



TRUSTEES FOR ALASKA

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Submitted via e-mail

January 28, 2026

House State Affairs Committee
c/o Representative Ashley Carrick, Chair
Alaska House of Representatives
Alaska State Capitol, Room 406
Juneau, AK 99801
House.State.Affairs@akleg.gov

Re: House Bill 124 and Concerns Regarding the Alaska Industrial Development and Export Authority's Unauthorized Expenditures of State Funds

Dear Representative Carrick:

Trustees for Alaska submits the following letter to flag continuing actions by the Alaska Industrial Development and Export Authority (AIDEA) authorizing expenditures without the constitutionally required approval of the Alaska Legislature. AIDEA has unilaterally and repeatedly appropriated millions of dollars toward projects without legislative approval, contrary to both the Alaska Constitution and AIDEA's statutory authority. Such decisions properly fall within the purview of the Alaska Legislature. AIDEA should not be overriding the Legislature's authority or role by unilaterally making such appropriations.

The expenditures authorized unilaterally by the AIDEA board of directors for the Ambler Road and the Arctic National Wildlife Refuge leases have cumulatively totaled over \$100 million¹ — including, most recently, an additional \$50 million for permitting, construction, legal

¹ See, e.g., AIDEA, Resolution No. G20-11: Resolution of the Alaska Industrial Development and Export Authority Transferring [sic] Funds to the Arctic Infrastructure Development Fund, and Approving the Ambler Mining District Industrial Access Project as an Arctic Infrastructure Development (Mar. 27, 2020) (shifting \$35 million into a fund for use for the Ambler Road); AIDEA, Resolution No. G21-09: Resolution of the Alaska Industrial Development and Export Authority Relating to Development of the Ambler Access Project to Conduct Certain Final Feasibility and Permitting Activities with Respect to the 2021 Field Season Plan and Budget (Apr. 14, 2021) (authorizing expenditures of \$6.5 million for the Ambler Road); AIDEA, Resolution No. G22-03: Resolution of the Alaska Industrial Development and Export Authority Relating to Development of the Ambler Access Project to Conduct Certain Final Feasibility and Permitting Activities with Respect to the 2022 Field Season Plan and Budget (Jan. 27, 2022) (approving expenditures of \$15.4 million for Ambler Road field work); AIDEA, Resolution No. G20-31: Resolution of the Alaska Industrial

costs, and other expenses for the Ambler Road.² None of these expenditures were approved by the Legislature. AIDEA's actions have not only usurped the authority of the Legislature, they have excluded the public from being able to play a meaningful role in overseeing how AIDEA spends State money. These expenditures are occurring at a time when the State is facing budget limits and shortfalls. The millions of dollars AIDEA has improperly spent to date could have been used to meet other State needs and priorities. AIDEA should not be illegally usurping the Legislature's authority to determine whether and how to appropriate limited State funds, or the public's ability to weigh in on financial decisions with statewide impacts.

AIDEA's actions are directly contrary to the Alaska Constitution and principles of separation of powers it embodies. Its actions are also beyond the scope of AIDEA's delegated statutory authority. The Alaska Constitution vests the Alaska Legislature with the authority to appropriate funds.³ Article IX, Section 12 requires that the governor submit a proposed budget to the Legislature setting forth "all proposed expenditures and anticipated income of all departments, offices, and agencies of the state."⁴ The Legislature then "has the responsibility to determine how much to spend and on what, and to pass appropriation bills that authorize that spending."⁵ The Alaska Supreme Court has stated that the Legislature holds "the power to legislate and appropriate" and "that appropriation power resides in [the] legislature and cannot be delegated to [the] executive."⁶ The "constitutional framers believed that the legislature would be required to decide funding priorities annually on the merits of the various proposals presented."⁷

Development and Export Authority Relating to the Evaluation and Potential Submission of Bid(s) for the Coastal Plain Alaska Oil and Gas Lease Sale 3 (Dec. 23, 2020) (approving spending of up to \$20 million to bid on oil and gas tracts for the Arctic Refuge lease sale); AIDEA, Resolution No. G25-02: Resolution of the Alaska Industrial Development and Export Authority Relating to On-Going Development of the Section 1002 Area Oil & Gas Leases Project by Moving Available Funds and Liabilities from the Artic [sic] Infrastructure Development Fund Into a Separate Account in the Revolving [sic] Fund (April 16, 2025) (shifting funds and reauthorizing the expenditure of up to \$20 million for expenses related to the Coastal Plain Oil and Gas Lease Program).

