

**HOUSE BILL NO. 466**

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

**BY REPRESENTATIVE MOSES**

**Introduced: 2/2/96**

**Referred: House Special Committee on Military and Veterans' Affairs, Finance**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act establishing the Adak Reuse Authority."**

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

3 \* **Section 1.** AS 30 is amended by adding a new chapter to read:

4 CHAPTER 17. ADAK REUSE AUTHORITY.

5 ARTICLE 1. ESTABLISHMENT.

6 Sec. 30.17.010. CREATION OF AUTHORITY. There is created the Adak  
7 Reuse Authority. The authority is a public corporation of the state and a body  
8 corporate and is an instrumentality of the Department of Community and Regional  
9 Affairs, but with separate and independent legal existence.

10 Sec. 30.17.020. MEMBERSHIP OF AUTHORITY. (a) The membership of  
11 the authority consists of

- 12 (1) the commissioner of community and regional affairs;
- 13 (2) two other persons selected by the governor who serve as the heads
- 14 of principal departments of the executive branch of state government; and
- 15 (3) four public members appointed by the governor.

1 (b) If a member described in (a)(1) or (2) of this section is unable to attend  
2 a meeting of the authority, the member may, by an instrument in writing filed with the  
3 authority, designate a deputy or assistant to act in the member's place as a member at  
4 the meeting. For purposes of this chapter, the designee is a member of the authority  
5 at the meeting.

6 (c) Members of the authority described in (a)(2) and (3) of this section serve  
7 two-year terms but serve at the pleasure of the governor.

8 (d) If a vacancy occurs in the membership of the authority, the governor shall  
9 immediately appoint a member for the unexpired portion of the term.

10 Sec. 30.17.030. CHAIR AND VICE-CHAIR. The members of the authority  
11 shall elect a chair from among themselves. A vice-chair may be elected by the  
12 authority from among its other members. The vice-chair presides over all meetings  
13 in the absence of the chair and has other duties that the authority may prescribe.

14 Sec. 30.17.040. MEETINGS, COMPENSATION, OFFICERS, AND  
15 EMPLOYEES. (a) A majority of the members of the authority constitutes a quorum  
16 for the transaction of business or the exercise of a power or function at a meeting of  
17 the authority. In case of a tie vote on a motion or resolution pending before the  
18 authority, the motion or resolution shall be presented to the governor and, if approved  
19 by the governor, is considered adopted by the authority. The authority may meet and  
20 transact business by electronic media if (1) public notice of the time and locations  
21 where the meeting will be held by electronic media has been given in the same manner  
22 as if the meeting were held in a single location; (2) participants and members of the  
23 public in attendance can hear and have the same right to participate in the meeting as  
24 if the meeting were conducted in person; and (3) copies of pertinent reference  
25 materials, statutes, regulations, and audio-visual materials are reasonably available to  
26 participants and to the public. A meeting by electronic media as provided in this  
27 subsection has the same legal effect as a meeting in person.

28 (b) The public members of the authority are entitled to \$100 compensation for  
29 each day spent on official business of the authority and may be reimbursed by the  
30 authority for actual and necessary expenses at the same rate paid to members of state  
31 boards under AS 39.20.180.

1 (c) The authority may appoint persons as officers it considers advisable,  
2 including an executive director, and may employ professional advisors, legal counsel,  
3 technical experts, agents, and other employees it considers advisable. The executive  
4 director and employees of the authority are in the exempt service under AS 39.25.

5 (d) The authority shall keep minutes of each meeting and send a certified copy  
6 to the governor and to the Legislative Budget and Audit Committee.

