



Memorandum

To: Alaska Industrial Development and Export Authority
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Date: January 26, 2026

Re: Financial, Credit Rating, and Legal Considerations of HB 124

Background

The Alaska Industrial Development and Export Authority (AIDEA) is a public corporation of the state of Alaska and exists as a separate and independent political subdivision within the Department of Commerce (AS 44.88.020).

AIDEA's statutory mission is to **create economic development and jobs**, to fight unemployment which the legislature found to be a "serious menace to the health, safety, and general welfare" of Alaskans in areas of high unemployment and the entire state. AIDEA pursues this mission through its Loan Participation Program and the Direct Finance Program, along with a number of other financial tools (AS 44.88.080).

AIDEA does not receive operating appropriations from the state. Instead, it manages a self-sustaining revolving fund that finances high-impact economic development projects, collects loan repayments, recycles those funds into new loans, and provides an annual dividend to the state. Since its inception, AIDEA has paid more than half a billion dollars in dividends to the state. AIDEA currently holds a AA+ credit rating from S&P Global Ratings - stronger than the state's own rating - and leverages this strength to secure low-cost capital that supports economic development across the state.

The proposed bill HB 124 would jeopardize (1) AIDEA's ability to provide strong annual dividends to the state, (2) its capacity to deliver high-impact economic development projects—ultimately reducing job opportunities for Alaskans, and (3) its strong credit rating.



Proposed HB 124 – Introduces Significant Credit Risk and Limits AIDEA’s Ability to Deliver High-Impact Economic Development Projects

HB 124 attempts to limit the value of AIDEA’s funds and accounts to not exceed \$500 million. It reaches beyond the dividend payment formula stating that “..the amount of unexpended and unobligated money required to reduce the aggregate value of all funds and accounts in the authority to \$500,000,000 lapses into the general fund.” The language not only equates to a one time significant appropriation from AIDEA’s revolving fund to the State’s general fund, it creates ongoing credit risk of additional annual appropriation well in excess of the dividend formula prescribed in HB 526. Additionally, HB 124 requires legislative approval for AIDEA investments over \$10 million. The proposed legislation presents a significant risk to AIDEA’s ability to conduct its business, to its credit rating and to its ability to leverage its cash flows to borrow and invest in impactful, job creating economic development projects. HB 124 Section 8 undermines AS 44.88.080 and the Legislature’s intent of financial integrity described above.

Impact on AIDEA Credit Rating and Borrowing Cost

In December 2025, AIDEA received a “AA+” credit rating from S&P Global Ratings, one notch above the States rating of “AA”. S&P cited AIDEA’s strong market position and the economic development agency of the state, resulting in consistent dividend payments back to the State, robust collateralization of existing loans, healthy operating performance, and strong-to-adequate financial policies and practices.¹ The strength of this rating enables AIDEA to borrow at very low interest rates, supporting investments that generate tax revenue and create jobs across the state.

Capping AIDEA’s funds as proposed in HB 124 would set a precedent that assets in the revolving fund can be diverted during any legislative session, creating significant uncertainty for the fund and its bond investors. This instability would weaken AIDEA’s credit rating, increasing borrowing costs and placing additional strain on its financial resources. As a reminder, after the legislature appropriated a \$2 million draw from AIDEA’s revolving fund in 2019, Moody’s Ratings reacted severely, downgrading AIDEA’s credit rating by two notches from Aa3 to A2. The rating agency voiced concern that the state could divert funds or “push funding burden” onto AIDEA. **Moody’s stated that factors that could lead to further downgrades was if the state would force AIDEA “to absorb financial burdens”.**

In the current market, we estimate that a two notch downgrade from S&P’s AA+ to AA- increases interest rates for AIDEA by approximately 0.20% on average (10 bps per notch downgrade). Diverting additional funds from AIDEA could further impact AIDEA credit rating and its future cost of borrowing.

Rating agencies evaluate AIDEA’s creditworthiness, and banks and investors conduct their own independent credit reviews and assessments as well. As stated in PFM’s memo supporting the initial legislation for AS 44.88.080, “any removal of revenues from AIDEA degrades the security of future payments to bondholders”.² Ad hoc draws (on reserves) or redirecting AIDEA revenues

¹ S&P Global Ratings, “Alaska Industrial Development & Export Authority Series 2026 A And B Bond Anticipation Notes Rated ‘AA+; Outlook Stable, December 23, 2025’

² See PFM’s 1996 memo attached.



(beyond the dividend payments) will significantly weaken AIDEA financial integrity and hurt its ability to access the debt capital markets including direct bank lending.