² AIDEA, Resolution No. G25-09: Resolution of the Alaska Industrial Development and Export Authority Related to Development and Funding of the Ambler Road Project by Approving the Transfer of \$50 Million Dollars from the Revolving Fund to the Separate Ambler Access Project Account Within the Revolving Fund (Oct. 22, 2025).

³ See, e.g., Alaska Const. art. II, art. IX § 12; *Alaska Legislative Council v. Knowles*, 21 F.3d 367, 371 & n.21 (2001) (indicating the legislature holds "the power to legislate and appropriate" and "recognizing that appropriation power resides in [the] legislature and cannot be delegated to [the] executive"); AS §§ 37.07.010–.130.

⁴ Alaska Const. art. IX § 12.

⁵ Office of the Attorney General Legal Opinion re: FY20 Education Appropriation, 2019 WL 2112834 (May 8, 2019), available at https://law.alaska.gov/pdf/opinions/opinions_2019/19-001_FY20-Education-appropriation.pdf; Alaska Const. art IX, § 13 ("No money shall be withdrawn from the treasury except in accordance with appropriations made by law. No obligation for the payment of money shall be incurred except as authorized by law. Unobligated appropriations at the end of the period of time specified by law shall be void.").

⁶ *Alaska Legis. Council v. Knowles*, 21 P.3d 367, 371 & n.21 (Alaska 2001).

⁷ *Sonneman v. Hickel*, 836 P.2d 936, 938–39 (Alaska 1992).

AIDEA is a division of the State and is not exempt from these constitutional requirements.⁸ The fundamental constitutionality of the Legislature's establishment of public corporations, such as AIDEA and the Permanent Fund Corporation, rests upon there being significant ties and control between public corporations and the executive branch.⁹ As a division of the State, AIDEA is not exempt from having to comply with the Alaska Constitution, and Attorney General Opinions have recognized this for nearly forty years.¹⁰

AIDEA's actions are contrary to principles of separation of powers. The separation of powers doctrine prohibits one branch of government from encroaching on and exercising the powers of another branch, and this is reflected in Alaska's Constitution.¹¹ Article IX, Section 12 of the Alaska Constitution vests the Alaska Legislature — and only the Alaska Legislature — with the authority to appropriate funds.¹² Principles of separation of powers dictate that the appropriation authority cannot be delegated from the legislative branch to the executive branch.¹³ Even to the very limited extent the Alaska Supreme Court has indicated there may be narrow and heavily circumscribed circumstances where authority might be delegated to the executive branch to adjust spending levels, AIDEA's actions here go well beyond that and instead fully usurp the Legislature's appropriations authority.¹⁴

These constitutional mandates are implemented via the Executive Budget Act, which further details the steps and requirements that must take place for there to be a valid agency expenditure. The Executive Budget Act specifically states that the actions of agencies are limited by executive decisions of the governor and appropriations by the Legislature.¹⁵ Despite that, AIDEA has claimed under AS 44.88.205 that its obligations under the Executive Budget Act are limited to only operating budget expenditures.¹⁶ Such a reading is contrary to the Alaska Constitution. Alaska's Constitution does not distinguish between operating or capital

⁸ AS 44.88.020.

⁹ See, e.g., *De Armond v. Alaska State Dev. Corp.*, 376 P.2d 717 (Alaska 1962); 1982 Alaska Op. Atty. Gen. at 1 (Dec. 2, 1982), 1982 WL 43772.

¹⁰ See, e.g., 1984 Alaska Atty. Gen. Op. at 3 n.3 (1984) (recognizing that, even if AIDEA was authorized generally in its statutes to do studies or develop other information to develop a finance plan for the Red Dog Mine Road, “[t]he use of general assets assumes, of course, that the underlying appropriation of the general assets authorizes expenditure of the funds for such purpose”); cf. 2000 Alaska Op. Atty. Gen. 1, 11 (Jan. 12, 2000) (stating that, “[w]hile AIDEA funds are not considered money of the state (AS 44.88.190), we believe that its funds would be classified as public funds for purposes of article VII, section 1 because AIDEA is a public corporation of the state (AS 44.88.020)” and the “provisions of Article VII, Section 1 would be implicated in any transaction in which AIDEA funds may be expended”).

¹¹ *Bradner v. Hammond*, 553 P.2d 1, 5 (Alaska 1976); *State v. Williams*, 681 P.2d 313, 315 n.2 (Alaska 1984).