7 ARTICLE 2. PURPOSE AND GENERAL POWERS.

8 Sec. 30.17.100. PURPOSE OF THE AUTHORITY. The purpose of the  
9 authority is to develop and implement a comprehensive reuse and redevelopment plan  
10 for the territory encompassed by the Adak Naval Air Facility in a manner that will  
11 attract business, create jobs, and advance the general prosperity and economic welfare  
12 of the people of the state by

13 (1) entering into necessary agreements with the federal government to  
14 jointly operate the facilities comprising the Adak Naval Air Facility;

15 (2) operating or contracting with others to operate enterprises and other  
16 facilities located at the Adak Naval Air Facility; and

17 (3) cooperating and acting in conjunction with other organizations,  
18 public and private, the objects of which are the promotion and advancement of  
19 economic use of the facilities located at the Adak Naval Air Facility.

20 Sec. 30.17.110. POWERS OF THE AUTHORITY. In furtherance of its  
21 corporate purposes, the authority may, in addition to other powers that it may have by  
22 law,

23 (1) sue and be sued;

24 (2) have a seal and alter the seal at its pleasure;

25 (3) make and alter bylaws for its organization and internal management;

26 (4) adopt regulations governing the exercise of its corporate powers;

27 (5) lease to others a project acquired by it for the rentals and upon the  
28 terms and conditions the authority may consider advisable, including, without  
29 limitation, provisions for options to purchase or renew;

30 (6) provide for and secure the payment of bonds and the rights of  
31 holders of them and to purchase, hold, and dispose of bonds;

1 (7) sell, by installment sale or otherwise, exchange, donate, convey, or  
2 encumber in any manner by mortgage or by creation of any other security interest, real  
3 or personal property owned by it, or in which it has an interest, including a project,  
4 when, in the judgment of the authority, the action is in furtherance of its corporate  
5 purposes;

6 (8) accept gifts, grants, or loans from, and enter into contracts or other  
7 transactions regarding them with, a federal agency or an agency or instrumentality of  
8 the state, a municipality, a private organization, or other source;

9 (9) deposit or invest its funds, subject to agreements with bondholders;

10 (10) acquire, manage, and operate projects as the authority considers  
11 necessary or appropriate to serve a public purpose;

12 (11) enter into contracts or other transactions with a federal agency,  
13 with an agency or instrumentality of the state or of a municipality, or with a private  
14 organization or other entity consistent with the exercise of any power under this  
15 chapter;

16 (12) charge fees or other forms of remuneration for the use or  
17 possession of the projects described in (10) of this section in accordance with the  
18 agreements described in (11) of this section, other agreements pertaining to the  
19 projects, covenants, or representations made in bond documents pertaining to the  
20 projects, or regulations of the authority pertaining to the projects.

21 Sec. 30.17.120. ADMINISTRATIVE PROCEDURE. The provisions of the  
22 Administrative Procedure Act regarding the adoption of regulations (AS 44.62.040 -  
23 44.62.320) apply to the authority.

24 Sec. 30.17.130. LIMITATION ON POWERS. (a) The authority has only the  
25 powers expressly granted in this chapter, reasonably implied from this chapter, or  
26 reasonably necessary or convenient to carry out its corporate purposes and to exercise  
27 the powers expressly granted in or reasonably implied from this chapter.

28 (b) The authority does not have powers of

29 (1) eminent domain;

30 (2) taxation;

31 (3) land use planning;

- 1 (4) zoning;
- 2 (5) permitting; or
- 3 (6) other similar governmental powers.

4 (c) The authority may not use

5 (1) state grants, appropriations, or other transfers from the state to  
6 satisfy bond obligations or otherwise establish collateral or security for bonds issued  
7 by the authority;

8 (2) rents, rates, fees, or other charges collected through operation of a  
9 facility owned by the authority to finance the improvement, establishment, and  
10 development of unrelated facilities.