Impact on Revolving Loan Capacity

Diverting funds from AIDEA to pay for state government services impacts AIDEA's stability and is damaging for future AIDEA operations. For instance, AIDEA provides loans as economic drivers for job creation in Alaska, and the interest earned, and principal repaid on these loans can be reinvested in additional loans (revolving loan pool). We calculate that an initial \$1 million 20-Year loan from AIDEA³ with reinvestment of interest earnings and amortizing principal into new loans, would generate \$3.2 million of additional loans and \$2.0 million of interest income of which about \$505,000⁴ would be remitted to the State in the form of dividends over 20 years. In simple terms, for every \$1 million of funds, AIDEA can make over \$4.2 million of loans in a 20-year timeframe. Diverting \$1 million from AIDEA today will reduce AIDEA reach, job creation and economic impact as well as future dividends to the State which only compounds with time.

Impact of limiting AIDEA assets on Existing Loan Portfolio and Future Lending

AIDEA's loan portfolio includes 318 loans totaling \$562 million, already exceeding the proposed \$500 million cap in HB 124.⁵ Imposing this limit would require AIDEA to reduce not only its cash and investments but also divest existing loans. This could include loans such as the \$139 million Interior Gas Utility project, which was issued at a below-market interest rate to achieve a public benefit. AIDEA's ability to consider public benefit alongside financial return depends on its current balance sheet strength; without it, these types of investments would not be possible. Forced divestment of below-market loans would likely result in financial losses, as investors would require discounted pricing. Moreover, because the portfolio already exceeds \$500 million, the cap would effectively prevent AIDEA from advancing new projects until sufficient loan principal is repaid over time.

Impact on Direct Investments and Partnerships

Ensuring AIDEA funds are not diverted is critical for AIDEA to advance its mission of jobs and economic development. AIDEA often partners with project proponents or investors on projects that require substantial investments or guarantees. Currently, AIDEA has hundreds of millions of dollars of projects in its pipeline including the Ambler Access Road and the West Susitna Access Road. AIDEA must be able to maintain certainty of its reserves to be able to make these types of substantial investments. If AIDEA's funds are diverted through HB 124 it will limit the investments AIDEA can make and impact the trust and creditworthiness AIDEA has with its partnerships with investors, banks, and others.

Moreover, HB 124's proposed requirement for legislative approval of investments over \$10 million would (A) lengthen the timeline needed to execute investments and advance projects – potentially increasing project costs in an environment of rising material and labor expenses, and (B) reduce developers' willingness to partner with AIDEA on new investment opportunities.

³ Assumed interest rate of 6.63%

⁴ Assumes 25% of interest earned is remitted as dividend to the State

⁵ Based on AIDEA information



Legal Ramifications of HB 124

Confinement Clause of the Alaska Constitution

HB 124, by providing for appropriating AIDEA assets above \$500 million into the State's General Fund would run afoul of the Confinement Clause found in Article II, Section 13 of the Alaska Constitution by (i) enacting or amending substantive law within the confines of an appropriations bill and (ii) attempting to appropriate funds not available for appropriation to the State.

The Confinement Clause is found in Article II, section 13 of the Alaska Constitution which states, in relevant part: "Bills for appropriations shall be confined to appropriations." This portion of the Confinement Clause ensures that appropriation bills are confined solely to making appropriations. To determine whether language violates the Confinement Clause, Alaska courts apply the five-part *Hammond* test which requires that appropriations "(1) must be the minimum necessary to clarify legislative intent on how the money is spent, (2) must not administer the program of expenditures, (3) must not enact law or amend existing law, (4) must not extend beyond the life of the appropriation, and (5) must be germane and appropriate to an appropriations bill." *Alaska Legislative Council v. Knowles*, 21 P.3d 367, 371 (Alaska 2001) (adopting test set forth in *Alaska State Legislature v. Hammond*, No. 1JU-80-1163 CI (Alaska Super., May 25, 1983)); *see also* 1992 Op. Alaska Att'y Gen. (June 30) at 1, ("It is well understood that the legislature cannot enact substantive law in an appropriation bill.").

Pursuant to AS 44.88.190(b), AIDEA's "funds, income, or receipts of the authority may not be considered or constitute money of the state[.]" Additionally, AIDEA's formative statute provides for mechanisms by which the State derives benefits from AIDEA's operations, as discussed above, pursuant to AS 44.88.088. Additionally, AIDEA's annual budget is subject to legislative appropriation under the Executive Budget Act, pursuant to AS 44.88.205, whereby AIDEA determines if assets in excess of the amount required to fulfill the purposes of the authority are available without causing negative impacts to contracts or agreements, operations or the ability of AIDEA to fulfill its purposes. With these existing separations and mechanisms, creating a new method for financial transfer to the State in addition to the dividend program and automatically deeming assets above a cap as property to be remitted to the State enacts new, and amends existing substantive law, running afoul of part (3) of the *Hammond* test as adopted under *Knowles*, 21 P.3d at 371.

