

HOUSE BILL NO. 246

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE GUTTENBERG

Introduced: 5/8/17

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act creating the Broadband Development Commission."**

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

3 * **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
4 to read:

5 LEGISLATIVE FINDINGS. The legislature finds that

6 (1) many communities in the state have limited access to the Internet because
7 the communities lack broadband and advanced telecommunications that enable high-speed
8 access to the Internet necessary to support modern civic, governmental, cultural, economic
9 development, health care, public safety, educational, and community resources;

10 (2) although the state is connected to the rest of the world through several
11 fiber-optic cables, many areas in the state lack sufficient access to affordable broadband data
12 services and broadband Internet access services because of insufficient connectivity to fiber-
13 optic cables;

14 (3) removing barriers to broadband deployment by using a technology and
15 competitively neutral approach will encourage lower prices for broadband service, expand

1 availability, and offer more choices to consumers;

2 (4) access to broadband and advanced telecommunications services
3 throughout the state is essential for the state to keep pace with global changes in economic
4 diversification, education, health care, energy and environmental technology, and public
5 safety;

6 (5) affordable and nondiscriminatory access is necessary to support
7 investment in and development of accessible broadband networks in the state and action
8 should be taken to ensure that broadband services are affordable and reasonably comparable
9 in all areas of the state;

10 (6) insufficient and unaffordable Internet connectivity between unserved or
11 underserved locations and existing fiber-optic cables that provide high-speed Internet service
12 is the greatest and most costly obstacle to wider deployment of broadband and advanced
13 telecommunications services in remote areas of the state;

14 (7) funding from federal, private, or other sources is essential to offset the
15 high cost of deployment, ownership, and operation of facilities providing Internet
16 connectivity; and

17 (8) a coordinated approach is necessary to ensure that facilities that provide
18 Internet connectivity are deployed efficiently and have sufficient capacity to reach unserved
19 and underserved areas of the state and that Internet connectivity is made available on a
20 nondiscriminatory basis to all potential users and service providers.

21 * **Sec. 2.** AS 42.05.145 is amended by adding a new subsection to read:

22 (c) Upon application, the commission shall designate the Alaska Broadband
23 Development Commission, established in AS 44.21.510 - 44.21.530, as an eligible
24 telecommunications carrier for the purposes of 47 U.S.C. 214(e).

25 * **Sec. 3.** AS 44.21 is amended by adding new sections to read:

26 **Article 7. Broadband Development Commission.**

27 **Sec. 44.21.510. Broadband Development Commission.** The Broadband
28 Development Commission is established in the Department of Administration for the
29 purpose of facilitating, upgrading, planning, and financing the installation, operation,
30 and promotion of effective use of a broadband system throughout the state.

31 **Sec. 44.21.515. Board of directors.** (a) The commission consists of the

1 following eight members:

2 (1) six voting members appointed by the governor and confirmed by
3 the legislature as follows:

4 (A) one member who has expertise and experience in
5 telehealth, telemedicine, and distance learning applications on broadband
6 networks and services;

7 (B) one member who has expertise and experience in
8 developing broadband technologies in unserved or underserved rural, insular,
9 or high-cost areas;

10 (C) one member who has expertise and experience in federal
11 assistance programs supporting the development of broadband facilities and
12 affordability of broadband services;

13 (D) one member who has expertise and experience in
14 promoting broadband adoption and education;

15 (E) two members who have expertise and experience in the
16 operation of a broadband network and offering broadband services;

17 (2) two nonvoting members as follows:

18 (A) a member of the house of representatives appointed by the
19 speaker of the house of representatives and who serves at the pleasure of the
20 speaker of the house of representatives; and

21 (B) a member of the senate appointed by the president of the
22 senate and who serves at the pleasure of the president of the senate.

23 (b) Except for the legislative members of the commission appointed under
24 AS 44.21.515(a)(2), two or more members of the commission may not, during the
25 member's term, be employed by the same entity.

26 (c) The commission shall annually elect a chair and other necessary officers
27 from among its voting members.

28 (d) The voting members of the commission appointed under (a)(1) of this
29 section serve three-year terms and may be reappointed. Terms shall be staggered.

30 (e) A vacancy on the commission occurring other than by expiration of a term
31 shall be filled in the same manner as the original appointment, but for the unexpired

1 term only.

2 (f) Four voting members of the commission appointed under this section
3 constitute a quorum for the transaction of business and the exercise of the powers and
4 duties of the commission. The commission shall meet at least four times a year. A
5 meeting of the commission shall occur at the call of the chair, or upon the written
6 request of three voting members of the commission, and shall be open to the public.

7 (g) Commission members do not receive a salary, but are entitled to per diem
8 and travel expenses authorized by law for other state boards and commissions under
9 AS 39.20.180.

