

Introduced: 3/31/89  
Referred: Labor and Commerce  
and Finance

6-1143A

1 IN THE SENATE

BY PEARCE

2

SENATE BILL NO. 249

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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For an Act entitled: "An Act relating to the Alaska Industrial Development  
and Export Authority; and providing for an effective  
date."

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

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\* Section 1. AS 44.88.010(a)(9) is amended to read:

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(9) the achievement of the goal of full employment, and of  
establishment and continuing operation and development of industrial,  
manufacturing, export, small business, and business enterprises in the  
state [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR TRANSPORTATION,  
FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL, FACILITIES FOR  
THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER, FACILITIES FOR  
INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES FOR LOCAL DIS-  
TRICT HEATING OR COOLING, PARKING FACILITIES, OR A STORAGE OR TRAINING  
FACILITY RELATING TO A PLANT OR FACILITY,] will be accelerated and  
facilitated by the creation of an instrumentality of the state with  
powers to incur debt, to own and operate facilities, to enter into  
partnership, joint venture, and other agreements with other persons  
with respect to the ownership, operation, or construction of facil-  
ities, and to make and insure loans to finance, and to assist private  
lenders to make loans to finance, the establishment, operation, and  
development of industrial, manufacturing, export, small business, and  
business enterprises [, INCLUDING, WITHOUT LIMITATION, FACILITIES FOR  
TRANSPORTATION, FACILITIES FOR POLLUTION CONTROL AND WASTE DISPOSAL,  
FACILITIES FOR THE LOCAL FURNISHING OF GAS, FACILITIES FOR WATER,

1 FACILITIES FOR INDUSTRIAL PARKS, MASS COMMUTING VEHICLES, FACILITIES  
2 FOR LOCAL DISTRICT HEATING OR COOLING, PARKING FACILITIES, OR A STOR-  
3 AGE OR TRAINING FACILITY RELATING TO A PLANT OR FACILITY];

4 \* Sec. 2. AS 44.88.010(c) is amended to read:

5 (c) It is further declared to be the policy of the state, in the  
6 interests of promoting the health, security, and general welfare of  
7 all the people of the state, and a public purpose of the state, to  
8 accomplish the objectives set out in (b) of this section through the  
9 provision of financial support, in the form of loans, guarantees,  
10 equity investments, or other methods provided in this chapter, for or  
11 in cooperation with, or through joint venture, partnership, or other  
12 agreements with, public [FEDERAL, STATE,] and private institutions  
13 [FOR THE PURPOSE OF INCREASING THE EXPORT OF ALASKA GOODS, TALENT, RAW  
14 MATERIALS, AND SERVICES].

15 \* Sec. 3. AS 44.88.060 is amended to read:

16 Sec. 44.88.060. ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTH-  
17 ORITY REVOLVING FUND. The Alaska Industrial Development and Export  
18 Authority revolving fund is established in the authority. The revolv-  
19 ing fund consists of appropriations made to the revolving fund by the  
20 legislature, money or other assets transferred to the revolving fund  
21 by the authority, and unrestricted payments on loans made or purchased  
22 by the authority. Unless otherwise expressly stated, the accounts  
23 created in this chapter are accounts in the revolving fund. The  
24 authority may create additional accounts either in the revolving fund  
25 or outside the revolving fund. Subject to agreements made with the  
26 holders of the authority's bonds or with other persons, the authority  
27 may transfer amounts in an account in the revolving fund to another  
28 account in the revolving fund. Amounts deposited in the revolving  
29 fund may be pledged to the payment of bonds of the authority or ex-

1           pended for the purposes of the authority under this chapter.    The  
2           authority has the powers and responsibilities established in AS 37.-  
3           10.071 with respect to the investment of amounts held in the revolving  
4           fund.

5   \* Sec. 4. AS 44.88.070(2) is amended to read:

6                   (2) owning and operating, either solely or by partnership,  
7                   joint venture, or other agreement with another person, the enterprises  
8                   and other facilities described in AS 44.88.172;

9   \* Sec. 5. AS 44.88.080(14) is amended to read:

10                   (14) to acquire, manage, and operate projects, and to enter  
11                   into agreements with other persons for shared ownership, operation, or  
12                   construction of projects, as the authority considers necessary or  
13                   appropriate to serve a public purpose or to exercise its powers under  
14                   this chapter;

15   \* Sec. 6. AS 44.88.090(a) is amended to read:

16                   (a) The [SUBJECT TO (g) OF THIS SECTION, THE] authority may  
17                   borrow money and may issue bonds, including but not limited to bonds  
18                   on which the principal and interest are payable

19                           (1) exclusively from the income and receipts or other money  
20                   derived from the project or development project financed with the  
21                   proceeds of the bonds or derived from the exporter or exporting trans-  
22                   action financed, guaranteed, or insured with the proceeds of the  
23                   bonds;

24                           (2) exclusively from the income and receipts or other money  
25                   derived from designated projects or development projects or other  
26                   sources whether or not they are financed, insured, or guaranteed in  
27                   whole or in part with the proceeds of the bonds; or

28                           (3) from its income and receipts or other assets generally,  
29                   or a designated part or parts of them.

