the proceeding.

3 (5) Not later than 30 days after service by the commission of all prior orders and
4 pleadings, the administrative law judge or panel shall issue an order establishing a complete procedural
5 schedule for adjudication of the base rate change request. The administrative law judge or panel is subject
6 to the applicable timelines set forth in AS 42.05.175 and AS 42.05.421, however, when establishing a
7 procedural schedule and adjudicating the rate request, the administrative law judge or panel shall take
8 reasonable steps to ensure issuance of a final order in substantially less time than the maximum allowed
9 under those timelines.

10 (6) In adjudicating the base rate change request, the administrative law judge or panel
11 shall have all of the procedural and substantive powers and duties that apply to the commission and
12 commission members under law, including this chapter, the commission's regulations, and commission
13 precedent, provided, however, that the scope of the administrative law judge's or panel's jurisdiction,
14 powers, and duties is expressly limited to that which is necessary to adjudicate the electric base rate request
15 presented pursuant to this subsection.

16 (7) A party may petition the administrative law judge or panel for reconsideration of an
17 order issued by the administrative law judge or panel.

18 (8) Notwithstanding AS 42.04.080 and AS 42.05.171, the decisions and orders of the
19 administrative law judge or panel under this section are not subject to review by the commission. All final
20 orders of the administrative law judge or panel under this section are subject to judicial review as final
21 administrative orders in accordance with AS 44.62.560—44.62.570. If an appeal is not taken from a final
22 order of the administrative law judge or panel, the administrative law judge or panel may apply to the
23 superior court for enforcement of its orders. The court shall enforce the order by injunction or other
24 process.

1 (9) If an appeal is not taken from a final order of the administrative law judge or panel,
2 the commission shall approve the tariff sheets implementing the rate changes approved and ordered by the
3 administrative law judge or panel.

4 (g) The commission shall adopt regulations as necessary to implement the requirements,
5 procedures, and legislative intent of this section.

6 * Sec. 2. AS 44.66.010(a)(4) is amended to read:

7 (4) Regulatory Commission of Alaska (AS 42.04.010) – June 30, 2006 [2003].

8 * Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section read:

9 APPLICATION OF ALTERNATIVE RATE MAKING PROCEDURES. The rate making
10 provisions set forth in AS 42.05.425, added by sec. 1 of this Act, apply to all applicable electric base rate
11 change requests filed with the Regulatory Commission of Alaska on or after July 1, 2003.

12 * Sec. 4. Except as provided in sec. 3, this Act takes effect immediately under AS 01.10.070(c).

ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION, INC.

Resolution 03-32

A Resolution Regarding the Sunset Review of the Regulatory Commission of Alaska and Recommended Changes

This Resolution cancels and supercedes Resolution 03-17. ARECA resolves as follows:

I. If the other provisions of this resolution are enacted, ARECA supports extension of the Regulatory Commission of Alaska (RCA) for a period of three (3) years.

II. ARECA supports the creation of an Executive Director or Chief of Staff for the RCA; and ARECA supports transferring the duties of the Public Advocacy Section (PAS) to the Department of Law.

III. ARECA supports the establishment of an Administrative Law Judge (ALJ) option, as described below, for the processing of rate change requests by a cooperative, municipal-owned, or city-owned public utility that is subject to economic regulation by the RCA.

A. Retail service rate changes less than or equal to the annual change in CPI. For a utility's proposed base rate change for retail services that, in total, is less than or equal to the annual change in the applicable consumer price index (CPI) (or other reasonable and known inflation benchmark), the utility's governing body (for a cooperative, its board of directors, and for a municipal- or city-owned utility, its municipal assembly or city council) shall be authorized to approve the proposed, or lower, rate change and forward notice of that approval to the RCA, and the RCA shall approve the tariff sheets implementing that change in rates.

B. Retail service rate changes that are greater than the annual change in CPI. For a utility's proposed base rate change for retail services that is, in total, greater than the annual change in the applicable CPI (or other reasonable and known inflation benchmark), the filing utility may select one of the following two options for the processing and approval of its proposed rate change:

1. Traditional RCA option. Under this option, the rate change request shall be heard and processed under the traditional procedures set forth in AS 42.05 *et seq.*
2. ALJ Option. Under this option, the rate change request shall be heard and processed by an ALJ under the following procedures:
 - a. All ALJ and hearing administrative costs shall be borne equally by all parties;
 - b. All procedures shall be conducted by an ALJ selected by the original parties through a "striking of names" process;
 - c. All orders shall be issued by the ALJ;
 - d. Judicial review shall be by the Superior Court (under the procedures and standards applicable to judicial review of RCA orders); and
 - e. Upon issuance of a final, non-appealable order, the RCA shall approve the tariff sheets implementing the ordered change in rates.

C. Any wholesale service rate changes. For a utility's proposed base rate change for any wholesale services, the filing utility may select one of the two options listed above in B.1. and B.2. for the processing and approval of its proposed rate change.

IV. Implementation and effective date. ARECA intends to propose all proposed statutory amendments deemed necessary to implement the changes set forth above. All of the changes set forth in I. through II. shall be effective July 1, 2003. The changes set forth in III. shall be effective for rate change requests filed on or after the effective date of the enabling legislation.

PASSED AND APPROVED this ____ day of March, 2003.

Dwight Nissen, President

Attest: _____

Alaska Department of Community and Economic Development

Regulatory Commission of Alaska

701 West Eighth Avenue, Suite 300, Anchorage, AK 99501-3469

Telephone: (907) 276-6222 • Fax: (907) 276-0160 • Text Telephone: (907) 276-4533

Website: www.state.ak.us/rca/

TO: Senate Finance Committee

FROM: Dave Harbour, Chairman

SUBJECT: Page of SB 72

DATE: April 23, 2003

We believe it serves the interests of the Legislature, the Administration, regulated industries, and the public, to pass SB 72, without amendment, reauthorizing the critical, continuing work of the Commission. The focus of this legislation should be on whether or not to continue the existence of this regulatory body and if so, for how long. I respectfully offer the following:

Our Report Card:

Utility regulation is complex. Like all other State legislatures throughout the U.S., your predecessors have recognized the need to have an independent, fair, regulatory agency of specialists enforcing the general policies you have enacted through law. Alaska has had a commission since 1960¹, and must have a commission to carry out Federal statutory and regulatory duties delegated to the states, at the very minimum. Beyond that, the commission balances valid utility and pipeline needs with consumer interests in a deliberative public process subject to judicial review.

The Legislature can be confident that in spite of inevitable special interest complaining, the Commission's report card is close to a 4.0.

- Docket caseload has been reduced from over 500 at the agency's reformation in 1999, to 376 at the end of last year, to approximately 200 today. Deadlines were statutorily mandated last year and are consistently being met.
- Since the Legislature reformed the Commission in 1999, we have issued over 2,000 substantive orders. Of these, only 16 have been challenged in the courts.
- Our Commissioners represent a variety of legislatively sanctioned professional backgrounds, and are accountable through the political process. We have no incentive other than to make fair decisions, which are subject to judicial review. I am impressed with our exceptional employees.
- We can only do what you tell us to do; we are guided by our statutes and our due process mandates. To the extent that the Legislature accommodates aggressive lobbying changes, our independent, objective, *ex-parte*-protected forum could be diluted.

¹ The Alaska Public Service Commission was created in 1959. First Commissioners took office in 1960. The APSC's first decision was issued in 1964. In 1970, the Legislature created the Alaska Public Utilities Commission. The Regulatory Commission of Alaska was created by the Legislature in 1999.

Alaska

Department of Community and Economic Development

Regulatory Commission of Alaska

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Website: www.state.ak.us/rca/

Under Alaska's Sunset laws, agencies are periodically reviewed to ensure that their functions continue to be valid. Our 2001 and 2002 Legislative Audit report cards reinforce that the RCA is doing a good job, and we have accepted the auditors' suggestions for improvement. The sunset provision should not be used as a convenient vehicle for special interest legislation.

In 1999, Senator Drue Pearce encouraged fellow legislators to resist the urge to continually make adjustments to the RCA, to allow the restructured commission to coalesce. With Governor Murkowski's recent changes, that is still good advice.

Cooperative Alternatives:

We are confident a majority of the Legislature would not want reauthorization to be held hostage to last-minute changes to regulatory statutes. The Commission would like the opportunity to work with regulated industries to develop sound legislation.

- RCA needs to be given the time to fully integrate the important changes to the agency that are already underway. Governor Murkowski appointed two new commissioners and issued Executive Order 111. In wake of Commissioner Abbott's June 1 retirement, the Governor will be making another appointment. We need your support to continue our work and focus on our substantial caseload and the administrative achievements recommended in Legislative audits.
- Your RCA commissioners embrace evolutionary change in our statutes, regulations and administration signaled by changes in the marketplace and technology. This summer the Commission will invite industries and associations to offer suggestions for improvement. We then plan to offer a draft of such improvements for public review prior to submitting them to the Administration and Legislature next Fall...so that citizens and competitors can view them in full light.

Special Interest Legislation:

The Legislature created the RICA to do the specialized work of utility and pipeline regulation that the Legislature itself does not have the time or expertise to do. We regulate through an extensive public process using a staff of expert analysts. My colleagues and I are mindful of the important role of the RCA in ensuring the stable, responsive utility and pipeline infrastructure necessary for economic development in Alaska. The parties before us are often at odds: competing utilities, wholesale and retail customers, carriers and shippers and individual ratepayers.



**Department of Community
and Economic Development**

Regulatory Commission of Alaska

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All these different entities don't always get what they want. We know the Legislature would not wish to begin changing regulatory statutes yearly to give each lobbying utility or pipeline what it failed to get from the Commission's careful weighing of the issues. Yet that is what some lobbyists are seeking this year.

