

3-1998

Final Report of the Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities, 1998

Maine State Legislature

Maine Office of Policy and Legal Analysis

Phillip D. McCarthy

Maine State Legislature, Phillip.McCarthy@legislature.maine.gov

Follow this and additional works at: https://digitalmaine.com/opla_docs

Recommended Citation

Maine State Legislature; Maine Office of Policy and Legal Analysis; and McCarthy, Phillip D., "Final Report of the Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities, 1998" (1998). *Office of Policy and Legal Analysis*. 9.

https://digitalmaine.com/opla_docs/9

This Text is brought to you for free and open access by the Legislature at Digital Maine. It has been accepted for inclusion in Office of Policy and Legal Analysis by an authorized administrator of Digital Maine. For more information, please contact statedocs@maine.gov.

**STATE OF MAINE
118TH LEGISLATURE
FIRST REGULAR AND FIRST SPECIAL SESSIONS**

**Final Report
of the**

**COMMISSION TO STUDY
THE
FUNDING AND DISTRIBUTION OF
TELETYPEWRITERS AND OTHER
TELECOMMUNICATIONS EQUIPMENT
FOR PEOPLE WITH DISABILITIES**

March 1998

**Staff:
Phillip D. McCarthy, Legislative Analyst**

**Office of Policy & Legal Analysis
13 State House Station
Augusta, Maine 04333
(207) 287-1670**

**Members:
Sen. Sharon Treat, Chair
Rep. Sharon Libby-Jones
Rep. Joseph Taylor
Mr. Jonathan A. Connick
Mr. Kim Wallace
Mr. Daniel B. Breton
Mr. Larry Sterrs
Ms. Kathi Wall
Ms. Elinor Brown
Ms. April McAfee
Ms. Patti Brown
Mr. William C. Black**

Table of Contents

Page

| | |
|--|----------|
| Executive summary | i |
| I. Introduction..... | 1 |
| II. Commission Process | 3 |
| III. Recommendations and Summary of Key Findings..... | 3 |

Appendices

| | |
|----------|--|
| A | Resolve 1997, chapter 72 |
| B | List of Commission Members |
| C | Meeting summaries and public hearing testimony summary |
| D | Assistive equipment loan program |
| E | Additional informatoin on other states' assistive equipment loan programs |
| F | Compliance requirements for telecommunications equipment |

Executive summary

The Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities was established in the First Special Session of the 118th Legislature by Resolve 1997, chapter 72. The Commission consisted of 12 members and was comprised of individuals representing the Legislature, the public advocate's office, advocates for the deaf, advocates for the disabled, telephone companies and the general public.

The Commission's charges were specified in the enabling legislation. The Commission was charged with studying the following:

1. The current use and distribution of teletypewriters and other telecommunications equipment for persons with disabilities in the State, including the current loaner program;
2. The use and distribution of teletypewriters and other telecommunications equipment for persons with disabilities in other states, including, but not limited to, the financing of teletypewriters and other telecommunications equipment and the type of equipment currently being used;
3. The compliance requirements of the federal Americans with Disabilities Act of 1990 regarding the use of teletypewriters and other telecommunications equipment;
4. How to purchase specialized customer premise equipment, or SCPE, such as artificial larynges, signaling devices, amplified handsets, large number dial overlays, direct telephone dialing, telebraille, teletypewriters or telecommunications equipment for persons with disabilities, and other devices that provide access to telephone networks for people with hearing, speech, vision or mobility impairments;
5. Establishing a system of administration and record keeping as well as distribution, repair and replacement of SCPE units for certified subscribers; and
6. Establishing a funding mechanism for expansion of the program that will include use of additional equipment.

The Commission was convened on December 5, 1997 and met four times. The Commission makes the following recommendations:

- 1. The Commission recommends that the statutory provisions of the Telecommunications Equipment Fund and the Telecommunications Equipment Plan be amended to include the purchase and distribution of adaptive customer premise equipment appropriate to meet the telecommunications needs of hearing individuals with disabilities, as well as those persons who are deaf, hard-of-hearing or speech-impaired.**

2. The Commission recommends that the Division of Deafness, in consultation with TTY advisory council established in the Department of Labor's Bureau of Rehabilitation Services and other advisory councils representing individuals with disabilities, should develop a plan that provides for the expenditure of money from the Telecommunications Equipment Fund to ensure that specific equipment will be readily achievable solutions to individual barriers to telecommunications as defined by the accessibility guidelines to be established by the federal Access Board in March 1998.

3. The Commission recommends that representatives from the Telecommunications Relay Services Advisory Council, the TTY advisory council established in the Department of Labor's Bureau of Rehabilitation Services, other advisory councils representing the interests of persons with disabilities, and the State's 24 telephone companies work together to develop a comprehensive plan that, when implemented, will provide deaf, hard-of-hearing and hearing-impaired persons and individuals with disabilities with direct access to TTY and SCPE throughout the state; and that the comprehensive plan shall be presented to the 119th Legislature for approval by January 1, 1999.

4. The Commission recommends a three-tiered approach to funding the purchase and distribution of TTY and specialized customer premise equipment (SCPE) as determined by the expanded Telecommunications Equipment Plan:

Tier 1: Fiscal Year 1998-99. The Commission recommends that the Legislature appropriate an additional \$85,000 in fiscal year 1998-99 to the Telecommunications Equipment Fund to provide greater accessibility for deaf, hard-of-hearing or speech-impaired persons and to expand the program to include the purchase and distribution of adaptive equipment for individuals with disabilities.

Tier 2: Fiscal Year 1999-2000. The Commission recommends that if legislation authorizing a State Universal Service Fund (USF) is not enacted in time for fiscal year 1999-2000, the annual budget for the Telecommunications Equipment Plan should be \$140,000; and that legislation should be presented to the 119th Legislature authorizing this amount to be allocated from a required annual assessment based on the gross revenues of the interexchange carriers, cellular and personal communications services (PCS) carriers, and local exchange carriers that provide telephone service in the State.

Tier 3: Fiscal Year 2000-01. The Commission recommends that should legislation authorizing a State USF be enacted, the Public Utilities Commission shall adopt rules that require providers of interstate and intrastate telecommunications services to contribute to the State USF to support access to specialized customer premise equipment under the provisions of the Telecommunications Equipment Plan; and that if the funding mechanism recommended under Tier 2 is in effect at the time that a State USF is created, it will be merged with the State USF, otherwise the this funding mechanism must be added to the other provisions of the State USF.

5. The Commission recommends that the Department of Education should make every reasonable effort to ensure that Maine school children have access to TTY and other augmentative communication devices in schools. The department shall report their findings and disclose any ongoing efforts to address conditions that limit access to telecommunications for public school students to Joint Standing Committee on Labor no later than January 1, 1999.

6. The Commission recommends that the Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities reconvene and continue its work following the adjournment of the Second Regular Session of the 118th Legislature.

I. INTRODUCTION

Background

Title IV of the federal Americans with Disabilities Act of 1990 (ADA), which amended the Telecommunications Act of 1934, authorized the Federal Communications Commission (FCC) to adopt regulations that would ensure that interstate and intrastate relay services are available to hearing-impaired and speech-impaired individuals in the United States. By July 1993, each common carrier providing telephone voice transmission services was required to provide telecommunications relay services, in compliance with the federal statute and the FCC regulations.

Following the passage of the ADA, legislation was enacted in Maine to establish a telecommunications equipment fund, a telecommunications equipment plan, and a statewide telecommunications relay system that would place the State in compliance with the title IV requirements of ADA. While Maine has established a statewide telecommunications relay system, members of the deaf community have reported concerns related to inadequate access to teletypewriters and other telecommunications devices for the deaf (TTY). Advocates for the deaf community have also noted that unmet needs exist across the State due to insufficient funding to fully implement the State's telecommunications equipment plan; and that gaps in services, including inconsistent distribution, repair and replacement of TTY equipment, have left too many among Maine's deaf, hard-of-hearing, and speech-impaired populations with inconsistent access to telecommunications services.

Similar concerns were raised by individuals with disabilities who required special peripheral devices in order to access and take advantage of the telecommunications network. Since title IV of the ADA did not specifically address disabilities other than hearing and speech impairments, individuals with disabilities such as vision or mobility impairment did not have the same level of access to the voice-level telephone service. Beginning with California and Minnesota many years ago, state programs have now emerged in Massachusetts, New York, and many other states and are typically funded through the same enabling legislation that established the state's dual-party relay services. These state programs provide a level playing field for individuals with disabilities who would otherwise not be able to gain access to telecommunications service.

The federal Telecommunications Act of 1996, as amended, will require manufacturers of telecommunications and customer premises equipment to ensure that equipment is designed, developed and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable. The "readily achievable" standard is defined by federal law to mean "easily accomplishable and able to be carried out without much difficulty or expense" (47 U.S.C. 255(e), Sec. 1193.3). Similarly, telecommunications service providers must ensure that services are accessible and readily usable by individuals with disabilities, if readily achievable. Accessibility guidelines for telecommunications and customer premises equipment were expected from the Architectural and Transportation Barriers Compliance Board (or Access Board) in January 1998.