1 \* Sec. 7. AS 44.88 is amended by adding a new section to read:

2 Sec. 44.88.095. BONDING LIMITATIONS. (a) The authority may not  
3 issue bonds in a 12-month period in an amount that exceeds  
4 \$400,000,000.

5 (b) The authority may not issue revenue bonds, other than re-  
6 funding bonds, to purchase a loan for a project under AS 44.88.155 -  
7 44.88.159, to acquire a development project or an interest in a devel-  
8 opment project under AS 44.88.172 - 44.88.177 or to provide money to  
9 finance, guarantee, or insure an exporting transaction under AS 44.-  
10 88.300 - 44.88.390 in an amount greater than \$50,000,000 during any  
11 12-month period unless the issuance is included separately in the  
12 estimates required in the report of the authority under AS 44.88.-  
13 210(b) and unless the legislature, by law, approves the issuance.

14 (c) Before entering into a lease or other agreement under  
15 AS 44.88.090(e) regarding a project for which the authority agrees to  
16 issue bonds in an amount in excess of \$6,000,000, there must be filed  
17 with the authority a certified copy of a resolution of the governing  
18 body of the political subdivision of the state, if any, in which the  
19 project is to be located, consenting to the location of the project.  
20 The consent need only refer to the general nature of the project  
21 ultimately to be acquired, as set out in a request of the proposed  
22 project applicant. Before entering into a lease or other agreement  
23 under AS 44.88.090(e) regarding a project, the authority shall find,  
24 on the basis of all information reasonably available to it, that

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

28 (2) the project applicant is financially responsible;

29 (3) provision to meet increased demand upon public facili-

1 ties that might result from the project is reasonably assured; and

2 (4) the project will provide, or retain, employment reason-  
3 ably related to the amount of the financing by the authority, con-  
4 sidering the amount of investment per employee for comparable facil-  
5 ities and other relevant factors.

6 (d) Before adopting a resolution approving a project to be  
7 financed under AS 44.88.172 for which bonds must be issued, the au-  
8 thority shall, on the basis of all information reasonably available to  
9 it, make findings, with respect to the project, as described in  
10 (c)(1) - (4) of this section, and also find that

11 (1) the project is economically and financially feasible  
12 and able to produce revenue adequate to repay the bonds or loans with  
13 which it is financed;

14 (2) the project complies with applicable law; and

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

18 (e) Before entering into an agreement to finance or to develop a  
19 proposed project with a cost in excess of \$10,000,000 financed under  
20 AS 44.88.172 for which bonds must be issued, the authority shall  
21 obtain the approval of each Regional Resource Advisory Council  
22 appointed under AS 44.88.174 or municipality in the area in which the  
23 proposed project is to be located. Approval under this subsection  
24 must be evidenced by a certified copy of a resolution of the council  
25 or of the governing body of the municipality. Before considering a  
26 resolution regarding the approval or rejection of the development or  
27 financing of a proposed project under this subsection, a Regional  
28 Resource Advisory Council shall conduct a public hearing in the  
29 region. If a proposed project is located in a municipality, the

1 governing body of the municipality shall conduct a hearing on the  
2 proposed project.

3 (f) Without prior legislative approval, the authority may not  
4 issue bonds in an amount greater than \$25,000,000 to assist in the  
5 financing of a development project under AS 44.88.172 - 44.88.177.

6 \* Sec. 8. AS 44.88.105(a) is amended to read:

7 (a) For the purpose of securing one or more issues of its bonds,  
8 the authority may establish one or more special funds, called "capital  
9 reserve funds", and shall pay into those capital reserve funds the  
10 proceeds of the sale of its bonds and other money which may be made  
11 available to the authority from other sources for the purposes of the  
12 capital reserve funds. A capital reserve fund may be established only  
13 if the authority determines that the establishment of the fund would  
14 enhance the marketability of the bonds [, AND IF THOSE COSTS OF A  
15 PROJECT, AS DEFINED IN AS 44.88.900, WHICH ARE TO BE FINANCED WITH THE  
16 PROCEEDS OF THE BONDS, DO NOT EXCEED \$10,000,000]. Money in a capital  
17 reserve fund, except as provided in this section, may be used as  
18 required only for (1) the payment of the principal of, and interest  
19 on, bonds or of the sinking fund payments with respect to those bonds;  
20 (2) the purchase or redemption of the bonds; or (3) the payment of a  
21 redemption premium required to be paid when the bonds are redeemed  
22 before maturity. However, money in a capital reserve fund may not be  
23 withdrawn if the withdrawal would reduce the amount in the capital  
24 reserve fund to less than the capital reserve fund requirement, except  
25 for the purpose of making payment, when due, of principal, interest,  
26 redemption premiums on the bonds, and sinking fund payments when other  
27 money of the authority is not available for the payments. Income or  
28 interest earned by, or increment to, a capital reserve fund, from the  
29 investment of all or part of the fund, may be transferred by the

1 authority to other funds or accounts of the authority if the transfer  
2 does not reduce the amount of the capital reserve fund below the  
3 capital reserve fund requirement.

