

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8691 HOUSE LABOR & COMMERCE

HB

524

AGENET

Representative Pete Kott
Chair, Labor & Commerce Committee
State Capitol Room 432
Juneau, Alaska 99801

February 27, 1996

Dear Representative Kott,

The Alaska Geriatric Exchange Network (AGENET), a group composed of people who administer direct programs (congregate & home delivered meals, transportation, adult day care, Alzheimer's education, respite) to seniors throughout our state, would like you to know that we fully support House Bill No. 524.

This bill would allow our group to take a more cost effective approach to insurance which is required at each of our program sites across the state. We are very aware of cost effective measures and daily are working with our budgets to provide services which enable seniors to live at home, independently and with honor. Many of our project sites operate with very few resources and staff, many of whom are part time employees. With this bill, we could decrease our risk management with the possibility of being able to purchase insurance in a group pool.

Please contact me if there is anything else we can do to insure this bill's passage.

Sincerely,


Patricia Branson, President

Alaska Geriatric Exchange Network

WASILLA
AREA
SENIORS
INC.



February 28, 1996

Representative Beverly Masek
Alaska State Legislature
Juneau, Alaska 99811

Dear Representative Masek:

I am writing to request your support of a bill, (HB 524) which is currently in the House Labor and Commerce Committee. This bill deals with allowing employer associations to enter into cooperative arrangements for the purpose of obtaining joint insurance.

Insurance is one of our largest costs here at the Senior Center. We are members of an association called AGENET, which comprises members of most senior programs in the state. I believe we would qualify under this bill and possibly it could lower our insurance costs. Part of the reason they are so high is we are a small agency and insurance companies assign higher risk to small businesses.

I would appreciate your support of this bill. Sorry I missed you at the last constituent meeting. The furnace was on the blink at the center. I will try to catch you next time.

Sincerely,

Tim Anderson
Executive Director

cc. Members House Labor And Commerce Committee
Representative Vic Kohring
Senator Lyda Green
Senator Rick Halford

House Labor & Commerce Committee

State Capitol
Juneau, Alaska 99801-1182
907-465-4954

HB 524 SECTIONAL ANALYSIS

Section 1 amends existing law to permit employer associations to enter into cooperative agreements to participate in joint insurance arrangements.

Section 2 defines "employer association" as an unincorporated association which consists of at least five employers engaged in the same or similar trade, business, or profession, and which has been in existence at least five years.

House Labor & Commerce Committee

State Capitol
Juneau, Alaska 99801-1182
907-465-4954

HB 524 SPONSOR STATEMENT

Alaska law permits certain public entities to enter into insurance cooperative arrangements wherein they pool contributions to assume risks from losses or to purchase insurance coverage on a group basis. Currently, this option is available only to municipalities, public corporations, school districts, and regional educational attendance areas. HB 524 would extend this option to employer association.

Small employers often are assigned a higher risk by insurance carriers. This results in higher insurance costs. By pooling their numbers, small employers would qualify for lower risk assessments and therefore lower premiums.

Your support is urged.

HB

526

(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 22, 1996

FURTHER REFERRALS:

Finance

Date of Committee Action: 3-13-96

The LABOR AND COMMERCE Committee considered:

HB 526

HOUSE BILL NO. 526

AIDEA OPERATIONS/PROJECTS/LOANS

"An Act relating to the financing authority, programs, operations, and projects of the Alaska Industrial Development and Export Authority; providing an exemption from the procurement code for certain projects of the authority; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 526 (L&C)

the same title
 a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) CED (AIDEA)

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE *[Signature]*

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB526

Revision Date: _____ Department: Commerce and Economic Development
 Title: Financing authority, programs and projects of AIDEA BRU: AIDEA
 Component: AIDEA
 Sponsor: House Labor & Commerce
 Requestor: House Labor & Commerce COMPONENT SERIAL NO. _____ 1234

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Bonds will be sold to finance projects and will have no fiscal impact on the General Fund. Program changes will have no fiscal impact on the General Fund.

Prepared by: William R. Snell, Executive Director Phone: 907-561-8050
 Division: AIDEA Date: March 8, 1996
 Approved by Commissioner: William L. Hensley Date: 3-8-96
 Agency: Commerce and Economic Development

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House Labor & Commerce Committee

State Capitol
Juneau, Alaska 99801-1182
907-465-4954

HB 526 SPONSOR STATEMENT

The Alaska Industrial Development Authority (AIDEA) was created to promote employment in Alaska through a variety of tools. Among others, these tools consist of the Development Assistance Program, the Loan Participation Program, and the Business Assistance program. Properly utilized, these mechanisms have the potential of having a positive impact on the economy of Alaska. For instance, AIDEA's involvement with the DeLong Mountain Transportation System and Port Expansion has yielded 350 full time jobs in the Kotzebue area.

As will be discussed in committee proceedings, changes in economic, legal, and financial conditions have made it desirable to examine several statutory provisions pertaining to AIDEA. Accordingly, HB 526 was filed to occasion dialogue addressing these issues.

Your assistance and advice is appreciated.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 6, 1996

SUBJECT: Alaska Industrial Development and Export Authority (HB 526)

TO: Representative Pete Kott

FROM: Tamara Brandt Cook
Director *TBC*

Here is the sectional summary that you requested.

Sec. 1. Adds as an exemption to the State Procurement Code contracts related to integrated transportation and port facilities owned by AIDA.

Secs. 2-4. Changes reference to "loan financed" to read "loan participation purchased."

Sec. 5. Technical change deleting "the members of."

Sec. 6. Eliminates the business assistance fund. Allows AIDA to guarantee new business assistance loans and new business assistance loans made to refinance existing loans without requiring that the guarantees be made with money in the business assistance fund.

Sec. 7. Technical change.

Sec. 8. Increases the amount of a loan guarantee from \$75,000 to \$100,000 for which AIDA may waive collateral. Permits AIDA to guarantee a loan if the proceeds will be used to benefit a business conducted in the state. The current provision allows a guarantee of a loan made to a business with a majority interest held by state residents. Permits AIDA to guarantee the payment of interest on the guaranteed portion of a loan, while existing law forbids this.

Sec. 9. Technical change.

Sec. 10. Applies interest rate limitation on loans guaranteed by AIDA to financial institutions only.

Sec. 11. References to the business assistance fund are deleted.

Representative Pete Kott

March 6, 1996

Page 2

Sec. 12. Expands the definition of "development project" to include a facility for the generation, transmission, development, transportation, conversion, or use of energy resources.

Sec. 13. Expands the definition of "loan participation" to allow the purchase of a portion of a loan at any time before money from the loan is disbursed to the borrower.

Sec. 14. Expands the definition of "project" to include commercial activity by a business, whereas the existing provision applies only to commercial activity of a small enterprise.

Sec. 15. Repeals the provision stating that the holder of a debt instrument for a loan guaranteed by AIDA has no recourse to the assets of AIDA beyond those designated by the authority from its reserves. Repeals a provision dealing with discounted loan purchases. Repeals a definition applicable to the business assistance fund, which is eliminated in this bill. Repeals the definition of small enterprise.

Sec. 16. Repeals the bond authorization for a public use aircraft fueling facility at the Anchorage International Airport and for a port facility related to an iron ore processing facility at Point Mackenzie. Repeals the sunset provision that applies to AS 44.88.500-599.

Sec. 17. Authorizes AIDA to issue bonds for port facilities related to the DeLong Mountain transportation system.

Sec. 18. Authorizes AIDA to acquire the Snettisham hydroelectric project, issue bonds in connection with the acquisition, and establish a capital reserve fund to secure those bonds. If a capital reserve fund is established, the legislature may be asked for appropriations for the fund.

Sec. 19. Immediate effective date.

TBC:klb

96-163.klb

Alaska Industrial Development and Export Authority

Background and Reference Material SB 222

- **SB 222 - Sectional Analysis**
- **AIDEA Program Description**
- **Development Finance Project Status Report**
- **Project Fact Sheets: Red Dog Expansion; Snettisham**



ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY



480 WEST TUDOR

ANCHORAGE, ALASKA 99503

907 / 561-8050

FAX 907 561-8998

AIDEA GENERAL LEGISLATION SB 222:HB425 SECTIONAL ANALYSIS

Section 1- Limited Procurement Exemption.

Section 1 creates a procurement exemption for AIDEA contracts related to integrated transportation and port facilities owned by the Authority. This procurement exemption is intended to apply to DeLong Mountain Transportation System (DMTS) contracts of the Authority, therefore eliminating the need for any sole source waivers.

Background. Procurement exemptions or waivers are generally required for AIDEA development finance projects. Under AIDEA's development finance program, AIDEA must own and operate the projects. AIDEA contracts with the principal user of each project and that user becomes responsible for all the project costs. In order to maintain this legal relationship, it is desirable for AIDEA to contract with the principal user to act as AIDEA's agent for the completion of the construction and other project work. To accomplish this, a procurement exemption or a sole source waiver is generally required.

Currently, two specific procurement code exemptions apply to AIDEA contracts. First, AS 36.30.850(b)(8) creates an exemption for acquisition of property and other contracts relating to airports under AS 44.88. This exemption applies to, among other things, AIDEA contracts related to the Federal Express hangar at Anchorage International Airport. The second existing procurement exemption (AS 36.30.850(b)(22)) relates to AIDEA contracts for a clean coal technology demonstration project and currently applies only to the Healy Clean Coal Project.

AIDEA has adopted Procurement Plans and Procedures covering all of AIDEA procurements including those covered by procurement exemptions. Under the Procedures, AIDEA requires competition that is practical under the circumstances, and Alaska hire. It should be noted that, since adoption of the AIDEA Procurement Plan, Legislative Budget and Audit has undertaken several AIDEA procurement audits and has never found procurement discrepancies.

Section 2- AIDEA Bonding Authority.

Section 2 of the bill relates to AIDEA's ability to issue bonds. Currently, AIDEA may not issue bonds, except refunding bonds, without the approval of the legislature. Section 2 of the bill restores AIDEA's ability to issue bonds without legislative authorization, except in the case of bonds greater than \$10 million issued to assist development finance projects. On July 1, 1995 a delayed amendment to AIDEA's statutes took effect which removed AIDEA's authority to issue bonds other than refunding bonds. This section restores those powers.

Background. The current bonding limitation prevents AIDEA from issuing any bonds (other than refunding bonds) and curtails AIDEA's ability to fulfill its statutory mission. Most recently, AIDEA was unable to issue conduit revenue bonds to support the development of the Fort Knox mine. Although the bonds would not have obligated AIDEA's credit, current law prevented the issuance.

Sections 3-5- Technical Changes.

Sections 3 through 5 make technical changes to AIDEA statutes covering AIDEA's loan participation program. Specifically, AS 44.88.159(a), (b), and (e) are each amended to clarify that AIDEA purchases participations in loans from financial institutions under its loan participation program, and does not finance loans directly.

Section 6-Technical Change Regarding Annual Reporting.

Section 6 of the bill amends AS 44.88.205(b) to clarify that the members of the Authority are not required to take formal action to make available the annual financial report to the legislature. AS 44.88.205(b) requires that a report regarding the finances of the Authority be made available to the legislature by January 10th of each year. Because it is not always possible for the AIDEA board to meet to adopt the report prior to the statutory deadline, historically it has fallen on the executive director of the Authority to certify the report and make it available to the legislature. The technical correction in Section 6 clarifies the statute to allow this practice to continue.

Sections 7-12- Modifications To Business Assistance Loan Guarantee Program.

The Bill amends AIDEA's business assistance loan guarantee program to make it more effective in light of the recent changes to the federal Small Business Administration loan guarantee program.

Background. Historically AIDEA's business assistance program has not been widely used by the Alaska business community. Until recently, the federal Small Business Administration (SBA) has offered a loan guarantee program which was preferred by both borrowers and lenders. In fiscal year 1995, the SBA Alaska office issued \$49 million dollars in loan guarantees. The SBA recently made changes to its program that reduce the percentage of a loan that may be guaranteed and significantly increase the cost of these guarantees. The Alaska banking community has indicated to AIDEA that the changes made to the SBA program have left a significant financing void for Alaska small businesses. The modifications made to AIDEA's business assistance program under the bill will create additional financing alternatives for Alaska businesses to help fill the void.

Section 7- Amends AS 44.88.500(a) to eliminate AIDEA's business assistance fund. Under current law, AIDEA's business assistance program is conducted through a separate fund and the beneficiaries of guarantees may only seek recourse against the assets of the fund. The proposed change will allow the authority to issue guarantees from its general assets. The total amount of guarantees that may be issued by AIDEA remains limited to \$50,000,000 under AS 44.88.540. Additionally, Section 7 makes minor technical amendments.

Section 8- Makes a minor technical change to AS 44.88.530 to clarify the provision.

Section 9- Amends AS 44.88.535 to make several technical and program changes to the business assistance program.

Under current law, AIDEA may waive collateral for loan guarantees of \$75,000 or less if the loan has an amortization period of 5 years or less. The bill would modify existing law to allow AIDEA to waive collateral under requirements established by regulation.

Under current law, loan guarantees may only be made to businesses in which a majority interest is held by Alaska residents. AIDEA is prevented from issuing loan guarantees if a business is not majority Alaska owned, even if the proceeds of the loan will benefit a business conducted in Alaska. The bill would allow AIDEA to issue loan guarantees if the proceeds of the loan will benefit a business conducted in Alaska.

Under current law, AIDEA may not guarantee interest under the business assistance program. Limited interest guarantees (up to 90 days interest) were a principal ingredient of the Small Business Administration program. The bill would allow AIDEA to guarantee interest for a period of the time and in the manner to be established by regulation.

This section of the bill also makes minor technical clarifying amendments to AS 44.88.535.

Sections 10-12- These sections make technical clarifying amendments to AS 44.88.540, 44.88.550(a), and 44.88.530 consistent with the other changes to the business assistance program made under the bill.

Sections 13-15- Modifications Statutory Definitions-

Section 13- Amends AS 44.88.900(3) to clarify that energy related projects may qualify for AIDEA's development finance program.

Section 14- Amends AS 44.88.900(7) to clarify the definition of loan participation.

Section 15- Amends AS 44.88.900(9) to eliminate a reference to "small enterprise" from the definition of "project." Currently, AIDEA projects may include several different types of business activities. Under current law, one such type of business activity is a "commercial activity conducted by a small enterprise." Except for references in the definition sections of AIDEA's statutes, no further reference is made to a "small enterprise." The bill amends the definition of a project to eliminate the reference to "small enterprise." The bill does not modify any of the other requirements affecting AIDEA's ability to enter into projects.