Additionally, the Supreme Court of Alaska has set forth a determination for what funds are available to be appropriated by the Alaska Legislature as part of its decision in *Hickel v. Cooper*, 874 P.2d 922 (Alaska 1994). The Court determined that the "amount available for appropriation" includes all funds over which the Legislature has retained the power to appropriate and which are not available to pay expenditures without further legislative appropriation." *Id.* at 927. Funds held by AIDEA are expendable by AIDEA without further legislative appropriation, and thus to appropriate AIDEA assets would require a substantive change to the AIDEA statutes prior to appropriating such funds.

Contracts Clause of the Federal and Alaska Constitutions



HB 124, by capping the total assets AIDEA can hold and requiring appropriation to the States's General Fund, would violate the Contracts Clause of both the Federal and Alaska Constitutions. With regard to appropriation of amounts committed pursuant to a contractual arrangement with a third party, Article 1, Section 15 of the Alaska Constitution provides in part, “[n]o law impairing the obligation of contracts, and no law making any irrevocable grant of special privileges or immunities shall be passed. . . .” (the “Contract Clause”). Similarly, Article 1, section 10, clause 1 of the United States Constitution provides: “No State shall . . . pass any . . . Law impairing the Obligation of Contracts[.]”

The Contract Clause was analyzed by the Supreme Court of Alaska in *Hageland Aviation Services, Inc. v. Harms*, 210 P.3d 444 (2009). The Court used a two-part test to determine whether legislation impairs an existing contract in violation of the Contract Clause: “whether the change in state law has operated as a substantial impairment of a contractual relationship” and if there is a substantial impairment, “whether the impairment is reasonable and necessary to serve an important public purpose.” *Id.* at 451 (citing *Simpson v. Murkowski*, 129 P.3d 435, 444 (Alaska 2006)).

Laws that effect an “impairment of a State's own contracts . . . face more stringent examination under the Contract Clause than would laws regulating contractual relationships between private parties.” *Allied Structural Steel Co. v. Spannus*, 438 U.S. 234, 244 n. 15, (1978). An “impairment of a . . . contract is substantial if it deprives a private party of an important right, thwarts performance of an essential term, [citation omitted], defeats the expectations of the parties, [citation omitted], or alters a financial term. . . .” *Id.* If there is a “substantial impairment,” then it must be determined “whether the impairment is both reasonable and necessary to fulfill an important public purpose.” *Seltzer v. Cochrane*, 104 F.3d 234, 236 (9th Cir. 1996). The State has the burden of establishing that its law “is both reasonable and necessary to an important public purpose.” *City of Santa Ana*, 336 F.3d at 894. An impairment will not be considered necessary if an “evident and more moderate course would serve [the State's] purpose equally well.” *United States Trust Co. of N.Y. v. New Jersey*, 431 U.S. 1, 31, 97 S.Ct. 1505, 52 L. Ed. 2d 92 (1977).

The Alaska Supreme Court (the “Court”) has also observed that “[t]he severity of the impairment measures the height of the hurdle the state legislation must clear” such that “[s]evere impairment . . . will push the inquiry to a careful examination of the nature and purpose of the state legislation.” *Hageland Aviation Servs. v. Harms*, 210 P.3d 444, 453 (Alaska 2009). For example, in *Hageland*, the Court found that a “substantial impairment” was not reasonable and necessary to serve an important public purpose, despite the Legislature's stated “belief that [the statute in question] would serve the important public purpose of aiding the vulnerable air carrier industry in Alaska” because “[t]he retroactive removal of existing contract rights from one party in favor of another who clearly violated existing law is manifestly unfair.” *Id.* Similar arguments apply here.

HB 124 capping assets AIDEA holds severe impacts contracts made with Bondholders or other debt holders, as security for such debt instruments will be stripped without any replacement, and which would certainly result in reduced coverage, events of default and destruction of contracts in violation of the contract clause of the Alaska constitution. Additionally, the decrease in ratings discussed above, along with disruptions to financial covenants will result in defaults and remedial action to be taken by AIDEA's creditors. These effects create the kind of impairment the Court



described in *Hageland*, such that the Court would carefully examine the Alaska Legislature's nature and purpose for the legislation. 210 P.3d at 453. It is argued appropriating assets from AIDEA's purpose that "is essential to the development of the natural resources and the long-term economic growth of the state," as stated in AS 44.61.010, to provide for general State funding without a specific purpose would not be sufficient to clear the significant legal scrutiny the State would be subjected to by passing HB 124 and capping AIDEA's assets.