4 \* Sec. 9. AS 44.88.105(d) is amended to read:

5 (d) With respect to a capital reserve fund created under this  
6 section on or before January 1, 1989, the [THE] chairman of the  
7 authority shall annually, no later than January 2, certify in writing  
8 to the governor and the legislature the amount, if any, required to  
9 restore the [A] capital reserve fund to the capital reserve fund  
10 requirement. The legislature may appropriate to the authority the  
11 amount certified by the chairman of the authority. The authority  
12 shall deposit the amounts appropriated under this subsection during a  
13 fiscal year in the proper capital reserve fund. Nothing in this  
14 section creates a debt or liability of the state.

15 \* Sec. 10. AS 44.88.155(b) is amended to read:

16 (b) The authority may establish in the enterprise develop-  
17 ment account the [A SMALL ENTERPRISE LOAN ACCOUNT, A LOAN INSURANCE  
18 ACCOUNT, AND OTHER] accounts it considers appropriate.

19 \* Sec. 11. AS 44.88.155(c) is amended to read:

20 (c) Money and other assets of the enterprise development account  
21 may be used to secure bonds of the authority issued to finance the  
22 purchase of loans for projects [AND SHALL BE HELD AND INVESTED BY THE  
23 AUTHORITY IN ACCORDANCE WITH AS 37.10.071] or shall be used to pur-  
24 chase loans for projects.

25 \* Sec. 12. AS 44.88.155(d) is amended to read:

26 (d) A loan purchased in whole or in part by the authority with  
27 assets of the enterprise development account or with proceeds of bonds  
28 secured by assets of the enterprise development account, other than a  
29 loan which is financed with the proceeds of bonds of the authority and

1 secured only by a project applicant or a project,  
2 (1) may not exceed \$25,000,000  
3 [(A) \$10,000,000; OR  
4 (B) \$500,000 IF THE LOAN IS PURCHASED UNDER AS 44.88.-  
5 158];  
6 (2) may not exceed the cost of the project or 75 percent of  
7 the appraised value of the project, whichever is less, unless the  
8 amount of the loan in excess of this limit is federally insured or  
9 guaranteed or is insured by a qualified mortgage insurance company;  
10 (3) may not be for a term longer than three-quarters of the  
11 authority's estimate of the life of the project or 25 years from the  
12 date the loan is made, whichever is earlier;  
13 (4) shall contain complete amortization provisions satis-  
14 factory to the authority requiring periodic payments by the borrower;  
15 (5) shall be in the form and contain the terms and provi-  
16 sions with respect to insurance, repairs, alterations, payment of  
17 taxes and assessments, default reserves, delinquency charges, default  
18 remedies, acceleration of maturity, secondary liens, and other matters  
19 the authority prescribes;  
20 (6) shall be secured as to repayment by a mortgage or other  
21 security instrument in the manner the authority determines is feasible  
22 to assure timely repayment under a loan agreement entered into with  
23 the borrower;  
24 (7) may not be made unless  
25 (A) at least 20 [10] percent of the principal amount  
26 of the loan is retained by the originator of the loan as long as  
27 the loan is outstanding; or  
28 (B) 100 percent of the principal amount of the loan is  
29 guaranteed by the United States or an agency or instrumentality

1 of the United States;

2 (8) must be

3 (A) [AT LEAST PARTIALLY GUARANTEED BY THE UNITED  
4 STATES OR AN AGENCY OR INSTRUMENTALITY OF THE UNITED STATES,  
5 SUBJECT TO THE PROVISIONS OF AS 44.88.158;

6 (B)] financed from the proceeds of bonds; or

7 (B) [(C)] expected by the authority to be financed  
8 from the proceeds of bonds.

9 \* Sec. 13. AS 44.88.165 is repealed and reenacted to read:

10 Sec. 44.88.165. DELINQUENT LOANS. The authority shall adopt  
11 regulations to describe the circumstances under which it will discon-  
12 tinue purchasing loans from a financial institution because of exces-  
13 sive delinquencies among the loans previously purchased by the author-  
14 ity from the financial institution. In adopting the regulations, the  
15 authority must consider the authority's delinquency experience with  
16 loans it purchased from all financial institutions. The authority may  
17 include in the regulations other remedies it considers appropriate as  
18 alternatives to the discontinuance of purchasing loans from the finan-  
19 cial institution.