Section 16- Repealers

AS 44.88.500(b), 44.88.542 and 44.88.599(1) are repealed to be consistent with the elimination of the business assistance fund under Section 7 of the bill.

AS 44.88.900(14), the definition of "small enterprise" is repealed to be consistent with Section 15 of the bill.

Section 17- Repeal of Certain Bonding Authority and Business Assistance Sunset

Subsection (1)- Repeals certain legislative authorization for AIDEA to issue bonds for projects which no longer require AIDEA financing. Subsection 1 repeals legislative authorization for AIDEA to issue \$40,000,000 in bonds related to aircraft fueling facilities at Anchorage International Airport (AIA). The involved airlines self financed the facilities. In addition, Subsection 1 repeals legislative authorization for AIDEA to issue \$50,000,000 in bonds for the Midrex facility originally proposed for Point McKenzie. If the project proceeds it will not be developed at Point McKenzie.

Background. Although no bonds are issued and none are intended to be issued with respect to the AIA fueling facilities and the Midrex facilities, the existing legislative authorization must be reported in AIDEA's official statement for each AIDEA bond issue. Legislative authorization for projects that are not proceeding creates confusion on the part of potential bond investors. The bill would eliminate the unneeded bonding authority and therefore eliminate the official statement reporting requirement.

Subsection (2)- Repeals the sunset provision for AIDEA's business assistance program. In the absence of legislative action, AS 44.88.500-44.88.599, related to the business assistance program, will be repealed July 1, 1996. The bill eliminates this delayed repealer.

Background. The business assistance program was created under legislation adopted in 1988 that included a provision that would have repealed the program July 1, 1991. Subsequent legislation in 1991 and 1993 extended the delayed repealer to July 1, 1993 and July 1, 1996 respectively.

Section 18-19- Specific Project Authorization to Issue Bonds

Background. As noted above, Section 2 of the bill requires legislation for AIDEA to issue bonds in an amount greater than \$10,000,000 if the proceeds of the bonds are to be used for an AIDEA Development Finance Project. Both the Red Dog Expansion and Snettisham acquisition are expected to exceed this threshold and therefore require legislative authorization.

Section 18 Red Dog Authorization- Section 18 authorizes AIDEA to issue up to \$60,000,000 in AIDEA bonds to finance the expansion of AIDEA's DeLong Mountain Transportation System facilities serving the Red Dog Mine.

Background. The DeLong Mountain Transportation System (DMTS) serving Cominco's Red Dog Mine was AIDEA's first development finance project and has been a resounding success. The Red Dog Mine operations provide more than 350 jobs, accounting for more than 15% of all jobs in the Northwest Arctic Borough. Expansion of the DMTS is necessary to support Cominco's expansion of the Red Dog Mine, will provide up to 70 more jobs and allow the mine to continue employing Alaskans in the region for the next 50 years. Cominco will pay for the improvements to the DMTS in the form of increased user fees for the facilities.

Section 19- Snettisham Acquisition Authorization

Section 19 authorizes AIDEA to acquire the Snettisham Hydroelectric Project from the federal Alaska Power Administration and authorizes the issuance of up to \$100,000,000 in AIDEA bonds for the purpose. In addition, under subsection (c), the bonds issued by AIDEA for this purpose may carry the "moral obligation" of the state.

Background. Snettisham is a 78 megawatt facility serving Juneau and Douglas. Acquisition of the project by AIDEA will be supported by a long-term "take-or-pay" power sales agreement with Alaska Electric Light and Power and is expected to provide long-term rate stability for its Juneau and Douglas customers. If the state does not purchase Snettisham, it may be sold to the highest bidder, likely to be a non-Alaskan entity.

Section 20- Immediate Effective Date

Section 20 provides for an immediate effective date. As noted above existing law prohibits AIDEA from issuing any bonds, and hampers AIDEA's ability to fulfill its mission. The immediate effective date will restore AIDEA's bonding authority at the earliest possible date.



ALASKA INDUSTRIAL DEVELOPMENT
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480 WEST TUDOR

ANCHORAGE, ALASKA 99503

907 / ~~864-8030~~
269-3000

FAX 907 ~~561-8998~~
269-3044

AIDEA Program Overview

The mission of the Alaska Industrial Development and Export Authority (AIDEA) is to promote the general prosperity of the people of Alaska, to relieve unemployment, and to create additional employment. The Authority accomplishes its mission by providing Alaskans with long term commercial and development financing. Projects eligible to receive this financing assistance are industrial, manufacturing, export, and business enterprises and facilities within the state. The Authority also has the ability to own and operate facilities which advance its mission.

AIDEA is a public corporation of the State of Alaska, a political subdivision within the Department of Commerce and Economic Development, but with separate and independent legal existence. Below is a summary of AIDEA's financing assistance programs:

DEVELOPMENT FINANCE PROGRAM: Transportation infrastructure, ports, airports, utilities, tourism destination infrastructure and other public use facilities may be funded through direct ownership by AIDEA. To be eligible for AIDEA funding, a project must be essential for the economic well being of an area and must produce adequate revenues to repay the bonds sold to finance the project. AIDEA works closely with local governments and approves projects compatible with the local economy and supported by the community. AIDEA development and ownership have contributed to these successful projects: DeLong Mountain Transportation System (at Red Dog Mine); Skagway Ore Terminal; and the Ballyhoo Dock extension at the Unalaska Marine Center.

LOAN PARTICIPATION PROGRAM: Working through financial institutions (banks), AIDEA participates up to 80% in permanent financing for business enterprises such as hotels, shopping centers, office buildings, warehouses, car dealerships, and fishing vessels. The project may be newly constructed, newly acquired or refinanced. Borrowers apply at a qualified bank for a loan; the bank, in turn, applies to AIDEA. The bank retains a minimum 20% share in the loan, although that share may be amortized more rapidly than AIDEA's portion. AIDEA participation is limited to \$10 million. Certain manufacturing and other facilities may qualify for tax-exempt financing under the Loan Participation Program.

BUSINESS ASSISTANCE PROGRAM: More commonly known as the AIDEA guarantee program, this program provides up to an 80% guarantee of the principal balance to the financial institution making the loan. This added degree of support can make project financing, refinancing and working capital loans available for projects that might not otherwise be financed. Borrowers apply to the bank, which in turn, submits an application to AIDEA. Guarantees up to \$1 million are made on loans for real property, equipment or working capital for projects that stabilize the economic base or create or maintain employment. Targeting entrepreneurs in rural areas, in 1991 the Alaska Legislature established a streamlined approval process for guarantees on loans of \$75,000 or less. The loans may be unsecured. AIDEA also supports the Rural Development Initiative Fund (RDIF) under the Business Assistance

Program. The RDIF is administered by the Department of Community and Regional Affairs (DCRA) and supported by AIDEA. The RDIF provides funding up to \$100,000 (\$200,000 for two or more borrowers of the loan) to businesses in rural Alaska which may not currently be served by commercial financial institutions.

REVENUE BOND PROGRAM: AIDEA acts as a conduit to facilitate a financing transaction between a borrower and a willing purchaser of the bonds. This type of financing can be advantageous to both the borrower and the purchaser of the bonds. This program saw high volume use prior to the 1986 amendments to the federal tax code; however, it is in less demand today.

EXPORT ASSISTANCE PROGRAM: Designed to foster and facilitate international trade, this program offers guarantees to financial institutions which provide exporters with pre-shipment and post-shipment loans. Guarantees may total up to 90% of the transaction plus interest or \$1 million, whichever is less.

VENTURE CAPITAL: AIDEA has also invested in a venture capital partnership as a limited partner. The Polaris Fund is designed to introduce Outside venture capitalists to investment opportunities in Alaska while providing venture capital to Alaskan businesses. The Polaris Fund manages the partnership. For additional information and loan applications, contact Jim Yarmon, c/o Yarmon Investments, 840 K Street, #201, Anchorage, AK 99501, (907) 276-4466.

##

AIDEA Development Projects

(In Operation, Construction, or Design)

DeLong Mountain Transportation System and Port Expansion	Kotzebue	\$103 million (original)	Complete. 350 jobs created.
		\$60 million (expansion); legislative bonding authorization pending.	Planning and design underway.
Skagway Ore Terminal	Skagway	\$25 million	Project is complete and in operation. Year round jobs supported by the facility.
Ballyhoo Dock Expansion	Unalaska	\$7 million	Complete and in operation.
Federal Express Aircraft Maintenance Facility	Anchorage	\$28 million	Complete and in operation.
Healy Clean Coal Project	Healy	\$85 million (total project cost \$267 million)	Under construction. Approximately 200 construction jobs created. Project will be complete in 1998 creating 35 permanent jobs.
Alaska Seafood Center	Anchorage	\$50 million (authorized)	Awaiting additional private sector financing.
Kodiak Launch Facility	Kodiak	\$20 million (authorized)	Planning.
Snettisham Hydroelectric Project	Near Juneau	\$100 million (legislative authorization pending)	Congressional approval to transfer the project provided. Tax exemption pending.
Craig Industrial Marine Facility	Craig		In discussion with City of Craig. City has obtained necessary permits for construction.



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480 WEST TUDOR

ANCHORAGE, ALASKA 99503

907 / ~~861-8888~~
269-3000

FAX 907 ~~861-8888~~
269-3044

PROJECT FACT SHEET: DeLong Mountain Transportation System (DMTS)
Road and Port serving the Red Dog Mine

DATE: February 6, 1996

CURRENT STATUS: Cominco Alaska is increasing production from the Red Dog mine and mill operation, which will require enlarging the ore concentrate storage and handling facilities owned by AIDEA at the port. Cominco Alaska is obtaining permits for construction, and conducting detailed design of the improvements. AIDEA will assist in the design and permitting of the port expansion. A reimbursement agreement will assure AIDEA the repayment of funds expended on the project, pending review and approval of the Project by the Legislature. Construction would begin in 1996 or 1997, depending on the outcome of the Legislative process and the pace of the design and permitting activities.

PROJECT BUDGET (Originally): \$185 million **PENDING EXPANSION BUDGET:** \$60 million

SOURCE OF FUNDS: In 1987, \$103 million in tax-exempt bonds were sold by AIDEA and are being repaid through user fees. A state appropriation provided the remaining funding. Funding of the proposed expansion will be accomplished through the sale of tax exempt bonds, if authorized by the Legislature.

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

PARTICIPANTS: In 1986 AIDEA entered into an agreement with Cominco Alaska to construct, use, operate and maintain the DMTS. Cominco Alaska is a subsidiary of Cominco, Inc. (a Canadian minerals company). The company has a non-exclusive priority right to use the system for 50 years to ship ore concentrates over the road, store concentrates in the storage building and transport concentrates onto ore ships. Cominco, in turn, pays a toll for use of the facilities and is obligated to operate and maintain the system at a commercially reasonable rate of compensation. The mine owner is NANA Regional Corporation, which represents Inupiat Eskimos of the Northwest Arctic.

BACKGROUND: Discovery of lead and zinc deposits at Red Dog in the DeLong Mountains brought opportunity for economic growth to the cash poor region. Construction of the AIDEA-financed transportation system allowed that opportunity to be realized. Low base metals prices have prevailed since the mine opened. An expansion is needed to improve profitability by reducing the cost per pound of concentrate produced. Resources have been identified to maintain a 50 year mine life, even at the higher production output.

ECONOMIC/SOCIAL EFFECTS: In 1992 the mine and transportation system provided 15% of the Northwest Arctic Borough's employment (350 workers) and paid 30% (\$24 million) of the Borough's payroll. The project is an excellent example of the Authority's contribution and commitment to Alaska's economic development. In an area of traditionally high unemployment, much of it seasonal, the transportation system and mine offer steady, year round work. Paychecks earned by Borough residents infuse much needed cash into the region's limited economy. Payments to the Borough in 1995 totaled \$2.0 million - this is the Borough's sole, non-government source of revenue.

SCOPE OF EXISTING PROJECT: The DMTS transportation system consists of a 52-mile, 30 foot wide, industrial haul road, a shallow water dock, offshore conveyor concentrate loading facility, concentrate storage facility, fuel distribution and storage systems, and other port facilities. The DMTS road, designed to accommodate multiple users, leads from the mine to a port site located on the Chukchi Sea, about 12 miles from Kivalina. Construction was completed in 1990. During the first two years of operation, Cominco and the Authority made nearly a dozen improvements, at a cost of approximately \$6 million, to achieve a more efficient and environmentally sound facility. These improvements were completed in the Spring of 1993 and the cost was added to the investment base. Additional minor improvements are ongoing. In 1995, approximately 809,000 tons of lead and zinc concentrates were exported through the port (up from 620,000 tons in 1994).

SCOPE OF PROPOSED EXPANSION: Cominco is planning to increase their mill throughput by 35% (to 3.5 million tons/year), which will result in a corresponding increase in lead and zinc concentrates (to 1.1 million tons/year). The planned DMTS port expansion will include the following: 1) construct a new concentrate storage building with 450,000 ton capacity; 2) connect the new concentrate storage building to the existing material handling (loadout) system; 3) construct a new, permanent 80 person camp with cookhouse and recreational area; 4) construct a new 2.2 million gallon fuel storage tank and associated piping; and 5) construct a new powerhouse, complete with generators. Seventy additional employees will be required to operate the expanded mine, mill and DMTS operations.

DMTS EXPANSION - PROJECT FACTS

(February 1, 1996)

EXISTING DMTS SYSTEM

- Started operating in 1990
- Throughput from Red Dog Mine is increasing
 - 464,000 tons (1993) - lead and zinc concentrates
 - 620,000 tons (1994) - lead and zinc concentrates
 - 809,000 tons (1995) - lead and zinc concentrates
- \$103 million in AIDEA bonds sold - February, 1987
 - Toll fees support the debt
 - \$96 million principle outstanding
- Current employment at the Red Dog mine is 350 (55%+ NANA shareholder hire)
 - Current payroll \$26 million
- 30% of payroll in North West Arctic Borough (NWAB)
- Payments in lieu of taxes
 - \$2 million paid to NWAB in 1995 (to go up in 1996 to \$2.4 million)
 - This is the NWAB's sole non-government source of revenue.

