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1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

SENATE CS FOR CS FOR HOUSE BILL NO. 661 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act authorizing the construction of the Knik Arm  
7 Crossing and relating to the acquisition, construc-  
8 tion, equipping, and maintenance of toll facilities  
9 funded by revenue bonds and providing toll collection  
10 authority."

11

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

12

\* Section 1. AS 37.15 is amended by adding new sections to read:

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ARTICLE 4. TOLL FACILITIES REVENUE BONDS.

14

Sec. 37.15.610. BOND AUTHORIZATION. For the purpose of provid-

15

ing part or all of the money to be used, with or without any grants or  
16 other money that may become available, the issuance and sale of reve-  
17 nue bonds of the state in the total principal sum of not to exceed  
18 \$500,000,000 is authorized to acquire, construct, equip, and install  
19 the additions, improvements, extensions, and facilities authorized in  
20 AS 37.15.720 and 37.15.730. The principal of and interest on these  
21 bonds are paid out of and secured by the gross revenues derived by the  
22 state from the ownership, use, and operation of the toll facilities,  
23 and out of any other revenue or money that the state legislature may  
24 provide exclusive of any state tax or license. Bonds may not be  
25 issued to assist in the acquisition, financing, or operation of  
26 projects without prior approval from the legislature.

27

Sec. 37.15.620. CONSTRUCTION FUND. (a) The toll facilities

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construction fund is established for deposit of proceeds of the sale  
29 of the bonds authorized by AS 37.15.610 and any grant or other money

1 that is legally provided for the same purposes for which the bonds are  
2 authorized except for any accrued interest paid on the bonds by the  
3 purchaser. The money in the construction fund is used to pay the cost  
4 of acquiring, constructing, and equipping facilities authorized in  
5 AS 37.15.720 and 37.15.730 and costs incidental to those activities,  
6 including costs of the authorization, issuance, and sale of the bonds.  
7 To the extent allowed in the bond resolution, money in the construc-  
8 tion fund may also be used for the payment of interest on the bonds  
9 during the time of actual construction, and for any additional time,  
10 not exceeding one year after construction is completed. Money in the  
11 construction fund may also be transferred to the bond redemption fund,  
12 as permitted by the bond resolution, to establish a reserve for the  
13 payment of the principal and interest on the bonds.

14 (b) The bond resolution may provide for the investment of money  
15 in the construction fund as the committee determines. The interest  
16 earned upon or any profit derived from the sale of the investment is  
17 deposited in the construction fund.

18 Sec. 37.15.630. REVENUE FUND. (a) The toll facilities revenue  
19 fund is established and shall be set apart from all other money of the  
20 state. The toll facilities revenue fund is a trust fund for the pur-  
21 poses under AS 37.15.610 - 37.15.760, where all revenue, fees, tolls,  
22 charges, and rentals are deposited that are derived by the state from  
23 the ownership, lease, use, and operation of the facilities authorized  
24 by AS 37.15.720 and 37.15.730. The revenue, fees, tolls, charges, and  
25 rentals may not include the proceeds of any state tax or license. The  
26 money in the revenue fund may only be used to

27 (1) pay or secure the payment of the principal of and inter-  
28 est on the toll facilities bonds and principal of and interest on any  
29 other revenue bonds issued by authorization of the legislature to

1 provide money to acquire, construct, and equip facilities authorized  
2 by AS 37.15.720 and 37.15.730 and to be payable out of the revenue  
3 fund;

4 (2) pay the normal and necessary costs of maintaining and  
5 operating the facilities acquired, constructed, or equipped under  
6 AS 37.15.610 - 37.15.760;

7 (3) pay the costs of renewals, replacements, and extra-  
8 ordinary repairs to facilities acquired, constructed, or equipped  
9 under AS 37.15.610 - 37.15.760;

10 (4) redeem before their fixed maturities any and all revenue  
11 bonds issued for the purpose of acquiring, constructing, and equipping  
12 facilities authorized by AS 37.15.720 and 37.15.730;

13 (5) provide money to acquire, construct, and equip necessary  
14 additions and improvements to facilities authorized by AS 37.15.720  
15 and 37.15.730; and

16 (6) provide money to pay any and all other costs relating to  
17 the ownership, use, and operation of the facilities.