11 ARTICLE 3. PROJECTS; BONDS.

12 Sec. 30.17.200. CONSIDERATION OF PROJECTS TO BE FINANCED. (a)

13 Before issuing bonds for a project under this chapter, the authority must find, on the  
14 basis of all information reasonably available to it, that the

15 (1) project and its development under this chapter will be economically  
16 advantageous to the state and the general public welfare and will contribute to the  
17 economic growth of the state;

18 (2) project is financially sound and can be expected to produce revenue  
19 adequate to repay the bonds with which it is financed; and

20 (3) scope of the project is sufficient to provide a reasonable expectation  
21 of a benefit to the region and the economy of the state.

22 (b) The authority shall give fair and reasonable consideration to a project  
23 presented to it for financing. When the authority determines whether to finance or  
24 assist in the financing of a project, the authority shall state the reasons for its  
25 determination in a written resolution upon request by a person who presented the  
26 project to the authority or a person who presented opposition to the project. The  
27 authority shall base its reasons on the information presented to it concerning the  
28 project and on other information considered appropriate by the authority.

29 Sec. 30.17.210. BONDS OF THE AUTHORITY. (a) Subject to the  
30 provisions of AS 30.17.200(a), the authority may borrow money and may issue  
31 revenue bonds, including bonds on which the principal and interest are payable

1 (1) exclusively from the income and receipts or other money derived  
2 from the project financed with the proceeds of the bonds;

3 (2) exclusively from the income and receipts or other money derived  
4 from designated projects whether or not they are financed in whole or in part with the  
5 proceeds of the bonds; or

6 (3) from the income and receipts or assets generally, or a designated  
7 part or parts of them, of the authority or of any other person.

8 (b) Bonds issued under this chapter shall be authorized by resolution of the  
9 authority, and shall be dated and shall mature as the resolution may provide, except  
10 that a bond may not mature more than 40 years from the date of its issuance. The  
11 bonds shall bear interest at the rate or rates, be in the denominations, be in the form,  
12 either coupon or registered, carry the registration privileges, be executed in the manner,  
13 be payable in the medium of payment, at the place or places, and be subject to the  
14 terms of redemption that the resolution or a subsequent resolution may provide.

15 (c) Bonds issued under this chapter, regardless of form or character, shall be  
16 negotiable instruments for the purposes of the Uniform Commercial Code.

17 (d) Bonds issued under this chapter may be sold at public or private sale in the  
18 manner, for the price or prices, and at the time or times that the authority may  
19 determine.

20 (e) The superior court shall have jurisdiction to hear and determine suits,  
21 actions, or proceedings relating to the authority, including suits, actions, or proceedings  
22 brought to foreclose or otherwise enforce a mortgage, pledge, assignment, or security  
23 interest or brought by or for the benefit or security of a holder of its bonds or by a  
24 trustee for or other representative of the holders.

25 (f) Before issuing bonds for a project under this chapter, the authority shall  
26 submit to the state bond committee a description of the bond issue and an independent  
27 economic feasibility analysis of the project and expected revenue. This information  
28 may be contained in a preliminary prospectus, offering circular, or official statement  
29 relating to the bond issue. Bonds may not be issued under this chapter unless the state  
30 bond committee finds, based upon the information submitted by the authority under  
31 this subsection and other information that is reasonably available to the committee, that

1 the project revenue can be reasonably expected to be adequate for payment of the  
2 principal and interest on the bonds to be issued if the bonds are to be secured by  
3 project revenue alone, and in any event that issuance of the bonds by the authority  
4 would not be expected to adversely affect the ability of the state or its political  
5 subdivisions to market bonds.

6 (g) The total principal sum of bonds issued under this chapter is \$400,000,000,  
7 exclusive of refunding bonds.

