

**ALASKA STATE LEGISLATURE**  
**SENATE LABOR AND COMMERCE STANDING COMMITTEE**

March 10, 2011

2:03 p.m.

**MEMBERS PRESENT**

Senator Dennis Egan, Chair  
Senator Joe Paskvan, Vice Chair  
Senator Linda Menard  
Senator Bettye Davis  
Senator Cathy Giessel

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 65

"An Act relating to the procurement of supplies, services, professional services, and construction for the Alaska Industrial Development and Export Authority; relating to the definition of 'own' for the economic development account; relating to the definitions of 'development project', 'plant', 'facility', and 'project' for the Alaska Industrial Development and Export Authority; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 66

"An Act creating a new markets tax credit assistance guarantee and loan program within the Alaska Industrial Development and Export Authority; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 87

"An Act establishing a program in the Department of Commerce, Community, and Economic Development for payment of grants to health care providers for care of patients who are 65 years of age or older."

- MOVED SB 87 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 65

SHORT TITLE: AIDEA: PROCUREMENT; PROJECTS

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/24/11 (S) READ THE FIRST TIME - REFERRALS  
01/24/11 (S) L&C, FIN  
03/10/11 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)

BILL: SB 66

SHORT TITLE: AIDEA: NEW MARKETS TAX CREDIT PROGRAM

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/24/11 (S) READ THE FIRST TIME - REFERRALS  
01/24/11 (S) L&C, FIN  
03/10/11 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)

BILL: SB 87

SHORT TITLE: GRANTS FOR SENIORS' MEDICAL CARE

SPONSOR(S): SENATOR(S) FRENCH

02/11/11 (S) READ THE FIRST TIME - REFERRALS  
02/11/11 (S) L&C, FIN  
03/01/11 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)  
03/01/11 (S) Heard & Held  
03/01/11 (S) MINUTE(L&C)  
03/10/11 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

MARK DAVIS, Economic Development Officer  
Alaska Industrial Development and Export Authority (AIDEA)  
Anchorage, AK

**POSITION STATEMENT:** Supported SB 65 and SB 66.

TED LEONARD, Executive Director  
Alaska Industrial Development and Export Authority (AIDEA)  
Anchorage, AK

**POSITION STATEMENT:** Supported SB 65 and SB 66.

DANIEL WHITE, Associate Vice Chancellor for Research  
University of Alaska Fairbanks (UAF)  
Fairbanks, AK

**POSITION STATEMENT:** Supported SB 65.

SENATOR FRENCH  
State Capitol Bldg.  
Alaska State Legislature

Juneau, AK

**POSITION STATEMENT:** Sponsor of SB 87.

BOB DOLL, President

Retired Public Employees of Alaska (RPEA)

Juneau, AK

**POSITION STATEMENT:** Supported SB 87.

MARIE DARLIN

AARP Capital City Task Force

Juneau, AK

**POSITION STATEMENT:** Sponsor of SB 87.

### **ACTION NARRATIVE**

[2:03:39 PM](#)

**CHAIR DENNIS EGAN** called the Senate Labor and Commerce Standing Committee meeting to order at 2:03 p.m. Present at the call to order were Senators Giessel, Menard, and Chair Egan.

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### **SB 65-AIDEA: PROCUREMENT; PROJECTS**

CHAIR EGAN announced SB 65 to be up for consideration.

MARK DAVIS, Economic Development Officer, Alaska Industrial Development and Export Authority (AIDEA), introduced himself.

TED LEONARD, Executive Director, Alaska Industrial Development and Export Authority (AIDEA), introduced himself and thanked the committee for inviting them to testify. He stated that SB 65 is in a series of bills that continue to update AIDEA's ability to help the Alaskan economy grow and to more effectively promote job growth. Specifically, it would do three things: amend the Procurement Code so that AIDEA could adopt regulations to govern its own procurement process. This would be giving AIDEA powers similar to what Alaska Housing Finance Corporation (AHFC) and other corporations have. However, AIDEA would still have to use competitive bidding principles that are used throughout the State Procurement Code. It would still have to provide venders reasonable and equitable opportunities to participate in the procurement process. This would allow AIDEA to be more effective with the private sector as it developed projects, which is their main process through their procurement code.

MR. LEONARD said they believe the State Procurement Code was designed for a certain purpose and AIDEA is "a little off-

center" of that based on the fact that it works with the private sector to develop projects.

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He said the second thing this measure would do is enable AIDEA to directly invest in a Limited Liability Corporation (LLC) or a corporation for the purpose of owning or participating in the development and ownership of a project. It could only be for the project; it couldn't be a corporation that AIDEA could do many things with. It would be a specific purpose entity that could only be used to own that project.