18 (b) The investment of money in the revenue fund may be made as  
19 the committee determines. The interest earned upon or any profits  
20 derived from the sale of an investment under this subsection shall be  
21 deposited in the revenue fund.

22 Sec. 37.15.640. BOND REDEMPTION FUND. The toll facilities  
23 revenue bond redemption fund is established for deposit in trust of  
24 money for paying and securing the payment of principal of and interest  
25 and redemption premium, if any, on bonds and is set apart from all  
26 other money of the state. The committee, on behalf of the state,  
27 shall obligate the state to set aside and pay into the bond redemption  
28 fund from the revenue fund an amount of money sufficient to pay the  
29 principal of and interest and redemption premium, if any, on the bonds

1 as the payments become due and, if the committee considers it neces-  
2 sary, to set aside and maintain a reserve for this purpose. The bond  
3 redemption fund is drawn upon for the purpose of paying the principal  
4 of and interest and redemption premium, if any, on the bonds, and the  
5 bonds do not constitute a general obligation of the state.

6 Sec. 37.15.650. BOND TERMS. (a) The toll facilities bonds are  
7 sold in the amounts or series and at the time as determined by the  
8 committee. Before selling a series of bonds, the committee shall give  
9 notice inviting sealed bids. If satisfactory bids are received, the  
10 bonds offered for sale are awarded to the highest responsible bidder.  
11 If the committee determines that a bid received is not satisfactory as  
12 to price or responsibility of the bidder, the committee may reject the  
13 bid received. Bonds, or a series of bonds, may not be sold if the  
14 effective interest rate over the life of the bonds exceeds 11 percent  
15 per year or that rate of interest that is 125 percent of the rate of  
16 the Bond Buyer Index of 20 Municipal Bond Average Yields for the week  
17 previous to the date of sale of the bonds, whichever is higher.  
18 Interest is payable annually or semiannually.

19 (b) The bonds mature at the time fixed by the committee. The  
20 bonds may be subject to redemption before their fixed maturities as  
21 determined by the committee and with the premium fixed by the commit-  
22 tee, but a bond may not be subject to redemption before its fixed  
23 maturity date unless the right to redeem that bond is expressly men-  
24 tioned on the face of the bond. The bonds

25 (1) may be in denominations determined by the committee;

26 (2) may be issued in coupon form or in fully registered  
27 form, and may be registrable as to principal or both principal and  
28 interest, all under regulations and conditions the committee provides;

29 (3) are payable as to principal and interest at the place

1 determined by the committee;

2 (4) shall be signed on behalf of the state by the governor  
3 and shall be attested to by the lieutenant governor, both of which  
4 signatures may be facsimile signatures, and each of the interest  
5 coupons attached to them shall be signed by the facsimile signatures  
6 of these officials;

7 (5) shall have the seal of the state impressed, printed, or  
8 lithographed on them; and

9 (6) shall be issued under and subject to the terms, condi-  
10 tions, and covenants, providing for the payment of the principal of  
11 and interest on the bonds and the other terms, conditions, covenants,  
12 and protective features safeguarding this payment and relating to the  
13 maintenance, operation, and improvement of the toll facilities as  
14 found necessary by the committee, which covenants may include a pro-  
15 vision requiring the setting aside and maintenance of certain reserves  
16 to secure the payment of the principal and interest.

17 (c) If found reasonably necessary, the committee may select a  
18 trustee or trustees for the holders of the bonds or any series of the  
19 bonds, for the safeguarding and disbursement of any of the money in  
20 any of the funds created by AS 37.15.620, 37.15.630, and 37.15.640, or  
21 for the duties for authentication, delivery, and registration of the  
22 bonds as the committee may determine. The committee shall also fix  
23 the rights, duties, powers, and obligations of the trustee or trust-  
24 ees.