8 Sec. 30.17.220. TRUST INDENTURES AND TRUST AGREEMENTS. In  
9 the discretion of the authority, an issue of bonds may be secured by a trust indenture  
10 or trust agreement between the authority and a corporate trustee, which may be a trust  
11 company, bank, or national banking association, with corporate trust powers, located  
12 inside or outside the state, or by a secured loan agreement or other instrument or under  
13 a resolution giving powers to a corporate trustee, after this in this section referred to  
14 as "trust agreement," by means of which the authority may

15 (1) make and enter into the covenants and agreements with the trustee  
16 or the holders of the bonds that the authority determines necessary or desirable,  
17 including, without limitation, covenants, provisions, limitations, and agreements as to

18 (A) the application, investment, deposit, use, and disposition of  
19 the proceeds of the bonds of the authority or of money or other property of the  
20 authority or in which it has an interest;

21 (B) the fixing and collection of rents or other consideration for,  
22 and the other terms to be incorporated in, an agreement with respect to a  
23 project;

24 (C) the assignment by the authority of its rights in a mortgage  
25 or other security interest created with respect to a project to a trustee for  
26 benefit of bondholders;

27 (D) the terms and conditions upon which additional bonds of  
28 the authority may be issued;

29 (E) the vesting in a trustee of rights, powers, duties, funds, or  
30 property in trust for the benefit of bondholders, including, without limitation,  
31 the right to enforce payment, performance, and all other rights of the authority

1 or of the bondholders under a lease, contract of sale, mortgage, security  
2 agreement, or trust agreement with respect to a project by appropriate judicial  
3 proceeding or by taking possession of by agent or otherwise and operating a  
4 project and collecting rents or other consideration and applying the same in  
5 accordance with the trust agreement;

6 (2) pledge, mortgage, or assign money, leases, agreements, property,  
7 or other assets of the authority either presently in hand or to be received in the future,  
8 or both; and

9 (3) provide for other matters that affect the security or protection of the  
10 bonds.

11 Sec. 30.17.230. VALIDITY OF PLEDGE. (a) It is the intent of the  
12 legislature that a pledge made in respect of bonds issued under this chapter is  
13 perfected, valid, and binding from the time the pledge is made; that the money or  
14 property so pledged and thereafter received by the authority is immediately subject to  
15 the lien of the pledge without physical delivery or further act; and that the lien of the  
16 pledge is valid and binding against all parties having claims of any kind in tort,  
17 contract, or otherwise against the authority whether or not the parties have notice.  
18 Neither the resolution, trust agreement, nor any other instrument by which a pledge is  
19 created need be recorded or filed under the provisions of the Uniform Commercial  
20 Code to be perfected or to be valid, binding, or effective against the parties.

21 (b) This section does not affect title to or conveyances of real property, and  
22 does not limit the applicability of AS 40.17.080.

23 Sec. 30.17.240. NONLIABILITY ON BONDS. (a) Neither the members of  
24 the authority nor a person executing the bonds are liable personally on the bonds  
25 issued by the authority or are subject to personal liability or accountability by reason  
26 of the issuance of the bonds.

27 (b) The bonds issued by the authority do not constitute an indebtedness or  
28 other liability of the state or of a political subdivision of the state, but shall be payable  
29 solely from the income and receipts or other funds or property of the authority. The  
30 authority may not pledge the faith or credit of the state or of a political subdivision of  
31 the state, except the authority, to the payment of a bond, and the issuance of a bond

1 by the authority does not directly, indirectly, or contingently obligate the state or a  
2 political subdivision of the state to apply money from, levy, or pledge any form of  
3 taxation to the payment of the bond.

4 (c) The authority shall print the language of (b) of this section in substantial  
5 form on the face of all bonds issued and in any offering circular, or statement issued  
6 in connection with the bonds.

7 Sec. 30.17.250. PLEDGE OF THE STATE. The state pledges to and agrees  
8 with the holders of bonds issued under this chapter and with the federal agency that  
9 loans or contributes funds in respect to a project, that the state will not limit or alter  
10 the rights and powers vested in the authority by this chapter to fulfill the terms of a  
11 contract made by the authority with the holders or federal agency, or in any way  
12 impair the rights and remedies of the holders until the bonds, together with the interest  
13 on them with interest on unpaid installments of interest, and all costs and expenses in  
14 connection with an action or proceeding by or on behalf of the holders, are fully met  
15 and discharged. The authority may include this pledge and agreement of the state,  
16 insofar as it refers to holders of bonds of the authority, in a contract with the holders,  
17 and insofar as it relates to a federal agency, in a contract with the federal agency.