Deceptively simple proposed amendments quietly circulating in this Capital can conceal a wide array of policy impacts, producing consumer and competition shockwaves throughout Alaska. We stand ready to assist you in identifying such dangers.

Special interest amendments should be considered on their merits in other legislation, preferably next year after the Commission leadership undertakes necessary administrative and policy changes. Most of the requested changes flow from special interests seeking to guarantee financial benefit from the Legislature in lieu of a desired regulatory outcome. Some statutory changes lobbyists are requesting might have a little merit but should be considered administratively. Some may justify further legislative and Commission analysis. Some other changes requested are completely without merit and contrary to the public interest.

If you alter the Commission's authority along the lines some influential lobbyists have suggested, even with the best of intentions you could begin a new process of making myriad, complex regulatory decisions via the legislative process. The Commission's quasi-judicial process is designed to protect all parties' rights. Changes sought here by a half dozen powerful special interests may benefit them, but in some cases, at the expense of their competitors, some of the 300 other utilities, and/or thousands of consumers.

Telecommunications interests alone have circulated a dozen amendment proposals. Telecommunications is probably the most competitive area of business in Alaska--and experiencing the most rapid technological changes. Some proposals may be contrary to Federal statutes or regulations and others have not seen the light of day before being circulated in these halls.

As to pipeline regulatory reform suggestions from the oil lobby, at your request I can provide insight that should halt the heavy political momentum those efforts have engendered in Juneau.

Adding self-interest legislation to our Commission's statutes in the last weeks of this Legislative Session without complete Commission analysis will detract from our substantive work with regulated industries and may create, in a politicized atmosphere, defects that could be easily prevented using the process I described above.

Conclusion:

We believe it is in your interest and the public interest to support the Governor's request to extend the Commission. We recommend you support our desire to work cooperatively with the regulated utilities and pipelines this summer to develop solid recommendations for you. Nothing prevents the Legislature from considering thoughtful legislative changes outside a sunset year. The State's continuing oversight will also be assured via the Alaska Court System, legislative audits, appointments, confirmations and public meetings such as this one. If the Legislature still aims to enact some of these amendments this year--hopefully, in separate legislation--we will be available to assist your staff in avoiding pitfalls.

TESTIMONY OF KRISTI CATLIN
SENATE FINANCE COMMITTEE
SENATE BILL 72
APRIL 23, 2003

Good morning, Senator Bunde 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. It is from those very roots, and having witnessed the broad changes in technology and market shift over the years, that we would like to offer our perspective and respectfully make some requests for the legislature to consider.

We believe that both telecom service providers and policy-makers have a two-fold obligation to the constituents of this state. Those are: ensuring that basic telecom services remain affordable to everyone in the state; and providing 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. Regulations were put in place to ensure that Alascom did not misuse its monopoly power in pricing its services to consumers. In addition, 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. At the same time, new entrants to the long distance market were granted broad and significant freedoms. And even though the market was highly competitive in 1995 when AT&T bought Alascom, for the most part, it bought a company regulated as though it were a monopoly. As we all know, the regulations governing utilities with a legal monopoly work in two directions: they protect the consumer from unreasonable prices on one side of the equation, and they ensure a reasonable return for the regulated entity on the other side. Without a reasonable return, companies do not invest and services, therefore, do not advance.

Many of the regulations which restrict AT&T Alascom today are vestiges of that monopolistic environment I spoke of previously. 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

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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".

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 Senate Bill 72 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. Status quo is not an option, if you intend to have a healthy, competitive telecom market and infrastructure in Alaska. We have drafted appropriate language to assist the legislature in defining "dominance," and are submitting it for your consideration.

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

Proposed Amendments to AS 42.05

* Sec. _____. AS 42.05.810 is amended by adding a new subsection to read:

(d) No long distance carrier shall be regulated by the commission as a dominant carrier in the long distance market if its statewide market share, as measured in intrastate minutes of use, is less than 60 percent, except that the incumbent long distance carrier shall remain the carrier of last resort until the commission orders otherwise.

provided by Kristi Cottin, AT&T 4/23/03

VALLEY REFUSE, INC.
PO BOX 879109
WASILLA, ALASKA 99687
(907) 892-6606

April 18, 2003

Senate Finance Committee

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Con Bunde, Vice Chair
Senator Ben Stevens
Senator Lyman Hoffman
Senator Donald Olson
Senator Robin Taylor

Senators:

Please support SB 72 and/or HB 111, bills extending the Regulatory Commission of Alaska, with **NO deregulation amendments**. SB 72 is scheduled to be heard on Wednesday, April 23.

Valley Refuse (VRI) is a small, Alaskan-owned garbage utility that has operated in the Mat-Su Borough for over nine years. Valley Refuse competes with Waste Management, Inc. (WMI) a Houston, Texas, based refuse hauler. Waste Management, Inc. is the largest refuse hauler in the United States.

WMI is attempting to deregulate garbage hauling in the State of Alaska. Please support small, Alaskan businesses by defeating this deregulation effort.

- The Regulatory Commission of Alaska (RCA) oversees utilities in the State of Alaska.
- Garbage companies are, by state statute, regulated utilities.
- Regulated utilities are, by state statute, **exempt** from state anti-trust laws.
- The RCA ensures that utility rates charged to the public are fair and equitable and that fair trade practices are followed by utilities operating in competitive markets.

WMI has **attempted to deregulate** refuse hauling repeatedly since they bought the majority of Alaska's refuse utilities four years ago. To date, their efforts have failed.

- **Garbage deregulation legislation was defeated in the 1999 legislative session.** WMI's representatives admitted, on record, that HB 178, "Deregulation of Garbage Utilities", was "our bill" and "Waste Management had a heavy hand in drafting" HB 178. (Excerpt from House Labor & Commerce Committee meeting minutes dated 4/15/99).
- WMI then filed a petition with the Regulatory Commission of Alaska in August 1999 to deregulate refuse hauling in only the Mat-Su Borough, where VRI is their primary competitor (RCA Docket U-99-99).
- **The Regulatory Commission declined to deregulate refuse hauling in the Mat-Su,** stating in U-99-99 Order 8, February 6, 2001, "We decline to deregulate either residential or

commercial refuse service. Wasilla Refuse (Waste Management) is much larger and could easily outlast VRI (Valley Refuse) in a rate war. Wasilla Refuse (Waste Management) has the ability to withstand losses for a considerable length of time using its deeper asset base or buoyed by its container operation." (emphasis added U-99-99(8), pg. 8 of 12). The RCA also stated, "We will take steps to ensure that container-related cross-subsidies are not undermining the fragile competitive market in the Mat-Su Borough" (emphasis added U-99-99(8) pg. 7 of 12).

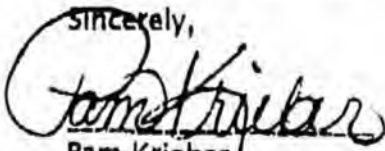
Since their deregulation attempts failed, Waste Management has tried to negatively impact Valley Refuse through various filings with the Regulatory Commission.

- In May 2002, Waste Management, Inc. filed a Revenue Requirement study (RCA Dockets U-00-30 and U-02-47). The document filed had so many "errors" that WMI was forced to redo it. The "errors", had they not been identified, would have resulted in Waste Management's Mat-Su Borough rates being set at predatory, below cost levels.
- In TA10-628, August 2002, WMI filed a tariff revision for an alleged "new" service: residential roll-cart service. This was approved by the RCA; however, Commissioners Will Abbott and Patricia DeMarco filed a dissenting statement, dated August 23, 2002, opposing this tariff revision. They stated, "We believe WMA's filing is a thinly disguised modification of an existing residential pickup service," and "The rates in the Mat-Su Borough where there is active competition are reduced by about 40 percent while Anchorage and Fairbanks have very little change. This appears to be discriminatory, if not predatory pricing." (See RCA file TA10-628, Dissenting Statement of Commissioners Will Abbott and Patricia M. DeMarco)
- WMI appealed recent RCA orders disallowing Waste Management's Involvement in Valley Refuse, Inc.'s Cost of Service Study (RCA Docket U-01-155, Orders 2 & 3). In her response "RCA's Opposition to Motion to Supplement the Record" in Case No. 3AN-02-12714 C.I., Virginia Rusch, Assistant Attorney General, states, "Neither the commission nor this court is required to be blind to the potential that Waste Management may also be able to fatally cripple Valley Refuse by litigating it to death. When an appeal begins with multiple motions over what the appeal can be about before the standard rounds of appeal briefing even begin, this court should seriously ponder whether an 800 pound gorilla is using the court to crush its competitor." (see Case No. 3AN-02-12714 C.I. Waste Management of Alaska, Inc., Appellant, vs. Regulatory Commission of Alaska, Appellee)

As you can see from these examples, Waste Management has had, at best, an adversarial relationship with the Regulatory Commission. Of course, it would be in Waste Management's best interest to be exempt from RCA scrutiny. If this happens, the citizens of Alaska will suffer by paying higher rates for refuse service when all of WMI's competitors are out of business.

The Gollath Waste Management has tried, through many different ways and means, to take market share from the small, Alaskan-owned Valley Refuse. Deregulation language in the RCA Reauthorization bill is another means to their ultimate end. **Please, take a stand for small business. Do not allow Waste Management, Inc. to crush their few remaining competitors by deregulating refuse service.**

Sincerely,



Pam Krieber
Valley Refuse, Inc.