25 (d) In the committee's determination of all of the matters and  
26 questions relating to the issuance and sale of the bonds and the  
27 fixing of the maturities, terms, conditions, and covenants of the  
28 bonds as provided in (a) - (c) of this section, the decisions of the  
29 committee shall be those found to be reasonably necessary for the best

1 interests of the state and its inhabitants, and those that will accom-  
2 plish the most advantageous sale of the bonds, with due regard,  
3 however, (1) to necessary or normal costs of maintenance and opera-  
4 tion; (2) to renewals and replacements of and repairs to the toll  
5 facilities; (3) to all improvements to toll facilities and property of  
6 toll facilities owned, used, operated, or leased in connection with  
7 toll facilities; and (4) to the future growth and expansion of all of  
8 the facilities and the possibility of additional revenue bond financ-  
9 ing for toll facilities purposes. A decision of the committee, as  
10 expressed in any bond resolution, is final when any bonds have been  
11 issued under the bond resolution.

12 (e) A bond resolution may provide that the bonds issued contain  
13 a recital that they are issued under AS 37.15.610 - 37.15.760, and any  
14 bonds containing this recital are conclusively considered to be valid  
15 and to have been issued in conformity with AS 37.15.610 - 37.15.760.

16 (f) The validity of the authorization and issuance of bonds is  
17 not affected by any proceeding for the acquisition or construction of  
18 the additions, improvements, or facilities for which the bonds have  
19 been issued or by any contract in connection with the acquisition or  
20 construction.

21 Sec. 37.15.660. BOND RESOLUTION. The committee is authorized  
22 and directed to adopt the bond resolution and prepare all other docu-  
23 ments and proceedings necessary for the issuance, sale, and delivery  
24 of the bonds or any part or series of them. The bond resolution shall  
25 fix the principal amount, denomination, date, maturities, place or  
26 places of payment, rights of redemption, if any, terms, form, condi-  
27 tions, and covenants of the bonds or each series of them. The commit-  
28 tee shall also determine and provide for the date and manner of sale  
29 of the bonds, and shall provide whether the notice of sale is to be

1 published elsewhere in addition to the publication required by AS 37.-  
2 15.650.

3 Sec. 37.15.670. ENFORCEMENT BY HOLDER. The holder of any bonds  
4 or the trustee for the holders of the bonds or any series of them,  
5 may, by appropriate proceedings in the courts of record of the state,  
6 compel the transfer, setting aside, and payment of money and the  
7 enforcement of all of the terms, conditions, and covenants as required  
8 and provided in AS 37.15.610 - 37.15.760 and in the bond resolution.

9 Sec. 37.15.680. AMOUNTS REQUIRED FOR PAYMENTS. The committee  
10 shall, before December 31 of each year, commencing with the year in  
11 which the bonds are issued, certify to the commissioner of revenue and  
12 the commissioner of transportation and public facilities the amounts  
13 required in the next ensuing calendar year by a bond resolution to be  
14 paid out of the revenue fund into the bond redemption fund and to be  
15 paid into and maintained in any reserve fund or account or any other  
16 fund or account created by a bond resolution. The committee shall  
17 also certify to the commissioners the last date upon which payments  
18 may be made.

19 Sec. 37.15.690. BOND NEGOTIABILITY. The bonds and the coupons  
20 attached to them are fully negotiable instruments under the laws of  
21 the state.

22 Sec. 37.15.700. REFUNDING. (a) The bonds or any part of them  
23 may be refunded at or before their maturity by the issuance of refund-  
24 ing revenue bonds of the state if in the opinion of the committee  
25 refunding is advantageous to and in the best interest of the state and  
26 its inhabitants.

27 (b) The issuance of refunding bonds need not be authorized by an  
28 act of the legislature, and the committee shall adopt the resolution  
29 and prepare all other documents and proceedings necessary for the

1 issuance, exchange or sale, and delivery of the bonds. All provisions  
2 of AS 37.15.610 - 37.15.760 applicable to revenue bonds are applicable  
3 to the refunding bonds and to the issuance, sale, or exchange of the  
4 bonds, except as otherwise provided in this section.