18 Sec. 30.17.260. EXEMPTION FROM TAXATION. (a) The real and personal  
19 property of the authority and its assets, income, and receipts are declared to be the  
20 property of a political subdivision of the state and, together with a project financed  
21 under this chapter, are exempt from taxes and special assessments of the state or a  
22 political subdivision of the state. Bonds of the authority are declared to be issued by  
23 a political subdivision of the state and for an essential public and governmental  
24 purpose and to be a public instrumentality, and the bonds, the interest on them, the  
25 income from them, and the transfer of the bonds, and all assets, income, and receipts  
26 pledged to pay or secure the payment of the bonds or interest on them shall at all  
27 times be exempt from taxation by or under the authority of the state, except for  
28 inheritance and estate taxes and taxes on transfers by or in contemplation of death.

29 (b) This section does not affect or limit an exemption from license fees,  
30 property taxes, or excise, income, or other taxes, provided under any other law, nor  
31 does it create a tax exemption with respect to the interest of any business enterprise

1 or other person, other than the authority, in any property, assets, income, receipts,  
2 project, or lease whether or not financed under this chapter.

3 Sec. 30.17.270. BONDS LEGAL INVESTMENTS FOR FIDUCIARIES. The  
4 bonds of the authority are securities in which public officers and bodies of the state;  
5 municipalities and municipal subdivisions; insurance companies and associations and  
6 other persons carrying on an insurance business; banks, bankers, trust companies,  
7 savings banks, savings associations, including savings and loan associations and  
8 building and loan associations, investment companies, and other persons carrying on  
9 banking business; administrators, guardians, executors, trustees, and other fiduciaries;  
10 and other persons who are now or may afterward be authorized to invest in bonds or  
11 other obligations of the state, may properly and legally invest money, including capital  
12 in their control or belonging to them. Notwithstanding any other provisions of law,  
13 the bonds of the authority are also securities that may be deposited with and may be  
14 received by public officers and bodies of the state and municipalities and municipal  
15 subdivisions for any purpose for which the deposit of bonds or other obligations of the  
16 state is now or may afterward be authorized.

17 Sec. 30.17.280. ENTERPRISE DEVELOPMENT ACCOUNT. (a) The  
18 enterprise development account is established in the authority. The enterprise  
19 development account is a trust fund for the uses and purposes of this chapter. The  
20 enterprise development account consists of money or assets appropriated or transferred  
21 to the authority and other money or assets deposited in it by the authority.

22 (b) The authority may establish in the enterprise development account the  
23 accounts it considers appropriate.

24 (c) Money and other assets of the enterprise development account may be used  
25 to secure bonds of the authority issued to finance the purchase of loans for projects or  
26 may be used to purchase participation in the loans for projects.

27 (d) A loan participation purchased by the authority with assets of the enterprise  
28 development account or with proceeds of bonds secured by assets of the enterprise  
29 development account

30 (1) may not exceed \$10,000,000; however, in the case of a loan  
31 participation for a power transmission intertie, the loan participation may exceed

1 \$10,000,000 with legislative approval;

2 (2) may not be purchased unless

3 (A) the project applicant is not, or, if the applicant is not a  
4 single proprietorship, all members of the business enterprise or enterprises  
5 constituting the project applicant are not, in default on another loan made by  
6 the state or by a public corporation of the state; and

7 (B) at least 20 percent of the principal amount of the loan is  
8 retained by the loan originator;

9 (3) may not be purchased if the loan to be purchased exceeds the cost  
10 of the project or 75 percent of the appraised value of the project, whichever is less,  
11 unless the amount of the loan in excess of this limit is federally insured or guaranteed  
12 or is insured by a qualified mortgage insurance company;