EXPANDED DMTS SYSTEM

- With the expansion, Red Dog mine will be the world's largest single producer of zinc concentrates
- Pending permit issuance, construction of the Port expansion is scheduled to take place in 1996-1997, with commissioning in January, 1998
- Anticipated expanded DMTS throughput:
 - 1,100,000 Tons/year lead and zinc concentrates (compared to 809,000 currently)
 - 1,000,000 Tons concentrate storage capacity (compared to 550,000 currently)
- Preliminary Capital Cost Estimate including design and construction management services (final estimate due in late February):
 - \$23,916,000 - New concentrate storage building
 - 16,811,000 - Connect and modify the materials handling systems
 - 4,941,000 - Construct a new 80 man permanent camp
 - 3,900,000 - New 2.2 million gallon fuel storage tank and piping
 - 4,032,000 - New powerhouse and generators
 - 6,400,000 - Financing costs and owner's contingency
 - \$60,000,000 - PROJECT TOTAL**
- AIDEA bond sale late 1996, subject to legislative approval
- The minesite expansion project budget is \$55 million
 - Separately financed by Cominco
 - Mine expansion will be constructed in parallel with DMTS work
- Additional employment - 70 personnel



ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY



480 WEST TUDOR

ANCHORAGE, ALASKA 99503

907 ~~7587-8050~~
269-3000

FAX 907 ~~551-8996~~
269-3044

PROJECT FACT SHEET: Snettisham Hydroelectric Project

DATE: February 2, 1996

CURRENT STATUS: On November 28, 1995 President Clinton signed into law a Bill that authorize the sale of the Snettisham Project. Congressional approval to issue tax-exempt bonds for the project is pending. As presently contemplated, the project will be purchased by the Authority and operated exclusively by AEL&P. AEL&P will purchase all the project power under a long term power sales agreement. The project is currently in the due diligence stage.

ESTIMATED BUDGET: \$100 million. The Purchase Agreement provides that the purchase price is based on the present value of the remaining principal and interest payments due to the federal government for Snettisham. The requested authorization includes funds for other elements of the overall project financing such as repair and replacement insurance and bonded indebtedness reserves.

SOURCE OF FUNDS: Bonds sold by AIDEA.

SCOPE OF PROJECT: The 78,210 kW project presently provides approximately 80 percent of the Juneau-Douglas area's electrical energy. The Snettisham Hydroelectric Project is owned, operated, and maintained by the Alaska Power Administration (APA), a unit of the U.S. Department of Energy. The Snettisham project is located in a remote area of Southeast Alaska, approximately 28 air miles southeast of Juneau. The project consists of two reservoirs, a small periodically constructed flashboard dam, power tunnels, underground generating plant, switchyard, transmission line and substation. Due to its remote location, the project has its own airstrip, boat dock, residential quarters and utility system. The project is operated by remote control from Juneau under contract with Alaska Electric Light and Power (AEL&P), the purchaser of nearly all the project's power.

BACKGROUND: In the mid-1980's, the federal government began exploring the merits of divesting its various power marketing agencies located throughout the United States. The Alaska Power Authority (currently known as the Alaska Energy Authority) entered into negotiations with the APA to purchase Snettisham, which ultimately resulted in the execution of a Snettisham Project Purchase Agreement. The Agreement was amended to provide for the reassignment of the Agreement from the Alaska Energy Authority to AIDEA. A Memorandum of Understanding for the sale and purchase of power between AIDEA and the AEL&P has been negotiated.

ECONOMIC/SOCIAL EFFECTS: DOE is proceeding with divestiture of federal hydroelectric projects in Alaska. AEL&P, the local utility, does not have adequate financial resources to purchase Snettisham. Alternatives include continued federal ownership, sale to the state, or sale to the highest bidder. State ownership assures the Juneau-Douglas area of a stable, long term cost of power and a reduced wholesale cost of power to AEL&P. Under state ownership, Snettisham will be operated for the benefit of the local users and will result in an anticipated long term reduction of energy costs for the Juneau-Douglas residents.

AIDEA GENERAL LEGISLATION SB 222:HB425

The AIDEA general legislation (SB 222; HB425) has three major components:

AIDEA Bonding Authority.

The bill (Section 2) reinstates AIDEA's ability to issue bonds. On July 1, 1995, a delayed amendment to AIDEA's statutes took effect which removed AIDEA's authority to issue bonds other than refunding bonds. The bill restores AIDEA's ability to issue bonds without legislative authorization, except in the case of bonds greater than \$10 million issued to assist development finance projects. The current bonding limitation prevents AIDEA from issuing any bonds (other than refunding bonds) and curtails AIDEA's ability to fulfill its statutory mission. Most recently, AIDEA was unable to issue conduit revenue bonds to support the development of the Fort Knox mine. Although the bonds would not have obligated AIDEA's credit, current law prevented the issuance.

Modifications To Business Assistance Loan Guarantee Program.

The Bill eliminates a sunset (Section 17(2)) and amends (Sections 7-12) AIDEA's business assistance loan guarantee program to make it more effective in light of the recent changes to the federal Small Business Administration loan guarantee program. Historically, AIDEA's business assistance program has not been widely used by the Alaska business community. Until recently, the federal Small Business Administration (SBA) has offered a loan guarantee program which was preferred by both borrowers and lenders. In fiscal year 1995, the SBA Alaska office issued \$49 million dollars in loan guarantees. The SBA recently made changes to its program that reduce the percentage of a loan that may be guaranteed and significantly increase the cost of these guarantees. The Alaska banking community has indicated to AIDEA that the changes made to the SBA program have left a significant financing void for Alaska small businesses. The modifications made to AIDEA's business assistance program under the bill will create additional financing alternatives for Alaska businesses to help fill the void.

Specific Project Authorization

The bill (Section 18) authorizes AIDEA to issue up to \$60,000,000 in AIDEA bonds to finance the expansion of AIDEA's DeLong Mountain Transportation System (DMTS) facilities serving the Red Dog mine. Expansion of the DMTS is necessary to support Cominco Alaska's expansion of the mine and is expected to result in up to 70 new jobs and allow the mine to continue employing Alaskans in the region for the next 50 years. The bill (Section 1) also creates a procurement exemption for AIDEA's DMTS contracts and for other similarly situated AIDEA projects.

The bill (Section 19) authorizes AIDEA to acquire the Snettisham Hydroelectric Project from the federal Alaska Power Administration and authorizes the issuance of up to \$100,000,000 AIDEA bonds for the purpose. The bonds may carry the "moral obligation" of the state. Acquisition of the project is expected to provide long-term rate stability for Juneau and Douglas utility customers.

In addition to the major components of the bill, the bill also makes technical amendments to AIDEA's statutes (Sections 3-5 and 13-16), repeals bonding authority for projects where AIDEA will not require AIDEA financing (Section 17(1)) and provides for an immediate effective date (Section 20).

HB

531

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 7, 1996

SUBJECT: Sectional Summary of CSHB 531(L&C). (Telecommunications)

TO: Representative Pete Kott
Attn: George Dozier

FROM: Teresa B. Cramer
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 enacts a short title for the bill.

Sec. 2 states the policy of the state and the purpose of the bill.

Sec. 3 makes seven legislative findings.

Sec. 4 requires the communications carrier section of the Alaska Public Utilities Commission (APUC) to advocate for just and reasonable rates. The law currently requires the section to advocate for the lowest practicable rate.

Sec. 5 requires, in the case of a formal order concerning a telecommunications carrier, that the APUC include conclusions of law. The law already requires the APUC to state the commission's findings, basis of its findings, and conclusions.

Sec. 6 requires the APUC to comply with AS 42.05.671(e) (which makes certain information confidential), enacted by sec. 21 of the bill, when it publishes orders concerning telecommunications carrier cost and marketing information.

Sec. 7 requires the APUC to act on an application from a local telephone carrier for an amendment of its certificate of public convenience and necessity within 45 days after the

Representative Pete Kott
March 7, 1996
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application was filed. If the commission does not act within the 45 days, the application is granted.

Sec. 8 adds new sections to AS 42.05.

Sec. 42.05.243 requires the APUC to designate a telecommunications carrier that provides local exchange service when the Act takes effect as an eligible telecommunications carrier for the area that it serves. Under subsection (b), if a telecommunications carrier is not otherwise designated as an eligible carrier for the area, it may petition the APUC for designation as an additional eligible carrier for the study area of a rural telephone company. The APUC shall consider the three criteria listed in the subsection in determining whether the petition is in the public interest. Under subsection (c), if the APUC decides to grant the petition, it must consider the two criteria listed in the subsection when it sets the effective date for the designation.

Sec. 42.05.244 exempts a rural telephone company that holds a certificate from the APUC to provide local exchange service on the effective date of this Act from the interconnection obligations imposed by 47 U.S.C. 251 (which is a section in the federal Telecommunications Act of 1996). The APUC can end the exemption if the rural telephone company receives a request for telecommunications services or network elements. In ending the exemption, the APUC must conduct the proceeding as required by (b) of the section and by 47 U.S.C. 251(f)(1). Subsection (b) sets out six criteria that the APUC must find before terminating an exemption.

Subsection (c) requires the party seeking interconnection to bear the burden of persuasion for the first four criteria set out in subsection (b) (that the request is bona fide, would not impose an undue economic burden, is technically feasible, and is consistent with universal service principles and federal requirements) and the rural telephone company to bear the burden of persuasion as to the last two criteria (that the interconnection would not cause a significant adverse effect on telecommunications users and is in the public interest). Subsection (d) permits local exchange carriers who meet certain federal criteria to petition the APUC for suspension of certain federal requirements.

Sec. 9 permits telecommunications carriers to offer new services on a trial basis to selected customers without violating the prohibition against establishing unreasonable preferences.

Sec. 10 permits a telecommunications carrier to offer a discounted service or reduced rate to certain public institutional communications users but prohibits the APUC from requiring the carrier to offer those users discounted services or reduced rates.

Sec. 11 exempts telecommunications carriers from the requirement to file a copy of a special contract concerning a telecommunications service subject to competition unless the APUC makes a specific request that the contract be filed and except to the extent that Sec. 42.05.416(a), enacted by sec. 15 of the bill, requires certain carriers to notify the APUC of

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changes. The reference probably should include all of Sec. 42.05.416, rather than just subsection (a).

Sec. 12 permits rates charged by telecommunications carriers to include reasonable amounts spent for regulatory advocacy before the APUC or the Federal Communications Commission and marketing expenses relating to new service offerings.

Sec. 13 sets out four instances in which a telecommunications carrier may charge customers differing amounts without establishing a prohibited unreasonable preference or advantage.

Sec. 14 exempts telecommunications carriers whose services are subject to competition from the general statute addressing establishment of new or revised rates, charges, rules, regulations, conditions of service and practices. Changes for telecommunications carriers subject to competition are governed by AS 42.05.416, enacted by bill sec. 15.

Sec. 15 enacts three new sections.

Sec. 42.05.416 prohibits a telecommunications carrier whose services are subject to competition from establishing initial rates, charges, rules, regulations, conditions of service, and practices until the carrier has given at least 30 days' notice to the APUC and 15 days' notice to the public. However, the commission can shorten the time for good cause. Under subsection (b), rates charged for a tariffed service that is subject to competition may be changed after 10 days' notice to the APUC.

Under subsection (c), a telecommunications carrier must file a notice with the APUC describing a special contract concerning a telecommunications service subject to competition within 10 days after the effective date of the contract. Under subsection (d), the special contract may not take effect until after the APUC determines that the telecommunications services that are the subject of the contract are subject to competition.

Sec. 42.05.417 requires telecommunications carriers to charge the incremental cost of providing a competitive service so that the competitive service is not subsidized by income derived from noncompetitive telecommunications services. The APUC can order a telecommunications carrier that charges a prohibited price or rate to cease and desist imposing that charge and may fine the carrier up to twice the amount of the improper charge.

Under subsection (b), the APUC may review financial information relating to the provision of a telecommunication service provided by otherwise exempt telecommunications carriers in order to enforce this section. Under subsection (c), information provided to the APUC under this section is confidential.

Sec. 42.05.418 permits the APUC to regulate a telecommunications service that is not competitive even though the telecommunications carrier is otherwise exempt from APUC

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regulation. The APUC may regulate using traditional or nontraditional forms of regulation. (Both types of regulation are defined in bill sec. 27.) To impose regulation, the APUC must find that regulation satisfies the three standards set out in subsection (b). Under subsection (c), the APUC has 60 days to act on an application. Under subsection (d), if a local exchange telecommunications carrier applies for regulation of a telecommunications service because the service is noncompetitive and in the course of its review the APUC materially alters the plan filed by the carrier, the carrier can notify the APUC that it is electing not to be rate or price regulated.

Sec. 16 provides that in the case of tariff filings of a telecommunications carrier, the commission may not extend the suspension of the filing for more than six months.

Sec. 17 permits a telecommunications carrier to ask the APUC to determine that a service offered by the carrier is a service subject to competition. Under (b), if the commission finds that the service is subject to competition, the commission is directed to modify regulatory requirements that it has applied to all of the carriers in the competitive market to achieve parity among them. Under subsection (c), charges to services that are ordered by the APUC may not be applied retroactively. There is a typographical error in this sentence: "Commission order" should read "Commission ordered".

Under subsection (d), a telecommunications carrier may ask permission to offer a service subject to competition as a deregulated service, outside APUC jurisdiction. The utility's status as a regulated or unregulated utility for purposes of the imposition of the regulatory cost charge under AS 42.05.254 is not affected by the granting or denial of a request under this subsection.

Subsection (e) describes what a just and reasonable rate is for a new service or for a competitive service subject to competition. Subsection (f) requires the commission to act on rate filings within six months or the rate will be considered just and reasonable.

Sec. 18 amends the section describing how the APUC ascertains the fair value of the property of a public utility by applying the statute to telecommunications carriers only if the telecommunications carriers is regulated under the traditional form of regulation (which is a term defined in sec. 27 of the bill).

Sec. 19 adds new subsections to AS 42.05.441, amended in part by sec. 18 of the bill. Subsection (d) requires the APUC to presume, subject to rebuttal, that if a telecommunications carrier has already included property in setting its rates, the property continues to be allowable for rate making purposes. Subsection (e) describes when property of a telecommunications carrier is presumed to be "used and useful."

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Sec. 20 requires the APUC to presume, subject to rebuttal, that depreciation rates and methodologies accepted by the Federal Communications Commission establish a reasonable range of depreciation rates and methodologies for telecommunications carriers.

Sec. 21 makes certain cost and marketing information confidential. The APUC is directed to remove confidential information from its publicly issued orders.

Sec. 22 amends the legislative findings that apply to competitive intrastate long distance telephone.

Sec. 23 adds a new section setting out duties of interexchange carriers. Subsection (a) requires interexchange carriers to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers. Subsection (b) requires an interexchange facility based carrier with more than 25 percent of the state message toll traffic to offer at wholesale rates any intrastate telecommunications service that it provides at retail to subscribers who are not telecommunications carriers.

Under subsection (c), a facility based telecommunications carrier with more than 25 percent of the state message toll traffic may ask an interexchange facility based carrier to provide it with nondiscriminatory access to network elements so that it can provide telecommunications service.