5 (c) Refunding bonds may be issued in a principal amount suffi-  
6 cient to provide money for the payment of all bonds to be refunded by  
7 them, and, in addition, for the payment of all expenses incident to  
8 the calling, retiring, or paying of the outstanding bonds, and the  
9 issuance of the refunding bonds. These expenses include the differ-  
10 ence in amount between the par value of the refunding bonds and any  
11 amount less than par for which the refunding bonds are sold, any  
12 amount necessary to be made available for the payment of interest on  
13 the refunding bonds from the date of sale of them to the date of  
14 payment of the bonds to be refunded or to the date upon which the  
15 bonds to be refunded will be paid under the call of the bonds or  
16 agreement with the holders of them, and the premium, if any, necessary  
17 to be paid in order to call or retire the outstanding bonds and the  
18 interest accruing on the outstanding bonds to the date of the call or  
19 retirement.

20 Sec. 37.15.710. BONDS AS LEGAL INVESTMENTS. Toll facilities  
21 bonds are legal investments for all banks, trust companies, savings  
22 banks, savings and loan associations, and other persons carrying on a  
23 banking business, all insurance companies and other persons carrying  
24 on an insurance business, and all executors, administrators, trustees,  
25 and other fiduciaries. The bonds may be accepted as security for  
26 deposits of all money of the state and its political subdivisions.

27 Sec. 37.15.720. STATE TOLL FACILITIES. The state is authorized  
28 to acquire, construct, equip, and maintain toll bridges, highways,  
29 roads, crossings, and causeways found to be necessary by the

1 commissioner of transportation and public facilities.

2 Sec. 37.15.730. KNIK ARM CROSSING. Notwithstanding the provi-  
3 sions of AS 37.15.720 the first state toll facility to be financed  
4 under this article is the Knik Arm Crossing near Anchorage if the  
5 following conditions are met:

6 (1) the department submits to the governor and the legisla-  
7 ture a feasibility study that finds that the crossing is financially  
8 feasible and able to produce revenue adequate to repay the bonds with  
9 which it is financed;

10 (2) if financing in addition to revenue bonds is anticipat-  
11 ed, the department submits to the governor and legislature a finance  
12 plan to include an estimate of the total cost of the project and a  
13 description of the sources of money that will be used to finance the  
14 total cost of the project; and

15 (3) the office of management and budget reviews the feasi-  
16 bility study and the finance plan, if required, and reports its find-  
17 ings and recommendations to the governor and legislature not later  
18 than 90 days after the study and plan are received by the office.

19 Sec. 37.15.740. TOLL FACILITY CHARGES. The commissioner of  
20 transportation and public facilities shall fix and collect the fees,  
21 charges, tolls, and rentals derived by the state from the ownership,  
22 lease, use, and operation of the facilities authorized by AS 37.15.720  
23 and 37.15.730 and improvements of the facilities as will provide  
24 revenues sufficient to comply with all of the covenants of the bond  
25 resolution.

26 Sec. 37.15.750. STATUTORY CONSTRUCTION. AS 37.15.610 - 37.15.-  
27 760 shall be liberally construed in order to carry out the purposes  
28 for which the provisions were enacted, and all existing laws in con-  
29 flict with AS 37.15.610 - 37.15.760 are superseded as necessary to

1 accomplish the purposes of AS 37.15.610 - 37.15.760.

2 Sec. 37.15.760. DEFINITIONS. In AS 37.15.610 - 37.15.760,  
3 unless the context requires otherwise

4 (1) "bond redemption fund" means the toll facilities reve-  
5 nue bond redemption fund created by AS 37.15.640, including any ac-  
6 counts that are created in that fund after the effective date of this  
7 Act;

8 (2) "bond resolution" means the resolution authorizing the  
9 issuance of bonds, adopted by the committee under AS 37.15.660;

10 (3) "bonds" means the toll facilities revenue bonds autho-  
11 rized by AS 37.15.610 - 37.15.760;

12 (4) "committee" means the state bond committee created by  
13 AS 37.15.110, or any other committee, body, department, or officer of  
14 the state that or who succeeds to the rights, powers, duties, and  
15 obligations of the state bond committee by act of the legislature;

16 (5) "construction fund" means the toll facilities construc-  
17 tion fund created by AS 37.15.620;

18 (6) "revenue fund" means the toll facilities revenue fund  
19 created by AS 37.15.630;

20 (7) "toll facilities" means highways, roads, bridges,  
21 crossings, and causeways upon which tolls, charges, rentals, or other  
22 user fees are placed by the commissioner of transportation and public  
23 facilities.