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 Gene Therriault
President of the Senate
Alaska State Legislature
Staet Capitol, Room 107
Juneau, AK 99801-1182

Dear President Therriault:

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 COMMITTEE REPORT
First Committee of Referral**

DATE: 2/19/03

FURTHER: Finance

Date of 5-Day Notice: 2/20/03
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3/10/03

Labor and Commerce Committee considered SENATE BILL NO. 72

SB 72 EXTEND REGULATORY COMMISSION OF ALASKA

"An Act extending the termination date of the Regulatory Commission of Alaska; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 72 (LEC)
- 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#
CED	3/7/03	✓		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
Davis <i>Betty Davis</i>	✓			
French <i>Bill French</i>	✓			
Seekins <i>Joseph Seekins</i>	✓			
G. Stevens <i>G. Stevens</i>	✓			
Bunde CHAIR: <i>Bunde</i>	✓			

SENATE FINANCE COMMITTEE

SIGN-IN

SB 72-EXTEND REGULATORY COMMISSION OF ALASKA

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

✓ NAME: Marie Darlin Subject/Bill No: 72
✗ Co./Dept./Title: _____ Phone: _____
Address: AARP Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: Rosalee T. Walker Subject/Bill No: 72
Co./Dept./Title: _____ Phone: _____
Address: OPAG/AARP Zip: _____
Do you wish to testify? Yes No Respond To Questions

✓ NAME: Dana Tindal Subject/Bill No: 72-RCA
✗ Co./Dept./Title: Sr VP legal & Regulatory Affairs Phone: 907-265-5611
Address: 2550 Denali St Suite 1000 Zip: ANC 99515
Do you wish to testify? Yes No Respond To Questions

NAME: LAURE HARBOUR Subject/Bill No: SB72

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

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions At Chairmans request

NAME: Eric Youn Subject/Bill No: SB72

Co./Dept./Title: ARECA Phone: 463-3636

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions if appropriate

NAME: Kristi Catlin Subject/Bill No: SB72

Co./Dept./Title: AT&T Mascom, Director Phone: 229-7048

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

Audit Report

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
REGULATORY COMMISSION OF ALASKA
SUNSET REVIEW

November 26, 2002



Audit Control Number:

08-20021-03

Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$6 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed as mandated by Alaska Statutes or at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Juneau, Anchorage, or our web site <http://www.legis.state.ak.us>

BUDGET AND AUDIT COMMITTEE

Senator Gene Therriault, Chair
Senator Dave Donley
Senator Lyman Hoffman
Senator Randy Phillips
Senator Jerry Ward
Senator Gary Wilken (alternate)

Representative Hugh Fate, Vice Chair
Representative John Harris
Representative Reggie Joule
Representative Ken Lancaster
Representative Eldon Mulder
Representative Bill Williams (alternate)
Representative John Davies (alternate)

DIVISION OF LEGISLATIVE AUDIT

Pat Davidson, CPA
Legislative Auditor

P.O. Box 113300
Juneau, Alaska 99811-3300

(907) 465-3830, Juneau
(907) 561-1445, Anchorage
(907) 465-2347, Juneau Fax
(907) 561-1452, Anchorage Fax

SB

73

SFIN

FILE

REPORTED OUT

MAY 18 2003

SENATE FINANCE

SENATE FINANCE COMMITTEE REPORT

DATE: 2/28/03

FURTHER:

DATE TURNED IN TO OFFICE: 18 May 2003

Finance Committee considered

SENATE BILL NO. 73

SB 73 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."

and recommends:

- be replaced with _____ CS SB 73 (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#
DCED	4/1/03		✓	*1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Chris Taylor</i>			✓	
<i>John Hill</i>			✓	
<i>Thomas Rice</i>			✓	
<i>TC Blum</i>			✓	
<i>Ben Stevens</i>	✓			
COCHAIR: <i>Lynne Breen</i>	✓			
COCHAIR: <i>Cony Hill</i>	✓			

FISCAL NOTE

REPORTED OUT
 MAY 18 2003
 SENATE FINANCE
 COMMITTEE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 73
 (S) 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 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



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: 1:30pm

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

CS SB 73 23-GS1018\I

Cook

5/17/03

no changes

Thx

Mindy

CS FOR SENATE BILL NO. 73(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the loan participation program of the Alaska Industrial
2 Development and Export Authority and to regulations of the Alaska Industrial
3 Development and Export Authority; and providing for an effective date."

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

5 * Section 1. AS 44.88.085(g) is amended to read:

6 (g) The authority shall adopt regulations necessary for the following purposes
7 in connection with its programs for the financing of projects under AS 44.88.155 -
8 44.88.159:

9 (1) determination of borrower eligibility;

10 (2) loan guidelines and terms, including

11 (A) maximum loan amounts;

12 (B) required loan-to-value ratios; and

13 (C) a method for determining loan interest rates [FOR THE
14 LOANS THAT ARE FINANCED DIRECTLY FROM THE ASSETS OF

1 THE AUTHORITY];

2 (3) characteristics of projects eligible for loans or purchase of loans;

3 and

4 (4) the qualifications of loan originators and servicers and the method
5 of allocating amounts available for the purchase of loans.

6 * Sec. 2. AS 44.88.155(d) is amended to read:

7 (d) A loan participation purchased by the authority with assets of the
8 enterprise development account or with proceeds of bonds secured by assets of the
9 enterprise development account

10 (1) may not exceed \$20,000,000 [\$10,000,000]; however, in the case
11 of a loan participation for a power transmission intertie, the loan participation may
12 exceed \$20,000,000 [\$10,000,000] with legislative approval;

13 (2) may not be purchased unless

14 (A) the project applicant is not, or, if the applicant is not a
15 single proprietorship, all members of the business enterprise or enterprises
16 constituting the project applicant are not, in default on another loan made by
17 the state or by a public corporation of the state; and

18 (B) at least 10 [20] percent of the principal amount of the loan
19 is retained by the loan originator;

20 (3) may not be purchased if the loan to be purchased exceeds 75
21 percent of the appraised value of the collateral offered as security for the loan unless
22 the amount of the loan in excess of this limit is federally insured or guaranteed or is
23 insured by a qualified mortgage insurance company, except that [IN NO EVENT
24 MAY] the loan to be purchased under this paragraph may not exceed the total of loan
25 proceeds used to refinance an existing debt plus the cost of new construction,
26 expansion, or acquisition unless the proceeds from the additional amounts of the
27 loan to be purchased are restricted to uses approved by the authority to finance
28 commercial activity in the state by a business enterprise;

29 (4) may not be purchased if the participation in the loan to be
30 purchased is for a term longer than the following, except that [IN NO EVENT MAY]
31 a loan under (A) or (C) of this paragraph may not have a term longer than three-

1 quarters of the authority's estimate of the life of the collateral offered as security for
2 the loan:

3 (A) 40 years from the date the loan is made in the case of a
4 loan participation for a project described in AS 44.88.900(9)(E);

5 (B) 50 years from the date the loan is made in the case of a loan
6 participation for a power transmission intertie;

7 (C) 25 years from the date the loan is made in the case of a loan
8 participation for other projects;

9 (5) may be made only if the participation in the loan to be purchased
10 contains amortization provisions; the amortization provisions

11 (A) must be complete and satisfactory to the authority and
12 require periodic payments by the borrower;

13 (B) may allow the loan originator to amortize the portion of the
14 loan retained by the loan originator using a shorter amortization schedule than
15 the amortization schedule for the portion of the loan held by the authority if

16 (i) in the authority's opinion, the project financed can
17 support the increased debt service; and

18 (ii) the accelerated amortization schedule is required to
19 induce the originator to make the loan;

20 (6) may be made only if the participation in the loan to be purchased is
21 in the form and contains the terms and provisions with respect to insurance, repairs,
22 alterations, payment of taxes and assessments, default reserves, delinquency charges,
23 default remedies, acceleration of maturity, secondary liens, and other matters the
24 authority prescribes; and

25 (7) may be made only if the participation in the loan to be purchased is
26 secured as to repayment by a mortgage or other security instrument in the manner the
27 authority determines is feasible to assure timely repayment under the loan documents
28 entered into with the borrower.

29 * Sec. 3. AS 44.88.159(a) is amended to read:

30 (a) The interest rate on a loan participation purchased from the proceeds of
31 tax-exempt bonds or expected by the authority to be purchased from the proceeds of

1 tax-exempt bonds shall be determined under the regulations adopted by the
2 authority under AS 44.88.085(g)(2)(C) and shall be not less than [IS EQUAL TO]
3 the cost of funds to the authority. In this subsection, "cost of funds" means the true
4 interest cost expressed as a rate on tax-exempt bonds of the authority plus an
5 additional percentage as determined by the authority to represent the allocable
6 expenses of operation, costs of issuance, and loan servicing costs.

7 * Sec. 4. AS 44.88.159(b) is amended to read:

8 (b) The interest rate on a loan participation purchased from the proceeds of
9 taxable bonds or expected by the authority to be purchased from the proceeds of
10 taxable bonds shall be determined under the regulations adopted by the authority
11 under AS 44.88.085(g)(2)(C) and shall be not less than [IS EQUAL TO] the cost of
12 funds to the authority. In this subsection, "cost of funds" means the true interest cost
13 expressed as a rate on taxable bonds, plus an additional percentage as determined by
14 the authority to represent the allocable expenses of operation, costs of issuance, and
15 loan servicing costs.

16 * Sec. 5. AS 44.88.159(e) is amended to read:

17 (e) The interest rate on a loan participation purchased directly from the assets
18 of the authority shall be determined under the regulations adopted by the authority
19 under AS 44.88.085(g)(2)(C). However, the minimum interest rate on a loan
20 participation purchased from assets of the authority may not be less than the
21 minimum interest rate determined

22 (1) under (a) of this section if the project is of a type that could be
23 funded with tax-exempt bonds; or

24 (2) under (b) of this section if the project is of a type that could not be
25 funded with tax-exempt bonds.