Enabling Legislation

The Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities was established in the First Special Session of the 118th Legislature by Resolve 1997, chapter 72. A copy of the Resolve is attached as **Appendix A**.

The Commission consisted of twelve members: one appointed by the President of the Senate; one appointed by the Speaker of the House; one appointed jointly by the President and Speaker; one representative of the Public Advocate; one representative of the Public Protection Division of the Attorney General's Office; one representative of a deaf advocacy organization appointed by the Governor; one representative of a disability advocacy organization appointed by the Governor; three representatives of telephone companies appointed by the Governor; and three members of the general public who currently use or plan to use teletypewriters (TTY) or special telecommunications equipment for persons with disabilities appointed by the Governor. The attorney general's office did not appoint a representative from the public protection division. The Commission's enabling legislation required a chair to be selected from among its members. Members selected Senator Sharon Treat as the chair. A list of Commission members is included in **Appendix B**.

Charge to the Commission

The charge to the Commission was specified in the enabling legislation. The Commission was charged with studying the following:

1. The current use and distribution of teletypewriters and other telecommunications equipment for persons with disabilities in the State, including the current loaner program;
2. The use and distribution of teletypewriters and other telecommunications equipment for persons with disabilities in other states, including, but not limited to, the financing of teletypewriters and other telecommunications equipment and the type of equipment currently being used;
3. The compliance requirements of the federal Americans with Disabilities Act of 1990 regarding the use of teletypewriters and other telecommunications equipment;
4. How to purchase specialized customer premise equipment or SCPE, such as artificial larynges, signaling devices, amplified handsets, large number dial overlays, direct telephone dialing, telebraille, teletypewriters or telecommunications equipment for persons with disabilities, and other devices that provide access to telephone networks for people with hearing, speech, vision or mobility impairments;
5. Establishing a system of administration and record keeping as well as distribution, repair and replacement of SCPE units for certified subscribers; and
6. Establishing a funding mechanism for expansion of the program that will include use of additional equipment.

II. COMMISSION PROCESS

Scope and Focus of Commission Meetings

Although the legislation which created the Commission had an effective date of September 19, 1997, due to a delay in the appointment process, the Commission was not convened until December 5, 1997. In addition to this first meeting, the Commission held three other meetings. These meetings occurred on December 16, 1997, January 6, 1998, and February 4, 1998.

The first two Commission meetings focused on discussing the current use and distribution of telecommunications equipment in Maine, including the current loaner program, as well as the use, distribution, and financing of telecommunications equipment in other states. Invited guests included the State Coordinator of Deaf Services, the Maine Association of the Deaf, and the former Director of Division of Deafness in the Department of Labor. A second panel discussion was held at the Commission's third meeting and its focus was on outreach, access, and funding mechanisms for the use and distribution of telecommunications equipment. Invited guests included representatives from the Public Utilities Commission, the Public Advocate's office, the Department of Education, the Governor Baxter School for the Deaf (GBSD), and the Maine Consumer Information Technology Exchange (CITE).

The Commission also held a public hearing at its third meeting and heard testimony from the Maine CITE program, Alpha One, the Office of Deaf Services in the Department of Mental Health, Mental Retardation, and Substance Abuse Services, the Maine Advocacy Services, the University of Maine System / GBSD Project Impact, and from members of the public. At its final meeting, the Commission reviewed the information presented and formulated findings and recommendations. Meeting summaries and the public hearing testimony summary are included in **Appendix C**.

Resolve 1997, chapter 85 established January 1, 1998 as the reporting date of the Commission to the Second Regular Session of the 118th Legislature. Due to the abbreviated time period in which the Commission had to complete its work, (December 5, 1997-January 1, 1998), the Commission requested an extension of the reporting deadline to February 6, 1998. An extension was approved by the Legislative Council.

III. RECOMMENDATIONS AND SUMMARY OF KEY FINDINGS

The Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities unanimously make the following recommendations and present them for the immediate consideration of the Legislature.

1. The Commission recommends that the statutory provisions of the Telecommunications Equipment Fund and the Telecommunications Equipment Plan be amended to include the purchase and distribution of adaptive customer premise equipment appropriate to meet the

telecommunications needs of hearing individuals with disabilities, as well as those persons who are deaf, hard-of-hearing or speech-impaired.

Maine's current telecommunications equipment distribution program is far smaller in scope than it should be. Approximately 300-350 certified users are currently being served by the State's TTY loaner program (as established by Title 26, section 1419-A, subsections 2 and 3). While it is difficult to determine the level of "unmet need" in the current loaner program. Over 70% of the deaf or hard-of-hearing population in Maine require the assistance of telecommunications equipment.

Still, there is a continuing need for both TTY and other specialized telecommunication equipment to meet the needs of persons with hearing- or speech-impairments and individuals with disabilities in the State. According to a statewide survey of Maine households conducted by the Bureau of Economic Research at Rutgers University, 13.5% of Maine's population have a disability that affects their ability to function in one or more life activities. For these individuals, access to telecommunications is a safety concern, as well as a basic necessity for full participation in the economic, social and civic spheres of contemporary life. Expert testimony indicated that people with special needs in other states have greater access to voice-level telecommunication services than do disabled individuals in Maine. Providing adequate resources for the purchase and distribution of special telecommunications equipment is a fundamental need for these persons.

2. The Commission recommends that the Division of Deafness, in consultation with TTY advisory council established in the Department of Labor's Bureau of Rehabilitation Services and other advisory councils representing individuals with disabilities, should develop a plan that provides for the expenditure of money from the Telecommunications Equipment Fund to ensure that specific equipment will be readily achievable solutions to individual barriers to telecommunications as defined by the accessibility guidelines to be established by the federal Access Board in March 1998.

The Commission also reviewed other states programs to distribute telecommunications equipment as possible models for Maine. Approximately 35 states have some type of assistive equipment loan programs that provides special telephone equipment free to persons with hearing, speech, or other disabilities (**see Appendix D**). These programs vary in their source of funding, range of equipment provided, and eligibility criteria for participation.

Assistive equipment provided by the various states include:

- For partial hearing loss: amplified headsets, loud ringers
- For the deaf: TTYs, light signalers
- For the blind: Braille TTYs
- For the mobility-disabled: hands-free telephones

A majority of these state programs are predominately funded by an excise tax or surcharge on telephone lines. These surcharges are typically assessed at a monthly rate of between five cents and 50 cents per access line, including cellular phones. For example, Massachusetts has an

agreement with Bell Atlantic (NYNEX) to establish a directory assistance surcharge for residential customers to subsidize TTY programs. Funding for these programs in several other states comes from general fund revenues, as well as grants and donations. Some states only offer equipment to facilitate telephone access by persons with hearing and speech impairments, while others, (including California), extend the service to a broad range of people, based on the existence of a functional disability that limits telephone use.

Other states establish a list of assistive devices that are available for distribution, while a few base their distribution methods on predefined eligibility criteria, including physician certification of the disability, minimum age requirements, financial need, and other financial eligibility criteria (including sliding fee scales based on income or eligibility cutoffs when certain income levels are exceeded). State programs also operate under different administrative structures, ranging from independent boards to state public utility commissions. In some states, like California, telephone companies administer the assistive equipment program directly. Additional information on other states' assistive equipment loan programs is included in **Appendix E**.

Specific equipment will be readily achievable solutions to individual barriers to communications and telecommunications as defined by the final accessibility guidelines established by the federal Architectural and Transportation Barriers Compliance Board (pursuant to section 255 of the federal Telecommunications Act of 1996).

3. The Commission recommends that representatives from the Telecommunications Relay Services Advisory Council, the TTY advisory council established in the Department of Labor's Bureau of Rehabilitation Services, other advisory councils representing the interests of persons with disabilities, and the State's 24 telephone companies work together to develop a comprehensive plan that, when implemented, will provide deaf, hard-of-hearing or hearing-impaired persons and individuals with disabilities with direct access to TTY and SCPE throughout the state; and that the comprehensive plan shall be presented to the 119th Legislature for approval by January 1, 1999.

Maine's current telecommunications equipment distribution program is less effective in practice than it should be. The average time it takes to apply for and receive a TTY in Maine is three weeks to a month. Another existing problem with access to telecommunications equipment is the lack of TTY repair centers in the state. Because there are no repair centers in Maine, inoperable equipment is sent to Massachusetts for repair. There is usually a one month turn around time for broken equipment.

With the downsizing of State government and the shifting of the Division of Deafness across state agencies, the staffing and resources necessary to enhance public awareness and outreach programs has taken a back seat to maintaining access to equipment. In addition, outreach efforts rely on regional vocational rehabilitation counselors for the deaf in five regions of the State, to ties with the Governor Baxter School for the Deaf, and on the coordination of volunteer service providers across the State. The Commission heard testimony that there is a void in providing awareness and outreach programs in rural regions of state where public schools and

human service organizations may be reluctant to respond to outreach efforts due to privacy concerns and insufficient resources.