Subsection (d) sets out seven additional requirements imposed on interexchange carriers with more than 25 percent of the state message toll traffic.

Sec. 24 permits telecommunications carriers to designate the first point of switching where the carrier elects to provide equal access through a centralized equal access arrangement for intrastate telecommunications services.

Subsection (e) permits a local exchange carrier to apply to provide competitive long distance service on the same basis as other applicants who are applying under AS 42.05.810. Subsection (f) defines "centralized equal access arrangement."

Sec. 25 permits the universal service fund to be used to ensure both basic local and long distance telephone service at reasonable and affordable rates throughout the state.

Sec. 26 defines "basic telephone service" as used in AS 42.05.840 (which was amended by bill sec. 25).

Sec. 27 adds definitions of "network element," "nontraditional regulation," "rural telephone company," "service subject to competition," and "traditional regulation."

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Sec. 28 states that the amendments to AS 42.05 made by the bill are not intended to preempt, abrogate, or otherwise affect rights, liabilities, or obligations arising out of state or federal unfair business practices or anticompetitive laws.

TC:glc

96-152.glc

TESTIMONY HB 531

GREG BERBERICH, MATANUSKA TELEPHONE ASSOCIATION

I would like to thank the Chairman and members of this committee for the opportunity to speak to you about the responsibilities recently passed to you and the State commission under the Federal Telecommunications Act of 1996. I am here in support of HB 531. I believe this legislature needs to provide the Alaska Public Utilities Commission with the policy framework necessary to successfully implement local competition in Alaska. This will not be as simple as the one page bill some have suggested. It will take a careful and thoughtful approach.

House Bill 531 attempts to incorporate among others, the issues of:

- * Maintaining universal service at affordable rates,
- * Pricing flexibility for competitive services,
- * Ensuring a level playing field in the long distance markets.

Matanuska Telephone Association is an REA/RUS Cooperative serving 38,000 access lines in eleven different exchanges covering an area of approximately 10,000 square miles. MTA's service area extends from Clear/Anderson down along the Parks Highway to Chugiak/Eagle River and up the Glen highway past Palmer and Sutton to Sheep Mountain. We also serve the remote village of Tyonek. I mention this to emphasize the size and diversity of our service area.

In the past 40 years MTA has invested nearly 200 million dollars in infrastructure to serve these rural and high cost areas. We have made that investment under the mandate of providing universal service at affordable rates to all those within our

serving areas. A competitive market changes all of the premises under which we have operated. The Federal legislation and Senator Stevens both recognized that competition in rural high cost areas must be carefully reviewed by State Commissions to assure that it is in the public interest. Alaska's current statutes were not developed with a competitive market in mind. They need to be updated. Our Commission needs your guidance and direction.

Though there are many issues addressed in HB 531, I would like to emphasize three areas which need attention now. The first is pricing flexibility in competitive services. Local exchange companies must be free to compete in services deemed competitive. This means both the freedom to price according to the market and the ability to rapidly change offerings without burdensome regulatory filings. The second area is ensure that the local phone companies will be allowed to compete in the long distance markets (GCI and AT&T) on a level playing field. Wholesale rates should be less than retail rates. Third, this bill is a competitive bill which seeks to assure safeguards for rural high cost areas and protect the public interest.

Finally, I would like to say I am not an attorney but I do have twenty years experience in the telephone business. I represent the member/owners of MTA who appreciate what this small local telephone company has done for the communities it serves. I personally have benefited from 20 years of employment. I know what the jobs mean to our community, I know what affordable telephone service means to the small rural communities we serve. I know what the personal commitment to service and quality by MTA and its employees has been. That personal commitment is reflected in our response to individual circumstances, in our community involvement and assistance and in the jobs we provide in the communities.

It is unfortunate that we don't have the luxury of time to develop this legislation. These are not simple issues. They are complex and will require the work and dedication of many individuals. We offer our support to work with you and your staff to craft legislation which will bring about new services, affordable rates, a continued commitment to universal service and a competitive marketplace which is truly in the public's interest. I thank you.

Exchanges - by Size

<u>Exchange</u>	<u>Access Lines</u>	<u>Company</u>
Anchorage	142700	ATU
Globe	30210	Fairbanks Municipal
Wasilla	12008	Matanuska Telephone
Juneau	10088	PTI - Alaska
Ketchikan	8916	Ketchikan P. U. Telephone
Eagle River	8908	Matanuska Telephone
Sterling	8677	PTI - Alaska
Soldotna	8245	PTI - Northland
North Pole	8154	PTI - Northland
Palmer	8122	Matanuska Telephone
- Kodiak/Kodiak C.G.	6621	PTI - Northland
Kenai	5511	PTI - Northland
Homer	5404	PTI - Northland
Sitka/Mt. Edgecomb	5160	PTI - Northland
- Bethel	3144	GTE
Chugiak	3014	Matanuska Telephone
Ft. Wainwright	2985	PTI - Alaska
Valdez	2897	Copper Valley Telephone
Seward	2615	GTE
- Nome	2440	GTE
- Barrow	2324	GTE
Petersburg	2142	GTE
North Kenai	1959	PTI - Northland
- Unalaska	1938	TelAlaska -Interior
Eielson A.F.B.	1884	PTI - Alaska
Big Lake	1878	Matanuska Telephone
Dillingham	1720	Nushagak Telephone
Cordova	1674	Cordova Telephone
Delta J./Ft. Greely	1674	PTI - Northland
Wrangell	1565	GTE
- Kotzebue	1545	OTZ Telephone
Glennallen	1446	Copper Valley Telephone
Douglas	1222	PTI - Alaska
Haines	1192	GTE
- King Salmon, Naknek/S. Nak.	1188	Bristol Bay Telephone
Craig	909	Alaska Power - Alaska Tel.
Talkeetna	883	Matanuska Telephone
- Deadhorse	860	Arctic Slope Telephone
Tok	857	Alaska Power - Alaska Tel.
Metakatla	825	GTE

Skagway	768	Alaska Power - Alaska Tel.
Healy	730	Matanuska Telephone
Willow	724	Matanuska Telephone
Nirilchik	543	PTI - Northland
- Klawock	481	PTI - Northland
- Hoonah	465	PTI - Northland
- Yakutat	439	PTI - Northland
- Sand Point	388	TelAlaska -Interior
Clear/Anderson	383	Matanuska Telephone
St. Paul	377	PTI - Northland
McGrath	376	GTE
Nenana	351	PTI - Northland
Unalakleet	350	GTE
Kake	349	PTI - Northland
Gustavus	303	PTI - Northland
Seldovia	292	PTI - Northland
Thorne Bay	286	PTI - Northland
King Cove	278	TelAlaska -Interior
Aniak	272	Bush-Tell
Galena	271	TelAlaska -Interior
Fort Yukon	260	TelAlaska -Interior
Saint Mary's	236	United Utilities
Pt. Hope	216	Arctic Slope Telephone
Angoon	213	PTI - Northland
Moose Pass	207	GTE
Wainwright	205	Arctic Slope Telephone
Mountain Village	194	United Utilities
Emmonak	192	United Utilities
Hydaburg	190	Alaska Power - Alaska Tel.
Cooper Landing	188	TelAlaska -Interior
Togiak	187	United Utilities
Pelican	159	PTI - Northland
Whittier	155	Yukon Telephone
Cantwell	148	Matanuska Telephone
Eagle / Eagle Vill.	146	Alaska Power - North Country
Hooper Bay	142	United Utilities
Gambell	140	United Utilities
Shishmaref	139	TelAlaska -Mukluk
Kipnuk	137	United Utilities
Nuiqsut	137	Arctic Slope Telephone
Cold Bay	135	TelAlaska -Interior
Kaktovik	135	Arctic Slope Telephone
St. George	134	PTI - Northland
Teller	133	TelAlaska -Mukluk
Iliami	130	TelAlaska -Interior
Chevak	128	United Utilities

Northway	125	PTI - Northland
Noorvik	124	OTZ Telephone
Kwethluk	123	United Utilities
Savoonga	123	United Utilities
Anatuvik Pass	122	Arctic Slope Telephone
Tanana	121	Yukon Telephone
Quinhagak	119	United Utilities
Kiana	118	OTZ Telephone
Selawik	118	OTZ Telephone
Nulato	115	PTI - Northland
Chignik	113	PTI - Northland
Tyonek	112	Matanuska Telephone
Kasigluk	111	United Utilities
Red Dog	111	OTZ Telephone
Kalskag	110	Bush-Tell
Coffman Cove	108	PTI - Northland
Port Lions	108	TelAlaska -Interior
Toksook Bay	107	United Utilities
Klukwan	106	GTE
Alakanuk	105	United Utilities
Egegik	105	PTI - Northland
Atkasuk	103	Arctic Slope Telephone
Akiachak	102	United Utilities
Akutan	102	PTI - Northland
New Stuyahok	102	Bristol Bay Telephone
Pilot Station	101	United Utilities
Kotlik	96	United Utilities
Ambler	93	OTZ Telephone
Kivalina	93	OTZ Telephone
Larsen Bay	93	PTI - Northland
Tenakee Springs	93	PTI - Northland
Kwigillingok	92	United Utilities
Ouzinkie	92	PTI - Northland
Nunapitchuk	89	United Utilities
Old Harbor	89	PTI - Northland
Koyuk	88	TelAlaska -Mukluk
Pt. Lay	88	Arctic Slope Telephone
Noatak	87	OTZ Telephone
Tununak	87	United Utilities
Buckland	85	OTZ Telephone
Scammon Bay	85	United Utilities
Nondalton	84	PTI - Northland
Port Heiden	82	PTI - Northland
Husalia	81	PTI - Northland
Stebbins	81	TelAlaska -Mukluk
Manokotak	80	Nushagak Telephone

Eek	78	United Utilities
Kaltag	78	PTI - Northland
Mekoryuk	78	United Utilities
Port Allsworth	78	PTI - Northland
Ruby	78	Yukon Telephone
Elim	77	TelAlaska -Mukluk
Tuntutuliak	76	United Utilities
Napaskiak/Oscarville	75	United Utilities
Cleary S./Chatanik	74	Summit Telephone
St. Michael	74	TelAlaska -Mukluk
Central	72	United Utilities
Port Graham	72	PTI - Northland
Holly Cross	71	Bush-Tell
Chignik Lagoon	70	PTI - Northland
Marshall	70	United Utilities
Akiak	69	United Utilities
Halibut Cove	69	PTI - Northland
Napakiak	68	United Utilities
Shungak	68	OTZ Telephone
Bettles	65	Alaska Power - Bettles
Chefornak	65	United Utilities
Koliganek	65	Bristol Bay Telephone
Shaktoolik	65	TelAlaska -Mukluk
Allakaket	64	PTI - Northland
Ekuk/Clarks	64	Nushagak Telephone
Russian Mission	64	United Utilities
False Pass	63	PTI - Northland
Naukati	62	Alaska Power - Alaska Tel.
Hyder	61	GTE
Kongiganak	61	United Utilities
Hobart Bay	60	PTI - Northland
Manley Hot Springs	59	United Utilities
Pilot Point	58	PTI - Northland
White Mountain	58	TelAlaska -Mukluk
Atmautluak	57	United Utilities
Wales	57	TelAlaska -Mukluk
Atka	56	PTI - Northland
Goodnews Bay	56	United Utilities
Port Alexander	56	PTI - Northland
Tuluksak	56	United Utilities
Deering	55	OTZ Telephone
Golovin	54	TelAlaska -Mukluk
Nelson Lagoon	54	PTI - Northland
Chignik Lake	53	PTI - Northland
Grayling	53	Bush-Tell
Levlock	52	Bristol Bay Telephone

Hollis	51	Alaska Power - Alaska Tel.
Kokhanok	51	PTI - Northland
English Bay	48	PTI - Northland
Koyukuk	48	PTI - Northland
Minto	48	United Utilities
Perryville	48	PTI - Northland
Newtok	47	United Utilities
Cube Cove	43	PTI - Northland
Elfin Cove	43	PTI - Northland
Port Protection	43	PTI - Northland
Ekwok	42	Bristol Bay Telephone
Chenega Bay	41	United Utilities
Kazakoff Bay	41	PTI - Northland
L. Diomedes Is.	41	TelAlaska -Mukluk
Nightmute	41	United Utilities
Pedro Bay	41	PTI - Northland
Venetie	41	United Utilities
Anvik	40	Bush-Tell
Shageluk	38	Bush-Tell
Sheldon Point	38	United Utilities
Crooked Creek	36	Bush-Tell
Tatitlek	35	Copper Valley Telephone
Border City	34	PTI - Northland
Dot Lake	34	Alaska Power - Alaska Tel.
Kobuk	34	OTZ Telephone
Chitina	33	Copper Valley Telephone
Edna Bay	32	Alaska Power - Alaska Tel.
Nikolai	32	United Utilities
Hughes	31	PTI - Northland
Whale Pass	31	Alaska Power - Alaska Tel.
Arctic Village	30	United Utilities
Chuathbaluk	30	United Utilities
Beaver	29	United Utilities
Mentasta	29	Copper Valley Telephone
Platinum	29	United Utilities
Igluglg	28	Bristol Bay Telephone
Akhiok	26	PTI - Northland
Kasaan	26	PTI - Northland
Rampart	26	United Utilities
Tetlin	26	Alaska Power - Alaska Tel.
Takotna	25	United Utilities
Twin Hills	25	United Utilities
Chalkyitsik	24	United Utilities
Karluk	23	PTI - Northland
Nikolski	23	PTI - Northland
Point Baker	22	PTI - Northland

Chena Hot Springs	21	Summit Telephone
Lake Minchumina	21	United Utilities
Red Devil	21	Bush-Tell
Sleetmute	19	Bush-Tell
Steven Village	19	United Utilities
Stony River	19	Bush-Tell
Myers Chuck	18	Alaska Power - Alaska Tel.
Ivanoff Bay	17	PTI - Northland
Lime Village	15	United Utilities
Birch Creek	13	United Utilities
Dry Creek	13	Alaska Power - Alaska Tel.
Livengood	13	United Utilities
McCarthy	10	Copper Valley Telephone
Telida	5	United Utilities
Jim River Camp	3	Alaska Power - Bettles
Long Island	2	PTI - Northland
Council	1	TelAlaska -Mukluk

337833

Testimony
of
Jack H Rhyner
before
House Labor & Commerce Committee

I applaud the efforts of this committee to provide the framework for the implementation of the Telecommunication Act of 1996. Without the legislative guidance and direction provided by HB 531, the Alaska Public Utilities Commission (APUC) will simply be incapable of responding to the requirements of the new Federal Act. Unless the Legislature affirmatively decides the policy questions answered in HB 531, the APUC will be preempted by the Federal Communications Commission as required by the Federal Act and the State will relinquish control over what is in the best interest of the people in the State of Alaska.