26 * Sec. 6. AS 44.88.159 is amended by adding a new subsection to read:

27 (f) In determining an interest rate under the regulations adopted by the
28 authority under AS 44.88.085(g)(2)(C), the authority may determine to disregard the
29 minimum interest rate required under (a), (b), or (e) of this section for a loan
30 participation purchased by the authority to resolve lending limits or reserve restrictions
31 imposed on the financial institution and may instead determine to retain the interest

1 rate existing at the time the authority purchases a portion of the loan.

2 * Sec. 7. AS 44.88.900(7) is amended to read:

3 (7) "loan participation" means the purchase of a portion of a loan from
4 a financial institution if

5 (A) the financial institution has obtained a commitment from
6 the authority to purchase the portion of that loan before the financial institution
7 has disbursed money as part of the loan to the borrower; or

8 (B) the authority determines that purchasing a portion of a
9 preexisting loan will resolve lending limits or reserve restrictions imposed
10 on the financial institution by law or a state or federal regulatory agency,
11 or by the financial institution if the internal lending limit or reserve
12 restriction is acceptable to the authority;

13 * Sec. 8. This Act takes effect immediately under AS 01.10.070(c).

Sheila-

Do you want
a new CS w/
Amend #1 incorporated
... or just wait?

mundy

NO

SENATE FINANCE
COMMITTEE

Amendment Number: #1

Bill Number: SB 73

Sponsor: Stevens Date: 5/8/03

Logged In By: Mindy

Amendment

Offered in the Senate

By Stevens

Page 1, Line 8, following, "bonds"

Insert, "and to a municipal tax exemption for certain assets and projects of the Alaska Industrial Development and Export Authority"

Page 6, Line 5, Add a new section to read:

Sec. 11. Section 19, ch. 117, SLA 2000, is amended to read:

Section 19. Section 3 of this act takes effect July 1, 2012 [2004]

Renumber sections appropriately

adopted

SENATE FINANCE COMMITTEE
5/8/2003 COMMITTEE ACTION

Bill Number	SB 73		
Amendment	#1		
Motion	adopt		
<u>Motion by</u>	Stevens		
<u>Obiection by</u>	Wilken		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Olson	✓		
Senator Stevens	✓		
Senator Taylor	✓		
Senator Bunde			✓
Senator Hoffman	✓		
Co-Chair Green			✓
Co-Chair Wilken			✓
<u>Tally</u>			
Yea		4	
Nay		3	
Absent			
<u>MOTION</u>	Pass		

adopted

WORK DRAFT

WORK DRAFT

WORK DRAFT

23-GS1018VD
Cook
5/5/03

CS FOR SENATE BILL NO. 73()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to powers of the Alaska Energy Authority to acquire a coal-fired
2 electric generation project from the Alaska Industrial Development and Export
3 Authority, to exemption from the State Procurement Code for contracts related to a
4 coal-fired electric generation project that the Alaska Energy Authority acquires from
5 the Alaska Industrial Development and Export Authority, to the loan participation
6 program of the Alaska Industrial Development and Export Authority, to regulations of
7 the Alaska Industrial Development and Export Authority, and to the authority of the
8 Alaska Industrial Development and Export Authority to issue bonds; and providing for
9 an effective date."

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

11 * Section 1. AS 36.30.850(b) is amended by adding a new paragraph to read:
12 (44) contracts of the Alaska Energy Authority for a coal-fired electric

1 generation project acquired from the Alaska Industrial Development and Export
2 Authority that qualified for federal financial participation under P.L. 99 - 190, as
3 amended.

4 * Sec. 2. AS 44.83.080 is amended by adding a new paragraph to read:

5 (16) to acquire, by purchase or lease, a coal-fired electric generation
6 project owned by the Alaska Industrial Development and Export Authority that
7 qualified for federal financial participation under P.L. 99 - 190, as amended.

8 * Sec. 3. AS 44.88.085(g) is amended to read:

9 (g) The authority shall adopt regulations necessary for the following purposes
10 in connection with its programs for the financing of projects under AS 44.88.155 -
11 44.88.159:

12 (1) determination of borrower eligibility;

13 (2) loan guidelines and terms, including

14 (A) maximum loan amounts;

15 (B) required loan-to-value ratios; and

16 (C) a method for determining loan interest rates [FOR THE
17 LOANS THAT ARE FINANCED DIRECTLY FROM THE ASSETS OF
18 THE AUTHORITY];

19 (3) characteristics of projects eligible for loans or purchase of loans;

20 and

21 (4) the qualifications of loan originators and servicers and the method
22 of allocating amounts available for the purchase of loans.

23 * Sec. 4. AS 44.88.095(g) is amended to read:

24 (g) Before July 1, 2007 [2003], the authority may issue bonds in an amount
25 greater than \$10,000,000 to assist in the financing of a development project under
26 AS 44.88.172 - 44.88.177 only with legislative approval. Beginning July 1, 2007
27 [2003], and thereafter, without prior legislative approval, the authority may not issue
28 bonds, except refunding and conduit revenue bonds.

29 * Sec. 5. AS 44.88.155(d) is amended to read:

30 (d) A loan participation purchased by the authority with assets of the
31 enterprise development account or with proceeds of bonds secured by assets of the

1 enterprise development account

2 (1) may not exceed \$20,000,000 [\$10,000,000]; however, in the case
3 of a loan participation for a power transmission intertie, the loan participation may
4 exceed \$20,000,000 [\$10,000,000] with legislative approval;

5 (2) may not be purchased unless

6 (A) the project applicant is not, or, if the applicant is not a
7 single proprietorship, all members of the business enterprise or enterprises
8 constituting the project applicant are not, in default on another loan made by
9 the state or by a public corporation of the state; and

10 (B) at least 10 [20] percent of the principal amount of the loan
11 is retained by the loan originator;

12 (3) may not be purchased if the loan to be purchased exceeds 75
13 percent of the appraised value of the collateral offered as security for the loan unless
14 the amount of the loan in excess of this limit is federally insured or guaranteed or is
15 insured by a qualified mortgage insurance company, except that [IN NO EVENT
16 MAY] the loan to be purchased under this paragraph may not exceed the total of loan
17 proceeds used to refinance an existing debt plus the cost of new construction,
18 expansion, or acquisition unless the proceeds from the additional amounts of the
19 loan to be purchased are restricted to uses approved by the authority to finance
20 commercial activity in the state by a business enterprise;

21 (4) may not be purchased if the participation in the loan to be
22 purchased is for a term longer than the following, except that [IN NO EVENT MAY]
23 a loan under (A) or (C) of this paragraph may not have a term longer than three-
24 quarters of the authority's estimate of the life of the collateral offered as security for
25 the loan:

26 (A) 40 years from the date the loan is made in the case of a
27 loan participation for a project described in AS 44.88.900(9)(E);

28 (B) 50 years from the date the loan is made in the case of a loan
29 participation for a power transmission intertie;

30 (C) 25 years from the date the loan is made in the case of a loan
31 participation for other projects;

1 (5) may be made only if the participation in the loan to be purchased
2 contains amortization provisions; the amortization provisions

3 (A) must be complete and satisfactory to the authority and
4 require periodic payments by the borrower;

5 (B) may allow the loan originator to amortize the portion of the
6 loan retained by the loan originator using a shorter amortization schedule than
7 the amortization schedule for the portion of the loan held by the authority if

8 (i) in the authority's opinion, the project financed can
9 support the increased debt service; and

10 (ii) the accelerated amortization schedule is required to
11 induce the originator to make the loan;

12 (6) may be made only if the participation in the loan to be purchased is
13 in the form and contains the terms and provisions with respect to insurance, repairs,
14 alterations, payment of taxes and assessments, default reserves, delinquency charges,
15 default remedies, acceleration of maturity, secondary liens, and other matters the
16 authority prescribes; and

17 (7) may be made only if the participation in the loan to be purchased is
18 secured as to repayment by a mortgage or other security instrument in the manner the
19 authority determines is feasible to assure timely repayment under the loan documents
20 entered into with the borrower.

21 * Sec. 6. AS 44.88.159(a) is amended to read:

22 (a) The interest rate on a loan participation purchased from the proceeds of
23 tax-exempt bonds or expected by the authority to be purchased from the proceeds of
24 tax-exempt bonds shall be determined under the regulations adopted by the
25 authority under AS 44.88.085(g)(2)(C) and shall be not less than [IS EQUAL TO]
26 the cost of funds to the authority. In this subsection, "cost of funds" means the true
27 interest cost expressed as a rate on tax-exempt bonds of the authority plus an
28 additional percentage as determined by the authority to represent the allocable
29 expenses of operation, costs of issuance, and loan servicing costs.

30 * Sec. 7. AS 44.88.159(b)

31 (b) The interest rate on a loan participation purchased from the proceeds of

1 taxable bonds or expected by the authority to be purchased from the proceeds of
2 taxable bonds shall be determined under the regulations adopted by the authority
3 under AS 44.88.085(g)(2)(C) and shall be not less than [IS EQUAL TO] the cost of
4 funds to the authority. In this subsection, "cost of funds" means the true interest cost
5 expressed as a rate on taxable bonds, plus an additional percentage as determined by
6 the authority to represent the allocable expenses of operation, costs of issuance, and
7 loan servicing costs.

8 * Sec. 8. AS 44.88.159(e) is amended to read:

9 (e) The interest rate on a loan participation purchased directly from the assets
10 of the authority shall be determined under the regulations adopted by the authority
11 under AS 44.88.085(g)(2)(C). However, the minimum interest rate on a loan
12 participation purchased from assets of the authority may not be less than the
13 minimum interest rate determined

14 (1) under (a) of this section if the project is of a type that could be
15 funded with tax-exempt bonds; or

16 (2) under (b) of this section if the project is of a type that could not be
17 funded with tax-exempt bonds.