To combat these service gaps, the Commission suggests that integrated intake techniques, distribution methods and training programs available in other states, (often through telecommunications providers), may provide useful models for Maine to consider. The Commission members also believe that extending ongoing outreach efforts of the TTY relay service may serve to enhance awareness of TTY cost-sharing and distribution programs. Commission members further suggested that an integral part of providing more effective accessibility for TTY phone customers would be to have TTY information listed in the phone book and connected via use of an extensive data base that can identify TTY clients and an 800 number that also serves to enhance awareness of and access to telecommunications services.

The Telecommunications Relay Services Advisory Council, the Division of Deafness within the Department of Labor's Bureau of Rehabilitation and the State's 24 phone companies, represented by the Telephone Association of Maine, shall jointly develop a systematic network of services that will provide individuals with disabilities direct access to TTY and other customer premise equipment. The plan should include a request-for-proposal (RFP) that must include bid specifications and performance standards for the following contract provisions: public awareness and outreach programs, customer intake and connection procedures, statewide distribution and storage capacity, customer access to network services on a 24-hours per day, seven days per week basis, including equipment installation and training, and the maintenance and repair of TTY and other customer premise equipment.

The Commission briefly discussed the need to grant oversight authority to an advisory body to ensure that this comprehensive plan is implemented. There was general consensus among Commission members that the Telecommunications Relay Services Advisory Council might be the appropriate entity to oversee the implementation of this comprehensive plan.

4. The Commission recommends a three-tiered approach to funding the purchase and distribution of TTY and specialized customer premise equipment (SCPE) as determined by the expanded Telecommunications Equipment Plan and in anticipation that the State will enact legislation enabling the establishment of a State Universal Service Fund (USF):

The federal Telecommunications Act of 1996 continued to support the public policy principle of "universal service" in providing telecommunications services. The Act also changed the pricing methods and standards for providing services which will result in requiring that telecommunications subsidies are explicitly listed in telecommunications rates. To accomplish this "service-based" policy, the federal government is considering legislation that would establish a federal Universal Service Fund (USF). As regulations are promulgated to implement this legislation, details surrounding federal funding and standards for State USF will become more apparent for state policymakers.

To establish adequate funding for the purchase of TTY and specialized customer telecommunications equipment in fiscal year 1998-99, the Commission submits the following funding recommend for immediate consideration by the Legislature:

Tier 1: Fiscal Year 1998-99. The Commission recommends that the Legislature appropriate an additional \$85,000 in fiscal year 1998-99 to the Telecommunications Equipment Fund to provide greater accessibility for deaf, hard-of-hearing or speech-impaired persons and to expand the program to include the purchase and distribution of adaptive equipment for individuals with disabilities.

To implement the comprehensive plan addressed above to expand access to specialized telecommunications equipment, and in anticipation of the enactment of State USF legislation in either fiscal year 1999-2000 or fiscal year 2000-01, the Commission submits the following funding recommends for immediate consideration by the Legislature and the Public Utilities Commission:

Tier 2: Fiscal Year 1999-2000. The Commission recommends that if legislation authorizing a State USF is not enacted in time for fiscal year 1999-2000, the annual budget for the Telecommunications Equipment Plan should be \$140,000; and that legislation should be presented to the 119th Legislature authorizing this amount to be allocated from a required annual assessment based on the gross revenues of the interexchange carriers, cellular and personal communications services (PCS) carriers, and local exchange carriers that provide telephone service in the State. The consensus of panelists reviewing funding mechanisms with the Commission indicated that the surcharge to these telecommunications carriers to raise such an amount would be infinitesimal.

Tier 3: Fiscal Year 2000-01. The Commission recommends that should legislation authorizing a State USF be enacted, the Public Utilities Commission shall adopt rules that require providers of interstate and intrastate telecommunications services to contribute to the State USF to support access to specialized customer premise equipment under the provisions of the Telecommunications Equipment Plan; and that if the funding mechanism recommended under Tier 2 is in effect at the time that a State USF is created, it will be merged with the State USF, otherwise the this funding mechanism must be added to the other provisions of the State USF.

5. The Commission recommends that the Department of Education should make every reasonable effort to ensure that Maine school children have access to TTY and other augmentative communication devices in schools. The department shall report their findings and disclose any ongoing efforts to address conditions that limit access to telecommunications for public school students to Joint Standing Committee on Labor no later than January 1, 1999.

Under the ADA, the Department of Education has the responsibility for providing TTY and other specialized equipment to school children. Testimony received by the Commission indicated that Maine students who are deaf or hard-of-hearing may not have adequate access to TTY and other augmentative communication devices. There are approximately 350 deaf children in Maine public schools, and another 88 deaf students at the Governor Baxter School for the

Deaf. While department representatives reported that some schools have TTY equipment “co-located” in the district’s superintendent’s office, the extent to which the public schools are in compliance with the ADA was not determined. Individuals familiar with the Governor Baxter School for the Deaf (GBSD) also reported that the availability of equipment at the GBSD was inadequate for students in residence, and that public awareness and outreach efforts to some of Maine’s rural schools may be insufficient.

Given that the Department of Education is unable to determine the number of TTYs or other adaptive equipment in Maine public schools; and since outreach and training available to public school staff on how to use this equipment appears to be inadequate, the Commission recommends that the department, in consultation with the GBSD, the Maine Consumer Information Technology Exchange and the Maine Center on Deafness, should annually conduct a survey of the public schools and report their findings to the Joint Standing Committee on Labor on the following items: (1) the number of deaf and hard-of-hearing students and their needs for telecommunications equipment, (2) the availability of TTY and other augmentative communication devices, (3) the number of requests made for TTY and other augmentative communication devices, and (4) the status of staff training for teachers and other school personnel in the use of TTY equipment and other augmentative communication devices. The department’s report should disclose ongoing efforts to remedy conditions that limit students’ access to telecommunications equipment in the public schools.

6. The Commission recommends that the Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities reconvene and continue its work following the adjournment of the Second Regular Session of the 118th Legislature.

The Commission members were charged with studying six charges related to the accessibility and usability of telecommunications equipment. Due to the relatively short time frame in which the Commission was given to work, (December 5, 1997 through February 6, 1998), and to accommodate the needs of Commission members and other people with hearing- or speech-impairments, the Commission meetings were limited to only three hours (which is the maximum time that interpreters are able to provide interpretation services). Due to these circumstances, as well as the fact that critical federal rulemaking -- that will have a profound impact on the State’s telecommunications policies and programs -- will become effective in early March 1998, the Commission was not able to give its full attention to each of these important and related charges.

Specifically, the Commission was unable to fully address issues related to ADA compliance and issues surrounding the purchase and distribution of specialized customer premise equipment. In addition, the U.S. Architectural and Transportation Barriers Compliance Board (known as the Access Board) will issue its final guidelines for telecommunications products and specialized customer premises equipment for people with disabilities in March 1998. The Telecommunications Act of 1996 required the Access Board to issue these guidelines in conjunction with the FCC (**these guidelines are included in Appendix F**). These new guidelines will further specify the telecommunication requirements mandated to the states. The

Commission would like to consider these regulations, as well as the impact of federal USF legislation, in reviewing and further formulating its recommendations for telecommunications in the State.

For these reasons, the Commission members unanimously request that the Legislature reconvene the Commission to complete its work during the interim after the Second Regular Session of the 118th Legislature. A reporting deadline of November 1, 1998 will permit Commission members with the time necessary to more thoroughly address the complex issues before them, including the Americans with Disabilities Act, federal Telecommunications Act regulations and the status of proposed Public Utilities Commission rate regulation related to a State USF, before submitting a final report for consideration by the 119th Legislature.

CHAPTER 72

S.P. 293 - L.D. 944

Resolve, Establishing a Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities

Sec. 1. Commission established. Resolved: That the Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities, referred to in this resolve as the "commission," is established; and be it further

Sec. 2. Commission membership. Resolved: That the commission consists of the following 13 members:

1. One member of the Senate, appointed by the President of the Senate;
2. One member of the House of Representatives, appointed by the Speaker of the House of Representatives;
3. One member jointly appointed by the President of the Senate and the Speaker of the House;
4. One representative of the Public Advocate;
5. One representative of the Public Protection Division within the Office of the Attorney General;
6. One representative of a deaf advocacy organization, appointed by the Governor;
7. One representative of a disability advocacy organization, appointed by the Governor;
8. Three representatives of telephone companies providing phone service within the State including one representative of independent telephone companies, appointed by the Governor; and
9. Three members of the general public who currently use or plan to use teletypewriters or special telecommunications equipment for persons with disabilities, appointed by the Governor; and be it further

Sec. 3. Convening of commission. Resolved: That all appointments must be made no later than 30 days after the effective date of this resolve. The Chair of the Legislative Council shall call the first meeting within 14 days after all appointments are made. The commission shall elect a chair from among its members; and be it further

Sec. 4. Duties. Resolved: That the commission shall study the following:

1. The current use and distribution of teletypewriters and other telecommunications equipment for persons with disabilities in the State, including the current loaner program;

2. The use and distribution of teletypewriters and other telecommunications equipment for persons with disabilities in other states, including, but not limited to, the financing of teletypewriters and other telecommunications equipment and the type of equipment currently being used;

3. The compliance requirements of the federal Americans with Disabilities Act of 1990 regarding the use of teletypewriters and other telecommunications equipment;