Questions may arise about the necessity of passing this legislation in this session. It is vital to promote competition and insure the continued availability of universal service. There has already been an application by AT&T to compete with the Anchorage Telephone Utility (ATU) in Anchorage. In accordance with the Federal Act, negotiations on terms for the use of ATUs facilities must be completed in six months. At its public meeting on February 27, the APUC discussed these issues and decided that a year is a reasonable amount of time to promulgate regulation to allow for competition. Given these time frames, ATU will be faced with competition for at least six months and will not be allowed to compete. Rather than allowing the APUC to apply or disregard existing regulation where and when it sees fit, the legislature should affirmatively promote and allow competition by allowing the incumbent local exchange carrier to compete. Competition requires the passage of HB 531.

In the case of the rural areas, the authors of the Federal Act provided an absolute mandate to maintain the availability of universal service at affordable rates. Toward that end, Congress provided a number of waivers and exceptions where by the State public utility commission must make a public interest determination based on the conditions in each individual rural serving area. The reason for this is that most of the local telephone companies serving rural areas receive support from the universal service fund to maintain affordable rates. Competition in rural areas would not be in the public interest if it reduced that support or in any other way raised rates for consumers. Competition does not reduce costs, it moves prices toward cost. In most rural areas the cost of providing service is six to eight times greater than the rates paid by consumers. It also make no sense to use a subsidy to fund duplicative facilities or multiple carriers. The Alaskan Legislature should do no less than to reaffirm the policy to maintain availability of universal service at affordable rates.

MARK O. HATFIELD, OREGON, CHAIRMAN

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United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, DC 20510-6025

February 15, 1996

Jack H. Rhyner
President
TelAlaska, Inc.
2121 Abbott Road
Anchorage, Alaska 99507

Dear Jack:

Thanks for your comments on the universal service provisions - as you know, this has been a difficult issue over the years. I worked with the USTA and rural carriers to address many of the concerns you raised, and believe the final agreement protects rural consumers.

S.652, the Telecommunications Act of 1996 was passed on February 1, 1996 by overwhelming margins and was signed into law by the President on February 8, 1996.

New Section 214(e)(1) of the Communications Act of 1934 states that a common carrier designated as an "eligible telecommunications carrier" must offer the services included in the definition of universal service throughout the area specified by the State commission. Once a carrier is designated, that carrier is eligible for specific support as provided under new Section 254 of the Communications Act. If multiple common carriers that meet the requirements of section 214(e)(1) request to be designated as "eligible" then the State commission must designate the requesting carriers as "eligible"; except when, the area for which the carrier requests designation is already served by a rural telephone company. In that case the State commission must first decide that it is in the public interest to make an additional designation before conferring "eligible" status on more than one carrier.

You will also be glad to know that S.652 requires both intrastate and interstate toll rate averaging. I am enclosing a copy of S.652, as enacted, for you to review.

With best wishes,

Cordially,


TED STEVENS

9-LS1720V ✓
Cramer
3/6/96

CS FOR HOUSE BILL NO. 531(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to telecommunications."

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

3 * Section 1. SHORT TITLE. This Act may be known as the "Telecommunications
4 Regulatory Reform Act of 1996."

5 * Sec. 2. PURPOSE. (a) The legislature declares that it remains the policy of the state
6 to maintain universal availability of basic telecommunications service at affordable rates. To
7 the extent that it is in the public interest and consistent with maintaining universal service, it
8 is further the policy of this state to

- 9 (1) encourage competition in the telecommunications industry; and
- 10 (2) promote access by the public to advances in telecommunications
11 technology.

12 (b) It is the purpose of this Act to

- 13 (1) address issues reserved to the states in the federal Telecommunications Act
14 of 1996;

- 15 (2) provide a regulatory framework that will allow, where appropriate, an

1 orderly transition from a regulated telecommunications industry to a competitive market
2 environment; and

3 (3) clarify that the Alaska Public Utilities Commission has the authority to
4 implement alternative forms of regulation for providers of regulated telecommunications
5 services.

6 * Sec. 3. FINDINGS. The legislature finds that

7 (1) modern, affordable, efficient, and universally available telecommunications
8 service is essential to the people of the state;

9 (2) unreasonable barriers to enter any telecommunications market must be
10 removed;

11 (3) the Alaska Public Utilities Commission should facilitate and encourage the
12 development of efficient intrastate and interstate long distance competition;

13 (4) the commission should ensure that basic telecommunications services are
14 available to all persons at just, reasonable, and affordable rates, and that competition in the
15 provision of local exchange service does not jeopardize that goal;

16 (5) more efficient delivery of educational, health care, public safety, and other
17 public services will be enhanced by allowing telecommunications carriers regulatory flexibility
18 in service offerings;

19 (6) technological innovation, new services, reduced costs, and increased
20 consumer choice for telecommunications service, resulting from the lifting of outdated
21 regulations to allow telecommunications carriers to engage in fair competition, will enhance
22 the state's economic growth, create jobs, and increase productivity;

23 (7) the commission should oversee competition to ensure that the competition
24 is fair and that the benefits of competition are realized.

25 * Sec. 4. AS 42.05.123(c) is amended to read:

26 (c) It is the responsibility of the communications carrier section in its
27 participation in rate or tariff adjudication proceedings to advocate and provide support
28 for just and reasonable rates [THE LOWEST PRACTICABLE RATE] under the
29 circumstances.

30 * Sec. 5. AS 42.05.191 is amended to read:

31 Sec. 42.05.191. FORMAT OF ORDERS. Every formal order of the

1 commission shall be based upon the facts of record. Every order entered pursuant to
2 a hearing must state the commission's findings, the basis of its findings and
3 conclusions, and [TOGETHER WITH] its decision. In the case of a formal order
4 concerning a telecommunications carrier, the commission's order must also
5 include conclusions of law. These orders shall be entered of record and a copy of
6 them shall be served on all parties of record in the proceeding.

7 * Sec. 6. AS 42.05.201 is amended to read:

8 Sec. 42.05.201. PUBLICATION OF REPORTS, ORDERS, DECISIONS, AND
9 REGULATIONS. All reports, orders, decisions, and regulations of the commission
10 shall be in writing. The commission shall apprise all affected utilities and interested
11 parties of these reports, orders, decisions, and regulations as they are issued and
12 adopted, and, when appropriate to do so, shall publish them in a manner that will
13 reasonably inform the public or the affected consumers of any public utility service.
14 In publishing orders concerning telecommunications carrier cost and marketing
15 information, the commission shall comply with AS 42.05.671(e). The commission
16 may set charges for costs of printing or reproducing and furnishing copies of its
17 reports, orders, decisions, and regulations. The publication requirement, as it pertains
18 to regulations, does not supersede the requirements of AS 44.62 ([THE]
19 Administrative Procedure Act [(AS 44.62)]).

20 * Sec. 7. AS 42.05.221 is amended by adding a new subsection to read:

21 (g) The commission shall accept or reject an application from a local telephone
22 carrier to amend its certificate to extend its service area to provide local telephone
23 service to unserved areas within 45 days after the telephone carrier files a completed
24 application with the commission. The commission shall approve the application if it
25 finds that the applicant is fit, willing, and able. If the commission fails to act within
26 the 45 days, the application is considered to be granted.

27 * Sec. 8. AS 42.05 is amended by adding new sections to read:

28 Sec. 42.05.243. LOCAL EXCHANGE SERVICES. (a) The commission shall
29 designate a telecommunications carrier that is certificated to provide local exchange
30 service on the effective date of this section as an eligible telecommunications carrier.
31 The designation as an eligible carrier applies only to the area or areas that the local

1 exchange carrier has been certificated to serve on the effective date of this section.

2 (b) A telecommunications provider that is not designated as an eligible carrier
3 for an area under (a) of this section and that desires to be designated as an eligible
4 carrier under this section for the study area of a rural telephone company shall petition
5 the commission for designation as an additional eligible carrier for the study area. The
6 commission shall hold a hearing to determine whether the telecommunications carrier's
7 petition is in the public interest. In determining whether the petition is in the public
8 interest, the commission shall

9 (1) consider whether granting the petitioner's proposal would cause an
10 increase in the cost of universal service or have an unfavorable effect on the
11 availability and affordability of telecommunications services;

12 (2) determine whether the existing rural telephone company is
13 providing universal service within the study area; and

14 (3) determine whether the petitioner's proposed services will adversely
15 affect the ability of an existing rural telephone company to construct and operate
16 telecommunications facilities.

17 (c) If the commission determines under (b) of this section that a
18 telecommunications carrier's petition for designation as an additional
19 telecommunications carrier is in the public interest, the commission shall set a date on
20 which the designation becomes effective. In establishing the date, the commission
21 shall

22 (1) address the rural telephone company's reliance on universal service
23 funding to provide service to the study area; and

24 (2) provide the rural telephone company with the ability to recover
25 investments that the rural telephone company may have made in reliance on universal
26 service funding through accelerated cost recovery or other mechanisms.

27 Sec. 42.05.244. INTERCONNECTION; EXEMPTIONS, SUSPENSION, AND
28 MODIFICATIONS. (a) A rural telephone company certificated by the commission
29 to provide local exchange service on the effective date of this Act is exempt from the
30 interconnection obligations of 47 U.S.C. 251. The commission may terminate the
31 exemption if the rural telephone company receives a bona fide request for

1 telecommunications services or network elements. The commission shall conduct a
2 termination proceeding under (b) of this section and 47 U.S.C. 251(f)(1).

3 (b) In considering whether to terminate an exemption, the commission shall
4 determine whether the request

5 (1) is bona fide;

6 (2) would not impose an undue economic burden;

7 (3) is technically feasible;

8 (4) is consistent with the universal service principles and requirements
9 of 47 U.S.C. 254; in making a determination required by this paragraph, the
10 commission shall consider whether the interconnection requested would raise the cost
11 of universal service or have an adverse effect on the availability, quality, or
12 affordability of telecommunications services;

13 (5) would not cause a significant adverse effect on users of
14 telecommunications services generally; and

15 (6) is in the public interest.

16 (c) In a proceeding under (b) of this section, the burden of persuasion as to
17 (b)(1) - (4) of this section is on the party seeking interconnection. The burden of
18 persuasion as to (b)(5) and (6) of this section is on the rural telephone company to the
19 extent that the company desires to introduce evidence on these matters; however, the
20 company is not obligated to do so, and no adverse inference may be drawn from an
21 election not to offer evidence.

22 (d) A local exchange carrier certificated by the commission and meeting the
23 criteria of 47 U.S.C. 251(f)(2) may petition the commission for suspension or
24 modification of the application of the requirements of 47 U.S.C. 251(b) and (c) in
25 accordance with 47 U.S.C. 251(b)(2).

26 * Sec. 9. AS 42.05.301 is amended by adding a new subsection to read:

27 (b) It is not an unreasonable preference under this section for a
28 telecommunications carrier to offer a new service on a trial basis to selected customers.

29 * Sec. 10. AS 42.05.306 is amended by adding a new subsection to read:

30 (b) A telecommunications carrier may offer a discounted service or reduced
31 rate for telecommunications services provided to schools, universities, libraries, health

1 care facilities, museums, public broadcast stations, public safety facilities, and other
2 public institutional communications users. The commission may not require a
3 telecommunications carrier to offer a discounted service or reduced rate or to incur
4 uncompensated costs or administrative burdens for services provided under this
5 subsection.

6 * Sec. 11. AS 42.05.361(a) is amended to read:

7 (a) Except as provided under AS 42.05.416(a), under [UNDER] regulations
8 the commission shall adopt, every public utility shall file with the commission, within
9 the time and in the form the commission designates, its complete tariff showing all
10 rates, including joint rates, tolls, rentals, and charges collected and all classifications,
11 rules, regulations, and terms and conditions under which it furnishes its services and
12 facilities to the general public, or to a regulated or municipally owned utility for resale
13 to the public, together with a copy of every special contract with customers that
14 [WHICH] in any way affects or relates to the serving utility's rates, tolls, charges,
15 rentals, classifications, services, or facilities. However, a telecommunications carrier
16 is not required to file a copy of a special contract concerning a
17 telecommunications service subject to competition unless specifically requested to
18 do so by the commission. The public utility shall clearly print, or type, its complete
19 tariff and keep an up-to-date copy of it on file at its principal business office and at
20 a designated place in each community served. The tariffs shall be made available to,
21 and subject to inspection by, the general public on demand.

22 * Sec. 12. AS 42.05.381(a) is amended to read:

23 (a) All rates demanded or received by a public utility, or by any two or more
24 public utilities jointly, for a service furnished or to be furnished shall be just and
25 reasonable; however, a rate may not include an allowance for costs of political
26 contributions, or public relations except for reasonable amounts spent for

27 (1) energy conservation efforts;

28 (2) public information designed to promote more efficient use of the
29 utility's facilities or services or to protect the physical plant of the utility;

30 (3) informing shareholders and members of a cooperative of meetings
31 of the utility and encouraging attendance; [OR]

1 (4) emergency situations to the extent and under the circumstances
2 authorized by the commission for good cause shown;

3 (5) regulatory advocacy before the commission or the Federal
4 Communications Commission on regulatory issues affecting the state's local
5 telephone companies in the case of telecommunications carriers only; or

6 (6) marketing expenses incurred to inform customers of new service
7 offerings in the case of telecommunications carriers only.

8 * Sec. 13. AS 42.05.391 is amended by adding a new subsection to read:

9 (e) It is not an unreasonable preference or advantage for a telecommunications
10 carrier to

11 (1) offer a service subject to competition at or above the incremental
12 cost of providing the service;

13 (2) offer a new service at or above the incremental cost of providing
14 the service;

15 (3) waive the nonrecurring charges for a nonessential or competitive
16 service as part of a promotional offering;

17 (4) offer a new service on a trial basis to selected customers.

18 * Sec. 14. AS 42.05.411(a) is amended to read:

19 (a) Except as provided in AS 42.05.416, a [A] public utility may not establish
20 or place in effect any new or revised rates, charges, rules, regulations, conditions of
21 service, or practices except after 45 days' notice to the commission and 30 days'
22 notice to the public. Notice shall be given to the commission by filing with the
23 commission and keeping open for public inspection the revised tariff provisions that
24 [WHICH] shall plainly indicate the changes to be made in the schedules then in force
25 and the time when the changes will go into effect. The commission shall prescribe
26 means by regulation whereby notice is given to the public before or no later than 15
27 days after the filing that is reasonably adequate to notify customers affected by the
28 filing. The commission, for good cause shown, may allow changes to take effect on
29 less than 45 days' notice to the commission or 30 days' notice to the public under
30 conditions the commission prescribes.