¹² See, e.g., Alaska Const. art. IX § 12; AS 37.07.010–.130.

¹³ *Alaska Legis. Council*, 21 P.3d at 371 & n.21 (indicating the Legislature holds “the power to legislate and appropriate” and “recognizing that appropriation power resides in [the] legislature and cannot be delegated to [the] executive”).

¹⁴ See, e.g., *State v. Fairbanks N. Star Borough*, 736 P.2d 1140, 1142–43 (Alaska 1987).

¹⁵ AS 37.07.014(f), 37.07.080(a).

¹⁶ See AS 44.88.205 (“The operating budget of [AIDEA] is subject to AS 37.07 (Executive Budget Act.”).

expenditures, and requires the governor to set forth “all proposed expenditures” of all departments, offices, and agencies of the State. AIDEA’s expenditures are not exempt from this constitutional mandate and any interpretation or application of AS 44.88.205 to the contrary would be at odds with that constitutional mandate.

In addition to being contrary to the Alaska Constitution and principles of separation of powers, AIDEA’s actions to unilaterally direct tens of millions of dollars to the Ambler Road and Arctic Refuge leases is fiscally irresponsible. In the context of the Ambler Road, AIDEA has yet to put forward a viable financial plan for financing that project, which is projected to cost well over a billion dollars.¹⁷ Despite that, AIDEA continues to throw away tens of millions of dollars to advance that project without a clear, fiscally responsible plan in place and without any clear path for repayment of those funds. In the Arctic Refuge context, there is also no third-party entity to which any funds have been loaned or that has any plans to advance development on the leases; it is solely AIDEA acting on behalf of itself to acquire and maintain the leases.¹⁸ The only two other companies to bid on leases in the Arctic Refuge — neither one of which was a major oil company — walked away from those leases and requested the return of their payments.¹⁹ These decisions and expenditures go well beyond AIDEA’s statutory authority and role as a financer of responsible development in this State. They are instead examples of AIDEA acting beyond its statutory authority to advance its own agenda, while disregarding the law and any semblance of fiscal responsibility to Alaskans.

This is a matter of significant public concern. The Legislature should put a stop to AIDEA’s pattern of making expenditures without appropriate legislative approval and ensure the Legislature’s power over such budgetary decisions is clearly delineated in AIDEA’s statutory authority. All of AIDEA’s expenditures, including both operating and capital budget expenditures, should be subject to Legislative approval and the budget process set out in the Executive Budget Act. AIDEA should not be allowed to act in ways that usurp the Legislature’s authority over State expenditures and eliminate the public from being able to meaningfully weigh in on decisions related to State expenditures.

¹⁷ THOMAS MICHAEL POWER & DONOVAN POWER, POWER CONSULTING INC., AN ECONOMIC ANALYSIS OF THE PROPOSED ALASKA AMBLER ACCESS ROAD 14 (2021) (estimating five years ago that building, maintaining, decommissioning, and financing the Ambler Road would cost approximately \$1.4 billion).

¹⁸ See, e.g., Memorandum from Alan Weitzner, Executive Director, to AIDEA Board Members re: Section 1002 Area (Coastal Plain) Oil & Gas Leases (Rev. 1): Resolution No. G21-18, at 2 (June 23, 2021) (indicating AIDEA purchased leases on behalf of itself).

¹⁹ Alex DeMarban, *Another Oil Company Backs Out of Leases in Alaska’s Arctic National Wildlife Refuge*, ANCHORAGE DAILY NEWS, June 1, 2022, <https://www.adn.com/business-economy/energy/2022/06/01/another-oil-company-backs-out-of-leases-in-alaskas-arctic-national-wildlife-refuge>; Alex DeMarban, *Private Company Gives Up Oil and Gas Lease in Arctic Refuge, Leaving Alaska Agency as Lone Leaseholder*, ANCHORAGE DAILY NEWS, August 22, 2022, <https://www.adn.com/business-economy/energy/2022/08/22/private-company-gives-up-oil-and-gas-lease-in-arctic-refuge-leaving-alaska-agency-as-lone-leaseholder>.

Thank you for your prompt attention to this matter, which is of significant importance to the public. Please direct any questions regarding this letter to Suzanne Bostrom, Senior Staff Attorney at Trustees for Alaska, at sbostrom@trustees.org or (907) 433-2015.

Sincerely,

Suzanne Bostrom
Senior Staff Attorney