13 (4) may not be purchased if the participation in the loan to be  
14 purchased is for a term longer than three-quarters of the authority's estimate of the life  
15 of the project or 25 years from the date the loan is made, whichever is earlier;  
16 however, in the case of a loan participation for a power transmission intertie, the term  
17 may not be longer than 50 years from the date the loan is made;

18 (5) may be made only if the participation in the loan to be purchased  
19 contains amortization provisions; the amortization provisions

20 (A) must be complete and satisfactory to the authority and  
21 require periodic payments by the borrower;

22 (B) may allow the loan originator to amortize the portion of the  
23 loan retained by the loan originator using a shorter amortization schedule than  
24 the amortization schedule for the portion of the loan held by the authority if

25 (i) in the authority's opinion, the project financed can  
26 support the increased debt service; and

27 (ii) the accelerated amortization schedule is required to  
28 induce the originator to make the loan;

29 (6) may be made only if the participation in the loan to be purchased  
30 is in the form and contains the terms and provisions with respect to insurance, repairs,  
31 alterations, payment of taxes and assessments, default reserves, delinquency charges,

1 default remedies, acceleration of maturity, secondary liens, and other matters the  
2 authority prescribes; and

3 (7) may be made only if the participation in the loan to be purchased  
4 is secured as to repayment by a mortgage or other security instrument in the manner  
5 the authority determines is feasible to assure timely repayment under a loan agreement  
6 entered into with the borrower.

7 (e) The authority may adopt regulations for the administration of the enterprise  
8 development account including provisions for fees and agreements relating to  
9 application, loan commitment, servicing, and origination of loans by other lenders.

10 (f) The authority may enter into agreements as to the use of the money in the  
11 enterprise development account including trust or custody arrangements with banks or  
12 trust companies. It may also pledge, assign, or grant the agreement, interests under  
13 an agreement, or interests in the enterprise development account as may be necessary  
14 or appropriate to provide for payment and security for bonds of the authority issued  
15 to finance the purchase by the authority of loans for projects.

16 (g) Notwithstanding any other provision of this section, the authority may  
17 waive or modify the requirements of this section as it considers appropriate and  
18 prudent in order to finance a project if the authority intends to own the project or in  
19 order to finance a power transmission intertie project.

20 (h) The provisions of this section apply only with respect to a loan  
21 participation purchased by the authority for projects under this chapter.

#### 22 ARTICLE 4. MISCELLANEOUS PROVISIONS.

23 Sec. 30.17.300. AUDIT. The legislative auditor shall audit or shall cause to  
24 have audited annually the financial records of the authority. The legislative auditor  
25 may prescribe the form and content of the financial records of the authority and shall  
26 have access to these records at reasonable times.

27 Sec. 30.17.310. EQUAL USE AND ACCESS. If the authority owns, leases,  
28 or otherwise operates or controls, or participates in the financing of, a facility, the  
29 authority shall, to the maximum extent possible, provide for equal rights of access to  
30 and use of the facility by members of the public and other persons or entities upon  
31 terms and conditions that are fair and reasonable. However, this section does not

1 prevent the authority from establishing fair and reasonable limitations on use of or  
2 access to a facility to the extent the limitations are necessary in connection with the  
3 nature of the facility or the demand for use of or access to the facility. This section  
4 applies to the establishment of rates and rate structures as well as all other factors,  
5 terms, and conditions relating to the use of or access to the facility, including without  
6 limitation the design and location of the facility. The members of the authority shall  
7 make a written finding concerning compliance of the facility with this section. A  
8 written finding signed by a majority of the authority members complies with the  
9 provisions of this section and shall constitute a conclusive presumption of compliance.