31 * Sec. 15. AS 42.05 is amended by adding new sections to read:

1 Sec. 42.05.416. TELECOMMUNICATIONS SERVICES SUBJECT TO
2 COMPETITION. (a) A telecommunications carrier whose services are subject to
3 competition may not establish or put into effect an initial rate, charge, rule, regulation,
4 condition of service, or practice until the carrier has given 30 days' notice to the
5 commission and 15 days' notice to the public. The commission may, for good cause
6 shown, allow charges to take effect after fewer than 30 days' notice to the commission
7 or 15 days' notice to the public.

8 (b) The rates charged for a tariffed telecommunications service that is subject
9 to competition may be changed if the carrier gives at least 10 days' notice to the
10 commission.

11 (c) A telecommunications carrier shall, within 10 days after the effective date
12 of a special contract concerning telecommunications services subject to competition,
13 file a notice with the commission describing the special contract.

14 (d) A new special contract concerning telecommunications services subject to
15 competition may not take effect until after the commission determines that the
16 telecommunications services that are the subject of the contract are subject to
17 competition.

18 Sec. 42.05.417. CROSS SUBSIDIES PROHIBITED. (a) To avoid cross
19 subsidization of competitive services by noncompetitive telecommunications services,
20 a telecommunications carrier shall charge the incremental cost for the provision of a
21 competitive telecommunications service. The commission or an interested person may
22 bring a proceeding before the commission alleging that a price or rate does not comply
23 with this subsection. In a proceeding held under this section, the telecommunications
24 carrier providing the service bears the burden of proving that the price charged for a
25 competitive telecommunications service covers its cost. If the commission finds that
26 a price or rate does not comply with this subsection, it may order the
27 telecommunications carrier to cease and desist from the prohibited price or rate and
28 may impose a fine of up to twice the amount of the improper subsidy.

29 (b) Even if a telecommunications carrier is exempt from some or all of the
30 sections in this chapter, the commission may review financial information of the
31 telecommunications carrier relating to the provision of a telecommunications service

1 for the purpose of enforcing this section.

2 (c) Information provided to the commission under this section is confidential
3 and is not a public record under AS 09.25.

4 Sec. 42.05.418. REGULATION OF NONCOMPETITIVE SERVICES. (a)
5 Even if a telecommunications carrier is exempt from some or all of the sections of this
6 chapter, the commission may regulate, using traditional or nontraditional forms of
7 regulation, a telecommunications service that the commission has not determined to
8 be competitive.

9 (b) On the application of an interested person or on its own application, the
10 commission shall review and approve the application for regulation of a
11 noncompetitive telecommunications service if it finds, after notice and hearing, that
12 granting the application

13 (1) will not degrade the quality or availability of efficient
14 telecommunications services;

15 (2) will produce fair, just, and reasonable rates for telecommunications
16 services; and

17 (3) will result in the improvement of the telephone infrastructure in the
18 state.

19 (c) The commission shall issue a final order approving, modifying, or rejecting
20 an application made under this section within 60 days after its filing with the
21 commission. If the commission does not issue a final order within the 60-day period,
22 the application is considered to be approved as filed.

23 (d) If, during the commission's consideration of an application filed by a
24 telecommunications carrier for regulation under this section, the commission materially
25 alters the plan as filed in the application, the local exchange telecommunications
26 carrier that applied for regulation may notify the commission in writing that it elects
27 not to be rate or price regulated as approved by the order. This notification may be
28 filed at any time so long as it is filed before the date 60 days after the final
29 commission order is issued. If the carrier notifies the commission of an election to
30 forego regulation under the application, the carrier's rates are then subject to regulation
31 to the extent that they were subject to regulation before the filing of the application.

1 * Sec. 16. AS 42.05.421(a) is amended to read:

2 (a) Except as provided in AS 42.05.426, when [WHEN] a tariff filing is
3 made containing a new or revised rate, classification, rule, regulation, practice, or
4 condition of service the commission may, either upon written complaint or upon its
5 own motion, after reasonable notice, conduct a hearing to determine the reasonableness
6 and propriety of the filing. Pending the hearing, the commission may, by order stating
7 the reasons for its action, suspend the operation of the tariff filing. For a tariff filing
8 that does not change the utility's revenue requirement or rate design, the suspension
9 may last for a period not longer than six months beyond the effective date established
10 in the tariff filing unless the commission extends the period for good cause. In the
11 case of a tariff filing of a telecommunications carrier, whether or not the filing
12 changes the carrier's revenue requirement or rate design, the commission may not
13 extend the period of suspension. For a tariff filing that changes the utility's revenue
14 requirement or rate design, the suspension may last, unless the commission extends the
15 period for good cause, for a period not longer than

16 (1) six months before an interim rate equal to the requested rate goes
17 into effect and not longer than 12 months before a permanent rate goes into effect if
18 the annual gross revenues of the utility making the filing are more than \$3,000,000;
19 and

20 (2) 150 days before an interim rate equal to the requested new rate goes
21 into effect and not longer than one year before a permanent rate goes into effect if the
22 annual gross revenues of the utility making the filing are \$3,000,000 or less.

23 * Sec. 17. AS 42.05 is amended by adding a new section to read:

24 Sec. 42.05.426. NEW OR COMPETITIVE TELECOMMUNICATIONS
25 SERVICES. (a) A telecommunications carrier may ask the commission to determine
26 that a telecommunications service that it provides is a service subject to competition.
27 The commission shall make a determination and accept or reject a request that a
28 service be treated as subject to competition within 30 days after receipt of a filing
29 making the request. If the commission does not act within the 30 days, the request is
30 considered to be granted.

31 (b) If the commission finds that a service is subject to competition under (a)

1 of this section, the commission shall modify the regulatory requirements that apply to
2 the providers of comparable public telecommunications services in that market to
3 achieve parity of regulatory standards and requirements for all providers of
4 telecommunications services in the competitive market.

5 (c) Commission order changes to new telecommunications services or to
6 telecommunications services that are subject to competition may only take effect
7 prospectively.

8 (d) A telecommunications carrier may file a request to offer a service that is
9 subject to competition as a deregulated service that is no longer subject to the
10 commission's jurisdiction. The commission shall adopt regulations governing the
11 filing requirements for a reclassification of a service from regulated to deregulated to
12 ensure that the costs and revenue are accounted for appropriately. The commission
13 shall review reclassification filings within 60 days after receipt of the filing and issue
14 findings that either accept or reject the filing. If the commission fails to act within the
15 60 days, the filing takes effect. A determination that a carrier may offer a deregulated
16 service does not affect the carrier's status as a regulated utility or an exempt utility
17 under AS 42.05.254.

18 (e) For a new service or a competitive service subject to competition, a just
19 and reasonable rate is a rate at or above the incremental cost of providing the service.
20 If the commission, after investigation and hearing, finds that a rate is below the
21 incremental cost of providing the service, it shall

22 (1) determine the incremental cost of providing the service and
23 establish it by order; and

24 (2) require the carrier to show cause why it should not be subject to
25 AS 42.05.571 and 42.05.581 for each day that a customer received a service at a rate
26 below the incremental cost.

27 (f) If the commission fails to make its rate findings within six months after the
28 filing date, the rate is considered to be just and reasonable.

29 * Sec. 18. AS 42.05.441(a) is amended to read:

30 (a) In the case of a public utility other than a telecommunications carrier,
31 and in the case of a telecommunications carrier when the traditional form of

1 regulation is in effect, the [THE] commission may, after providing reasonable notice
2 and opportunity to be heard, ascertain and set the fair value of the whole or any part
3 of the property of a public utility, insofar as it is material to the exercise of the
4 jurisdiction of the commission. The commission may make revaluations from time to
5 time and ascertain the fair value of all new construction, extensions, and additions to
6 the property of a public utility. If, under this subsection, a public utility furnishes
7 more than one classification of utility service, the utility shall allocate the investment
8 and expenses associated with the property used and useful in furnishing service among
9 the utility services and it may not solely consider the utility's total investment and
10 expenses in fixing rates for a particular service.

11 * Sec. 19. AS 42.05.441 is amended by adding new subsections to read:

12 (d) The commission shall presume, subject to rebuttal, that, if property has
13 been included in rates for a telecommunications carrier, it continues to be allowable
14 for rate making purposes.

15 (e) Property of a telecommunications carrier is presumed to be "used and
16 useful" if its acquisition and installation arise out of

17 (1) reasonable technological or engineering designs that benefit
18 consumers, or are reasonably anticipated to benefit consumers in the future;

19 (2) implementation of prevailing national or industry engineering
20 standards;

21 (3) reasonable planning for future needs; or

22 (4) modernization of the telecommunications carrier's network.

23 * Sec. 20. AS 42.05.471 is amended by adding a new subsection to read:

24 (c) The commission shall presume, subject to rebuttal, that the depreciation
25 rates and methodologies accepted by the Federal Communications Commission
26 establish a reasonable range of depreciation rates and methodologies for
27 telecommunications carriers.

28 * Sec. 21. AS 42.05.671 is amended by adding a new subsection to read:

29 (e) Cost and marketing information associated with new telecommunications
30 services or telecommunications services subject to competition is confidential and not
31 open to the public for inspection. The commission shall remove confidential

1 information from its publicly issued orders. The commission shall adopt regulations
2 to implement this subsection.

3 * Sec. 22. AS 42.05.800 is amended to read:

4 Sec. 42.05.800. FINDINGS. The legislature finds that

5 (1) modern, affordable, efficient, and universally available local and
6 long distance telephone service is essential to the people of the state;

7 (2) [FACILITIES BASED,] long distance telephone service should be
8 provided competitively wherever possible;

9 (3) technological advances, reduced costs, and increased consumer
10 choices for long distance telephone service, resulting from the adoption of an
11 appropriate competitive market structure, will enhance the state's economic
12 development;

13 (4) the benefits of competition in long distance telephone service should
14 be shared by consumers throughout the state;

15 (5) the commission should oversee competition in long distance
16 telephone service to ensure that the competition is fair to consumers and competitors;

17 (6) the commission should provide for competition in a timely manner
18 and should adopt regulations that eliminate inappropriate impediments to entry for
19 [LONG DISTANCE] carriers fit, willing, and able to provide service.

20 * Sec. 23. AS 42.05 is amended by adding a new section to read:

21 Sec. 42.05.805. DUTIES OF INTEREXCHANGE CARRIERS. (a) An
22 interexchange carrier shall interconnect directly or indirectly with the facilities and
23 equipment of other telecommunications carriers.

24 (b) An interexchange facility based carrier that has more than 25 percent of
25 the state message toll traffic as determined by the commission shall offer for resale at
26 wholesale rates any intrastate telecommunications service that the carrier provides at
27 retail to subscribers who are not telecommunications carriers. The commission shall
28 determine the wholesale rate by subtracting from the applicable retail rate the portion
29 of the retail rate attributable to marketing, billing, collection, and other costs that will
30 not have to be paid by the interexchange carrier in making a wholesale sale rate. An
31 interexchange facility based carrier may not prohibit or impose unreasonable or

1 discriminatory conditions or limitations on the resale of telecommunications services
2 under this subsection.

3 (c) A facilities based carrier that has more than 25 percent of the state message
4 toll traffic as determined by the commission may request an interexchange facility
5 based carrier to provide the requesting telecommunications carrier with
6 nondiscriminatory access to network elements so that the requesting carrier may
7 provide telecommunications service. The facility based carrier shall provide the access
8 on an unbundled basis at any technically feasible point at rates, terms, and conditions
9 that are just, reasonable, and nondiscriminatory and in a manner that allows the
10 requesting carrier to combine the elements in order to provide the telecommunications
11 services.

12 (d) A facilities based interexchange carrier that has more than 25 percent of
13 the state message toll traffic as determined by the commission shall provide

14 (1) at wholesale rates message toll and other information that resellers
15 may need to rate and process customer billings;

16 (2) reasonable public notice of changes that may affect the availability,
17 quality, or pricing of these services;

18 (3) for actual collocation of equipment necessary for interconnection
19 or access to unbundled network elements at the premises of the interexchange carrier;
20 however, the interexchange carrier may provide for virtual collocation if the
21 interexchange carrier demonstrates to the commission that actual collocation is not
22 practical for technical reasons or because of space limitations; the interexchange carrier
23 shall provide the collocation at rates, terms, and conditions that are just, reasonable,
24 and nondiscriminatory;

25 (4) nondiscriminatory access to operator services at wholesale rates;

26 (5) interconnection at any technically feasible point within the
27 interexchange carrier's network;

28 (6) interconnection and other services that are at least equal in quality
29 to those services provided by the interexchange carrier to itself or to a subsidiary,
30 affiliate, or other party to which the carrier provides interconnection.

31 * Sec. 24. AS 42.05.810 is amended by adding new subsections to read:

1 (d) For intrastate telecommunications services, a telecommunications carrier
2 may designate the first point of switching where the carrier elects to provide equal
3 access through a centralized equal access arrangement.

4 (e) A local exchange carrier may also apply to provide competitive long
5 distance service on the same basis as other applicants under this section.

6 (f) In this section, "centralized equal access arrangement" means an
7 arrangement in which communications traffic is routed to a centralized equal access
8 switch.

9 * Sec. 25. AS 42.05.840 is amended to read:

10 Sec. 42.05.840. MECHANISMS TO PRESERVE AND ADVANCE
11 UNIVERSAL SERVICE [FUND]. The commission may establish a universal service
12 fund [OR OTHER MECHANISM TO BE USED] to ensure the provision of basic
13 local and long distance telephone service at reasonable and affordable rates
14 throughout the state [AND TO OTHERWISE PRESERVE UNIVERSAL SERVICE].

15 * Sec. 26. AS 42.05.840 is amended by adding a new subsection to read:

16 (b) In this section, "basic telephone service" means local and long distance
17 telephone service of a quality consistent with commission regulations and standards.