24 \* Sec. 2. AS 19.05.040 is amended to read:

25 Sec. 19.05.040. POWERS OF DEPARTMENT. The department may

26 (1) acquire property;

27 (2) exercise the power of eminent domain;

28 (3) take immediate possession of real property, or any  
29 interest in it under a declaration of taking or by other lawful means;

- 1 (4) acquire rights-of-way for present or future use;  
2 (5) control access to highways;  
3 (6) regulate roadside development;  
4 (7) preserve and maintain the scenic beauty along state  
5 highways;  
6 (8) dispose of property acquired for highway purposes;  
7 (9) accept and dispose of federal funds or property avail-  
8 able for highway construction, maintenance, or equipment;  
9 (10) enter into contracts or agreements relating to highways  
10 with the federal government, municipalities, a political subdivision,  
11 or with a foreign government, if the contract is approved by the  
12 federal government; [AND]  
13 (11) establish, levy, and collect tolls, fees, charges, and  
14 rentals for the use of state roads, highways, bridges, crossings, and  
15 causeways; and  
16 (12) exercise any other power necessary to carry out the  
17 purpose of AS 19.05 - 19.25.

18 \* Sec 3. AS 44.88.010(a) is amended to read:

- 19 (a) The legislature finds, determines and declares that  
20 (1) there exist areas of the state in which seasonal and  
21 nonseasonal unemployment exist;  
22 (2) this unemployment is a serious menace to the health,  
23 safety and general welfare, not only to the people in those areas, but  
24 also to the people of the entire state;  
25 (3) the state lacks the basic manufacturing, industrial,  
26 and business enterprises and the other facilities referred to in (5)  
27 of this subsection necessary to permit adequate development of its  
28 natural resources and the balanced growth of its economy;  
29 (4) the establishment and expansion of industrial,

1 manufacturing, and business enterprises in Alaska and the other facil-  
2 ities referred to in (5) of this subsection are essential to the  
3 development of the natural resources and the long-term economic growth  
4 of the state, and will directly and indirectly alleviate unemployment  
5 in the state;

6 (5) the achievement of the goal of full employment, and of  
7 establishment and continuing operation and development of industrial,  
8 manufacturing, and business enterprises in the state, including,  
9 without limitation, facilities for [AIR AND WATER] transportation,  
10 facilities for pollution control and waste disposal, facilities for  
11 the local furnishing of gas, facilities for water, [AND] facilities  
12 for industrial parks, mass commuting vehicles, facilities for local  
13 district heating or cooling, parking facilities, or a storage or  
14 training facility relating to a plant or facility, will be accelerated  
15 and facilitated by the creation of an instrumentality of the state  
16 with powers to incur debt, to own and operate facilities, [AND] to  
17 make and insure loans to finance, and to assist private lenders to  
18 make loans to finance, the establishment, operation, and development  
19 of industrial, manufacturing, and business enterprises, including,  
20 without limitation, facilities for [AIR AND WATER] transportation,  
21 facilities for pollution control and waste disposal, facilities for  
22 the local furnishing of gas, facilities for water, [AND] facilities  
23 for industrial parks, mass commuting vehicles, facilities for local  
24 district heating or cooling, parking facilities, or a storage or  
25 training facility relating to a plant or facility;

26 (6) it is in the public interest to promote the prosperity  
27 and general welfare of all citizens of the state by stimulating com-  
28 mercial and industrial growth and expansion by encouraging an increase  
29 of private investment by banks, investment houses, insurance

1 companies, and other financial institutions, including pension and re-  
2 tirement funds, to help satisfy the need for economic expansion;

3 (7) it is in the state's interest to import private capital  
4 to create new economic activity which would not otherwise take place  
5 in the state.

6 \* Sec. 4. AS 44.88.070 is amended to read:

7 Sec. 44.88.070. PURPOSE OF THE AUTHORITY. The purpose of the  
8 authority is to promote, develop and advance the general prosperity  
9 and economic welfare of the people of Alaska, to relieve problems of  
10 unemployment, and to create additional employment by providing various  
11 means of financing and means of facilitating the financing of indus-  
12 trial, manufacturing, and business enterprises and the other facil-  
13 ities referred to in AS 44.88.010(a)(5) within the state, and by own-  
14 ing and operating the enterprises and other facilities.