4. How to purchase specialized customer premise equipment or SCPE, such as artificial larynges, signaling devices, amplified handsets, large number dial overlays, direct telephone dialing, telebraille, teletypewriters or telecommunications equipment for persons with disabilities, and other devices that provide access to telephone networks for people with hearing, speech, vision or mobility impairments;

5. Establishing a system of administration and record keeping, as well as distribution, repair and replacement of SCPE units for certified subscribers; and

6. Establishing a funding mechanism for expansion of the program that will include use of additional equipment; and be it further

Sec. 5. Report. Resolved: That the commission shall prepare a written report of its findings and submit the report, together with any necessary implementing legislation, to the Second Regular Session of the 118th Legislature by January 1, 1998. If the commission requires an extension, it may apply to the Legislative Council, which may grant the extension; and be it further

Sec. 6. Staff assistance. Resolved: That the commission shall request staff assistance from the Legislative Council; and be it further

Sec. 7. Compensation. Resolved: That the legislative members of the commission are entitled to per diem and reimbursement for travel and other necessary expenses upon application to the Legislative Council. The Executive Director of the Legislative Council shall administer the commission's budget; and be it further

Sec. 8. Meetings. Resolved: That the commission may meet up to four times; and be it further

Sec. 9. Appropriation. Resolved: That the following funds are appropriated from the General Fund to carry out the purposes of this resolve.

1997-98

LEGISLATURE

Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities

| | |
|-------------------|-------|
| Personal Services | \$660 |
| All Other | 2,350 |

Provides funds for the per diem and expenses of legislative members, contracted interpreter services and miscellaneous costs of the Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities.

LEGISLATURE

TOTAL

\$3,010

**COMMISSION TO STUDY THE FUNDING AND DISTRIBUTION OF TELETYPEWRITER AND
OTHER TELECOMMUNICATIONS
EQUIPMENT FOR PEOPLE WITH DISABILITIES
(Resolves 1997, Chapter 72)**

Commission Membership

Jonathan A. Connick
Executive Director
Maine Center on Deafness
83 Preble Street, Suite 22
Portland, Maine 04101

Representing a Deaf Advocacy Organization

Kim Wallace
127 Main Street
South Portland, Maine 04106

Representing a Disability Advocacy
Organization

Daniel B. Breton
Bell Atlantic
1 Davis Farm Road
Portland, Maine 04103

Representing a Telephone Company
that Provides Services in Maine

Larry Sterrs
Unity Telephone
Unity, Maine 04988

Representing Telephone Companies

Kathi Wall
PO Box 101
Bristol, Maine 04539

Representing Telephone Companies

Elinor Brown
39 Central Street
Gardiner, Maine 04345

Representing Public Use or Plan to Use
Telecommunications Equipment

April McAfee
12 Bangor Street Place
Augusta, Maine 04330

Representing Public Use or Plan to Use
Telecommunications Equipment

Patti Brown
PO Box 4815
Portland, Maine 04112

Representing Public Use or Plan to Use
Telecommunications Equipment

Rep. Joseph Taylor
14 Lawn Avenue
Cumberland, Maine 04201

House Member

Sen. Sharon Treat
28 Kingsbury Street
Gardiner, Maine 04345

Senate Member

Rep. Sharon Libby-Jones
PO Box 1191
Greenville, Maine 04441

House Member

William C. Black
General Counsel
Public Advocate Office
112 State House Station
Augusta, Maine 04333-0112

Representing the Public Advocate

To be appointed by the Attorney General

Representing the Public Protection Division

Staff:

Phillip D. McCarthy
Legislative Analyst
Office of Policy and Legal Analysis
13 State House Station
Augusta, Maine 04333-0013

**COMMISSION TO STUDY THE FUNDING AND DISTRIBUTION OF TELETYPEWRITERS AND OTHER
TELECOMMUNICATION EQUIPMENT
FOR PEOPLE WITH DISABILITIES**

Meeting Summary from the December 5, 1997 Meeting

Commission Members Present: Jonathan Connick, Kim Wallace, Daniel Breton, Larry Sterrs, Kathi Wall, Eleanor Brown, Patti Brown, Rep. Joseph Taylor, Sen. Sharon Treat, Rep. Sharon Libby-Jones, William Black

Others present: Betsy Reifman and Polly Lawson, interpreters; Phil McCarthy, Commission Staff

1. Convening of Commission by Sally Tubbesing, Executive Director of the Legislative Council

- Ms. Tubbesing welcomed the Commission members and thanked them for their willingness to participate in this legislative study. She then asked the Commission members to introduce themselves to establish that there was a quorum.
- Ms. Tubbesing called for nominations for the Commission chairperson. Rep. Taylor nominated Sen. Treat. His nomination was seconded by Jonathan Connick. Commission members unanimously approved Sen. Treat as the Commission chair by acclamation.

2. Overview of Legislative History of Telecommunications Devices for the Hearing and Speech-Impaired

- Phil McCarthy, Commission staff, reviewed the legislative provisions and the enabling legislation that created this study commission. The Commission then reviewed the six charges presented to them in the authorizing legislation and discussed the deadline for presenting the report and any recommended legislation.
- The Commission members agreed that an extension request would be made to the Legislative Council that would provide an extension through the middle of February to enable the Commission to accomplish its review of the six duties charged in this legislation.

3. Discussion of Current Use and Distribution of Teletypewriters and Other Telecommunications Equipment for Persons with Disabilities, Including the Current Loaner Program

- Commission members and staff reviewed data that was presented by William Black and the Telecommunications Services Relay Advisory Council as part of their program review report (Maine Relay Services Total Call Volumes, including annual data related to the Maine Relay Service for 1996, as well as the TTY Call Traffic Report for January 1997).
- After brief discussion the Commission members recommended that a panel be convened at the next study commission meeting to review the current use and distribution of TTY and TDD equipment. Staff was directed to contact Alice Johnson, the State Coordinator of Deaf Services; Norman Perrin, former director of the Division of Deafness; regional rehabilitation counselors, Lois Morin, from the Pine Tree Society; and Bonnie Snow, from the Maine Association of the Deaf. The Commission members would like to discuss the following issues with the panel:
 - How the General Fund appropriations for the TTY plan are spent;
 - NYNEX' annual expenditures for TTY, TDD and LifeLine programs, including the amount of rate reductions allowed;
 - Eligibility qualifications for the TTY Loaner Program, (for example, the type of certification required for eligibility and any financial criteria established to determine eligibility); as well as demand for and the availability of TTY and TDD equipment for the deaf, hard-of-hearing, and speech-impaired;
 - The number of TTY users in Maine (Division of Deafness is required by statute to keep an annual census);
 - The break down rate of TTY loaner equipment and the turn-around time necessary before TTY equipment is replaced or repaired; and

- Data related to TTY rates, usage and any estimates regarding the demand for TTY service by other disabled populations in Maine (Kim Wallace has some resources regarding the types of TDD and the barriers related to these populations).

4. Discussion of Use and Distribution of Teletypewriters and Other Telecommunications Equipment for Persons with Disabilities in Other States, Including Financing Mechanisms and Types of Equipment Currently Being Used

Commission staff presented analysis of the state telecommunication provision of 16 states with respect to TTY and TDD. This handout covered the purpose of the various state plans, the funding mechanisms that were established for telecommunication services in those states, as well as the eligibility criteria that were included in the statutory provisions. Following discussion by Commission members, the following information was requested for discussion purposes at the next commission meeting:

- Do other state statutes also include provisions related to equipment obsolescence or state of the art equipment;
- Could we get the details of the Bell Atlantic (NYNEX) arrangement with the state of Massachusetts related to telecommunications equipment for persons with disabilities and
- Would we get further data on how TTY is financed in other states. More specifically, how much is expended in those states and is there any data related to per capita costs for providing TTY equipment.

In further discussion the Commission members decided to request the following information:

1. The compliance provisions of the recently re-authorized Telecommunications Act of 1997, particularly those provisions related to providing access for a variety of disabled populations to telecommunications services;
 2. Summary information and a description of the adaptive equipment loan board, including information on the loan programs available throughout Alpha-One (Kim Wallace will provide information at the next meeting);
 3. Related to the distribution repair and replacement of SCPE units for certified subscribers, what are the current regulations in place regarding administration and record keeping of the Division of Deafness' telecommunications plan and telecommunications program;
 4. What are the benefits and disadvantages of the various funding mechanisms that other states have established with respect to Maine's provisions and the need for increased access to TTY and TDD equipment and services.
5. **The Commission and staff members reviewed the discussion and established meeting times for the next two Commission meetings.**

The next Commission meeting will be held on Tuesday, December 16th from 2 - 5 pm. The third Commission meeting will be held on January 6th from am - 12 noon. Commission staff will schedule interpreters and notify Commission members about the room assignment for those two meetings.

