

HOUSE FINANCE COMMITTEE  
March 17, 2009  
1:37 p.m.

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CALL TO ORDER

Co-Chair Hawker called the House Finance Committee meeting to order at 1:37 p.m.

MEMBERS PRESENT

Representative Mike Hawker, Co-Chair  
Representative Bill Stoltze, Co-Chair  
Representative Bill Thomas Jr., Vice-Chair  
Representative Allan Austerman  
Representative Harry Crawford  
Representative Anna Fairclough  
Representative Les Gara  
Representative Reggie Joule  
Representative Mike Kelly  
Representative Woodie Salmon

MEMBERS ABSENT

Representative Richard Foster

ALSO PRESENT

Diane Barrans, Executive Director, Postsecondary Education Commission, Department of Education; Jerry Burnett, Deputy Commissioner, Division of Treasury, Department of Revenue; Ted Leonard, Executive Director, Alaska Industrial Development and Export Authority

PRESENT VIA TELECONFERENCE

Valorie Walker, Deputy Director, Finance, AIDEA; Brian Bjorkquist, Senior Assistant Attorney General, Department of Law

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SUMMARY

HB 172 "An Act relating to an investment in the education loan fund; relating to authority for the commissioner of revenue to enter into a bond purchase agreement and letter of credit with the Alaska Student Loan Corporation; and providing for an effective date."

CSHB 172 was REPORTED out of Committee with a "do pass" recommendation and new fiscal notes from the Department of Education and the Department of Revenue.

HB 90 "An Act relating to bonding limitations and confidentiality of records and information of the Alaska Industrial Development and Export Authority; and providing for an effective date."

HB 90 was HEARD and HELD in Committee for further consideration.

#hb172

HOUSE BILL NO. 172

"An Act relating to an investment in the education loan fund; relating to authority for the commissioner of revenue to enter into a bond purchase agreement and letter of credit with the Alaska Student Loan Corporation; and providing for an effective date."

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DIANE BARRANS, EXECUTIVE DIRECTOR, POSTSECONDARY EDUCATION COMMISSION, DEPARTMENT OF EDUCATION signified that HB 172 changes a Department of Revenue statute allowing the Commissioner of Revenue to assist the student loan corporation with financing help over the next two years. For the past 20 years, the Student Loan Corporation has issued tax exempt revenue bonds in the capital market, but due to the capital market disruption, this bill would allow them to continue issuing bonds to offer low interest education loans. This assistance prevents an interruption of lending services without returning to the pre-corporation days of coming before the legislature to ask for general fund appropriations. The recommendation is for a three prong strategy. The first, to provide immediate relief for the 2009 tenure, the Commissioner of Revenue would enter into an agreement with the corporation to directly finance education loans. The bill allows an extension of credit capped at \$100 million to allow immediate use of those funds. The last time the corporation was successfully able to issue bonds was in 2007. Last year there was sufficient available cash to finance all the 2008-2009 loans. The total amount for the current loan year is about \$95 million, but the corporation has suspended loan applications at this time.

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Ms. Barrans indicated that the second part of bill allows the Commissioner of Revenue to create a method of credit enhancement to the student loan corporation. This credit enhancement is in the form of a liquidity facility or letter of credit that would underwrite bonds issued in the next year. Bonds currently attractive to investors have some form

of liquidity facility so that if the investor wants to sell the bonds, it would be possible.

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Co-Chair Hawker asked for questions and noted that Jerry Burnett would be coming forward to give the Department of Revenue's position on this bill.