10 Sec. 30.17.320. SUCCESSION. Whenever a borough of the first or second  
11 class or a home rule municipality is created with an area coterminous with or inclusive  
12 of the area of the authority, the authority shall be integrated into the borough or home  
13 rule municipality within one year after incorporation. On integration, the borough or  
14 home rule municipality succeeds to the rights, powers, duties, assets, and liabilities of  
15 the authority, except that indebtedness of the authority does not constitute a general  
16 obligation of the borough or home rule municipality payable from taxes levied by the  
17 borough or home rule municipality. The borough or home rule municipality may not  
18 levy taxes to pay the indebtedness.

19 Sec. 30.17.330. PURCHASE OF PROJECT AND LEASES. (a) This chapter  
20 does not prevent the inclusion in a lease or other agreement relating to a project of a  
21 provision granting the right to purchase the project, or to renew or extend the lease or  
22 agreement, upon the terms and conditions that may be provided for in the lease or  
23 agreement.

24 (b) A lease with respect to a project may provide for two or more lessees with  
25 the legal relationship between themselves and the authority that the authority may  
26 approve, including provisions to the effect that the obligations of the lessees under the  
27 lease for payment of rental or otherwise between themselves and the authority are  
28 several, joint, or joint and several and that the lessees lease the project as  
29 tenants-in-common, or otherwise.

30 Sec. 30.17.340. CONFLICTS OF INTEREST. A member of the authority may  
31 not vote on a resolution of the authority relating to a lease or contract to be entered

1 into by the authority under this chapter if the member is a party to the lease or contract  
2 or has a direct ownership or equity interest in a firm, partnership, corporation, or  
3 association that may be a party to the contract or lease. A resolution of the authority  
4 that is approved by a majority of the members who are not barred from voting under  
5 this section is a valid action of the authority for all purposes.

6 Sec. 30.17.350. OPERATION OF CERTAIN STATUTES EXCEPTED. (a)  
7 The authority may not be considered to be or constitute (1) a political subdivision of  
8 the state as the term is used in AS 37.10.085, (2) a municipal corporation or political  
9 subdivision of the state as the terms are used in AS 29, or (3) except as provided in  
10 AS 30.17.360, a state agency as the term is used in AS 37, but for all other purposes  
11 the authority constitutes a political subdivision and an instrumentality of the state as  
12 provided in this chapter.

13 (b) The funds, income, or receipts of the authority may not be considered to  
14 be or constitute money of the state, nor may real property in which the authority has  
15 an interest be considered land owned in fee by the state or to which the state may  
16 become entitled or in any way land belonging to the state, or state land referred to in  
17 art. VIII, Constitution of the State of Alaska.

18 Sec. 30.17.360. COMPLIANCE WITH EXECUTIVE BUDGET ACT;  
19 AUTHORITY FINANCES. (a) The operating budget of the authority is subject to  
20 AS 37.07 (Executive Budget Act).

21 (b) To further ensure effective budgetary decision making by the legislature,  
22 the authority shall

23 (1) annually review the authority's assets to determine whether assets  
24 of the authority exceed an amount required to fulfill the purposes of the authority as  
25 defined in this chapter; in making its review, the members of the authority shall  
26 determine whether, and to what extent, assets in excess of the amount required to  
27 fulfill the purposes of the authority during at least the next fiscal year are available  
28 without

29 (A) breaching an agreement entered into by the authority;

30 (B) materially impairing the operations or financial integrity of

31 the authority; or

1 (C) materially affecting the ability of the authority to fulfill the  
2 authority's purposes; and

3 (2) present to the legislature by January 10 of each year a complete  
4 accounting of all assets of the authority and a report of the review and determination  
5 made under (1) of this subsection; the accounting shall be audited by the auditor who  
6 conducts the audit required by AS 30.17.300, including income earned on assets of the  
7 authority during that period.