18 * Sec. 27. AS 42.05.990 is amended by adding new paragraphs to read:

19 (9) "network element" means a facility or equipment used in the
20 provision of a telecommunications service; the term includes features, functions, and
21 capabilities that are provided by means of the facility or equipment, including
22 subscriber numbers, databases, signaling systems, and information sufficient for billing
23 and collection or used in the transmission, routing, or other provision of a
24 telecommunications service;

25 (10) "nontraditional regulation" means price caps, incentive regulation,
26 or other regulation that is not based on traditional regulation;

27 (11) "rural telephone company" means a local exchange carrier
28 operating entity to the extent that the entity

29 (A) provides common carrier service to any local exchange
30 carrier study area that does not include either

31 (i) an incorporated place of 10,000 inhabitants or more,

1 or any part of the incorporated place, based on the most recently
2 available population statistics of the Bureau of Census; or

3 (ii) any territory, incorporated or unincorporated,
4 included in an urbanized area;

5 (B) provides telephone exchange service, including exchange
6 access, to fewer than 50,000 access lines;

7 (C) provides telephone exchange service to any local exchange
8 carrier study area with fewer than 100,000 access lines; or

9 (D) has less than 15 percent of its access lines in communities
10 of more than 50,000;

11 (12) "service subject to competition" means a utility service for which
12 another entity has made available, or has the capacity to make available, a substitute
13 service to customers or a service that customers may supply for themselves;

14 (13) "traditional regulation" means rate base, rate of return regulation.

15 * Sec. 28. NONPREEMPTION. The amendments to AS 42.05 made by this Act are not
16 intended to preempt, abrogate, or otherwise affect any right, liability, or obligation arising
17 from a state or federal law regarding unfair business practices or anticompetitive activity.

House Labor & Commerce Committee

State Capitol
Juneau, Alaska 99801-1182
907-465-4954

HB 531 SPONSOR STATEMENT

Early this year, Congress passed and the President signed the Telecommunications Act of 1996. The sweeping provisions of this Act have the potential of revolutionizing the delivery of telecommunications services throughout the United States. Injudiciously applied, however, they also have the potential of adversely affecting the delivery of affordable universal service in small markets. Relatively speaking, Alaska is a small market.

In recognition of the potential for an adverse impact in smaller markets, the federal Act provides exemptions from some of its provisions, such as the duty to interconnect, for rural telephone companies. It also establishes criteria by which a local regulatory board may terminate this exemption. In addition, the federal Act grants local exchange carriers with fewer than 2% of the nation's subscriber lines the ability to petition a local regulatory board to modify or suspend their duty to conform to some of the provisions of the federal Act. Again, the federal Act establishes criteria for determining whether such petitions are granted. Alaska telephone companies, under criteria established by the federal Act, can qualify for exemptions, as well as modification and suspensions. The APUC will be faced with these questions in the near future. Thus, a statutory and regulatory framework must be created.

HB 311 is intended to fill the statutory and regulatory void created by the federal Act. It recognizes that competition is desirable, but it also emphasizes that the state, in moving toward more competition, must not neglect a need to provide universal service at affordable rates. Its intent is to address issues that have been reserved to the states by the federal Act and thereby assist in making a orderly transition from a regulated industry to a competitive market environment. Your support is urged.

House Labor & Commerce Committee

State Capitol
Juneau, Alaska 99801-1182
907-465-4954

HB 531 SECTIONAL SUMMARY

At the outset, please note that this summary is not intended to be exhaustive. For a complete understanding of HB 531, the provisions of the bill should be reviewed.

Section 1 establishes the short title of the Act as the "telecommunications Regulatory Reform Act of 1996".

Section 2 states that the policy of the state is to maintain universal availability at affordable rates. Also, it is the state's policy, to the extent it is consistent with public interest and universal service, to encourage competition and promote access to advances in technology. The Act's purpose is to address issues reserved to the state in the Federal Telecommunications Act of 1996 and provide for a regulatory framework that will, where appropriate, allow an orderly transition from a regulatory to a competitive industry. Another purpose is to clarify that the APUC has the authority to utilize alternative forms of regulation in the telecommunications industry.

Section 3: Legislative findings.

Section 4 changes the responsibility of the communications carrier section of the APUC from advocating the lowest practicable rate to advocating just and reasonable rates.

Section 5 requires that Commission orders concerning the telecommunications industry to contain conclusions of law.

Section 6 requires that the APUC, in publishing orders concerning telecommunications utilities, comply AS 42.05.671(e). AS 42.05.671(e) is a new statute proposed by Section 21 of HB 531, which designates certain information pertaining to telecommunications utilities as confidential. Specifically, cost and marketing information concerning new telecommunications services and telecommunications services subject to competition is confidential and can not be released by the Commission to the public.

Section 7 requires the Commission to accept or reject within 45 days a local telephone company's application to amend its certificate to extend its service area to provide local service to areas not served. Applications must be granted if the applicant is fit, willing, and able. Applications are automatically granted if not denied within 45 days.

Section 8 adds two new sections, AS 42.05.243 and AS 42.05.244.

AS 42.05.243 requires the Commission to designate those telecommunications carriers that are certificated to provide local exchange service on the effective date of Section 8 as eligible carriers. A designation as an eligible carrier applies only to the areas the carrier is certificated to serve on the effective date of Section 8. Telecommunications providers who are not designated for given areas may petition the APUC to be designated as additional eligible carriers, and criteria are established for the Commission's decision as to whether granting such petitions would be in the public interest. The criteria are: (1) Whether granting the petition would result in an increase in the cost of providing universal service or adversely affect the availability and affordability of services; (2) Whether the existing eligible carrier is providing universal service; and (3) Whether there would be an adverse impact on the existing carrier's ability to construct and operate telecommunications facilities. Any order granting a petition must: (1) address the incumbent carrier's reliance on universal service funding; and (2) provide the incumbent carrier some mechanism to recover investments made in reliance on universal service funding.

AS 42.05.244 provides that certificated rural telephone companies are exempt from the interconnection requirements of 47 U.S.C. 251 (contained in the Federal Telecommunications Act of 1996) upon providing notice to the APUC of an intent to be exempt. Such exemptions may be terminated after an exempt carrier receives a bona fide request. The APUC, in making a determination, must consider: (1) Whether the request is bona fide; (2) Whether it would impose an undue economic burden; (3) Whether it is feasible; (4) Whether it is consistent with universal services principles; (5) Whether there would be a significant adverse effect on users; and (6) Whether it would be in the public interest. The proposed new statute also would permit certificated local exchange carriers to petition the Commission for suspension or modification of certain duties otherwise required under the Federal Telecommunications Act of 1996.

Section 9 provides that it is not an unreasonable preference for a telecommunications utility to offer a new service on a trial basis to select customers.

Section 10 permits telecommunications utilities to offer discounted service to certain public users.

Section 11 provides that telecommunications utilities are not required to file copies of special contracts concerning services subject to competition unless requested to do so by the APUC.

Section 12 permits public utility rates to reflect reasonable amounts expended on advocacy before the APUC or FCC and marketing expenses used to inform customers of new telecommunications services.

Section 13 states that it is not an unreasonable preference for a telecommunications utility to offer competitive or new services at or above their incremental costs. It is not an unreasonable preference to, as part of a promotional offering, waive nonrecurring charges for nonessential or competitive services, or to offer a new service to selected customers on a trial basis.

Section 14 references proposed AS 42.05.416 (Section 15 of HB 531) as an exception to existing rules governing the implementation of new or revised rates, charges, rules, regulations, conditions of service or practices.

Section 15 grants telecommunications utilities subject to competition expedited procedures for initiating or modifying rates, charges, rules, or conditions. This section also prohibits the cross subsidization of services subject to competition by noncompetitive services. Section 15 also grants the Commission, with respect to telecommunication services not subject to competition, the authority to regulate through either traditional or nontraditional means. (The original bill inadvertently omitted language making this clear; the CS includes the omitted portion.) It establishes a 60 day deadline for the Commission to issue an order pertaining to an application for nontraditional regulation, after which the application is deemed to be granted. It grants an applicant the right to revert back to traditional regulation should the Commission materially alter the plan as filed in the application.

Section 16 amends existing law giving the Commission the ability to suspend the operation of a tariff filing that does not change the utility's revenue requirement or rate design. Under existing law, such tariff filing may be suspended for good cause for a period beyond six months. As amended, the Commission can not suspend a telecommunications utility tariff filing beyond six months, regardless of whether the tariff filing affects revenue requirements or rate design.

Section 17 grants telecommunications utilities the right to ask the Commission to determine that a telecommunications service is subject to competition. The request is deemed granted after 30 days if the Commission does not make a determination. It grants telecommunications utilities the

right to file a request to offer a service subject to competition as a deregulated service. It defines a "just and reasonable rate" for services subject to competition for new services as a rate at or above the incremental cost of providing the service.

Section 18 exempts telecommunications utilities that are not subject to traditional regulation from the general rule that the Commission may set the fair value of the whole or any part of the utility's property.

Section 19 establishes a presumption that, in the valuation of a telecommunications utility's property, those assets previously included in rates will continue to be allowable for rate making purposes. Also, this section establishes criteria for a presumption that property is "used and useful".

Section 20 establishes a presumption that the FCC's depreciation rates establish a reasonable range.

Section 21: See Section 5.

Section 22 contains legislative findings.

Section 23 establishes a duty for interexchange carriers to interconnect with other telecommunications carriers. Interexchange carriers that have more than 25% of Alaska's toll traffic must offer for resale at wholesale rates intrastate services they provide and must provide nondiscriminatory access to network elements, as well as other defined services at wholesale rates.

Section 24 allows, for intrastate telecommunications services, telecommunications utilities to designate a first point of switching through a centralized equal access arrangement. It permits local exchange carriers to apply for competitive long distance service.

Section 25 permits the commission to create a universal service fund to ensure basic local and long distance service at reasonable rates.

Sections 26 and 27: Definitions.

Section 28 provides that the provisions of this bill are not intended to preempt state or federal laws regarding unfair business practices or anticompetitive activity.

Alaska Telephones Association

4341 B Street, Suite 304
Anchorage, AK 99503
(907)563-4000
FAX (907)562-3726

Duane C. Durand
President

James Rowe
Executive Director

March 3, 1996

NOTICE

AT&T Alascom answers the question:

**"Does Alaska need telecommunications
legislation this session?"**

RECEIVED
A.P.U.C.

35 FEB 29 PM 2:59

STATE OF ALASKA

ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners:

Don Schröer, Chairman
Alyce A. Hanley
Dwight D. Ormquist
G. Nanette Thompson
Sam Cotten

In Re: Application of Alascom, Inc.)
for Certificate of Public Convenience)
and Necessity to Provide Local)
Exchange Telephone Service)

Docket No. _____

APPLICATION OF ALASCOM, INC. FOR CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE
LOCAL EXCHANGE TELEPHONE SERVICE

I. INTRODUCTION

This is an application by Alascom, Inc. d/b/a AT&T Alascom ("AT&T Alascom") to provide local exchange telephone service in the Municipality of Anchorage in the area now served by the Anchorage Telephone Utility ("ATU"). This application is filed under the provisions of the Alaska Public Utilities Commission Act and the Telecommunications Act of 1996.

AT&T Alascom understands that the Commission has not had an opportunity to determine whether it will develop a form for an application for competing local exchange service. It appears to AT&T Alascom that the Commission form for applications for

SHRURN AND MASON
LAWYERS
PROFESSIONAL CORPORATION
SUITE 100
1120 WEST 32ND AVENUE
ANCHORAGE, ALASKA
99501-4814
10071 576-4331

APPLICATION OF ALASCOM, INC. FOR CERTI
PUBLIC CONVENIENCE AND NECESSITY TO I
LOCAL EXCHANGE TELEPHONE SERVICE -1

Post-41™ brand fax transmittal memo 7671	# of pages 7

intrastate interexchange service requests the type of information which the Commission could require for competitive local exchange service applications. AT&T Alascom has therefore followed that form (see 3 AAC 52.360) in preparing this application.

II. APPLICATION¹

1. The legal name of Applicant is Alascom, Inc. It will do business under the name AT&T Alascom.
2. The Alaskan address of Applicant is 210 East Bluff Road, Anchorage, Alaska 99501. The address of the parent company, AT&T Corporation, is 295 North Maple Avenue, Basking Ridge, New Jersey 07920.
3. Applicant's liaison with the Commission is Ted Moninski, Regulatory Affairs Director. His telephone number is 1-907-264-7876.
4. Applicant is a corporation incorporated in Alaska. A copy of the Certificate of Compliance is attached as Exhibit 1. The registered agent is Prentice Hall Corporation System, 801 West Tenth Street, Suite 300, Juneau, Alaska 99801.
5. Applicant is authorized to do business in Alaska because it is incorporated here. The Certificate of Compliance is attached. Please see answer to number 4 above.
6. AT&T Corporation owns all of Applicant's stock.²

¹The numbered sections correspond to the numbers in the regulation (3 AAC 52.360) governing applications for intrastate interexchange service.

²See Order No. 3 in Docket U-94-113 approving acquisition of Alascom, Inc. by AT&T
(continued...)

7. With the exception of AT&T Corporation and its subsidiaries, Applicant is not aware of any entity that is an affiliated interest of Applicant.

8. None.

9. None.

10. The key managers are:

<u>Name</u>	<u>Title</u>	<u>Responsibility</u>
Jerry DeFrancisco	President	Executive management
Terrence Elfers	Network Vice President	Engineering
Sean O'Shea	Marketing, Sales and Customer Service Vice President	Marketing

11. The current (1994) FCC Form M is on file with this Commission. The 1995 FCC Form M will be timely filed with this Commission.

12. Not applicable.

13. Applicant will resell all the local exchange services offered by ATU.

14. Applicant proposes to serve all areas now served by ATU. Initially service will be provided by reselling the services of ATU.

15. Please see answer to number 14.

16. Applicant does not intend initially to construct new facilities. Instead, Applicant will provide local service as a reseller. Applicant believes that it will need to install remote switching centers in all of the existing ATU serving wire centers (SWCs), or alternatively install portable units near the SWCs, along with a frame to connect with the

SHUBIN AND MASON
LAWYERS
A PROFESSIONAL CORPORATION
CORP. 100
1120 W 3rd Street
ANCHORAGE, ALASKA
99501-5914
(907) 276-4331

²(-continued)
Corporation (6/13/95).

APPLICATION OF ALASCOM, INC. FOR CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE
LOCAL EXCHANGE TELEPHONE SERVICE -3-

existing local network. Applicant currently has a DMS160/260 switch which is capable of providing local switching services.

17. Applicant has written to the ATU requesting that ATU file a tariff of wholesale rates for the resale of its services and that ATU negotiate the other terms and conditions of its services necessary for Applicant to provide local exchange service. That letter is attached as Exhibit 2.

18. Please see answer to number 16.

19. Please see answer to number 16.

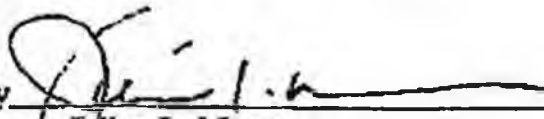
20. Applicant cannot file its tariff until wholesale rates are established by ATU. Applicant expects that all of its services will be competitive with the comparable services offered by ATU.