Last year, he explained, with the help of this committee, AIDEA passed legislation under the project development section of its code that allowed their ability to participate in a project by owning just a share or a portion of a project. As they started going through that process, they found out that the most effective vehicle the private sector likes to use is a specific-purpose, Limited Liability Corporation or a corporation. Since that's not specifically allowed in the statute, AIDEA can't use that vehicle to provide that type of ownership model.

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MR. LEONARD said the third change is in sections 3 through 5 that update and expand the types of development projects AIDEA can participate in. Several years ago they went through a strategic plan and identified seven or eight economic sectors that they believe AIDEA could help through investing in economic infrastructure. The definitions and current code target AIDEA's projects to tourism, energy, natural resources and industrial manufacturing only. This measure would expand those definitions and ensure they could actually help the economic sector with things like communications, health care, logistics and ensuring a healthy federal presence in Alaska (an important part of Alaska's economy).

SENATOR DAVIS joined the committee.

MR. DAVIS commented that the sectors they want to add are based on things that had actually been requested. For example, AIDEA was approached by a federal agency that wanted them to construct, finance, and then lease back to the federal agency, a facility that would support the bases and the military in Alaska. Unfortunately, the Department of Law (DOL) said AIDEA is not authorized to do that. So, this bill attempts to modernize what they do and current statute does not authorize AIDEA to do communication, health care or military projects.

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SENATOR MENARD said whenever the legislature increases AIDEA's ability to deal with LLCs and corporations, they also increase the risk, and that is why the legislation was written that way. She asked what the increased risk to AIDEA would be if this bill goes forward.

MR. LEONARD responded that one of the reasons the private sector uses LLCs and corporations is to shield their liability more to the amount that is invested in a program. But when AIDEA owns a project or a portion of it, they actually put up its whole balance sheet to back it. So, this amendment will modernize AIDEA's ability to protect its assets and actually decreases its risk. He added that when the project development legislation was originally written, LLCs were not even part of Alaska law.

Regarding the potential risk of exposure by expanding AIDEA's ability to develop more projects, he explained that they believe partnering with the private sector in a project instead of being the sole owner, as long as they go through the full due diligence process, will make the projects even better, and will actually give AIDEA more tools to help fulfill its mission.

SENATOR MENARD asked if they could amend AS 44.88.900(c) so roads could be a component.

MR. DAVIS answered that there is a legal issue about whether AIDEA can build a road that does not actually go to a natural resource project or to a project that would be expanded under these definitions. So, for instance, the DeLong Mountain Transportation Corridor at Red Dog that AIDEA owns, goes directly from the mine to the port, and is statutorily correct. But if AIDEA were going to build an industrial road, say in the Ambler mining district; that would be a corridor; so they would partly fund it. But the actual roads to the mines or the rigs would be built by somebody else. He explained that the models of developing roads have changed, and a lot of states are developing the basic industrial road up to an area. Then each company is responsible for getting the next couple of miles out to their own project, which is appropriate.

The trouble is AIDEA could issue a bond, and the bond council has to be very sure it can legally be done. So, again that is why they are seeking clarification from the legislature.

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SENATOR MENARD stated that it says "may" not "shall".

MR. DAVIS said that is correct. He added that they were approached by the federal government to build a health care facility with a Native corporation in rural Alaska, a project that can't be done with conventional financing because it's in a non-conforming area and banks don't want to lend out there. If it was leased to the federal government, there is very little risk to AIDEA and it's a good project. Again, leasing to the military is of limited risk. Actually, some of their proposed projects have good rates of return with limited risk.

SENATOR MENARD asked them to talk about the communication piece.

MR. LEONARD replied that AIDEA could be involved in bringing broadband to rural Alaska; the federal government and everyone is looking at being able to bring faster communications into the rural areas. If AIDEA had this as a sector, they could invest with a utility in the big towers that would be needed. And again, as long as you are partnering with a utility, the risk is fairly limited, and with the federal government being involved that makes it even more limited.

He said that AIDEA would have to somehow tie broadband into helping with one of their projects, like a mine's communications. Tying it to one of the four definitions is a circular activity and they would prefer that it be "straight cut." He stressed that the definition has to truly show that a project is going to provide an economic development benefit for AIDEA to be involved.

SENATOR MENARD mused that MatSu is involved in fiber optic right now for its schools, so that wouldn't be an economic issue.

MR. LEONARD responded if the utilities were involved, AIDEA would have to see the projects themselves and decide what kind of economic development it was. This bill would allow them to be in that sector.

MR. DAVIS said they were approached Monday by one of the largest telecommunications companies in the state with a proposal to take broadband to particular areas of rural Alaska. But it can't expand beyond that without "mezzanine financing," which AIDEA could provide. Doing a whole project at once cuts the cost down measurably, but until the statute is changed, they can't discuss it. If this bill goes through, AIDEA would see if there is an economic model that could provide broadband to a large part of

the state that could be used with the company, and then be paid back over time.