18 * Sec. 9. AS 44.88.159 is amended by adding a new subsection to read:

19 (f) In determining an interest rate under the regulations adopted by the
20 authority under AS 44.88.085(g)(2)(C), the authority may determine to disregard the
21 minimum interest rate required under (a), (b), or (e) of this section for a loan
22 participation purchased by the authority to resolve lending limits or reserve restrictions
23 imposed on the financial institution and may instead determine to retain the interest
24 rate existing at the time the authority purchases a portion of the loan.

25 * Sec. 10. AS 44.88.900(7) is amended to read:

26 (7) "loan participation" means the purchase of a portion of a loan from
27 a financial institution if

28 (A) the financial institution has obtained a commitment from
29 the authority to purchase the portion of that loan before the financial institution
30 has disbursed money as part of the loan to the borrower; or

31 (B) the authority determines that purchasing a portion of a

1
2
3
4
5

preexisting loan will resolve lending limits or reserve restrictions imposed on the financial institution by law or a state or federal regulatory agency, or by the financial institution if the internal lending limit or reserve restriction is acceptable to the authority;

* Sec. 11. This Act takes effect immediately under AS 01.10.070(c).

SENATE FINANCE COMMITTEE
5/8/2003 COMMITTEE ACTION

Bill Number	SB73		
Amendment	CS "D"		
Motion	adopt as working draft		
<u>Motion by</u>	A Bunde		
<u>Objection by</u>	Olson		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Hoffman			
Senator Olson			
Senator Stevens			
Senator Taylor			
Senator Bunde			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

Proposed CS SB 73 ()
Offered in the Senate Finance Committee
Sectional Analysis

Sections 1 and 2 – Authorize the Alaska Energy Authority (AEA) to acquire Healy Clean Coal Project from the Alaska Industrial Development and Export Authority (AIDEA) Sections 1 and 2 provide authority for AEA to acquire the Healy Clean Coal Project (HCCP) from AIDEA. HCCP is the coal-fired electric generation project that qualified for federal financial participation under P.L. 99-190, as amended.

AIDEA and AEA each own certain Railbelt electric energy projects. AIDEA owns HCCP, while AEA owns the Bradley Lake Hydroelectric Project and the Alaska Intertie Project. The amendment empowering AEA to acquire HCCP would enable it to manage all of these Railbelt energy assets. AEA, however, will not be in a position to actually acquire HCCP until financing, regulatory permitting, AIDEA bond requirements, and other issues are first resolved.

Section 1. Section 1 (page 1, lines 11 – 12, and page 2, lines 1 - 3) amends AS 36.30.850(b) by adding a new paragraph to exempt AEA contracts related to HCCP from the procurement code. Under current law (AS 36.30.850(b)(22)), AIDEA contracts related to HCCP are exempt from the procurement code. Section 1 would maintain this exemption in the event that AEA acquires HCCP from AIDEA, as would be authorized under Section 2 of the Bill.

Section 2. Section 2 (page 2, lines 4 – 7) amends AS 44.83.080 by adding a paragraph that empowers AEA to acquire HCCP from AIDEA. Under current law, AEA lacks statutory authority to acquire new power projects. The proposed amendment would provide a limited exception to this restriction, and empower AEA to acquire HCCP from AIDEA.

Sections 3 and 5 - 10 Amendments to AIDEA's Loan Participation Program. Sections 3 and 5 – 10 amend statutes to enhance AIDEA's Loan Participation Program.

Section 3. Amendments in Section 3 of the bill (page 2, lines 16 – 18), together with changes proposed in Sections 6, 7, and 8 of the bill, will enable AIDEA to determine the interest rate for loan participations by adopting regulations, regardless of the source of funds AIDEA uses for the purchase.

Under current law, the source of funding AIDEA anticipates using to purchase a loan participation dictates which of two different methods is used to

Prepared by AIDEA

determine the interest rate AIDEA will impose. If AIDEA anticipates using bond proceeds, the interest rate must equal the cost of funds to AIDEA. AS 44.88.159(a) and (b). This "cost of funds" is defined to be "the true interest cost" expressed as a rate on the AIDEA bonds (which may be either taxable or tax-exempt bond rates), plus an additional percentage of interest to cover the "allocable expenses of operation, costs of issuance, and loan servicing costs." AS 44.88.159(a) and (b).

If AIDEA anticipates using its own funds to purchase the loan participation, AIDEA must determine the interest rate by adopting regulations. AS 44.88.085(g)(2)(C). Under the adopted regulations, the interest rate must be no less than the interest rate that would be applicable if AIDEA anticipated using bond funds for purchasing the loan participation. AS 44.88.159(e). This minimum interest rate equals the "cost of funds" described in the paragraph above. The tax-exempt rate under AS 44.88.159(a) is used if the project is of a type that could be funded with tax-exempt bonds, while the taxable rate under AS 44.88.159(b) is used if the project does not qualify for tax-exempt bonds.

Under the proposed amendments in Sections 3, 6, 7, and 8 of the bill, AIDEA will determine the interest rate for loan participations by adopting regulations under the same statutory criteria currently used by AIDEA to determine interest rates for loan participations AIDEA purchases using AIDEA assets.

Section 4. Section 4 of the bill (page 2, lines 23-28) amends AS 44.88.095(g), extending AIDEA's general bonding authority to July 1, 2007. Without the extension, AIDEA will need legislative authority to issue bonds for development projects under \$10 million.

Section 5. Section 5 amends AS 44.88.155(d), making several changes to AIDEA's loan participation program:

- a. Increase to \$20,000,000 the maximum loan participation. AS 44.88.155(d)(1) currently limits the amount of a loan participation AIDEA may purchase to a maximum of \$10,000,000.

Section 5 of the bill (page 3, lines 2 – 4) amends AS 44.88.155(d)(1) to increase that maximum amount to \$20,000,000, enabling AIDEA to acquire larger loan participations.

- b. Increase to 90 percent the maximum portion of a loan AIDEA may purchase. AS 44.88.155(d)(2)(B) currently prohibits AIDEA from acquiring more than 80 percent of a loan by requiring the loan originator

(the bank or other financial institution) to retain at least 20 percent of the loan.

Section 5 of the bill (page 3, line 10) amends AS 44.88.155(d)(2)(B) to decrease the percentage of the loan the loan originator must retain to 10 percent, enabling AIDEA to acquire a larger portion of loans it purchases under the loan participation program.

- c. Authorize equity extractions to enable borrowers to use loan proceeds to finance other commercial activity in Alaska. AS 44.88.155(d)(3) currently prohibits AIDEA from purchasing a loan if it exceeds “the total of loan proceeds used to refinance an existing debt plus the cost of new construction, expansion, or acquisition.” This limitation precludes AIDEA from acquiring a loan participation if any portion of the loan is used for other purposes.

Section 5 of the bill (page 3, lines 18 – 20) amends AS 44.88.155(d)(3) to expand the permissible uses of loan proceeds and enable AIDEA, in its discretion, to acquire loan participations even if the borrower made an equity extraction by using a portion of the loan proceeds to finance commercial activity in the state by a business enterprise not connected to the financed project.

Section 5 also incorporates certain stylistic language changes to support the amendments to authorize equity extractions (*see* page 3, lines 15 and 16); and to provide consistent syntax between subsections of AS 44.88.155(d) (*see* page 3, lines 22 and 23.)

Section 6. Section 6 of the bill, together with changes proposed in Sections 3, 5, and 8 of the bill, will enable AIDEA to determine the interest rate for loan participations by adopting regulations, regardless of the source of funds AIDEA uses for the purchase. *See* discussion under Section 3 for more detail.

Section 6 (page 4, lines 24 – 25) provides that the interest rate on a loan participation purchased, or expected to be purchased, using proceeds of tax-exempt bonds will be determined under regulations AIDEA adopts under AS 44.88.085(g)(2)(C). Further, the minimum interest rate must be no less than the “cost of funds” established under current law, a rate equal to a tax-exempt bond rate plus an additional percentage to cover the “allocable expenses of operation, costs of issuance, and loan servicing costs.”

Section 6 (page 4, line 29 also makes a technical amendment to add the missing word "costs." Compare page 5, line 7(AS 44.88.159(b)).

Section 7. Section 7 of the bill, together with changes proposed in Sections 3, 6, and 8 of the bill, will enable AIDEA to determine the interest rate for loan participations by adopting regulations, regardless of the source of funds AIDEA uses for the purchase. See discussion under Section 3 for more detail.

Section 7 (page 5, lines 2 – 3) provides that the interest rate on a loan participation purchased, or expected to be purchased, using proceeds of taxable bonds will be determined under regulations AIDEA adopts under AS 44.88.085(g)(2)(C). Further, the minimum interest rate will be no less than the "cost of funds" established under current law, a rate equal to a taxable bond rate plus an additional percentage to cover the "allocable expenses of operation, costs of issuance, and loan servicing costs."

Section 8. Section 8 of the bill, together with changes proposed in Sections 3, 6, and 7 of the bill, will enable AIDEA to determine the interest rate for loan participations by adopting regulations, regardless of the source of funds AIDEA uses for the purchase. See discussion under Section 3 for more detail.

Section 8 (see page 5, lines 11 and 13) makes corresponding, technical amendments. After the amendments to be made to by Sections 5 and 6 of the bill take effect, the "cost of funds" under AS 44.88.159(a) and (b) will establish the "minimum" interest rates. The actual interest rate will be determined by regulations AIDEA adopts. These amendments in Sections 6 and 7 therefore necessitate the corresponding, technical amendments made in Section 8.

Sections 9 and 10 – Amendments to enable AIDEA to acquire loan participations in pre-existing loans if the acquisition will resolve a lending limit or reserve restriction imposed upon the financial institution.