15 \* Sec. 5. AS 44.88.080 is amended to read:

16 Sec. 44.88.080. POWERS OF THE AUTHORITY. In furtherance of its  
17 corporate purposes, the authority has the following powers in addition  
18 to its other powers:

19 (1) to sue and be sued;

20 (2) to have a seal and alter it at pleasure;

21 (3) to make and alter bylaws for its organization and  
22 internal management;

23 (4) to adopt regulations governing the exercise of its  
24 corporate powers;

25 (5) to acquire an interest in a project as necessary or  
26 appropriate to provide financing for the project, whether by purchase,  
27 gift or lease;

28 (6) to lease to others a project acquired by it for the  
29 rentals and upon the terms and conditions the authority may consider

1       advisable, including, without limitation, provisions for options to  
2       purchase or renew;

3               (7) to issue bonds, in accordance with AS 44.88.090, to pay  
4       the cost of a project and to secure payment of the bonds as provided  
5       in this chapter;

6               (8) to sell, by installment sale or otherwise, exchange,  
7       donate, convey or encumber in any manner by mortgage or by creation of  
8       any other security interest, real or personal property owned by it, or  
9       in which it has an interest, including a project, when, in the judg-  
10      ment of the authority, the action is in furtherance of its corporate  
11      purposes;

12              (9) to accept gifts, grants or loans from, and enter into  
13      contracts or other transactions regarding them, with a federal agency  
14      or an agency or instrumentality of the state, a municipality, private  
15      organization or other source;

16              (10) to deposit or invest its funds, subject to agreements  
17      with bondholders;

18              (11) to enter into contracts or agreements with respect to  
19      the exercise of any of its powers, and do all things necessary or  
20      convenient to carry out its corporate purposes and exercise the powers  
21      granted in this chapter;

22              (12) to purchase or insure loans to finance the costs of  
23      manufacturing, industrial, and business enterprise projects;

24              (13) to enter into loan agreements with respect to one or  
25      more projects upon the terms and conditions the authority considers  
26      advisable;

27              (14) to acquire, manage, and operate projects as the author-  
28      ity considers [A PROJECT WHEN IT BECOMES] necessary or appropriate  
29      [DESIRABLE] to serve a public purpose [DO SO TO SAFEGUARD THE

1 AUTHORITY FROM LOSSES];

2 (15) to assist private lenders to make loans to finance the  
3 costs of projects through loan commitments, short-term financing, or  
4 otherwise;

5 (16) to accept gifts, grants, or loans from a federal agen-  
6 cy, from an agency or instrumentality of the state or of a munici-  
7 pality, or from any other source;

8 (17) to enter into contracts or other transactions with a  
9 federal agency, with an agency or instrumentality of the state or of a  
10 municipality, or with a private organization or other entity consis-  
11 tent with the exercise of any power under this chapter;

12 (18) to facilitate the expansion of a secondary market for  
13 the resale of federally or commercially insured loans made to finance  
14 the costs of projects in Alaska held by federal and state chartered  
15 financial institutions or by the Alaska Commercial Fishing and Agri-  
16 culture Bank;

17 (19) to charge fees or other forms of remuneration for the  
18 use or possession of the projects described in (14) of this section in  
19 accordance with the agreements described in (11) and (17) of this  
20 section, other agreements pertaining to the projects, covenants, or  
21 representations made in bond documents pertaining to the projects, or  
22 regulations of the authority pertaining to the projects.

23 \* Sec. 6. AS 44.88.105 is amended by adding a new subsection to read:

24 (h) Notwithstanding any other provision of this section, the  
25 authority may waive or modify the requirements of (a) of this section  
26 establishing maximum costs of \$10,000,000 for a project and the re-  
27 quirements of (f) of this section as it considers appropriate and  
28 prudent in order to finance a project if the authority intends to own  
29 the project. However, if the authority intends to lease or otherwise

1 permit the state to use or occupy a majority of the project, the  
2 authority may only establish a reserve fund under (g) of this section  
3 to secure bonds issued to finance a project.