6. **Adjournment. The Commission meeting was adjourned at 4 pm.**

COMMISSION TO STUDY THE FUNDING AND DISTRIBUTION OF TELETYPEWRITER AND OTHER TELECOMMUNICATIONS EQUIPMENT FOR PEOPLE WITH DISABILITIES

Meeting Summary - December 16, 1997

Commission Members Present: Jonathan Connick, Kim Wallace, Daniel Breton, Larry Sterrs, Kathi Wall, Eleanor Brown, Patti Brown, Rep. Joseph Taylor, Sen. Sharon Treat, Rep. Sharon Libby-Jones, and William Black

Others present: Alice Johnson, Norman Perrin, and Bonnie Snow (Invited guests); Betsy Reifman and Polly Lawson, (Interpreters); and Phil McCarthy, (Commission staff)

1. Review of the meeting summary from December 5th and preview of the agenda and expectations for this meeting

The Commission reviewed and accepted the meeting summary as presented; Sen. Treat reviewed the meeting agenda/expectations and welcomed the panelists.

2. Panel discussion of the current use and distribution of TTY and other telecommunications equipment for persons with disabilities in the State

Panelists introduced themselves and made some brief remarks:

Alice Johnson, State Coordinator of Deaf Services

- presented a brochure describing the TTY Distribution Program and the joint application for the Lending Program and Cost-sharing Program;
- reviewed the TTY program, including the addition of new equipment available through the program, a "voice carryover phone" (VCO) and a FAX pilot program (in cooperation with DMHMRSAS).

Bonnie Snow, Maine Association of the Deaf

- presented an overview of information distributed on the TTY Distribution and Loaner Programs, including the history of the TTY program, policy & procedures established for the TTY Distribution and Loaner Programs, data related to equipment and other expenditures of TTY programs and the number of clients served, and information on TTY programs in other states.

Norman Perrin, former Director of the Division of Deafness

- provided an historical overview of the evolution of TTY programs in Maine;
- described the reluctance of the phone company to become involved in a social welfare program; the establishment of the 70% rebate for calls made through the telecommunications relays services was implemented after the passage of ADA and the intervention of the PUC; sees some possibility for Maine to follow lead of other states which have authorized phone companies to establish various surcharges.

The Commission members and panelists discussed the following issues:

A. Expenditure of General Fund appropriations for TTY programs

- the TTY cost-sharing program was started in 1980 and 30-40 TTY units were purchased with minimal General Fund appropriations (\$7,500 per year in Fiscal Years 1981-82 and 1982-83);
- the Bureau of Rehabilitation has requested increased appropriations over the years to support increased demand; \$40,000 was appropriated in 1984 to expand beyond the cost-sharing program by adding a TTY lending program;

- \$55,440 have been appropriated for TTY contract for last four to five years.

B. Demand for and the availability of TTY and TDD equipment for the deaf, hard-of-hearing, and speech-impaired, and the number of TTY users in Maine

- after having a waiting list for equipment for the first few years, recent demand has leveled out and the amount of funds and equipment appears to be adequate;
- AT&T/Bell Atlantic refer requests for equipment; Division of Deafness fields 15-20 calls per week and usually receives five to six applications since not all deaf or hard-of-hearing people are interested or eligible for programs; it's difficult to quantify the level of "unmet need";
- overall, roughly 300-350 total clients are being served now; TTY is for deaf people who must use visual means to access TDD and that's 10% of 10% of the population, or roughly 600 people; hard of hearing population is much more difficult to estimate, and these folks can use visual and/or auditory equipment; elderly population with hearing problems is increasing but most refuse and are not using equipment;
- public facilities have been required to have TDD since 1987, but it's difficult to know how many places actually have equipment available;
- with the downsizing and shifting of the Division of Deafness across state agencies, awareness and outreach programs may have taken a back seat; outreach efforts rely on regional vocational rehabilitation counselors for the deaf in five regions, ties with Gov. Baxter School for the Deaf, and the service of volunteers;
- there is a void in providing awareness and outreach programs in rural regions of state where schools and human service organizations are resistant to outreach efforts; a recommendation was made to extend ongoing outreach efforts of the relay service to create awareness of TTY distribution programs;
- invite Department of Education staff to next meeting to review the status of outreach and awareness programs in the public schools;
- distribution techniques and training programs for TTY users in other states may provide models for Maine to consider;
- while a TTY regional directory is available, there appears to be some need for TTY phone customers to have TTY information listed in the phone book; some states use of an extensive data base that can identify TTY clients and that also serve to enhance awareness of and access to telecommunications services.

C. The break down rate of TTY loaner equipment and the turn-around time necessary before TTY equipment is replaced or repaired:

- there are no TTY repair centers in Maine, inoperable equipment must be sent to a Massachusetts factory; turnaround time depends on the specific repairs necessary and other logistics;
- average turnaround time from application to getting TTY loaner in home requires three weeks to one month for most TTY loaners; Division of Deafness checks information (within a week), mailing new information takes time, getting directions to people's homes, getting family members together for training, and coordinating volunteers also takes time;
- TTY Loaner Program has six large screen phones, five FAX, four VCO phones, and three Telebraille; there is usually a one-month turnaround time for broken-down TTY equipment; an advisory committee tests a variety of models and selects the most durable and reliable equipment available;
- answering machines are available through the TTY cost-sharing program, but not through the TTY loaner program as they are considered an "add-on" that goes beyond access to telecommunications service, and are therefore, a private choice and individual responsibility (or for eligible folks can be subsidized through the cost-sharing program).

3. Discussion of use and distribution of TTY and other telecommunications equipment for persons with disabilities in other states, including financing mechanisms and types of equipment currently being used

The Commission reviewed data presented on the following issues:

A. An overview of Bell Atlantic's (NYNEX) most recent annual expenditures for TTY, TDD, and LifeLine programs

- Daniel Breton reported that data was not readily available on the amount of foregone revenue involved with the 70% rate reduction on relay service calls.

B. Summary of Massachusetts's arrangement with Bell Atlantic (NYNEX)

- Phil McCarthy presented information on Massachusetts' regulations and the state's arrangement with Bell Atlantic (NYNEX) to establish a directory assistance surcharge for residence customers to subsidize TTY programs;
- the pros and cons of public subsidization mechanisms for telecommunications services for the disabled were reviewed, including any known correlation between deafness and an ability to pay, the economic circumstances of multiply-disabled people or the elderly facing expensive TTY equipment costs, and the need to receive information from the Public Advocate and the Public Utilities Commission on emerging issues involved with various funding mechanisms and subsidizing access to telecommunications equipment.

C. A summary of the access provisions of the 1997 Telecommunications Act

- Kim Wallace reported that a summary of the Telecommunications Act provisions were not easy to come by, yet he is trying to get a copy of the recommendations developed for Maine by the Telecommunications Access Advisory Committee at the CITE conference this past summer.
- Sen. Treat requested that another resource could be contacted to provide an overview of ADA and Telecommunications Act provisions related to access to telecommunications equipment for the disabled.

D. A summary of the loan programs available through the Adaptive Equipment Loan Board.

Kim Wallace distributed information on the loan program, which is a revolving loan fund created in 1988 that provides reasonable terms and rates for the purchase of adaptive equipment.

E. Data related to any estimates regarding the demand for TTY service by other disabled populations in Maine

- while the deaf and hard-of-hearing population in Maine has been estimated to be 10% of one million, or roughly 10,000, good data is hard to come by; this is also true for other disabled populations;
- Kim Wallace reported also indicated that data on disabled populations is difficult to come by; census data is insufficient; an even data from a recent Alpha-One/Unum study has limitations (e.g., specific information related to individuals who need adaptive telecommunications equipment may not be extrapolated); one in seven Mainers may be disabled, and this population appears to use Personal Computers and modems at the same rate as the general population;
- Jonathan Connick suggested contacting phone companies in other states to look at funding mechanisms and see if some comparisons can be made regarding TDD use by disabled populations.

4. Recap discussion and issues for next meeting

- Sen. Treat suggested the focus of the January 6th meeting would include funding mechanisms and subsidization, ADA and Telecommunications Act provisions related to access to telecommunications equipment for the disabled, and inviting testimony from the public.

5. Adjourn

- Meeting was adjourned at 5:07 pm.

Respectfully submitted,

Phil McCarthy, Commission Staff

COMMISSION TO STUDY THE FUNDING AND DISTRIBUTION OF TELETYPEWRITER AND OTHER TELECOMMUNICATIONS EQUIPMENT FOR PEOPLE WITH DISABILITIES

Meeting Summary - January 6, 1998

Commission Members Present: Jonathan Connick, Kathi Wall, Kim Wallace, Daniel Breton, Eleanor Brown, Rep. Joseph Taylor, Sen. Sharon Treat, Rep. Sharon Libby-Jones, and William Black

Others present: Joel Schiffman, David Stockford, Barbara Keefe and Kathy Fries, (Invited guests); Betsy Reifman and Polly Lawson, (Interpreters); Alice Johnson, (Division of Deafness); and Phil McCarthy, (Commission staff)

1. **Review of the meeting summary from December 5th and preview of the agenda and expectations for this meeting.**

The Commission reviewed and accepted the meeting summary as presented; Sen. Treat reviewed the meeting agenda/expectations and welcomed the panelists.