Section 9. Section 9 (page 5, lines 18– 24) enacts a new subsection (f) to AS 44.88.159 that will permit AIDEA to "disregard" the minimum interest rate otherwise applicable to a loan participation if AIDEA purchases a portion of pre-existing loan to resolve a lending limit or reserve restriction problem. Instead, AIDEA may retain the interest rate that existed when AIDEA purchased the loan. This amendment is necessary, as any pre-existing loan AIDEA purchases will already have an established interest rate. See discussion under Section 10 for more detail.

Section 10. Under current law, AIDEA is precluded from purchasing a portion of a loan if any portion of the loan has been disbursed to the borrower before AIDEA has provided its commitment to purchase a portion of the loan. See AS 44.88.900(7) (definition of "loan participation"). This restriction does not preclude AIDEA from effectively purchasing participations in pre-existing loans, as the restriction does not apply to re-financed debt. Refinancing debt, however can impose significant expense on the borrower. The proposed amendments will enable AIDEA in limited circumstances to purchase a participation in a loan without requiring the borrower to incur the expense of refinancing.

Section 10 (page 5, line 31, and page 6, lines 1-4) will amend the definition of "loan participation" to enable AIDEA to participate in a pre-existing loan, but only if the purchase resolves a lending limit or reserve restriction imposed upon the financial institution. Lending limits and reserve restrictions are imposed upon financial institutions by state and federal law and regulators, and are self-imposed by internal rules of some financial institution. Any restriction imposed by state or federal law or a regulator will qualify. The only self-imposed lending limits or reserve restrictions that will qualify are ones AIDEA finds acceptable.

Section 10 (page 5, lines 28 and 30) make technical changes.

Section 11. – The existing section 3 of SB 73 will be renumbered as Section 11, and provide for an immediate effective date.

May 1, 2003

The Honorable Gary Wilken
Alaska State Senate
State Capitol
Juneau, Alaska 99801

Dear Senator Wilken:

AIDEA and AEA, with the concurrence of the Governor's office, requests that the Senate Finance Committee amend SB 73 to address several issues that we believe are important and require action this legislative session. Attached you will find a proposed amendment and accompanying sectional analysis to Senate Bill 73. The amendment makes several changes to AIDEA's loan participation program and also authorizes AEA to acquire the Healy Clean Coal Project (HCCP) from AIDEA.

The Loan Participation Program provides long-term financing to Alaska businesses for new or existing projects, or for the refinancing of existing loans. Since its inception in the early 1980's, the program has been highly successful in diversifying the Alaskan economy by providing financing for a large variety of commercial facilities ranging from office buildings, warehouses and retail establishments to hotels, fishing vessels, and manufacturing facilities. Furthermore, this program is AIDEA's highest earning asset class.

The proposed changes will enhance the loan program, bring a greater benefit to Alaskan businesses, increase AIDEA revenues, and increase the AIDEA dividend paid to the state. Specifically, the amendment proposes the following changes to the program:

1. Increases the percentage in loan participations by AIDEA from 80% to 90%. This provides a greater benefit for the borrower by allowing a larger portion of the loan to be amortized over a longer term than provided by the banks, thereby reducing debt service.
2. Increases the maximum dollar amount AIDEA can purchase per loan transaction from \$10 million to \$20 million, allowing AIDEA the opportunity to participate in larger financial transactions to the benefit of Alaska banks and businesses.
3. Allows for equity extractions to finance other business activities in Alaska that are not necessarily connected to the financed project. Many Alaskan entrepreneurs are involved in multiple businesses. Allowing a person to refinance an established business and extract equity for use in a new business will benefit the state economy immensely.
4. In order to resolve lending limit problems of financial institutions, the amendment allows AIDEA to purchase participations in existing qualified loans held by financial institutions. This change will provide an in-state solution for Alaska banks to resolve lending limit

problems. Effectively, this frees up lending capacity so the banks can continue to extend short-term loans and lines of credit to their customers.

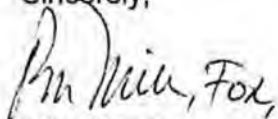
5. Allows for the establishment of a minimum interest rate regardless of AIDEA's funding source for the loan participation, which is either bond proceeds or AIDEA funds. Currently, the funding source dictates the method of establishing an interest rate on the loan participation. If bond proceeds are used the interest rate is set in statute as AIDEA's cost to borrow plus an additional percentage to cover the loan servicing costs. If AIDEA uses its own funds the interest rate is determined by adopting regulations and may be no less than the interest rate used if AIDEA were to issue bonds.

We believe the proposed changes to our loan program will have a positive effect on AIDEA, the local banks, and private Alaskan businesses.

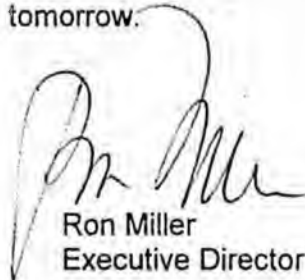
In addition to the loan participation changes, the proposed amendment takes an initial step to address problems with the AIDEA-owned HCCP. The amendment allows for AEA to acquire the HCCP from AIDEA. AEA currently owns other railbelt energy assets - the Alaska Inter tie and the Bradley Lake Hydroelectric Project. The amendment will allow AEA to manage all railbelt energy assets, although AEA will not be in a position to acquire HCCP until several issues, including financing and permitting, are resolved.

We appreciate your taking the time to consider our request. We look forward to discussing the proposed amendment in greater detail with you tomorrow.

Sincerely,



Mike Barry
Chairman of the Board



Ron Miller
Executive Director



Corporate Headquarters
MAC K3212-051
P.O. Box 100600
Anchorage, AK 99510

Wells Fargo Bank Alaska, N.A.

April 25, 2003

James A. McMillan
Deputy Director-Credit
AIDEA
813 W Northern Lights Blvd.
Anchorage, AK 99503

VIA FACSIMILE: 269-3044

Dear Jim:

In response to your letter of April 23, 2003, we generally agree with the intent. Wells Fargo Bank Alaska, N.A. can support items 1 through 4 of the legislation you intend to propose. However we reserve the judgment on Item 5 until we have a better understanding of its intent.

If you have any question, please give me a call at 265-2816.

Sincerely,

James L. Cloud
Executive Vice President

Provided by AIDEA

2025 Churchill Drive
Anchorage, Alaska 99517
April 25, 2003

Mr. James McMillan
Deputy Director—Credit
Alaska Industrial Development and Export Authority
813 West Northern Lights Blvd.
Anchorage, Alaska 99503

Subject: Proposed Draft Legislation/Loan Participation Program

Dear Mr. McMillan;

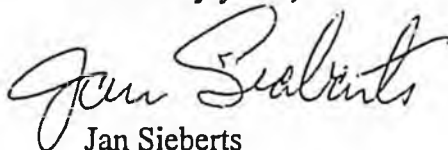
In regard to your request for comments on proposed legislation, even though I am not an attorney, the concepts reflected in your letter are positive in nature. I have worked in the banking industry for 35 years for two local commercial banks and in 1979 assisted AIDEA in developing loan purchase programs. I was in charge of commercial real estate lending for NBA/Wells Fargo Bank for 27 years, and therefore oversaw most participations that occurred between the two institutions during this period. I believe AIDEA's participation with local banks to have been instrumental in creating a sound private sector economy in Alaska and has been very profitable to AIDEA too.

1. In regard to allowing for risk based pricing, I don't have enough information on how this is going to be implemented to comment. A fundamental concept of AIDEA was to provide reasonably priced capital to all businesses. If this is intended to mean that transactions with lower bank participation would receive higher interest rates, this would be a sound concept.
2. In regard to increasing AIDEA's maximum participation to 90% I believe this to be positive as under the original AIDEA participation program 90% participations were allowed. However, the risk based pricing could be reflected in the amount of bank participation. AIDEA has other safeguards to keep banks interested in low delinquencies, and can cease purchasing loans if delinquencies from a particular bank get too high.
3. We would support increasing the amount AIDEA can lend, but would suggest higher bank participation in amounts over \$10,000,000. In transactions where AIDEA's participation is over \$10 million the bank participation could increase to 25%.
4. I have been perplexed by the term equity extraction. When a business is borrowing money to expand its business it is not equity extraction. If funds are used to expand any business operation it should be satisfactory as long as adequate collateral is provided to the Authority. The original intent of the Authority was to assist in business expansion.
5. I would encourage AIDEA to be allowed to participate in construction loans in excess of \$10 million. Banks have house lending limits and legal lending limits. Transactions in Alaska seem to be getting larger and some transactions required the participation of two

or three local banks. It would be of assistance to local banks if AIDEA could participate in these larger transactions.

If I can be of further assistance please contact me at 265-2991 at any time.

Sincerely yours,

A handwritten signature in cursive script that reads "Jan Sieberts". The signature is written in dark ink and is positioned above the printed name.

Jan Sieberts



First National Bank
of Anchorage

D.H. Cuddy
President-

April 23, 2003

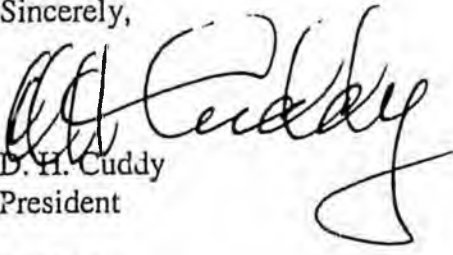
AIDEA/AEA
James A. McMillan, Deputy Director-Credit
813 West Northern Lights Blvd.
Anchorage, AK 99503

Dear Mr. McMillan,

I received your proposed draft legislation relative to the changes in the AIDEA Loan Participation Program.