4 \* Sec. 7. AS 44.88.155 is amended by adding a new subsection to read:

5 (g) Notwithstanding any other provision of this section, the  
6 authority may waive or modify the requirements of this section as it  
7 considers appropriate and prudent in order to finance a project if the  
8 authority intends to own the project.

9 \* Sec. 8. AS 44.88 is amended by adding new sections to read:

10 Sec. 44.88.172. ECONOMIC DEVELOPMENT FUND. (a) The economic  
11 development fund is established in the authority. The fund consists  
12 of money or assets appropriated, loaned, or transferred to the author-  
13 ity, and other money or assets deposited in the fund by the authority.  
14 The fund may only be used to finance, acquire, manage, and operate  
15 projects that the authority intends to own and operate. The term  
16 "operate" includes operation directly by the authority, or by an agent  
17 of the authority.

18 (b) If a project is financed or developed through use of the  
19 assets of the economic development fund, the authority may not pledge  
20 or use other assets of the authority to assist in the financing,  
21 development, or operation of the project. However, whether or not the  
22 authority uses the economic development fund, it may issue bonds to  
23 finance a project and may secure the bonds with a mortgage, pledge, or  
24 assignment of the project or of revenues, money, or agreements attrib-  
25 utable to the project or the bonds as provided in sec. 10 of this Act.

26 Sec. 44.88.173. FINANCE PLAN. (a) Before approving a project  
27 financed under AS 44.88.172, the authority shall prepare a finance  
28 plan. The finance plan must include an estimate of the total cost of  
29 the project, and a description of the sources of money that will be

1 used to finance the total cost of the project. The finance plan must  
2 also include an estimate of the operational costs of the completed  
3 project, as well as a description of the source of the money that is  
4 to be used to pay the operational costs.

5 (b) The authority shall give preference to a project that does  
6 not require financial assistance from the state. If the authority  
7 determines that a project requires state financial assistance, and if  
8 the authority further determines that it is desirable to finance the  
9 project, the authority shall recommend a method of financing that  
10 minimizes cost to the state. A finance plan required under (a) of  
11 this section must identify the method of financing that minimizes the  
12 cost to the state.

13 (c) The authority shall submit a finance plan prepared under  
14 this section to the state bond committee, the governor, and the legis-  
15 lature before issuing bonds or otherwise incurring debt for the proj-  
16 ect. If a project requires financial assistance from the state, the  
17 state financial assistance must be available before bonds are issued  
18 for the project.

19 Sec. 44.88.174. REGIONAL RESOURCE ADVISORY COUNCIL. (a) Within  
20 30 days after the authority adopts a resolution certifying that a  
21 project in the unorganized borough is eligible for financing under  
22 AS 44.88.172, the governor shall appoint a Regional Resource Advisory  
23 Council in the area of the state where the project is to be located  
24 and for which a regional housing authority has been established under  
25 AS 18.55.996. The purpose of a council is to assist the authority in  
26 reviewing a project that has been proposed for development in its area  
27 of the state.

28 (b) A Regional Resource Advisory Council consists of five mem-  
29 bers registered to vote in the region. The governor shall appoint the

1 members to reflect the economic and geographic diversity of the re-  
2 gion. Council members serve three-year terms at the pleasure of the  
3 governor, except that the initial members may be appointed for less  
4 than three years so that the term of at least one of the members  
5 expires each year. The governor shall appoint a chairperson who shall  
6 call meetings as required and preside over the deliberations of the  
7 council. A majority of the council constitutes a quorum for conduct-  
8 ing the business of the council.

9 (c) Members of a Regional Resource Advisory Council do not  
10 receive compensation for their services on the council, but are en-  
11 titled to per diem and travel expenses authorized by law for state  
12 boards and commissions under AS 39.20.180.

13 Sec. 44.88.175. REQUIREMENTS PRIOR TO APPROVAL OF PROJECTS. (a)  
14 Before entering into an agreement to finance or to develop a proposed  
15 project with a cost in excess of \$10,000,000 that is financed under  
16 AS 44.88.172, the authority shall obtain the approval of each Regional  
17 Resource Advisory Council or municipality in the area in which the  
18 proposed project is to be located. Approval under this subsection  
19 must be evidenced by a certified copy of a resolution of the council  
20 or of the governing body of the municipality.