2. **Panel discussion on outreach, access, and funding mechanisms for the use and distribution of TTY and other telecommunications equipment for persons with disabilities.**

Panel #1:

Joel Schiffman, Public Utilities Commission

William Black, Public Advocate Office

- presented an overview of funding mechanisms and subsidy practices in telecommunications and suggested that the commission should consider the following issues: (1) competitive neutrality, (the L.L. Bean problem - a telecommunications customer can move or change their business practices in response to explicit surcharges; (2) jurisdictional neutrality, consequences for inter- and intra-state exchange customers and providers and customers, and (3) implicit vs. explicit subsidies; (General Fund appropriation is better than establishing explicit charges on customer's telephone bills);
- suggested that any commission recommendation involving a subsidy or surcharge, should utilize an *implicit* subsidy that: (1) targets a source of funding that telecommunications customers can't reach, and (2) is competitively-neutral and affects all parties equally;
- particularly likes Vermont's "state universal service fund" approach where charges apply to the inter- and intra-state revenues of local exchange carriers on calls originating in-state or 800 calls terminating in VT;
- impact of surcharge on intra- / inter-state carriers to generate \$200,000 would be minuscule; but surcharge should also apply to cellular customers who could replace phone carrier; and
- to avoid obsolescence of telecommunications technology, language of proposed legislation should be "technology-neutral."

Panel #2:

David Stockford, Director of Special Services, Department of Education (DOE)
Barbara Keefe, Director of Project Impact, Governor Baxter School for the Deaf (GBSD)
Kathy Fries, Maine Consumer Information Technology Exchange (CITE)

- described Maine's public schools as key community-based resources that can increase awareness and outreach to rural areas across the state, as well as provide access to assistive equipment;
- roughly 350 deaf children in Maine public schools, while GBSD has 88 residential students; under ADA, DOE has responsibility for providing equipment and conducting training in public schools; TTY access is child-driven as not all deaf children need TTY; due to lack of funds, equipment may be "co-located" in the school administrative unit's superintendent office;
- only half of schools with deaf children have TTY equipment; in many cases staff doesn't know how to operate TTY equipment and some ignore TTY calls; GBSD has responsibility to conduct training for local schools, but not to distribute equipment
- GBSD outreach staff are disappointed with lack of TTY equipment at GBSD, which used to have a state-of-the-art sound lab; believe that every room should have TTY or a personal computer acting as a TTY;
- suggested that the evolving School and Library Network, which has two-way audio and video capacity through 16 Asynchronous Transfer Mode (ATM) sites, also has the potential to facilitate providing services to disabled populations (e.g., speech therapist could conduct assessment via the ATM system in concert with the regional Child Development Service system);
- TTY distribution in public schools is not where it should be; while ATM / E-mail may help outreach, these systems are expensive; hope that Federal Universal Service Fund subsidies will support rural outreach; and
- requested DOE / GBSD / Maine CITE to use ATM network / E-mail to survey schools regarding: (1) number of deaf and hard-of-hearing students, (2) availability of TTY and other TDD equipment, (3) number of requests made for TTY and TDD equipment, and (4) the status of staff training and use by teachers and report back to Commission.

3. Public Hearing

- see enclosed public hearing summary

4. Recap discussion and issues for next meeting

- Sen. Treat suggested the focus of the next commission meeting should be establishing short-term and longer-term recommendations. Another extension request will be presented to the Legislative council to re-convene the commission following the adjournment of the 118th Legislature's 2nd Regular Session. Members were asked to review the materials distributed and come to the next meeting prepared to discuss recommendations.

5. Adjournment

- Meeting was adjourned at 12:07 pm.

Respectfully submitted,

Phil McCarthy, Commission Staff

Summary of Public Hearing Testimony

January 29, 1998

To: Members, Commission to Study the Funding and Distribution
of Teletypewriter and Other Telecommunications Equipment
for People with Disabilities

From: Phil McCarthy, Legislative Analyst

Subj: **Public Hearing Summary from January 6, 1998**

SUMMARY

The Commission held a public hearing on Tuesday, January 6, 1998, from 10:30 am to noon in State House Room 134. The public hearing was held to receive public comment and gather further information related to the current status of telecommunications programs for the deaf, hearing-impaired, or speech-impaired persons, as well as testimony regarding the steps necessary to extend telecommunications programs and services to other disabled populations.

TESTIMONY

Frank Bowe, Professor of Counseling, Research, Special Education, and Rehabilitation, Hofstra Univ. (written testimony)

- ADA's Title IV requirement for dual-party relay services is the basis for state laws which provide that a modest sum is charged to all business and residential phone customers in the state (usually a hidden charge not identified on monthly phone bills)
- Maine's existing program is far smaller in scope and less effective in practice than it should be; people with special needs in other states enjoy far greater access to voice-level telecommunications services than do such individuals who reside in Maine
- Section 255 of Telecommunications Act of 1996 (PL 104-104), contains a very important section which requires that new telecommunications products and services be designed so as to be accessible to and useable by Americans with disabilities, if readily achievable
- U.S. Architectural and Transportation Barriers Compliance Board (known as the "Access Board") has sent "guidelines" for telecommunications products and customer premises equipment to the Office of Management and Budget (OMB) for review. After this review, the Access Board will incorporate any OMB changes and will make the "guidelines" public some time in January 1998

Kathleen Powers, Project Director, Maine CITE Coordinating Center, University of Maine System, Augusta, ME (written testimony)

- according to a statewide survey of Maine households by the Bureau of Economic Research at Rutgers University, 13.5% of Maine's population have a disability that affects their ability to

function in one or more life activity

- Maine CITE sponsored a September 1997 conference that examined the ways that universal access and design can be systematically incorporated into the planning, policies and practices of Maine's telecommunications infrastructure; a paper detailing recommended principles will be published some time in January 1998

William Pierce, citizen activist

- supports technology-neutral legislation to invest in future
- involve high technology sector to discuss new equipment
- lack of TTY public payphones (even in State House) discriminates against hearing- and speech-impaired citizens
- expand DMH citizen Local Area Network access program
- include access for elderly populations

Phil Almy, Hallowell (Alpha-One)

- uses voice-activated PC, TTY devices and other assistive equipment
- would like public accommodation to voice-activated phones
- access is a safety concern
- supports funding of assistive device to provide equal access

Merrill Troup, Director, Office of Deaf Services, DMHMRSAS

- need an aggressive outreach program; audiologists aren't aware of TTY program
- 70% of deaf / hard-of-hearing population are late-deafened and non-signing
- access for elderly becoming critical - 80% hearing loss in elderly home patients
- shortage of professional service providers with American sign language skills
- ATM Network or Ed. Net of Maine not accessible to at-risk populations
- group homes / psychiatric centers need two-way video phones (\$400 at Staples)
- no group homes specifically for deaf people; have 30 deaf clients in region 1, 83 in region 2; and at least 10 in region 3
- for elderly or impaired populations that don't use TTY, FAX is important means of communication
- advantage of current TTY / TDD system is level of personal attention and care, but home-based system is ineffective for people in crises
- phone company could still contract with volunteers across state and set up outreach / training
- can provide data on recommendations for mentally retarded populations
- agency doesn't have TTY equipment and would welcome used TTY equipment

Linda Dowell, Advocate, Maine Advocacy Services and E-911 Advisory Board

- use and appreciate TTY services...concerned that non-deaf / hard-of-hearing personnel running TTY program would be less effective
- concerned about misdiagnosis of hearing loss in students
- personnel at regional "one-stop shopping" offices require TTY / TDD training
- Dept. Of Public Safety training also needed for volunteer firefighters in E-911 system
- existing TTY equipment could become a back-up system for E-911

Barbara Keefe, University of Maine System and Director, GBSD Project Impact

- training must be systemic and should be included in any bill since people and staff change
- expanded access can enrich state's economic development (e.g., tourism)

Kathy Fries, Maine Consumer Information Technology Exchange (CITE)

- keep in mind other disabled populations across state
- school children also need augmentative communication devices
- CITE can put info together on needs and range of elderly and other disabled populations

| STATE | PURPOSE OF THE PLAN | FUNDING | ELIGIBILITY |
|------------|--|---|--|
| Arizona | <ul style="list-style-type: none"> purchase, repair & distribute telecommunication devices establish and maintain a dual party relay service | Telecommunication Services Excise Tax not to exceed 8/10ths of one percent of provider's gross proceeds of sales or income derived from providing local exchange access services | deaf or severely hearing or speech impaired |
| Arkansas | <ul style="list-style-type: none"> purchase & distribution of telecommunication devices & related devices for persons who are deaf, hard of hearing, deaf & blind & others severely speech impaired establish a dual party relay service | Telecommunications Equipment Fund surcharge of \$0.03 per access line per month | <ul style="list-style-type: none"> deaf, hard of hearing, deaf & blind & others severely speech impaired financial need |
| California | <ul style="list-style-type: none"> telephone companies mandated to provide equipment & services to customers with disabilities to enable them to use basic telephone services 24 hour relay services | <ul style="list-style-type: none"> - surcharge on monthly ratepayers telephone bills (currently .36% of all intrastate charges) - includes local, long distance, cellular and radio carriers , and resellers | people who are hard-of-hearing, visually impaired, speech impaired, or mobility impaired |
| Iowa | <ul style="list-style-type: none"> secure, finance and distribute any specialized or supplemental telephone equipment used by communication impaired persons to provide access to telephone system dual party relay system | annual assessment upon all telephone utilities providing service in Iowa | <ul style="list-style-type: none"> deaf, hard-of-hearing or have speech impairments eligibility criteria established by utilities board certification that recipient cannot use telephone without a telecommunications device |
| Kentucky | TDD distribution program to furnish TDD amplifiers, ring single devices, artificial larynx, electronic speech aids to deaf, hard-of-hearing & speech-impaired persons to use relay service | Legislative appropriation | <ul style="list-style-type: none"> Kentucky resident at least 5 years old certified to be deaf, hard of hearing, or severely speech-impaired |
| Louisiana | <ul style="list-style-type: none"> purchase and distribute telecommunication devices, & related devices for deaf, deaf-blind, severely hearing impaired or speech impaired create a dual party relay system | <ul style="list-style-type: none"> federal funds, grants & gifts telecommunications tax - 5¢ per month on each residence & business customer telephone access line of local exchange companies operating in Louisiana | <ul style="list-style-type: none"> certified by physician or audiologist as deaf, deaf-blind eligibility requirements established by the Louisiana Commission for the Deaf |