21. See below.

III. AT&T Alascom believes that the local exchange service it intends to provide is consistent with the public interest, will have a positive economic impact on users, is not economically burdensome on ATU, and is technically feasible. AT&T Alascom respectfully requests that its application be granted as promptly as possible.

ASHBURN & MASON
Attorneys for Alascom, Inc. d/b/a AT&T Alascom

Date: 2/27/96

By: 
Julian L. Mason

ASHBURN AND MASON
LAWYERS
SUITE 100
1100 WEST 54TH AVENUE
ANCHORAGE, ALASKA
99501-5914
(907) 276-4331

APPLICATION OF ALASCOM, INC. FOR CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE
LOCAL EXCHANGE TELEPHONE SERVICE +

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
Tony Knowles, Governor
William L. Herzley, Commissioner

ALASKA PUBLIC UTILITIES COMMISSION

1016 West 6th Avenue Suite 400
Anchorage Alaska 99501

Phone (907) 276-6222

Fax (907) 276-0160

FAX COVER SHEET

Number of pages (including cover sheet)

Date: March 29, 1996

Time: 3:00 p.m.

Transmittal Fax Number: (907) 465-2819

To: Rep. Pete Kott
Attn: George Dozier
Legislative Director

From: Bob Lohr
Executive Director

Subj: Comparison of Key Issues: HB 501, HB 531, Federal
Telecommunications Act of 1996

Comments: Would it be possible for you to distribute this information to committee members? I assume that it would be of particular interest to Telecommunications Subcommittee members. Thanks in advance.

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

ALASKA PUBLIC UTILITIES COMMISSION

TONY KNOWLES, GOVERNOR

1016 WEST SIXTH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99501-1963
PHONE: (907) 276-6772
FAX: (907) 276-0160
TTY: (907) 276-4533

March 29, 1996

To: House Labor and Commerce Committee
Alaska State Legislature

Fr: Robert A. Lohr, ^{RAL} Executive Director
Alaska Public Utilities Commission

Re: Comparison of Key Issues in the Three Telecommunications Bills: Telecommunications Act of 1996 (federal Act); HB 501; HB 531

Common Carrier Specialists Lew Craig and Philip Treuer prepared the attached side-by-side table comparing the Telecommunications Act of 1996, HB501 and HB531. The table is not an analysis of the bills; it is intended as merely an aid in comparing key issues addressed by one or more of the bills. The table follows the outline below.

The Commission has adopted fiscal notes for each state bill, as originally introduced. The Commission's estimated cost of implementing HB 501 was \$135.9 and for HB 531 was \$472.6. The Commission later determined that the net cost of implementing the federal Act will be \$401.1. The Commission has not yet assessed the extent to which the costs of carrying out the federal Act may duplicate costs included in the fiscal notes for either HB 501 or HB 531. If a Committee Substitute is adopted for either bill, the Commission expects to revise downward its fiscal note(s).

Outline of Key Telecommunications IssuesInterconnection

- Duties and Obligations of Carriers, Local Exchange Carriers (LEC) and Incumbent LECs
- Negotiation Procedures for Agreements
- Exemptions for Rural Telephone Companies
- Suspensions and Modifications for LECs
- Pricing Flexibility
- Cross-Subsidy
- New Services
- Non-competitive Services
- Services Offered on a Trial Basis
- Competitive Services
- Discounted Services

Universal Service

Memorandum to House Labor and Commerce Committee

March 29, 1996

Page 1 of 2

INTERCONNECTION

Under the Telecommunications Act of 1996 (Act) the local exchange company (LEC), is obligated to provide interconnection to any requesting telecommunications carrier. The federal Act establishes requirements for interconnection, provides for exemption or suspension from those requirements for some LECs; and sets procedures for negotiating interconnection agreements.

Telecommunications Act of 1996 (Act)	HB 531	HB 501
<p>Duties and Obligations of Carriers (Sec 251(a))</p> <ul style="list-style-type: none"> * interconnect directly or indirectly with the facilities and equipment of other carriers; and * not to install network features, functions, or capabilities that do not comply with specified guidelines and standards. <p>Obligations of local exchange carriers (LECs) (Sec 251(b))</p> <ul style="list-style-type: none"> * not to prohibit resale of their services; * to provide number portability; * to provide dialing parity; * to afford access to poles, ducts, conduits, and rights-of-way consistent with pole attachment provisions of the Act; and * to reestablish reciprocal compensation arrangements for the transport and termination of telecommunications. <p>Additional obligations on Incumbent LECs (Sec 251(c))</p> <ul style="list-style-type: none"> * negotiate in good faith the terms and conditions of agreements; * provide interconnection at any technically feasible point of the same quality they provide to themselves, on just, reasonable, and nondiscriminatory terms and conditions; * provide access to network elements on an unbundled basis; * offer resale of their telecommunications services at wholesale rates; * provide reasonable public notice of changes to their networks; and * provide physical collocation, or virtual collocation if physical collocation is impractical. 	<p>Duties and Obligations of Carriers, LECs & Incumbent LECs</p> <p>HB 531 does not address the interconnection obligations of LECs. It does impose interconnection requirements on IXCs that mirror the federal Act's requirements.</p>	<p>Duties and Obligations of Carriers, LECs & Incumbent LECs</p> <p>Not specifically addressed except to the extent that the Commission must provide for competition in a timely manner and must adopt regulations that eliminate inappropriate impediments to entry for LECs fit, willing, and able to provide service.</p>

Telecommunications Act of 1996 (Act)	HB 531	HB 501
<p>Negotiation Procedures for Agreements(Sec 252)</p> <p><u>Voluntary Agreements</u> An incumbent LEC may enter into a voluntary interconnection agreement with another telecommunications carrier without regard to the interconnection obligations (Sec 251) described preceding.</p> <p>The agreement must include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement.</p> <p>The agreement must be submitted to the APUC for approval. Grounds for rejection include: discrimination against a carrier not a party to the agreement or the agreement is not consistent with the public interest, convenience and necessity. Subject to Sec 253, Removal of Barriers to Entry, the APUC may require compliance with intrastate service quality standards.</p> <p>Any party negotiating under this section may petition the APUC at any point in the negotiation to mediate differences.</p> <p>The APUC must act to reject or approve within 90 days or the agreement will be deemed approved. State courts do not have jurisdiction to review APUC action in approving or rejecting the agreement. If the APUC does not perform its duties under this section the FCC will preempt.</p> <p>The APUC may consolidate proceeding under this section to reduce administrative burdens.</p>	<p>Negotiation Procedures for Agreements</p> <p>HB 531 does not directly address negotiation procedures for interconnection agreements.</p>	<p>Negotiation Procedures for Agreements</p> <p>Not specifically addressed except to the extent that the Commission must provide for competition in a timely manner and must adopt regulations that eliminate inappropriate impediments to entry for LECs fit, willing, and able to provide service.</p>

Telecommunications Act of 1996 (Act)	HB 531	HB 501
<p>Negotiation Procedures for Agreements (continued)</p> <p><u>Compulsory Arbitration</u> Approximately 5 months (between the 135th day and the 160th day) after the incumbent LEC receives a request for negotiation, any party to the negotiation may petition the APUC to arbitrate any open issues. A non-petitioning party may respond to the petition and provide additional information (within 25 days after the APUC receives the petition). The APUC must limit its consideration to the issues set out in the petition and any additional information provided by a non-petitioning party.</p> <p>In resolving any open issues the APUC is required to:</p> <ul style="list-style-type: none"> * Ensure that the resolution meets the Act's interconnection requirements (Sec 251). * Establish any rates based on cost (without reference to rate-of-return or other rate-based proceedings) * Establish any rate on a non-discriminatory basis and allow a reasonable profit. * Consider the just and reasonable terms for reciprocal compensation. * Determine wholesale rates based on the retail rate--excluding any marketing, billing, collection or other costs that will be avoided in a wholesale sale. <p>The APUC may only reject the agreement (or portion thereof) if it does not meet the Act's interconnection requirements (Sec 251) or the pricing standards discussed preceding.</p>	<p>Negotiation Procedures for Agreements (continued)</p>	<p>Negotiation Procedures for Agreements (continued)</p> <p>Not specifically addressed except to the extent that the Commission must provide for competition in a timely manner and must adopt regulations that eliminate inappropriate impediments to entry for LECs fit, willing, and able to provide service.</p>

Telecommunications Act of 1996 (Act)	HB 531	HB 501
<p>Negotiation Procedures for Agreements (continued)</p> <p><u>Compulsory Arbitration (continued)</u> The APUC must complete its arbitration within 9 months of the date the LEC receives the request for negotiation. In other words, the APUC has approximately 4 months to complete the arbitration process, including the establishment of rates for interconnection, services and network elements.</p> <p>The APUC must not to reject or approve within 30 days or the agreement will be deemed approved. State courts do not have jurisdiction to review APUC action in approving or rejecting the agreement. If the APUC does not perform its duties under this section the FCC will preempt.</p> <p>The APUC may consolidate proceeding under this section to reduce administrative burdens.</p>	<p>Negotiation Procedures for Agreements (continued)</p>	<p>Negotiation Procedures for Agreements (continued)</p> <p>Not specifically addressed except to the extent that the Commission must provide for competition in a timely manner and must adopt regulations that eliminate inappropriate impediments to entry for LECs fit, willing, and able to provide service.</p>

Telecommunications Act of 1996 (Act)	HB 531	HB 501
<p>Exemptions for Rural Telephone Companies (Sec 251(r)(1))</p> <p>A rural LEC (which includes all Alaska LECs except ATU) is exempt from the LEC interconnection requirements of a [251(c)] until it has received a bona fide request for interconnection, services, or network elements and the APUC determines that such request:</p> <ul style="list-style-type: none"> * is not unduly economically burdensome, * is technically feasible, and * is consistent with the Act's universal service provisions (except for the specific public interest, convenience and necessity provisions). <p>The APUC must make a determination about whether to terminate the rural LEC's interconnection exemption within 120 days of receiving notice. Upon termination, the APUC must establish an implementation schedule consistent with FCC regulations. [The deadline for FCC regulations is August 8, 1996.]</p>	<p>Exemptions for Rural Telephone Companies</p> <p>Section 8 also adds a new section 42.05.244, Interconnection; exemptions, suspension, and modifications, to 42.05. In general this section mirrors provisions of the federal Act while imposing some additional requirements. HB 531 specifically cites Section 251 [Interconnection obligations], all inclusive, of the Act regarding interconnection obligations.</p> <p>This provision of HB 531 requires the APUC to conduct a termination proceeding when considering a request for interconnection. The remainder of this section generally follows the federal Act, although it requires the Commission to apply with greater specificity tighter standards before termination of exemption for rural telephone companies. For example: the APUC must consider whether the interconnection would raise the cost of universal service or have an adverse effect on the availability, quality or affordability of telecommunications services.</p> <p>The burden of persuasion to terminate the exemption is on the party seeking interconnection. The burden to show adverse effects on the public interest and service is on the incumbent but no inference is allowed to be drawn if the LEC elects not to submit evidence.</p>	<p>Exemptions for Rural Telephone Companies</p> <p>Not specifically addressed except to the extent that the Commission must provide for competition in a timely manner and must adopt regulations that eliminate inappropriate impediments to entry for LECs fit, willing, and able to provide service.</p>

Telecommunications Act of 1996 (Act)	HB 531	HB 501
<p>Suspensions and Modifications for LECs (Sec 251(f)(2))</p> <p>Any LEC with less than 2% of the nation's access lines (i.e., any Alaska LEC) can petition for suspension or modification of the requirements of LECs. The APUC must grant the petition if it determines that the suspension or modification is necessary:</p> <ul style="list-style-type: none"> • to avoid a significant adverse economic impact on users of telecommunications services generally, or • to avoid imposing a requirement that is unduly economically burdensome, or • to avoid imposing a requirement that is technically infeasible, and • is consistent with the public interest, convenience, and necessity. <p>The state commission must act with 180 days of receiving a request for suspension or modification.</p>	<p>Suspensions and Modifications for LECs</p> <p>HB 531 essentially mirrors the provisions of the federal Act.</p>	<p>Suspensions and Modifications for LECs</p> <p>Not specifically addressed except to the extent that the Commission must provide for competition in a timely manner and must adopt regulations that eliminate inappropriate impediments to entry for LECs fit, willing, and able to provide service.</p>

Telecommunications Act of 1996 (Act)	HB 531	HB 501
<p>Pricing Flexibility Not specifically addressed.</p> <p>Cross-Subsidy Section 254(K) prohibits a carrier from using services that are not competitive to subsidize those that are subject to competition. Requires the States, for intrastate services, to establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.</p> <p>New Services Not specifically addressed.</p>	<p>Pricing Flexibility <i>See Competitive Services</i></p> <p>Cross-Subsidy Section 15 adds a new section 42.05.417, Cross subsidies prohibited, to 42.05. This section requires competitive service rates to cover incremental cost. The utility bears the burden of proving that the price covers the incremental cost. The Commission may review financial information to enforce this section--the information is confidential. Section 17 of HB 531 sets the Commission with the charge of assuring that competitive services are priced above incremental cost. To</p> <p>New Services Section 17 adds a new section 42.05.426, New or competitive telecommunications services to 42.05. This section will require the Commission to determine within 30 days, upon request, whether a telecommunications service is subject to competition..</p> <p>One provision of this section requires the Commission to modify regulatory requirements when it finds a service subject to competition.</p>	<p>Pricing Flexibility, Cross-Subsidy & New Services</p> <p>Not specifically addressed except to the extent that the Commission must provide for competition in a timely manner and must adopt regulations that eliminate inappropriate impediments to entry for LECs fit, willing, and able to provide service.</p>

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Telecommunications Act of 1996 (Act)	HB 531	HB 501
<p>Non-competitive Services See section on cross subsidy</p> <p>Services Offered on a Trial Basis Not specifically addressed.</p>	<p>Non-competitive Services Section 15 also adds a new section 42.05.418, Regulation of non-competitive services to 42.05. This section allows the Commission to regulate a service that the Commission has not determined to be competitive apparently based on application by the utility. This section requires the Commission to issue a final order within 60 days after notice and hearing to approve modify or reject the application.</p> <p>Services Offered on a Trial Basis Adds a new subsection (b) to 42.05.301, Discrimination in service. This section allows new services to be offered on a trial basis to selected customers.</p> <p>Under HB 531 the terms and rates of the trial basis offerings would still be subject to the Commission's review and filing requirements.</p>	<p>Non-competitive Services & Services Offered on a Trial Basis</p> <p>Not specifically addressed except to the extent that the Commission must provide for competition in a timely manner and must adopt regulations that eliminate inappropriate impediments to entry for LECs fit, willing, and able to provide service.</p>