You will recall a meeting of all of the bankers in Alaska wherein only one bank voiced support for AIDEA's purchase of loans from loan portfolios when the credits approached the legal limit of the bank. I continue to say that the banker should recognize this situation prior to putting the loans on the books, and tender an application to AIDEA for the new credit. I support all other changes in the proposed legislation.

Sincerely,


D. H. Cuddy
President

DHC:db

Alaska Pacific Bank



April 25, 2003

Jim A. McMillan
Deputy Director-Credit
Alaska Industrial Development & Export Authority
813 West Northern Lights Blvd
Anchorage, AK 99503

Re: Draft Legislation – Loan Participation Program

Dear Jim:

The senior credit officer and I have reviewed the information you sent on Wednesday. We are pleased to see AIDEA move forward with these changes and at this stage in the process have no recommended changes to what has been proposed. Our bank will support these changes and looks forward to working with you and the others as we move through this process.

I have a letter going to Mike Barry, which was actually drafted just prior to the receipt of the proposed changes. In that letter I do indicate that I have spoken directly to all of the other community banks in the state and they all support the creation of this additional participation program. I think you may find that the Alaska Bankers Association will take a neutral stance on this issue. Historically the association will not oppose or support a bill if there are strong differences of opinion within the membership of the association. I think one or more of the state's largest institutions will object to the changes, which would put the large banks and the smaller banks on opposite sides of the issue resulting in the neutral position by the association. So the support will come from individual banks, which I am confident is in place.

Please call if I can be of any further assistance in the matter.

Sincerely,

Craig E. Dahl
President & CEO
Alaska Pacific Bank

Serving Southeast Alaska Since 1935

Member
FDIC

ADMINISTRATIVE OFFICES • 2094 JORDAN AVENUE • JUNEAU, ALASKA 99801-8016
(907) 789-4844 • FAX: (907) 790-5110 • WEBSITE: www.alaskapacificbank.com





April 24, 2003

James A. McMillan
Deputy Director-Credit
Alaska Industrial Development
And Export Authority
813 West Northern Lights Boulevard
Anchorage, Alaska 99510-720

Re: Proposed Draft Legislation
Loan Participation

Dear Jim:

The proposed draft legislation explained in your letter of April 23, 2003 and further defined in the enclosure will significantly enhance the Loan Participation Program. I fully support all the proposed changes, as they will benefit both lenders and borrowers. These changes will result in increased loan participation and investment and that is good for Alaska.

Additionally, I would recommend you increase approval authority for your in-house Credit Committee from \$3 million to \$6 million. This seems appropriate as you increase your participation to \$20m and since the Committee meets weekly as compared to monthly Board meetings, projects under \$6 million will move along more timely.

I appreciate your effort to improve the Loan Participation Program.

Sincerely,

Marc Langland
President

Cc: Alaska Bankers Association

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DENALI STATE BANK

"Your Community Bank"

Member FDIC

April 24, 2003

James A. McMillan
Deputy Director-Credit
AIDEA/AIA
813 West Northern Lights Boulevard
Anchorage, AK. 99710-720

RE: Proposed Draft Legislation
Loan Participation Program

Dear Jim,

In reference to your letter of April 22, 2003 containing the proposed changes to AIDEA loan participation program, Denali State Bank is in support of the changes as you proposed. We urge the Alaska State Legislature to consider the proposed changes during the current session.

Being a small community bank, Denali State Bank does have constraints in serving our larger, more complex borrowers and an additional source of funding is always helpful. We do appreciate having access to the AIDEA programs so we can better serve the customers of our bank doing business in the Interior of Alaska.

Sincerely,

Michael Smith
Sr. Vice President & Loan Administrator

MAIN BRANCH
P.O. BOX 27503
1100 N. COLUMBIA ST.
ANCHORAGE, AL 99507
(907) 566-1400
FAX (907) 566-0250

GOLDEN HEART BRANCH
P.O. BOX 76503
1400 ANCHORAGE WAY
ANCHORAGE, AK 99507
(907) 568-4211
FAX (907) 568-0270

TOK BRANCH
P.O. BOX 670
MILE 13.14 ALASKA HWY
TOK, AK 99780
(907) 883-2265
FAX (907) 883-2268



First National Bank
Member FDIC

April 23, 2003

James A. McMillan
Deputy Director-Credit
AIDEA/AEA
813 West Northern Lights Boulevard
Anchorage, Alaska 99510-720

Rc: Proposed Draft Legislation
Loan Participation Program

Dear Jim:

I am in receipt of yours of April 23, 2003 on behalf of the Alaska Bankers Association. I appreciate your sending the same material to the members of the association. We will not meet again until May 14, 2003. That will be the first opportunity we will have to consider this matter collectively. But maybe we will find by reply to you from each member that there is already consensus.

Speaking for myself, and the same argument that I will make to the association members, is that the changes proposed are all favorable, except the last. The last one does not affect all of our members equally (as would the others) and therefore should not receive the support of the association. Indeed, I will recommend that the association oppose the proposed legislation unless the provisions intended to bring about the change number 5 are deleted.

Please let me know if you have any questions.

Truly yours,

David A. Lawer
Senior Vice President & General Counsel

Cc: ABA Officers, Directors & Member Representatives



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 Gene Therriault
President of the Senate
Alaska State Legislature
State Capitol, Room 107
Juneau, AK 99801-1182

Dear President Therriault:

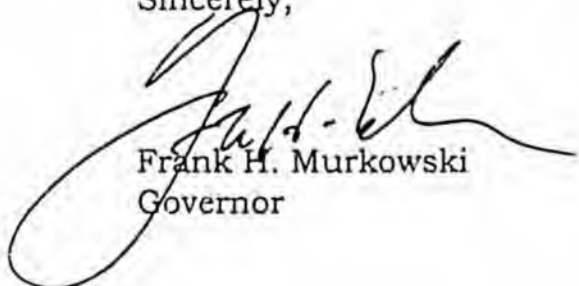
Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would extend the sunset on the Alaska Industrial Development and Export Authority's (Authority) bonding authorization until July 1, 2007.

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,



Frank H. Murkowski
Governor

CS SB 73 (FIN) Work Draft I

CS SB 73 (FIN) version I makes several changes to AIDEA's loan participation program.

Changes to the Loan Program

The Loan Participation Program provides long-term financing to Alaska businesses for new or existing projects, or for the refinancing of existing loans. Since its inception in the early 1980's, the program has been highly successful in diversifying the Alaskan economy by providing financing for a large variety of commercial facilities ranging from office buildings, warehouses and retail establishments to hotels, fishing vessels, and manufacturing facilities. Furthermore, this program is AIDEA's highest earning asset class.

The proposed changes will enhance the loan program, bring a greater benefit to Alaskan businesses, increase AIDEA revenues, and increase the AIDEA dividend paid to the state. Specifically, the bill proposes the following changes to the program:

1. Increases the percentage in loan participations by AIDEA from 80% to 90%. This provides a greater benefit for the borrower by allowing a larger portion of the loan to be amortized over a longer term than provided by the banks, thereby reducing debt service.
2. Increases the maximum dollar amount AIDEA can purchase per loan transaction from \$10 million to \$20 million, allowing AIDEA the opportunity to participate in larger financial transactions to the benefit of Alaska banks and businesses.
3. Allows for equity extractions to finance other business activities in Alaska that are not necessarily connected to the financed project. Many Alaskan entrepreneurs are involved in multiple businesses. Allowing a person to refinance an established business and extract equity for use in a new business will benefit the state economy immensely.
4. In order to resolve lending limit problems of financial institutions, the amendment allows AIDEA to purchase participations in existing qualified loans held by financial institutions. This change will provide an in-state solution for Alaska banks to resolve lending limit problems. Effectively, this frees up lending capacity so the banks can continue to extend short-term loans and lines of credit to their customers.
5. Allows for the establishment of a minimum interest rate regardless of AIDEA's funding source for the loan participation, which is either bond proceeds or AIDEA funds. Currently, the funding source dictates the method of establishing an interest rate on the loan participation. If bond proceeds are used the interest rate is set in statute as AIDEA's cost to borrow plus an additional percentage to cover the loan servicing costs. If AIDEA uses its own funds the interest rate is determined by adopting regulations and may be no less than the interest rate used if AIDEA were to issue bonds.

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/19/03

FURTHER: Finance

Date of 5-Day Notice: 2/20/03
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2/27/03

Labor and Commerce Committee considered SENATE BILL NO. 73

SB 73 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."

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#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
CED	2/11/03		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		DO PASS	DO NOT PASS	NO REC	AMEND
Seekins	<i>Joseph Seekins</i>	✓			
Davis	<i>Betty Davis</i>	✓			
French	<i>[Signature]</i>	✓			
G. Stevers	<i>[Signature]</i>	✓			
Bunde	CHAIR: <i>[Signature]</i>	✓			

SENATE FINANCE COMMITTEE

SIGN-IN

SB 73-AIDEA: BONDS & MUNICIPAL TAX EXEMPTION

NAME: Mike Barry Subject/Bill No: 73

Co./Dept./Title: AIDEA Ch. Board of Directors Phone: 2231614

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

SB

74

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 74
 (S) Publish Date: 2/19/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Environmental Conservation
 Title Cplan Renewal BRU Spill Prevention and Response
 Component Industry Preparedness &
 Sponsor Governor Murkowski Pipeline Operations
 Requester Resources Component No. 1922

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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type-Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (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	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill changes the time between oil spill contingency plan approvals from the current three years to five years. Plans are required of operators of oil terminals, pipelines, exploration and production facilities, oil tank vessels, nontank vessels, oil barges, and railroad tank cars.

This bill furthers the goal of permit streamlining and complements initiatives currently being undertaken by DEC to shift emphasis away from the administrative review and approval process, which can often become bogged down in legal and adjudicatory challenges from third parties, to actual inspection and verification of response capability, which falls under the purview of DEC's enforcement authority.