10 **Sec. 44.21.520. Purposes and duties of the commission.** (a) The purposes of
11 the commission are

12 (1) increasing and improving the availability, affordability, and
13 performance of broadband data services and broadband Internet access services in
14 unserved and underserved areas of the state by lessening the barriers to entry posed by
15 a lack of sufficient and affordable access to high-speed, low-latency connectivity
16 between unserved and underserved customer areas and fiber-optic cables that connect
17 to the Internet in the state; and

18 (2) facilitating the development of competitive options for customers
19 in unserved and underserved areas.

20 (b) The commission shall

21 (1) provide or enable affordable and nondiscriminatory access to high-
22 speed, low-latency telecommunications connectivity between points in the state that
23 are unserved or underserved by high-speed, low-latency telecommunications
24 connectivity to existing fiber-optic cables that connect to the Internet;

25 (2) deploy the necessary broadband networking facilities to provide
26 high-speed, low-latency telecommunications connectivity in a coordinated manner;
27 and

28 (3) ensure the efficient use of state or other funds for the purposes
29 described in this subsection.

30 (c) For the purposes listed in (a) of this section and AS 44.21.525, the
31 commission may use

1 (1) federal financial assistance, including federal grant awards, loans,
 2 and support from universal service support mechanisms authorized by the Federal
 3 Communications Commission; and

4 (2) sources of private or other funding or property.

5 (d) Under (a) of this section, an area is unserved or underserved if the
 6 commission determines that

7 (1) the terrestrial network facilities that connect the location to the
 8 Internet lack the sufficient high-speed, low-latency capacity to deliver service to all
 9 customers in that area at minimum speed and usage allowances that are reasonably
 10 comparable to those available in urban areas of the state and at rates and under terms
 11 and conditions that are reasonably comparable to those available in urban areas of the
 12 state; or

13 (2) most of the facilities in the area are owned or controlled by a single
 14 entity or affiliates of the entity.

15 (e) To make the determination under (d) of this section, the commission may

16 (1) determine and consider the current level of broadband Internet
 17 access in urban and rural areas of the state;

18 (2) determine an acceptable level of broadband Internet access
 19 throughout the state and in so doing may consider the findings of the Federal
 20 Communications Commission under 47 U.S.C. 1302(b) (sec. 706(b),
 21 Telecommunications Act of 1996); or

22 (3) monitor the ongoing deployment and capacity of high-speed, low-
 23 latency telecommunications transport network facilities between points in the state,
 24 including projects that are currently being developed and projects that are in the
 25 planning and predevelopment stage.

26 **Sec. 44.21.525. Powers of the commission.** The commission may

27 (1) apply for and accept a gift, grant, or loan from a federal agency, an
 28 agency or instrumentality of the state or of a municipality, or a private source for the
 29 purpose of planning, constructing, deploying, owning, operating, maintaining,
 30 repairing, or replacing broadband networking infrastructure in order to provide
 31 sufficient and affordable high-speed, low-latency connectivity between unserved and

underserved customer areas and fiber-optic cables that connect to the Internet;

(2) use a gift, grant, or loan accepted under (1) of this section to

(A) plan efficient routing and deployment of telecommunications facilities between points in the state that are unserved or underserved by high-speed, low-latency telecommunications connectivity to existing fiber-optic cables; or

(B) construct, upgrade, install, own, or operate telecommunications facilities described in (A) of this paragraph;

(3) subject to the limitations in this paragraph, sell transmission services and lease capacity to retail providers of broadband data services and Internet access services at a wholesale price and on just, reasonable, and nondiscriminatory rates, terms, and conditions for the use of those retail providers to offer the services to retail end-user customers in unserved and underserved areas; the commission may not enter into a sale or lease of capacity if, following the transaction, the purchaser or an affiliate of the purchaser, at the time of the transaction, would own, operate, or otherwise control more than

(A) one-third of the total terrestrial network capacity serving the area; or

(B) one-half of the total terrestrial network capacity available for sale to serve the area;

(4) enter into a contract or other transaction with a federal agency, with an agency or instrumentality of the state or of a municipality, or with a private organization or other party;

(5) employ appropriate consultative, technical, legal, clerical, and other personnel for the implementation of AS 44.21.510 - 44.21.530, within the limits of available funds;

(6) prepare and submit to the governor and the legislature, in compliance with the state information systems plan adopted by the commissioner of administration, reports of the commission's activities, including changes in the number of areas that remain unserved or underserved by high-speed, low-latency telecommunications connectivity to existing fiber-optic cables that connect to the

1 Internet; and

2 (7) take an action, not inconsistent with AS 44.21.520, as is necessary
3 to execute the function of the commission.

4 **Sec. 44.21.530. Definitions.** In AS 44.21.510 - 44.21.530,

5 (1) "affiliate" means a person or entity that directly or indirectly owns
6 or controls, is owned or controlled by, or is under common ownership or control with,
7 another person or entity;

8 (2) "commission" means the Broadband Development Commission
9 established under AS 44.21.210;

10 (3) "entity" means the controlling entity and its affiliates;

11 (4) "own" means to own an equity interest of more than 10 percent.