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DANIEL WHITE, Associate Vice Chancellor for Research, University of Alaska Fairbanks (UAF), supported SB 65. He was charged by Chancellor Brian Rogers to lead the Office of Intellectual Property and Commercialization for the University, and one critical element of economic development is moving research and development and technology into the private sector. When UAF licenses technology to the private sector, those businesses gain competitive advantage in the global market. In order for this critical link in economic development to occur, businesses have to have the capability to take advantage of these emerging opportunities. This often requires capitalization, facilities and equipment. SB 65 would allow AIDEA to help businesses take advantage of these opportunities, to contribute to the University's mission of putting R&D into the private sector and provide long term economic development opportunities. It will benefit small businesses that lead to job growth and economic diversification for the state.

CHAIR EGAN said that completed public testimony and that SB 65 would be held in committee.

[2:21:44 PM](#)

**SB 66-AIDEA: NEW MARKETS TAX CREDIT PROGRAM**

CHAIR EGAN announced SB 66 to be up for consideration.

TED LEONARD, Executive Director, Alaska Industrial Development and Export Authority (AIDEA), said SB 66 would help a very successful federal program, the New Markets Tax Credit Program, that is designed to use tax credits to spur development by private investors into low income census tracts. This program allows two types of investors to invest in a project; the two components are a private investor with capital and a financial institution providing credit. The program was designed to allow a project seven years to pay interest only on the capital it has gotten -in essence allowing the project to "gain its legs" in order to use conventional financing.

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MARK DAVIS, Economic Development Officer, Alaska Industrial Development and Export Authority (AIDEA), explained that this bill permits AIDEA to work with the existing U.S. Treasury tax credit program. Right now AIDEA has a small guarantee program

that does not permit it to make guarantees of loans in conjunction with this federal program. The essence of SB 66 is to amend AS 44.88.700 to allow AIDEA to issue loan guarantees and to make, as a last resort, its own direct loans for the debt side of a new market tax credit deal.

The ways those work essentially is that investors who have tax liabilities put their own equity (usually up to 30 percent) into the project in a rural area or an area that has high poverty rates and then the rest is borrowed from a bank. But the bank has to be able to do two things. First, it has to take interest only payments for seven years and then it has to agree to not foreclose. Well, recently with the credit crunch, banks have been reluctant to make those loans, so the program has stalled in some states, including Alaska.

MR. DAVIS said that through Alaska Growth Capital, Alaska has an allocation of new market tax credits, and has been in contact with other companies that have those credits. He did an analysis and talked to companies that do this kind of work, including Alaska Growth Capital, and they recommended that if AIDEA could guarantee the loan portion of a deal or if it could issue its own loans then it would get the program going. So, AS 44.88.700 says basically that AIDEA could guarantee a bank loan in conjunction with a new market tax credit. He said these loans have a very low default rate, and for a very simple reason. The investors who put their money directly in the project and who get the tax credits can only take so much percentage of a credit - up to 300 percent - over seven years. If before seven years has elapsed the project has not cash-flowed, then the equity investors owe all their taxes back to the IRS with interest and penalties, a "tax capture." When these investors make their analysis of what to invest in, they are very careful, making the defaults very low. By offering guarantees, AIDEA could free up the program without a great deal of risk.

AS 44.88.710 provides that a guarantee does not create a debt or liability to the state - so it would only apply to AIDEA and not the state government, he said.

AS 44.88.715 establishes applicant qualifications; that is AIDEA would reserve the right to guarantee loans or to make loans only to projects they agree with. Just because a deal qualifies for new market tax credits doesn't mean that they would want to be in it.

MR. DAVIS said that AS 44.88.720 requires an applicant to provide certain information to AIDEA, which would be set by regulation, and an economic benefit analysis. This is not required under the federal law for the tax credits, but AIDEA is an economic development agency, so they want to make sure if they offer a guarantee or a loan that it actually creates the economic benefits they are charged by statute to create.

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He said AS 44.88.730 establishes the conditions for a loan guarantee while section .740 requires a financial institution holding the guarantee to service the loan. That is to reduce AIDEA's costs; it means if they guarantee the loan, the bank will still deal with the collection and all the other costs. AIDEA is just not set up to do that and is not trying to hire more employees.

MR. DAVIS said AS 44.88.750 allows AIDEA to leverage the loans. This means that AIDEA could make a direct loan, but probably they would not do it frequently. If no bank steps forward and if the new market tax credit seems solid economically and if it would create a lot of jobs or if it was in a rural area, they might sometimes step forward. But this language just gives them the discretion to do that; it doesn't require them to do so.

AS 44.88.760 sets a cap at \$50 million, so this program won't "take over the agency" and AIDEA can continue to do its other programs.