| STATE | PURPOSE OF THE PLAN | FUNDING | ELIGIBILITY |
|---------------|---|---|--|
| Massachusetts | <ul style="list-style-type: none"> every common carrier shall provide & maintain a TDD equipment distribution service & SCPE distribution service & make available to all eligible residential subscribers covers specialized customer-premises equipment, artificial larynxes, signaling devices, amplified handsets, large number dial overlay, direct telephone dialing, TDD/TTY or other devices for people with hearing, speech, vision or mobility impairments establish a dual-party relay system | state funding through legislative appropriation | <ul style="list-style-type: none"> certified by Mass. Commission on Deaf & Hard-of-Hearing to be in need of TDD of SCPE equipment, or visually impaired written verification of alleged disabilities by physician or audiologist |
| Mississippi | provide telephone access coverage to persons who are hearing or speech impaired through the purchase and distribution of TDD & TTYs, ring signaling devices, volume control handsets through relay service | <ul style="list-style-type: none"> monthly relay maintenance surcharge on all residential and business local exchange facilities based on money required to accomplish goals of this program appropriated money, grants and donations | certified to be deaf; speech impairment, hearing impaired or another disability |
| Missouri | <ul style="list-style-type: none"> provide auxiliary aids & services, interpreters, notetakers, transcription services, written materials, assistive listening devices, assistive listening systems, closed caption decoders, open & closed captions, videotext display establish a dual-party relay system | <ul style="list-style-type: none"> surcharge to be paid by local exchange telephone company (excluding payphones) appropriation from general revenue fund | certified to be deaf; speech impairment, hearing impaired or certified to have another disability |
| Montana | <ul style="list-style-type: none"> provide persons with disabilities access to telecommunication service equipment including text telephones (TTYs), amplifiers, signaling devices, puff-blow devices, electronic artificial larynx devices & telebraille through loan, lease and cost sharing provide a relay service | <ul style="list-style-type: none"> monetary contributions, gifts & grants 10¢ a month assessment in each telephone access line provided and billed by each phone exchange company | <ul style="list-style-type: none"> deaf, hard-of-hearing, speech impaired resident of Montana appropriate means test set by the Telephone Access Committee |
| Oklahoma | <ul style="list-style-type: none"> provide at no cost TDD & ring-signaling devices establish a dual party relay system | <ul style="list-style-type: none"> surcharge of \$5 per local exchange telephone company | <ul style="list-style-type: none"> deaf, severely hearing-impaired, speech-impaired, deaf-blind persons needs assessment test (200% of federal poverty level) |

| STATE | PURPOSE OF THE PLAN | FUNDING | ELIGIBILITY |
|--------------|---|--|---|
| Oregon | <ul style="list-style-type: none"> provide access and purchase of signal devices, TTYs, adaptive equipment establish a dual-party relay system | surcharge not to exceed 35¢ per month against each paying retail subscriber who has telecommunications service with access to telecommunications relay service | certified by licensed physician or audiologist to be deaf, severely hearing and speech impaired people or adoptive equipment for disabled people |
| Pennsylvania | <ul style="list-style-type: none"> Distribute telecommunication devices at no charge. This includes equipment necessary for a person with a disability to engage in communication by wire or radio with another person with a disability or with a hearing individual establish a dual party relay system | <ul style="list-style-type: none"> telecommunication surcharge calculated annually expenditures not to exceed collection from surcharge | <ul style="list-style-type: none"> certified as being deaf, deaf-blind, hard-of-hearing, having a hearing loss or speech impaired resident of PA have telephone service 6 years or older gross income of less than 200% federal poverty level |
| South Dakota | <ul style="list-style-type: none"> purchase and distribute electrical & mechanical devices for use with a telephone that enables an individual to communicate through a telephone establish a dual party relay system | 15¢ access fee per local exchange per month, also applies to cellular phones & radio pager devices | deaf persons or persons with other severe disabilities |
| Washington | <ul style="list-style-type: none"> distribute and maintain text telephones, signal devices, and amplifying accessories capable of serving the needs of the hearing & speech impaired establish and maintain a statewide relay system | <ul style="list-style-type: none"> Telecommunications Relay Service Excise Tax applied to each switched access line provided by local exchange companies amount determined annually not to exceed 19¢ per month per access line | <ul style="list-style-type: none"> school age or older who are certified deaf, deaf-blind, or hard-of-hearing or have hearing disabilities limiting access to telecommunications income equals less than 165% of federal poverty level or 18 years or younger with family income 200% of poverty level over these limits, assessed a charge for equipment |
| Wyoming | <ul style="list-style-type: none"> purchase and distribute specialized telecommunications equipment not limited to TDDs provide a statewide relay service | <ul style="list-style-type: none"> monetary gifts, grants special fee not to exceed 25¢ per access line per month, based upon available cost data applies to local exchange company & radio communications service provider | hearing or speech impaired individuals as defined by ADA |

**Assistive Equipment Loan Programs in
California, Oregon, and Minnesota
(Numbers participating and Numbers of Equipment Loaned)**

California

Pacific Bell, the phone company which operates the assistive loan equipment program, estimates that of the more than five million residents of California that would be eligible for some type of assistive equipment, they are currently only serving approximately 130,000 residents (38%). They feel that there are a couple of reasons for this relatively low number: 1) some residents who are eligible prefer to buy their own assistive equipment; 2) some residents believe the program requires a low-income status 3) some individuals who have a disability do not consider themselves disabled enough to require assistive equipment. Over the past several years, Pacific Bell has expanded its outreach program to eligible residents. They have developed a database of 600 agencies in California that work with disabled individual. Pacific bell sends these agencies mailings and videos about the Assistive Loan Equipment program to disperse to their clients.

California Population with Functional Limitations Making Telephone Use Difficult

| Functional Limitation | Segment of the Population with this limitation | Individuals whose Impairment Limits Telephone Use |
|------------------------------|---|--|
| Hard of Hearing | 2.3M | 957K |
| Mobility | 5.5M | 2.3M |
| Deaf | 216K | 216K |
| Vision impairment | 1.6M | 1.5M |
| Speech impairment | 300K | 300K |
| Cognitive impairment | 456K | 456K |
| Total | 10.4M | 5.7M |

Oregon

The Telecommunications Devices Access Program estimates that in 1996 approximately 2,425 residents who are deaf, hearing impaired, speech impaired or with other physical-mobility impairments used telecommunications devices distributed by the program. The following are estimates of the number of each piece of equipment currently being loaned through the TDAP:

| Equipment | Number loaned |
|---------------------------------|----------------------|
| voice activated cellular phones | 79 |
| flip style cellular phones | 175 |
| speaker phones | 79 |
| telebraille machines | 4 |
| TTYs | 2,088 |

There was an increase of 300 pieces of equipment loaned during 1996 from the previous year. The largest need for equipment continues to be TTY machines. The TDAP estimates that it is serving approximately 60% of the disabled population in Oregon that would be eligible for assistive equipment loans.

Minnesota

The Minnesota Equipment Distribution Program (EDP) estimates that it has loaned approximately 20,000 devices to its residents who are hearing or speech disabled or mobility impaired since its start up in 1987. EDP estimates that around 3,000 residents applied for the program in 1995. In 1995, the program distributed approximately 2,250 assistive devices to approximately 1,650 disabled residents. Based on these numbers, approximately 55% of those residents who applied for the program actually received assistive equipment through EDP. Those who did not receive equipment either had income above the program cut-off amount or did not meet one of the other eligibility requirements. Individuals determined ineligible for the program are given information on where they can purchase or lease assistive equipment. The EDP spent \$863,230 on the program in 1995 and \$931,000 in 1996.