20 \* Sec. 14. AS 44.88.172(a) is amended to read:

21 (a) The economic development account is established in the  
22 revolving fund. The economic development account consists of money or  
23 assets appropriated, loaned, or transferred to the authority for  
24 deposit in the account [,] and other money or assets deposited in the  
25 account by the authority. While money is on deposit in the economic  
26 development account, the money [THE ACCOUNT] may be used only to  
27 finance, acquire, manage, and operate development projects that the  
28 authority intends to own and operate either solely or by partnership,  
29 joint venture, or other agreement with another person. The term

1 "operate" includes operation directly by the authority [,] or by an  
2 agent of the authority.

3 \* Sec. 15. AS 44.88.535(b) is amended to read:

4 (b) The authority may provide a guarantee from the fund for up  
5 to 80 [70] percent of a loan that qualifies under AS 44.88.500 -  
6 44.88.599. The ratio of the guarantee to the outstanding principal of  
7 the loan may not increase over the term of the loan.

8 \* Sec. 16. AS 44.88.545 is amended to read:

9 Sec. 44.88.545. LIMITATIONS OF GUARANTEES WITH RESPECT TO  
10 BORROWERS. The authority may not provide a guarantee

11 (1) [A LOAN] of more than \$1,000,000;

12 (2) [LOANS] to an individual borrower that cumulatively  
13 exceeds [EXCEED] \$1,000,000 of guaranteed indebtedness.

14 \* Sec. 17. AS 44.88.560 is amended to read:

15 Sec. 44.88.560. POWERS OF THE AUTHORITY. The authority may

16 (1) adopt regulations to implement AS 44.88.500 - 44.88.-  
17 599;

18 (2) establish terms and conditions for loan guarantees and  
19 refinancing agreements subject to the requirements of AS 44.88.500 -  
20 44.88.599;

21 (3) make and execute contracts and other instruments to  
22 implement AS 44.88.500 - 44.88.599;

23 (4) charge

24 (A) [(i)] one percent of the amount guaranteed for the  
25 service it provides under AS 44.88.500 - 44.88.599; and

26 (B) [(ii)] any other reasonable fee that the authority  
27 may establish by regulation;

28 (5) acquire real or personal property by purchase,  
29 transfer, or foreclosure when the acquisition is necessary to protect

1 an interest in the fund; and

2 (6) exercise any other power necessary to implement AS 44.-  
3 88.500 - 44.88.599;

4 (7) to the extent the authority considers it to be in its  
5 best interest to do so, use money in the business assistance fund to  
6 pay expenses relating to the liquidation of collateral securing loans  
7 guaranteed by the business assistance fund.

8 \* Sec. 18. AS 44.88.900(4) is repealed and reenacted to read:

9 (4) "development project" has the meaning given to "proj-  
10 ect" in (9)(A) of this section;

11 \* Sec. 19. AS 44.88.900(9) is amended to read:

12 (9) "project" means

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

14 [(i)] in connection with making, processing, pre-  
15 paring, transporting, or producing in any manner, goods,  
16 products, or substances of any kind or nature or in connec-  
17 tion with developing or utilizing a natural resource, or  
18 extracting, smelting, transporting, converting, assembling,  
19 or producing in any manner, minerals, raw materials, chemi-  
20 cals, compounds, alloys, fibers, commodities and materials,  
21 products, or substances of any kind or nature;

22 [(ii) AS AN INDUSTRIAL PARK; IN CONNECTION WITH  
23 TRANSPORTATION; FOR THE PREVENTION, LIMITATION OR CONTROL OF  
24 POLLUTION; FOR THE DISPOSAL OF SEWAGE OR SOLID WASTE; FOR  
25 THE LOCAL FURNISHING OF GAS; FOR THE FURNISHING OF WATER; AS  
26 OR IN CONNECTION WITH MASS COMMUTING VEHICLES; FOR LOCAL  
27 DISTRICT HEATING OR COOLING; AS A PARKING FACILITY; OR AS A  
28 STORAGE OR TRAINING FACILITY DIRECTLY RELATED TO A PLANT OR  
29 FACILITY DESCRIBED IN THIS PARAGRAPH;]

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

3 (C) commercial activity by a small enterprise;

4 \* Sec. 20. AS 44.88.090(g), 44.88.090(1), 44.88.105(a), 44.88.105(g),  
5 44.88.157, 44.88.158, 44.88.159(c), 44.88.160, 44.88.172(b), 44.88.172(c),  
6 44.88.175, 44.88.176, 44.88.212(a), and 44.88.900(3) are repealed.

7 \* Sec. 21. This Act takes effect immediately under AS 01.10.070(c).