Representative Gara remarked that the recently passed student loan bill, HB 109, made it impossible for young people with no credit to get a loan. He wondered if there was some way around that by having the Department of Revenue use state money to finance loans so that it would not be necessary to follow rules of credit worthiness. Representative Gara indicated that he would welcome support in removing the \$1000 cap on the Post Secondary Education Financial Aid program. He asked Ms. Barrans how much is the Post Secondary Commission's total portfolio in terms of outstanding loans. Ms. Barrans replied it was \$660 million. Representative Gara inquired about the referred to \$95 million. Ms. Barrans remarked that the \$95 million covered new loans to borrowers for the 2008-2009 loan years. Representative Gara asked if there was any way the Department of Revenue could back loans for those people without a credit history. Ms. Barrans remarked that depends on the will of the legislative body since she considered the only way for that plan to work would be if it was directly funded by the general fund. The loan would be directly from the State of Alaska without investor interests, but it would require them to come before the legislature every year for funds.

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Representative Gara inquired if the loans were once backed by the state general fund. Ms. Barrans replied that was true until 1988. Representative Gara asked if it would be feasible to have a system that limited the draw on general fund, a secondary loan for those who do not qualify under the standards in HB 109. Ms. Barrans could not speculate on the financial burden from one year to the next. She suggested there were alternatives for students who do not qualify for a supplemental education loan such as the federal education loan program entitlement program.

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Representative Gara contended this special loan would involve a small number of students. Ms. Barrans signified that she was not sure which students would not qualify for at least one of the loans. The only people denied federal education loans are those convicted of a drug felony while taking out federal loans or draft-age males who failed to

register. Representative Gara asked if there were income limits. Ms. Barrans said no.

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Co-Chair Hawker interjected that the purpose of the bill is driven by the lack of liquidity in the market and the lack of money which would suspend operations for this year. He stressed that timing was of the essence to stay in the business of making loans. House Bill 172 would be a bridge facility until the capital markets return and the program can continue as an independent business entity. Ms. Barrans agreed.

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Representative Austerman asked about the average yearly loan portfolio. Ms. Barrans replied that there have been annual double digit increases for the past few years. This is attributed to the growth of the federally guaranteed loan activity which borrowers enter into master promissory notes which they continue to borrow from each year. The \$95 million loaned this year is the highest volume in 18 years; it usually ranges from \$65 to \$70 million a year. Representative Austerman asked if future years will level out. Ms. Barrans agreed the growth should level off over the next two to three years to a \$90 to \$100 million loan volume.

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Representative Kelly referred to page 2, line 3, "...commissioner may require the corporation to secure the investment of state money." He inquired why not insert the word "shall" instead of "may." He then referred to page 2, line 23-24, "...0.15 percent of the average principal outstanding and interest covered by the bond purchase..." and page 2, line 29, "...rate of interest not to exceed three percent on the bonds held..." He wondered if there should be a requirement for the security and if this set rate was a good deal for the corporation.

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JERRY BURNETT, DEPUTY COMMISSIONER, DIVISION OF TREASURY, DEPARTMENT OF REVENUE answered Representative Kelly's question regarding page 2, line 3. He indicated that "may" is a permissive statement for the corporation to secure investments on a negotiated deal with a specific portfolio of student loans or the general credit of the student loan corporation. It would probably be a secured credit, but that would be negotiated. Mr. Burnett judged using the word "shall" instead of "may" would not harm anything in the bill. He emphasized that the Department of Revenue would

make certain that investment grade securities were being purchased.

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Ms. Burnett remarked that setting the rate, the 0.15 percent fee for the credit facility, is the average cost of a credit facility prior to the current credit meltdown. It is intended to be affordable, not to make a profit, although there are some costs to keep money available in a shorter term investment portfolio. The three percent is a penalty for the student loan in case the bond repurchases agreement is used. The intent of the bill is for this to be a short term program.

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Representative Kelly voiced his concern regarding three areas he mentioned earlier, especially his hope this program would not be permanent. Mr. Burnett agreed. Representative Kelly reiterated his desire to use the word "shall" instead of "may."