MR. DAVIS concluded the analysis saying AS 44.88.770 is a housekeeping provision, which says the AIDEA board can adopt appropriate regulations to implement the program.

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SENATOR MENARD asked why they decided on capping it at \$50 million and if the IRS gives the "tax capture" a form number.

MR. DAVIS answered that they recommended the \$50 million limit, because they can make that kind of commitment without affecting their other programs, their current reserves being about \$350 million. He said new market tax credits deals tend to be very large, \$20-30 million, and complicated with a lot of parties. That means they could probably do one a year, which is what they should be doing because it would take a lot of work. The \$50 million was picked to do one or two a year.

The answer to her second question was there is no particular section under the codes; this is actually in a 51-page IRS circular, which he offered to get a copy of.

A new report put out by the New Market's Tax Credit Coalition, a private group, points out that unlike most federal programs, using these tax credits costs the government an average of \$12,000 per job, about the lowest of all job incentive programs in the United States.

SENATOR MENARD asked if they would consider lowering the figure from \$50 million to \$30 million.

MR. LEONARD said it should be at \$50 million, and \$30 million is the absolute lowest it could go and still be a viable program.

CHAIR EGAN thanked everyone for their comments and held SB 66.

[2:31:36 PM](#)

**SB 87-GRANTS FOR SENIORS' MEDICAL CARE**

CHAIR EGAN announced SB 87 to be up for consideration.

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SENATOR FRENCH, sponsor of SB 87, said he would answer questions.

CHAIR EGAN noted that some people had signed up to testify.

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BOB DOLL, President, Retired Public Employees of Alaska (RPEA), said they supported SB 87.

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SENATOR PASKVAN joined the committee.

MR. DOLL said at some point he would present some survey data and offer a financial solution to the dilemma of unfunded obligations left for this legislature. Buy, today his message is simple and straight forward - an appeal for simple equity. He explained that decades ago the State of Alaska opted to shift its retiree health care burden to Medicare when the retiree reached 65. Retirees didn't object then and don't object now. But the federal government has resisted the establishment of a variable rate for various states envisioning, probably, a quagmire of appeals and rulings as economic circumstances changed in each state. The result here has been that health care

providers, particularly in Anchorage and Fairbanks, have turned away Medicare patients citing inadequate reimbursement rates - a tragedy for all Medicare eligibles including public employee retirees. From the viewpoint of pure economics, the situation exists now where a state or municipal retiree may not be able to find medical care in two of Alaska's major population centers.

For any retiree who requires medical attention on a regular basis the predictable reaction for the over-65 person is to move out of the state and to one where the doctors will serve his medical needs. If he or she chooses to do so, the state and municipalities lose all of the economic benefit that should flow from having that person as a resident.

He mentioned that members are familiar with the Alaska Commission on Aging and ISER reports that indicate what the value of having those retirees in-state can be. The retiree continues to receive a retirement check, but they can spend it elsewhere. That is not a logical objective for Alaska and this bill gives them a chance to correct it. He said approximately one-third of RPEA members live out-of-state and that's not a number they are anxious to increase.

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MR. DOLL asked them to imagine that they had completed 30 years of public service in Alaska and paid into their retirement fund every month and made a deal and kept their end of the bargain. But on your 65th birthday, you find that overnight, primary medical care is no longer available - for reasons that have nothing to do with any of the participants of the state or the individual. It seems like a deception to members who have enjoyed medical insurance coverage since they retired but when they reach 65 suddenly find it's no longer available and the state severs its connection with them for this purpose with no apparent further concern. No one has planned it that way, but the sense of deception persists.

He said there is a solution; the congressional delegation has done its part in convincing the Congress to make an exception to the normal Medicare rules. The state may legally overcome the reimbursement rate gap and SB 87 is a vehicle to both fulfill Medicare eligible expectations and to keep retirees in the state. He urged its passage.

SENATOR DAVIS asked if once you are 65 you are automatically no longer covered by the state and have to use Medicare. You can't

go back and use the retirement plan at all. But up to age 65 you can.

MR. DOLL replied that is correct.

MARIE DARLIN, AARP Capital City Task Force, said they supported SB 87. She said they have all the same issues Mr. Doll stated. Even with state health insurance, when you hit age 65, Medicare becomes first provider and unless you have that, the rest of it isn't worth anything. From a federal retiree viewpoint, the same thing applies. The problem is when you have Medicare as primary provider and some doctors won't accept Medicare patients.

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CHAIR EGAN closed public testimony.

SENATOR PASKVAN moved to report SB 87 from committee with individual recommendations and attached fiscal note. There were no objections and it was so ordered.

[2:39:51 PM](#)

At ease from 2:39 to 2:41 p.m.

[2:41:47 PM](#)

Finding no further business, Chair Egan adjourned the meeting at 2:41 p.m.