8 Sec. 30.17.370. REPORTS AND PUBLICATIONS. By January 10 of each  
9 year, the authority shall publish a report for distribution to the governor, legislature,  
10 and the public. The authority shall notify the legislature that the report is available.  
11 The report shall be written in easily understandable language. The report must include  
12 a financial statement audited by an independent outside auditor, a statement of the  
13 authority's investments under this chapter, including an appraisal of the investments  
14 at market value, a comparison of the authority's performance with the goals of the  
15 authority, and other information the members of the authority believe would be of  
16 interest to the governor, the legislature, and the public. The annual income statement  
17 and balance sheet of the authority shall be published in at least one newspaper  
18 circulating in each judicial district. The authority may also publish other reports it  
19 considers desirable to carry out its purposes.

20 ARTICLE 5. GENERAL PROVISIONS.

21 Sec. 30.17.900. DEFINITIONS. In this chapter,

22 (1) "authority" means the Adak Reuse Authority created by this  
23 chapter;

24 (2) "bonds" means bonds or other obligations issued under this chapter;

25 (3) "business enterprise" means a single proprietorship, cooperative,  
26 corporation, firm, partnership, or other association of persons organized in any manner,  
27 for any credit worthy business purpose;

28 (4) "facility" means real property, whether above or below mean high  
29 water, or an interest in it, and the buildings, improvements, and structures constructed  
30 or to be constructed on or in it, and may include fixtures, machinery, and equipment  
31 on it or in it, and tangible personal property, regardless of whether the tangible

1 personal property is attached to or connected with real property, if the owner has  
2 agreed not to remove the tangible personal property permanently from the state for the  
3 period the authority sets; "facility" does not include work in process or stock in trade;

4 (5) "federal agency" means the United States and any officer,  
5 department, agency or instrumentality of the United States;

6 (6) "lease" includes, when used as a noun, an interest in, or when used  
7 as a verb, the transfer of an interest in, property less than fee simple title, including,  
8 when used as a noun, agreements to use or occupy property;

9 (7) "person" includes a corporation, company, partnership, firm,  
10 association, organization, business trust, society, state or agency or subdivision of the  
11 state, municipality of the state, a resource development authority, as well as a natural  
12 person;

13 (8) "project" means

14 (A) a facility used or intended for use in connection with  
15 making, processing, preparing, transporting, or producing goods, products, or  
16 substances of any kind or nature or in connection with developing or using a  
17 natural resource, or extracting, smelting, transporting, converting, assembling,  
18 or producing minerals, raw materials, chemicals, compounds, alloys, fibers,  
19 commodities and materials, products, or substances of any kind or nature;

20 (B) a facility used or intended for use in connection with a  
21 business enterprise;

22 (C) commercial activity by a small enterprise;

23 (D) a facility demonstrating technological advances of new  
24 methods and procedures and prototype commercial applications for the  
25 exploration, development, production, transportation, conversion, and use of  
26 energy resources;

27 (E) infrastructure for a new tourism destination facility or for  
28 the expansion of a tourism destination facility;

29 (F) a facility, other than a facility described in (D) of this  
30 paragraph, for the generation, transmission, development, transportation,  
31 conversion, or use of energy resources;

1 (9) "project applicant" means a business enterprise or enterprises  
2 proposing to

3 (A) use or occupy a project; or

4 (B) agree to permit others to use or occupy a project;

5 (10) "real property" means land and rights and interests in land,  
6 including interests less than full title such as easements, uses, leases, and licenses.

7 \* **Sec. 2.** AS 39.25.110(11) is amended to read:

8 (11) the officers and employees of the following boards, commissions,  
9 and authorities:

10 (A) [REPEALED

11 (B)] Alaska Permanent Fund Corporation;

12 **(B)** [(C)] Alaska Industrial Development and Export Authority;

13 **(C)** [(D)] Alaska Commercial Fisheries Entry Commission;

14 **(D)** [(E)] Alaska Commission on Postsecondary Education;

15 **(E)** [(F)] Alaska Aerospace Development Corporation;

16 **(F) Adak Reuse Authority;**