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Representative Crawford believed that liquidity for the bonds contradicts the premise behind bonds. Ms. Barrans remarked that the type of bonds issued to finance the federally guaranteed student loans are variable rate bonds. The investor buys bonds knowing a market exists to accept those bonds if cash is needed. The problem in the market today is that the bonds previously issued were auction rate securities that did not have a liquidity facility, but depended on a functioning market place with sufficient buyers for sellers to unload their bonds to get cash out. That market fell apart and has not functioned since February 2008 and there is an agreement this market will never recover.

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Representative Crawford reiterated his confusion on who funds the liquidity or how. Mr. Burnett replied that these bonds are held by corporations, pension funds, and states. A liquidity facility works so that after a period of time the buyer puts the bonds back into the market and someone else buys them. Under this bill, if there are no buyers, the state would buy the bonds and then put them back into the market. The state would be the buyer of last resort, but this would ensure the bond holder that there was a buyer.

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Representative Crawford asked what would be the maximum amount of exposure the state would have at any one time. Mr. Burnett remarked that under this legislation a maximum of \$100 million would be owned directly by the state with an exposure up to \$106 million. The pool of funds used would be the general fund and non-segregated investments. As of January 31, 2009, this pool had \$7.5 billion.

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Representative Austerman indicated that there is no sunset on the bill except where it states a 5 year term. He questioned if this would be a one or two 5 year terms. Mr. Burnett understood the intent was for one 5 year term.

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Representative Gara questioned which class of student needs this state loan if everyone, except those with criminal records, qualifies for the federal loans. Ms. Barrans replied that students attending a high cost program where there is the need to borrow beyond the federal loan of \$13,000. State funds have been marketed as supplemental loans, although many students go to the state loan first because it is easier to acquire. Representative Gara asked if it was correct then that only students needing more than \$13,000 would require this loan. He also asked if everyone can receive the full \$13,000 value of federal aid. Ms. Barrans replied it varies depending on the student's year in school and whether they were a dependent of their parents or independent. Representative Gara remarked that there was a small group of students who may not receive enough in federal loans or do not have a credit history to get the state loan.

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Representative Gara thought there should be a small supplemental loan program for those students who had exhausted their federal loans, but who did not qualify for the state loans. Ms. Barrans replied that there will be a better picture after the new loans are implemented should this bill pass. The question remains to either make a change to the loans or simply forgo the loans in the future. She suggested that the federal plus program is available for students who have a co-signer that does not meet the credit worthy standards for the state program.

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Co-Chair Hawker opened the discussion to public testimony. There being none, public testimony was closed.

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Representative Austerman commented if oil returns to a higher price, this program should come back before the legislature from an investment by the state into a revolving loan program that does not require bonding every year to handle these programs. Representative Crawford reported that his children were not eligible for any federal programs, only the state program. He saw the possibility of some students falling between the cracks and not being eligible for any sort of loan. He expressed the desire to explore ways to help those people who may want to go to college but are held back financially.

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Representative Kelly MOVED to ADOPT conceptual Amendment #1:

Page 2, line 3:  
Delete: "may"  
Insert: "shall"

Co-Chair Hawker OBJECTED.

Representative Gara believed consideration should be given for a supplemental program for students who would not be eligible for federal or state loans.

Co-Chair Hawker WITHDREW his OBJECTION. There being NO further OBJECTION, it was so ordered.

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Representative Gara suggested the Department of Revenue propose a bridge or secondary loan for students who are not able to qualify for the other loan categories. Mr. Burnett expressed that within this bill there is the desire to keep it an investment grade for the state of Alaska. Mr. Burnett noted that the type of loan Representative Gara referred to would require an appropriation to a special fund specific for that purpose. He believed it would not be prudent to do it simply as a loan. Representative Gara qualified that he was asking for help and advice on an estimate and structure for a last resort loan fund concept.

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Mr. Burnett noted that he would have to work with Ms. Barrans to see how that could work. Representative Gara expressed his concern for the cap on grants the Alaska Commission on Postsecondary Education is allowed to issue. The cap is in AS 14.43.420

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Co-Chair Hawker questioned the purpose of bill. Mr. Burnett replied the bill's purpose is authorizing the Department of Revenue to provide direct investment in the education loan fund and the credit facility for the student loan corporation.