Intentional AIDEA Financial Independence and Stability Structure

HB 124 would run against the legislative history and intentional decisions already made by the Alaska Legislature. Through AIDEA's history, the Alaska Legislature has emphasized financial independence and stability as critical to AIDEA fulfilling its purpose, and as such has followed a tradition of a rules-based system for payments from AIDEA to the state treasury in the form of a dividend formula.

While creating AIDEA, the Alaska Legislature specifically crafted AIDEA's formative statutes to make AIDEA separate and independent legal existence from the State, with powers to incur its own debts, and pledge monies and assets of AIDEA received or to be received in the future, but it was specifically not given the power to pledge the faith, credit, or any taxing power of the State. AS 44.61.010 (1967); AS44.88.080-120 (1967). By the same token, the Alaska Legislature clarified that the State "pledges to and agrees with the holders of bonds issued [by AIDEA] . . . that the state will not . . . in any way impair the rights and remedies of the holders until the bonds, together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged." AS 44.61.130 (1967). The Alaska Legislature placed great emphasis on AIDEA's independent obligation to secure bonds without state interference, ensuring the State would not be on the hook for any of AIDEA's obligations.

Additionally, the Alaska Legislature further stressed AIDEA's financial independence while crafting the mechanisms by which the State may appropriate assets and derive direct financial benefit from AIDEA's operations. In 1996, the legislature passed Senate CS for CS for HB 526 (FIN) AM S. **The bill established the AIDEA dividend statute in law.** Per AS 44.88.080 AIDEA pays an annual dividend to the Treasury of at least 25% but not more than 50% of unrestricted net income. The legislature has control over how the dividend funds are used through the appropriations process. The legislature intended this rules-based system to provide the Board of AIDEA with some authority to set a dividend amount between the "goal posts" of 25% and 50% net income, while insulating AIDEA from ad hoc draws above and beyond the dividend amount declared by the Board. The 1996 Legislature's Legislative Findings, Policy, and Intent supporting the bill creating the Annual Dividend articulate at HB 526, 19th Leg. (1996-97), Sec. 1 (emphasis added):

"It is the policy and intent of the legislature that the financial integrity of the Alaska Industrial Development and Export Authority remain secure so the authority can continue to fulfill its vital economic development mission for the state. The legislature finds that this Act fulfills this intent."

As Governor Tony Knowles wrote in the 1999 AIDEA Annual Report at page 1:



"To stay in top working condition, most tools have to be cared for, cleaned and maintained. Treat them poorly and they don't work well. That principle holds just as true for the tools used to diversify and strengthen Alaska's economy. And one of the best tools in our economic toolbox is the Alaska Industrial Development and Export Authority. . . . This profit-motivated, self-sustaining corporation receives no money from the State General Fund. In fact, every year AIDEA contributes a portion of its earnings as a dividend to the state. The dividend is an extra benefit above and beyond the Authority's mission; a financial return on the state's investment that helps fund important needs around the state."

With these findings and opinions in mind, the Alaska Legislature intentionally crafted the system by which AIDEA provides an annual dividend to the state. The rules-based system for fund transfers from AIDEA to the Treasury is a basic best practice for the Legislature to follow and is required to uphold the intentional structuring decisions the Legislature has made and to provide the financial stability AIDEA needs to invest, survive, and grow over time. The Alaska Legislature also intentionally structured AS 44.88.205, whereby AIDEA conducts annual reviews of its budgets and voluntarily discloses its assets which are available for appropriation without creating negatively impacting AIDEA obligations and operations.

Thus, the Alaska Legislature has always crafted AIDEA statutes and appropriation mechanics to preserve AIDEA's financial independence and stability, and HB 124 would run against both the legislative history and intentional legislative decisions that allowed AIDEA to grow and prosper and be in its current position to secure a higher rating than the State to provide significant funds to promote economic development.

Summary

HB 124 and the diversion of funds from AIDEA outside the dividend formula will result in significant negative financial consequences, including potential credit rating impacts and higher cost of borrowing, reduced lending capacity, a reduction of future dividend payments to the state, and limit AIDEA's ability to make major infrastructure investments either in terms of direct investments or in partnerships. Additionally, such appropriations would be in conflict with the Confinement Clause and Contracts Clause of the Alaska Constitution, and impede AIDEA's independence that is expressly granted through past legislative actions.