Continued on Page 2

Prepared by: Larry Dietrick, Director Phone 465-5250
 Division Spill Prevention and Response Date/Time 2/11/03 4:49 PM
 Approved by: Kurt Fredriksson Date 2/11/2003
 Agency Department of Environmental Conservation

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. SB 74 #1

ANALYSIS CONTINUATION

Continuation from Page 1

The application, review and approval process for oil spill prevention and contingency plans has become unnecessarily burdensome to applicants and DEC. The ability to prevent and respond to spills will be improved by increasing the capacity to conduct on-site regulated facility and vessel inspections, spill drills and exercises, technical assistance, and interaction with regulated operators to enhance response preparedness.

The bill supports the Governor's goal of fostering clarity and certainty through clear and consistently applied industry requirements and providing a stable and predictable permitting process.

THE
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DOCUMENT(S)
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ORIGINAL
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01-26-01 14:08

From: PMS NCAG VALDREZ

7-804 P. 01/04 F-414

federal requirements. There is currently no conflict between state and federal planning cycle requirements. Hence the alignment this bill seeks to achieve has already been accomplished.

The sponsors of this bill may be unaware that HB113 actually introduces a discrepancy between state and federal oil spill programs. HB113 would misalign Alaska's C-Plan renewal cycle with the federal 3-year oil spill drill cycle. The federal National Preparedness for Response Exercise Program (NPREP) is set to a triennial cycle that requires a major oil spill equipment, deployment drill once every three years to ensure that C-Plan personnel and equipment are fully tested. Many Alaskan C-Plan holders align their NPREP drills to coincide with Alaska's 3-year renewal cycle, so that improvements recommended from drills and exercises can be incorporated in their plan at renewal. Alignment between the State's C-Planning cycle and the federal drill program is important, since the state has not adopted any regulatory requirements for drills, and relies on the federal drill program to ensure the integrity of Alaska's oil spill response system.

While federal agencies are on a 5-year renewal cycle, they require that an annual review be conducted by the planholder and that the planholder submit amendments to keep the plan current. This annual review requirement forces the planholder to review their plan and make updates and improvements, such as they be identified from drills and exercises. The federal requirement ensures that the key plan elements are improved on a continuous basis and do not languish for a period of 5 years. Annual amendments are submitted for portions of the plan that require revision. The entire plan is submitted for renewal once every 5 years. Additionally, since the plan is maintained on an annual basis, major revisions are not typically required at the 5-year renewal cycle. If an annual update process were in place, there would be no incompatibility between the 3-year NPREP cycle and the 5-year cycle (with annual updates).

If Alaska seeks full alignment with the federal C-Plan review process, that alignment requires that Alaska not only adopt the 5-year renewal cycle, but also adopt the federal annual updating and amendment requirements.

In summary, we oppose the current version of HB113 for the following reasons:

1. **HB113 is not consistent with Federal Oil Spill Planning or Drill Requirements**
Retaining the 3-year C-Plan renewal cycle ensures consistency with the national oil spill exercise program, which is an important tool for ensuring that contingency plans are updated to reflect current innovations and lessons learned in a timely manner.
2. **HB113 slows the implementation of Best Available Technology Regular Best Available Technology (BAT) analyses** are the cornerstone of the BAT regulations adopted by ADEC 1997 and agreed upon by citizens, industry

¹ UBOG and HMRG work collaboratively with the State of Alaska during Alaska's 3-year renewal cycle, and merely issue updated approval letters once every five years; an emergency plan update is not required, due to the emergency of Alaska's planning standards. EPA does not review and approve C-Plans, they only require a plan that meets federal requirements to be located at the facility. Annual plan amendments are also required by the federal agencies.
§ 13C7B.155, 1070 United States Coast, Oil or Hazardous Material Pollution Prevention Regulations for Vessel, Provisions for plan review, revision, amendments, and appeal.
Page 2 of 3
651.105.050206 HOCG/HB113.doc

and government. Currently a BAT analysis for oil spill prevention and response is required at each plan renewal (every three years). The plan holder must adopt new equipment and/or procedures if the analysis determines that the existing technology utilized by the plan holder does not meet the BAT standards. Lengthening the 3-year renewal cycle without requiring an annual plan holder review, slows the process that ensures that BAT is being utilized to prevent and respond to oil spills.

More frequent BAT updates also provide incentives for Alaskan entrepreneurs and suppliers to develop and sell improved technology to the Alaska oil industry.

3. HBI13 could lead to complacency and increased risks

Thirteen years after the Exxon Valdez Oil Spill (EVOS) tragedy we can look back and marvel at all we have accomplished together to improve Alaska's oil spill prevention and response capability. But we must not begin dismantling the very C-Plan laws that have prevented another major oil spill disaster without good reasons.

Restarting the 3-year C-Plan renewal cycle ensures that one of the greatest lessons learned from the EVOS is not repeated, that is, allowing regulators and industry to become complacent.

We strongly oppose HBI13 as drafted. Thank you for considering our views. Please contact me if you have any questions or if I can provide additional information on our position regarding HBI13.

Sincerely,



John S. Devens, Ph.D.
Executive Director

- CC:
- Representative Mike Cheseault
 - Representative Hugh "Bud" Fair
 - Representative Leal McCusker
 - Representative Norman Rokelberg
 - Representative Harry Crawford
 - Representative Beth Kerrula
 - Governor Frank Murkowski
 - Lt. Governor Loren Lemaitre
 - Commissioner Eustace Ballard, ADEC
 - Richard Ranges, Alyeska Pipeline
 - PWS RPO c/o Tom Colby, AITC
 - CDR Mark Swanson, US Coast Guard
 - Mike Munge, CIRCAC
 - PWSR/CAC Member Organizations

STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION
OFFICE OF THE COMMISSIONER

410 Willoughby Ave., Ste 303
Juneau, AK 99801-1795
PHONE: (907) 465-5065
FAX: (907) 465-5070
<http://www.state.ak.us/dec/>

March 13, 2003

The Honorable Bill Williams
Alaska House of Representatives
State Capitol, Room 515
Juneau, AK 99801

Dear Representative Williams:

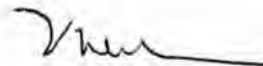
The Department of Environmental Conservation requests a hearing on SB 74 "An Act extending the renewal period for oil discharge prevention and contingency plans." Operators of oil terminals, pipelines, exploration or production facilities, tank vessels, non tank vessels and oil transporting railroad cars are required to have an approved oil discharge prevention and contingency plan. Current law requires that these plans be renewed every three years. This legislation increases the renewal period to five years.

This bill streamlines the permitting process with no loss of environmental protection. I have testified in your committee concerning my commitment to setting clear understandable standards and ensuring compliance through monitoring. This bill will allow industry and the department to focus our limited resources on the actual testing of oil spill prevention and response readiness through in-the-field inspections and drills. Exercises are the most effective means of ensuring spill readiness.

A five-year renewal cycle also provides consistency with the approval cycle for federal and West Coast states' response plans. Plans for multiple jurisdictions can now be on the same cycle.

Larry Dietrick, Director of the Division of Spill Prevention and Response will represent the department on this bill. For additional information, please contact Mr. Dietrick at 465-5255 or Mary Siroky, the department's legislative liaison at 465-5355. Thank you for your consideration.

Sincerely,



Ernesta Ballard
Commissioner

cc: Mike Tibbles, Legislative Director, Office of the Governor

TESTIMONY OF
MARILYN CROCKETT
ALASKA OIL AND GAS ASSOCIATION
BEFORE
HOUSE FINANCE COMMITTEE
RE: CSSB74(Res)am
March 25, 2003

My name is Marilyn Crockett and I am Deputy Director of the Alaska Oil and Gas Association. AOGA is a trade association whose 17 member companies account for the majority of oil and gas exploration, development, production, transportation, refining and marketing activities in Alaska.

Every AOGA member conducting activities in Alaska is required to have an Oil Spill Prevention and Contingency Plan (or C-Plan) approved and in place. Therefore, AOGA has a significant interest in SB74, and we encourage the Committee to pass it.

AOGA spent a considerable amount of time over the past 12 months identifying permitting programs that were in need of updating and streamlining. Early on we adopted a guiding principle to guide us through this process. That principle reads: "accomplish updates and streamlining without compromising environmental protection or safety standards". SB74 fits perfectly within this principle.

The bill would extend the renewal cycle for C Plans from the current period of three years to five years—the cycle required by the federal government, west coast states, and other oil producing states we've studied.

Preparation and processing of a renewal application is expensive endeavor. Renewal costs can average between \$60,000 and \$100,000 for the renewal alone (legal challenges can increase these numbers by an additional \$200,000 to \$500,000).

The renewal process also is very time-intensive. Experience has shown that for some plans, even with submittals 180 days in advance of the expiration date, approvals still can average 360 days, essentially meaning that once a renewal is complete, work must begin on the next renewal.

It's important to recognize what purpose the C Plan serves. It is the "blueprint", if you will, describing how an operator will respond to an event. The proof of the effectiveness of the plan is not how often it is renewed; it's whether the response identified in the Plan can be delivered as promised. Demonstration of this effectiveness is accomplished through drills. It is in this area that we will see the biggest benefit of an extended renewal cycle by shifting the focus away from administrative processing to field performance.

It's also important to recognize that these Plans are evergreen documents. They are not simply placed on a shelf after approval to collect dust until the next renewal period. They are continually reviewed to ensure information is kept up-to-date and to ensure the Plan continues to reflect the current operation and state of readiness. ADEC regulations require that updates and amendments be submitted to the Department.

Thank you for allowing me to testify.