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Representative Kelly commented that the United State economy is on its knees because grants have been called loans and money has been loaned to people who should never have received it. He wanted Ms. Barrans to remain a loan officer and not a grant distributor. He emphasized that he looks directly at the student, not the parents or the parent's situation.

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Representative Fairclough asked Ms. Barrans if there was money that had been lapsing, not going out under the current cap. Ms. Barrans replied that the money the legislature appropriated to the commission was put in as a capital appropriation. Rather than expend the full \$2.5 million in a single year, it was determined that dispersing half of those additional funds in 2009 and half in 2010 would be most beneficial. There was no lapse because those funds do not lapse. The student loan corporation has been using earnings from an origination fee account to fund the program to \$500,000 a year for the last 4 years. The new money from the state and capital budget last year was the first and only time that program has received general funds. The plan is to deploy it over a two year period of time. The family income of the recipient was cut off at \$40,000 a year with over 1200 applicants granted from \$1,000 to \$2,000. Co-Chair Hawker reminded the committee they were straying from the bill. Representative Fairclough acknowledged she is preparing for a possible amendment on the floor. Her reaction to taking the cap off is that less people would qualify for the program if more money was given out to a targeted group of students. She questioned if the program is limited by funds or the cap.

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Ms. Barrans replied that when the need based grant program was designed that concept informed the design where the cap is \$2000 a year; \$1000 as a base grant or \$2000 for academic performers or certain high needs categories. The old state program was very difficult to get general funds from one year to the next for the grant program. The concern regarding a high cap would be that large grants would be given to 100 students, instead of reasonably sized grants to up to a thousand students.

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Ms. Barrans explained the fiscal note speaks to the costs the Department of Revenue expects to incur. The amount in the fiscal note starting in FY2010 is \$20,000.

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Co-Chair Hawker noted when putting both listed fiscal notes side by side, the Department of Revenue has their \$20,000 in FY2010 appropriation and then the student loan corporation has \$20,000 a year for five years. Co-Chair Hawker asked for an explanation. Mr. Burnett explained that the Department appropriation in FY2010 is an interagency receipt which is already appropriated in the RSA. Co-Chair Hawker believed Mr. Burnett intends to conduct a transaction for the authority granted under this bill during FY2010. Mr. Burnett agreed. Co-Chair Hawker continued that beyond that it will be a "depend" situation. Mr. Burnett agreed. Co-Chair Hawker reported that both fiscal notes should be changed to indeterminate fiscal notes. Ms. Barrans agreed that modification could be made. Co-Chair Hawker directed that both fiscal notes be treated as indeterminate fiscal notes.

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Representative Austerman MOVED to report CSHB 172 (FIN) out of committee as amended with amended fiscal notes and individual recommendations. There being NO OBJECTION, it was so ordered.

CSHB 172 (FIN) was REPORTED out of Committee with a "do pass" recommendation and new fiscal notes from the Department of Education and the Department of Revenue.

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#hb90

HOUSE BILL NO. 90

"An Act relating to bonding limitations and Alaska Industrial Development and Export Authority; and providing for an effective date."

TED LEONARD, EXECUTIVE DIRECTOR, ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY (AIDEA) introduced staff members available to answer questions. He reported that AIDEA requested changes to statutes that deal with bonding and confidentiality. The Alaska Industrial Development and Export Authority (AIDEA) mission is to provide various means of financing to promote economic growth and diversification in Alaska. It fulfills this mission by providing Alaska businesses and non-profit agencies access to long term capital at reasonable costs through two credit programs:

Conduit Revenue and Loan Participation programs. The Conduit Revenue program has financed 309 projects with over \$1.1 billion. The Loan Participation program has issued over \$800 million in loans. House Bill 90 is part of a larger effort to become more proactive and responsive to the financial needs of Alaskans in this changing economy.