21 (b) Before approving a project financed under AS 44.88.172 for  
22 which bonds must be issued, the authority shall

23 (1) obtain approval under (a) of this section;

24 (2) find, on the basis of all information reasonably avail-  
25 able to it, that

26 (A) the project and its development under this chapter  
27 will be economically advantageous to the state and to the general  
28 public welfare and will contribute to the economic growth of the  
29 state;

1 (B) the project applicant is financially responsible;

2 (C) the project is economically and financially feasi-  
3 ble and able to produce revenue adequate to repay the bonds or  
4 loans with which it is financed;

5 (D) increased demand on public facilities that might  
6 result from the project will be provided for;

7 (E) the project will provide or retain employment  
8 reasonably related to the amount of the financing by the authori-  
9 ty, considering the amount of investment per employee for compa-  
10 rable facilities, and other relevant factors;

11 (F) the scope of the project is sufficient to provide  
12 a reasonable expectation of a benefit to the economy of the  
13 state;

14 (G) the project is in compliance with applicable law;  
15 and

16 (H) issuance of the bonds is not expected to adversely  
17 affect the ability of the state or any political subdivision of  
18 the state to market other bonds.

19 Sec. 44.88.176. HEARING TO CONSIDER PROPOSED PROJECT. Before  
20 considering a resolution regarding the approval or rejection of the  
21 development or financing of a proposed project with a cost in excess  
22 of \$10,000,000, that is financed under AS 44.88.172, a Regional Re-  
23 source Advisory Council shall conduct a public hearing within the  
24 region. If a proposed project is located within a municipality, the  
25 governing body of a municipality shall conduct a hearing on the pro-  
26 posed project.

27 Sec. 44.88.177. OPERATION OF PROJECTS. If a project is financed  
28 under AS 44.88.172, the authority shall solicit the review and advice  
29 of the Regional Resource Advisory Council or governing body in the

1 area in which a project is located before the execution of contracts,  
2 agreements, resolutions, or other matters that directly concern the  
3 development, maintenance, and operation of a project.

4 \* Sec. 9. AS 44.88.220(5) is amended to read:

5 (5) "project" means

6 (A) a plant or facility used or intended for use

7 (i) in connection with making, processing, pre-  
8 paring, or producing in any manner, goods, products or  
9 substances of any kind or nature or in connection with  
10 developing or utilizing a natural resource, or extracting,  
11 smelting, transporting, converting, assembling or producing  
12 in any manner, minerals, raw materials, chemicals, com-  
13 pounds, alloys, fibers, commodities and materials, products  
14 or substances of any kind or nature;

15 (ii) [, ANY PLANT OR FACILITY USED OR INTENDED  
16 FOR USE] as an industrial park; [OR] in connection with [AIR  
17 AND WATER] transportation; [, OR ANY PLANT OR FACILITY] for  
18 the prevention, limitation or control of [AIR OR WATER]  
19 pollution; [,] for the disposal of sewage or solid waste;  
20 [,] for the local furnishing of gas; [, OR] for the furnish-  
21 ing of water; as or in connection with mass commuting vehi-  
22 cles; for local district heating or cooling; as a parking  
23 facility; or as a storage or training facility directly  
24 related to a plant or facility described in this paragraph;

25 (B) a plant or facility used or intended for use in  
26 connection with a business enterprise;

27 (C) commercial activity by a small enterprise;

28 \* Sec. 10. The authority may not issue bonds to assist in the acquisi-  
29 tion, financing, or operation of projects under AS 44.88.172, enacted by

1 sec. 8 of this Act without prior legislative approval.

2 \* Sec. 11. It is the intent of the legislature to minimize the cost of  
3 state financial assistance for projects funded under AS 44.88.172, enacted  
4 by sec. 6 of this Act. To the extent possible, financial assistance shall  
5 be extended in the form of loans.

6 \* Sec. 12. This Act takes effect immediately in accordance with AS 01.-  
7 10.070(c).