State Assistive Equipment Loan Program Budgets And Staff

| State | Funding (1996) | Staff |
|---------------|----------------|---------------------|
| Alaska | \$312,000 | 1 |
| Arizona | \$250,000 | 3 |
| California | \$15,400,000 | 95 |
| Florida | \$4,400,000 | 9 |
| Iowa | \$400,000 | 2 |
| Louisiana | \$304,000 | 2 |
| Minnesota | \$931,000 | 12 |
| Montana | \$89,000 | 3 |
| Nevada | \$143,000 | 2 |
| New Hampshire | \$5,000 | (info not provided) |
| New Jersey | \$52,000 | 1 |
| Oregon | \$236,000 | 2.5 |
| Rhode Island | \$86,000 | 1 |
| South Dakota | \$136,000 | 2.5 |
| Virginia | \$250,000 | 1 |
| Washington | \$221,00 | 5 |
| Wisconsin | \$80,000 | (info not provided) |

Source: Florida Telecommunications Relay Inc.

February 4, 1998

TO: Sen. Sharon A. Treat, Chair
Commission to Study the Funding and Distribution of Teletypewriters and Other
Telecommunications Equipment for People with Disabilities
FROM: Margaret J. Reinsch, Legislative Analyst

re: Compliance requirements for telecommunications equipment

One of the duties with which Resolve 1997, chapter 72 charges the Commission is to study the compliance requirements of the federal Americans with Disabilities Act of 1990 regarding the use of teletypewriters and other telecommunications equipment. This memo is intended to provide a broad overview of the requirements concerning telecommunications for individuals with disabilities. Please keep in mind that to the extent the federal laws reviewed address telecommunications for individuals with disabilities, the focus is almost always on individuals with hearing or speech impairments. Case law provides no additional guidance for telecommunications requirements for other disabilities.

Part I of this memo outlines the telecommunication requirements contained in the ADA. It is broken into requirements governing employment, public entities and public accommodations, as well as the telecommunications requirements added to the Telecommunications Act. Part II outlines other federal legislation as it relates to telecommunications requirements for individuals with disabilities, even though this is beyond the basic charge to the Commission.

I The Americans with Disabilities Act of 1990

The ADA (PL 101-336) was enacted by Congress to eliminate discrimination against individuals with disabilities by providing "clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities." The Act itself is broken into four "titles." Title I covers discrimination in employment, Title II specifies the duties of public entities, Title III prohibits discrimination by public accommodations, Title IV addresses specific telecommunications requirements and Title V collects the miscellaneous provisions, such as enforcement language.

"Disability" is defined, with respect to an individual, as a physical or mental impairment that substantially limits one or more of the major life activities of the individual. The legislative history describes major life activities as including caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working and participating in community activities. The definition of disability also includes a record of such impairment or being regarded as having such an impairment.

A. Title I - Employment

Title I, codified at 42 USC §§121001-12117 prohibits discrimination against a qualified individual with a disability because of the disability in regard to the terms, conditions and privileges of employment, including job application procedures. A "qualified individual with a disability" is an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position. Consideration is given to the employer's judgment as to what functions of a job are essential. A reasonable accommodation may include making existing facilities readily accessible, acquisition or modification of equipment or devices, the provision of qualified readers or interpreters, or other similar accommodations. An employer must make reasonable accommodations to the known

physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless the employer can demonstrate that the accommodation would impose an "undue hardship" on the operation of the business of the employer. "Undue hardship" means an action requiring significant difficulty or expense.

The statute itself does not specifically mention requirements concerning telecommunications. Although there is little discussion in the legislative history concerning communications for persons with disabilities other than hearing impairments, the Committee reports include as examples of reasonable accommodations: electronics visual aids; telephone headset amplifiers; telephones with compatible hearing aids; telecommunications devices for the deaf; and goose neck telephone headsets. The emphasis in this Title is on reasonable accommodations that enable an individual with a disability to perform the essential functions of the job. If an essential function of the position involves telecommunications, then the employer has an obligation to provide reasonable accommodation of known disabilities of otherwise qualified employees and applicants.

B. Title II - Public Services

Title II, codified at 42 USC §§12131-12165, prohibits public entities from excluding, denying the participation of, or discriminating against a qualified individual with a disability. A qualified individual may not be denied the benefits of the services, programs or activities of a public entity. A public entity is any state or local government, including departments, agencies, or other instrumentalities. It also includes Amtrak and any commuter rail authority.

Other than the prohibition against discrimination itself, there is nothing in Title II that speaks directly to communication or telecommunications. Most of Title II, in fact, is devoted to ensuring access to public transportation systems for people with disabilities that affect their personal mobility.

The general prohibition against discrimination is sufficient to require public entities to provide telecommunications access to all services and activities to all individuals with disabilities. The U.S. Attorney General has adopted regulations governing the communications requirements under Title II. 28 CFR 35.160-35.164. The central obligation of a public entity is to ensure that its communications with individuals with disabilities are as effective as communications with others. This does not require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of its services, programs or activities, or in undue financial or administrative burdens. A public entity must provide auxiliary aids and services where necessary to afford individuals with disabilities an equal opportunity to participate in or benefit from a service, program or activity offered by the public entity. When determining what kinds of auxiliary aids and services are necessary, a public entity must give primary consideration to the request of the person who is disabled.

Focusing on telephone communications, the regulations require public entities that communicate by telephone to provide equally effective communication to individuals with disabilities, including hearing and speech impairments. Telephone relay services generally may be used to meet this requirement. Public entities must ensure that the telephone emergency services, including 911 services, provided by that entity are accessible to persons with impaired hearing and speech. Direct access must be provided to individuals who rely on a TDD or computer modem for telephone access. No examples are given for communication requirements to accommodate disabilities other than speech or hearing impairments.

C. Title III - Public Accommodations

Title III is codified at 42 USC §§12181-12189. It covers public accommodations and services operated by private entities. Again, there is a general prohibition on discrimination based on disability.

Covered entities are required to provide auxiliary aids and services necessary to ensure that disabled persons are not excluded, denied services, segregated or otherwise treated differently from other individuals. However, the entity is not required to provide auxiliary aids or services that would fundamentally alter the nature of the goods, services, facilities, privileges, advantages or accommodations being offered or would result in an undue burden. A public accommodation has the ability to decide which auxiliary aids and services will be offered, as long as the accommodation makes its goods, services, and facilities available to individuals with disabilities generally.

The regulations include a few specific requirements concerning communications. Public accommodations that normally allow customers, clients, patients or participants to make outgoing phone calls on more than an incidental basis must provide TDDs for individuals with hearing impairments. 28 CFR 36.303. However, telecommunication requirements for persons with disabilities other than hearing impairments are not specifically addressed.

D. Title IV - Communications

Title IV of the ADA, covering communications, is codified at 47 USC §225 as an amendment to the Telecommunications Act, initially enacted in 1934. The 1934 Act established the Federal Communications Commission (FCC) and assigned it the responsibility of "regulating interstate and foreign commerce by wire and radio so as to make available, so far as possible, to all people of the United States a rapid, efficient, nation-wide and world-wide wire and radio communication service with adequate facilities at reasonable charges." 47 USC §151. This responsibility has come to be known as the "universal service" obligation.

Title IV of the ADA requires the FCC to adopt regulations to "ensure that interstate and intrastate relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States." As of July 23, 1993, each common carrier providing telephone voice transmission services must provide telecommunications relay services, in compliance with the statute and the regulations. Section 225 does not address disabilities other than hearing and speech impairments.

II Other federal legislation

A. Telecommunications for the Disabled Act of 1982

The Telecommunications for the Disabled Act of 1982 (PL 97-410, codified at 47 USC §610) expressly allowed states to require carriers to continue providing subsidies for specialized equipment needed by persons with impaired hearing, speech, vision or mobility. The Act granted the FCC broad authority to establish regulations necessary "to ensure reasonable access to telephone service by people with impaired hearing."

B. The Hearing Aid Compatibility Act of 1988

The Hearing Aid Compatibility Act of 1988, known as "the HAC Act" (PL 100-394) is codified at 47 USC §610. It required nearly all telephones made in or imported into the United States after August 16, 1989 to be compatible for use with telecoil-equipped hearing aids. The requirements applied to cordless phones two years later.

C. The Telecommunications Accessibility Enhancement Act of 1988

The Telecommunications Accessibility Enhancement Act of 1988 (PL 100-542) is codified at 40 USC §762. It focused on improving access for persons who use TDDs. The legislation established a federal relay system for calls to, from and within the federal government. Congress required the General Services Administration to develop a logo to identify TDDs used by federal agencies and ordered publication of federal TDD numbers in a government-wide directory. The Senate and House were required to develop policies governing placement of TDDs in members' offices.

D. The Telecommunications Act of 1996

The Telecommunications Act of 1996 (PL 104-104) amended, among other sections, 47 USC §255, and added §262. The law requires manufacturers of telecommunications and customer premises equipment to ensure that the equipment is designed, developed and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable. Similarly, providers of telecommunications service must ensure that telecommunications services are accessible and readily usable by individuals with disabilities, if readily achievable. If accessibility and usability are not readily achievable, the manufacturer or provider is required to ensure that the equipment or service is compatible with existing peripheral devices or specialize customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable. New guidelines for accessibility of telecommunications and customer premises equipment and telecommunications were expected from the Architectural and Transportation Barriers Compliance Board in January of 1998.