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Mr. Leonard noted that HB 90 amends AIDEA statutes to allow the authority, flexibility and timing that it issues bonds to ensure the most favorable terms and interest rates possible in order to reduce the overall cost of financing for both AIDEA and Alaska's businesses using this program. House Bill 90 clarifies and assures borrowers and development project applicants that certain records and information provided to AIDEA will be kept confidential. Section 1 amends AS 44.88.095(a) to exclude refunding and Conduit Revenue bonds from the \$400,000,000 maximum amount of bonds, set in 1990, AIDEA may issue during any 12-month period (AIDEA CSHB 90(L&C) Sectional Analysis, copy on file). Mr. Leonard referred to the bond terms descriptions paper (Alaska Industrial Development and Export Authority, Description of Bond Terms, copy on file). Mr. Leonard listed the four types of bonds. General Obligation Bonds that are secured by the general assets and future revenues of the Authority, Revenue Bonds that are payable out of revenues derived from the projects financed or the businesses for which the projects are financed, Conduit Revenue Bonds that are payable out of revenues derived from the projects financed or the businesses for which the projects are financed, and Refunding Bonds that are issued to retire and replace already outstanding bonds.

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Representative Fairclough asked if Mr. Leonard followed up on her question regarding whether refinancing was specific to the total accumulative savings or just individual time specific savings.

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Mr. Leonard responded that AIDEA is doing both.

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VALORIE WALKER, DEPUTY DIRECTOR, FINANCE, AIDEA, testified via teleconference, replied that AIDEA looks at refunding savings as a net present value basis over the life of the issue, comparing the old issue with the new issue being refunded. If the savings are graded in the three to five percent range, they would proceed with the refunding.

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Mr. Leonard declared this allows AIDEA to cover the issuance costs. With the refunding bonds, the total amount of bonds is self limiting due to the fact that the bonds are used only to replace existing bond debt. The fourth type of bond, the Conduit Revenue Bond, is used to finance businesses and non-profits where AIDEA acts as a conduit or agent for the issuance of these taxable bonds. Conduit Revenue bonds are payable solely by the project developer primarily from the revenues generated from the project. There is no financial obligation for the bond debt; therefore they are not at risk. Conduit Revenue bonds are one of the main means that non-profits and some businesses can get tax exempt status for their bonds.

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Mr. Leonard added that Refunding and Conduit Revenue bonds help promote AIDEA's economic development mission without substantially increasing the amount of outstanding debt. The enactment of this amendment would ensure that the 12-month bond limit would not limit the effectiveness of the Conduit and Refunding bond programs or prevent AIDEA from issuing debt that would provide Alaska businesses and non-profit organizations with more favorable terms and lower capital costs.

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Mr. Leonard remarked that Section 2 is for AIDEA to regain the bonding authority before the sunset on July 1, 2007. Before that time, the Authority could issue bonds for \$10 million and under; anything over \$10 million would have to come back the legislature. Another part of Section 2 attempts to change the wording that allows the refunding bonds to include the issuance costs to be covered by the proceeds of the refunding bonds.

Co-Chair Hawker responded that this just clarifies what is standard operating procedure in the refunding world. Mr. Leonard agreed. Mr. Leonard proceeded with Section 3, dealing with confidentiality. He explained concerns from participants of the loan programs and development program on the level of confidentiality. Under Section 3 and Section 4 it clarifies what would be kept confidential and the process of how it would be kept confidential. There would also be a definition inserted of what is meant by trade secrets.

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Co-Chair Hawker referred to Section 4 that makes it clear the Executive Director has authority to determine confidentiality of specific records and information. Mr.

Leonard agreed. Co-Chair Hawker remarked that the cost of refunding makes sense. He asked for clarification if AIDEA could issue refunding and conduit bonds at a limit of \$10 million each. Mr. Leonard responded that the \$400 million limit is for all bonds issued by AIDEA. Under the sunset section AIDEA was allowed to issue conduit revenue and refunding bonds at any limit, except for the limit of \$400 million.

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BRIAN BJORKQUIST, SENIOR ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW testified via teleconference, that under the current statute the \$10 million limitation applies to bonds issued to finance development projects. The Alaska Industrial Development and Export Authority has had authority to issue refunding bonds and conduit bonds in any amount; there is no dollar amount limitation, except for the aggregate under Section 1.

Co-Chair Hawker reiterated that the change would be to eliminate legislative approval for any of the Refunding and Conduit bonds; the Alaska Industrial Development and Export Authority would be allowed to issue any amount during any given year. Mr. Bjorkquist agreed. Co-Chair Hawker questioned why this was necessary. Mr. Leonard responded the belief that in today's economy timing differences could run up against this limit. He reported that AIDEA has not run up to that limit at this time, but there have been management concerns that the limit would be reached. He noted that with the bond market as it is today, there may be more refinancing.

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Representative Austerman explained that when the Conduit and Revenue bonds push the \$400 million limit it becomes a problem. The Conduit and Refunding bonds should not necessarily be impacted because there is no cost factor downside to the Conduit and Refunding bonds.

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Mr. Leonard responded they would not affect financing capability to finance General Obligation or Conduit Revenue bonds. Representative Austerman emphasized that it would not be a problem unless pushing the \$400 million. Mr. Leonard said those two bonds do not affect the capacity to issue bonds. The Alaska Industrial Development and Export Authority is concerned that if they issued about \$200-\$300 Conduit or Refunding bonds, then it would affect the capacity to issue General Obligation or Revenue bonds for projects.

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Representative Fairclough interjected that there is an administrative fee that is taken on the Conduit and other bonds that provide a revenue stream with a financial impact. She wondered why the legislature would allow unlimited authority of an agency to pass this credit. She expressed her concern that someone could overextend themselves and the state would be left on the hook. Mr. Bjorkquist replied that neither the state nor AIDEA would be financially liable for Conduit bonds. Co-Chair Hawker expressed his concern for the extension of credit to the Conduit Revenue bonds. He asked when the \$400 million was established.

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Mr. Leonard replied in 1990. Co-Chair Hawker questioned if this proposal had been discussed with the state's debt manager. Mr. Leonard replied that it had not been discussed with the state's debt manager. Co-Chair Hawker strongly suggested that be done before the next meeting.

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Co-Chair Hawker opened public testimony on HB 90. As there was none, public testimony was closed. Co-Chair Hawker expressed that the committee planned to hold the bill today.

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Representative Joule disclosed his desire to enter an amendment for discussion, although it would not be introduced today. His amendment would take the sunset date from 2009 to 2012. This would relate to the valuation and the Red Dog property. The borough and the Red Dog Mine have a payment in lieu of taxes agreement as opposed to the borough actually taxing. The current agreement is going to last until 2011. The borough and operators of the mine could have their negotiations on what the tax rate or payment would be. Without this, the borough would have no other choice in these low commodity rate times to go and open an agreement that is still a few years out. Co-Chair Hawker noted that the governor's office is also evaluating the same points brought forth by Representative Joule.

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Representative Kelly commented that AIDEA has performed a very valuable service and believed there has never been a default in Conduit financing. Mr. Leonard did not believe so. Representative Kelly asked for verification before the next meeting. He suggested a compromise; the \$400 million limit could be raised to keep Conduit and Revenue bonds under this limit. Co-Chair Hawker agreed he was open to that

conversation. He added that even under the existing AIDEA parameters, it has come close to hitting these limits, but never actually been blocked by the existing limits. Mr. Leonard responded that was correct; they were only looking into the future. Co-Chair Hawker responded that if refinancing was taken out of the overall cap, but left some of the conduit for new debt under the existing cap, this could create more margin.

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HB 90 was HEARD and HELD in Committee for further consideration.

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ADJOURNMENT

The meeting was adjourned at 3:04 PM